

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

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

**ADVANCED MICRO DEVICES, INC.**

(Exact Name of Registrant as Specified in Its Charter)

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

**94-1692300**  
(I.R.S. Employer  
Identification Number)

**One AMD Place  
Sunnyvale, California 94088-3453**  
(Address of Principal Executive Offices including Zip Code)

**ATI TECHNOLOGIES INC. RESTRICTED SHARE UNIT PLANS FOR  
U.S. DIRECTORS AND EMPLOYEES, AS AMENDED AND RESTATED\*  
ATI TECHNOLOGIES INC. RESTRICTED SHARE UNIT PLANS FOR  
CANADIAN DIRECTORS AND EMPLOYEES, AS AMENDED AND RESTATED\*  
ATI TECHNOLOGIES INC. SHARE OPTION PLAN, AS AMENDED\*  
ARTX, INC. 1997 EQUITY INCENTIVE PLAN, AS AMENDED\*  
(Full Title of the Plan)**

**Harry A. Wolin**  
**Senior Vice President, General Counsel**  
**Advanced Micro Devices, Inc.**  
**One AMD Place**  
**Sunnyvale, California 94088-3453**  
**(408) 749-4000**  
(Name and Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

**CALCULATION OF REGISTRATION FEE**

Title of Securities to Be Registered	Amount to be Registered(1)	Proposed Maximum Offering Price Per Share(2)	Proposed Maximum Aggregate Offering Price(2)	Amount of Registration Fee
Common Stock, \$.01 Par Value	19,322,526 Shares	\$ 20.46	\$ 322,927,681	\$ 34,554

- (1) Includes 869,829 Shares to be issued under the ATI Technologies Inc. Restricted Share Unit Plans for U.S. Directors and Employees, as amended and restated, 1,361,197 Shares to be issued under the ATI Technologies Inc. Restricted Share Unit Plans for Canadian Directors and Employees, as amended and restated, 16,760,412 Shares to be issued under the ATI Technologies Inc. Share Option Plan, as amended, and 331,088 Shares to be issued under the ArtX, Inc. 1997 Equity Incentive Plan, as amended.
- (2) Estimated solely for the purpose of determining the registration fee computed in accordance with Rule 457(h) and Rule 457(c) under the Securities Act of 1933, as amended, on the basis of the average of the reported high and low sale prices of the Common Stock, as reported on The New York Stock Exchange on October 24, 2006, in the case of restricted share units issued pursuant to the ATI Technologies Inc. Restricted Share Unit Plans for U.S. Directors and Employees, as amended and restated, and the ATI Technologies Inc. Restricted Share Unit Plans for Canadian Directors and Employees, as amended and restated, and on the basis of the prices at which options may be exercised, in the case of options issued pursuant the ATI Technologies Inc. Share Option Plan, as amended, and the ArtX, Inc. 1997 Equity Incentive Plan, as amended.

**Proposed sale to take place as soon after the effective date of the registration  
statement as options granted under the Plans are exercised.**

\* Each such plan was assumed by Advanced Micro Devices, Inc. following the effectiveness of the acquisition of ATI Technologies Inc. by a wholly owned subsidiary of Advanced Micro Devices, Inc. pursuant to an Acquisition Agreement dated as of July 23, 2006.

## INTRODUCTORY STATEMENT

Advanced Micro Devices, Inc., a Delaware corporation (“AMD”), hereby files its registration statement on Form S-8 (the “Registration Statement”) relating to the shares of common stock, \$.01 par value, of AMD (“AMD Common Stock”) issuable upon exercise of ATI Options (as hereinafter defined) and vesting of ATI RSUs (as hereinafter defined). AMD, 1252986 Alberta ULC, an unlimited liability company formed under the laws of Alberta (“Alberta ULC”), and ATI Technologies Inc., a corporation continued under the laws of Canada (“ATI”), entered into an Acquisition Agreement dated as of July 23, 2006 (the “Acquisition Agreement”), relating to the acquisition of ATI by Alberta ULC. On October 25, 2006 (the “Effective Date”), pursuant to the Acquisition Agreement and the Plan of Arrangement, as amended, implemented in connection therewith, Alberta ULC acquired all of the outstanding common shares of ATI, and AMD assumed the Plans (as hereinafter defined) and each ATI share option (the “ATI Options”) and restricted share unit (the “ATI RSUs”) outstanding on the Effective Date and issued pursuant to the ATI Technologies Inc. Restricted Share Unit Plans for U.S. Directors and Employees, as amended and restated, the ATI Technologies Inc. Restricted Share Unit Plans for Canadian Directors and Employees, as amended and restated, the ATI Technologies Inc. Share Option Plan, as amended, and the ArtX, Inc. 1997 Equity Incentive Plan, as amended (collectively, the “Plans”), was converted into the right to purchase or receive, as the case may be, shares of AMD Common Stock, as adjusted as to price and/or number of shares to reflect the Exchange Ratio (as defined in the Plan of Arrangement).

### PART I

#### INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information called for in Part I of Form S-8 is not being filed with or included in this Form S-8 (by incorporation by reference or otherwise) in accordance with the rules and regulations of the SEC.

### PART II

#### INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

*In this registration statement, Advanced Micro Devices, Inc. is sometimes referred to as “we,” “us” or “our.”*

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

We hereby incorporate by reference the following documents filed with the Commission pursuant to the Securities Exchange Act of 1934, as amended (File No. 001-07882):

- Our Annual Report on Form 10-K for the fiscal year ended December 25, 2005, including information specifically incorporated by reference into our Form 10-K from our Proxy Statement for our 2006 Annual Meeting of Stockholders, filed with the Commission on March 23, 2006;
- Our Quarterly Reports on Form 10-Q for the fiscal quarter ended March 26, 2006, filed with the SEC on May 5, 2006 and for the fiscal quarter ended July 2, 2006, filed with the SEC on August 11, 2006;
- Our Current Reports on Form 8-K, filed with the Commission on January 12, 2006, January 23, 2006, January 27, 2006, February 15, 2006, March 2, 2006, March 22, 2006, May 10, 2006, July 24, 2006 (except portions of the Report that are furnished but not deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended), July 31, 2006, October 4, 2006, October 19, 2006 and October 30, 2006;
- The description of our common stock, par value \$.01 per share, contained in our registration statement on Form 8-A, filed with the Commission on September 14, 1979, including any subsequently filed amendments and reports updating such description; and
- All documents we file with the Commission pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, prior to the filing of a post-effective amendment to this registration statement which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold.

Information that we file later with the Commission will automatically update and supersede this information.

**Item 4. Description of Securities.**

Not applicable.

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

Not applicable.

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

We are a Delaware corporation. Subsection (b)(7) of Section 102 of the Delaware General Corporation Law (the “DGCL”) enables a corporation in its original certificate of incorporation or an amendment thereto to eliminate or limit the personal liability of a director to the corporation or its stockholders for monetary damages for breach of the director’s fiduciary duty except (i) for any breach of the director’s duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) pursuant to Section 174 of the DGCL (providing for liability of directors for unlawful payment of dividends or unlawful stock purchases or redemptions) or (iv) for any transaction from which the director derived an improper personal benefit.

Subsection (a) of Section 145 of the DGCL empowers a corporation to indemnify any present or former director, officer, employee or agent of the corporation, or any individual serving at the corporation’s request as a director, officer, employee or agent of another organization, who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation), against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding provided that such director, officer, employee or agent acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation, and, with respect to any criminal action or proceeding, provided further that such director, officer, employee or agent had no reasonable cause to believe his or her conduct was unlawful.

Subsection (b) of Section 145 empowers a corporation to indemnify any present or former director, officer, employee or agent who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person acted in any of the capacities set forth above, against expenses (including attorneys’ fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit provided that such director, officer, employee or agent acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interests of the corporation, except that no indemnification may be made in respect to any claim, issue or matter as to which such director, officer, employee or agent shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all of the circumstances of the case, such director, officer, employee or agent is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Section 145 further provides that to the extent a director, officer, employee or agent has been successful in the defense of any action, suit or proceeding referred to in subsections (a) and (b) or in the defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys’ fees) actually and reasonably incurred by him or her in connection therewith and that indemnification and advancement of expenses provided for, by or granted pursuant to Section 145 shall not be deemed exclusive of any other rights to which the indemnified party may be entitled and empowers the corporation to purchase and maintain insurance on behalf of a present or former director, officer, employee or agent of the corporation or any individual serving at the corporation’s request as a director, officer or employee of another organization, against any liability asserted against him or her or incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liabilities under Section 145.

Article 8 of our certificate of incorporation, as amended, provides for the elimination of liability of our directors to the extent permitted by Section 102(b)(7) of the DGCL. Article VIII of our By-Laws, as amended, provides for indemnification of our directors or officers or those individuals serving at our request as a director or officer of another organization, to the extent permitted by Delaware law. In addition, we are bound by agreements with certain of our directors and officers which obligate us to indemnify such persons in various circumstances. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to our directors, officers and controlling persons pursuant to the foregoing provisions, or otherwise, we have been advised that in the opinion of the SEC 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 us of expenses incurred or paid by one of our directors, officers or controlling persons 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, we will, unless in the opinion of our 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.

We have in effect a directors and officers liability insurance policy indemnifying our directors and officers and the directors and officers of our subsidiaries within a specific limit for certain liabilities incurred by them, including liabilities under the Securities Act. We pay the entire premium of this policy.

We have entered into separate indemnification agreements with each of our directors and officers. These agreements require us, among other things, to indemnify such director or officer against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by such individual in connection with any action, suit or proceeding arising out of such individual's status or service as one of our directors or officers, provided that such individual acted in good faith and in a manner he or she reasonably believed to be in or not opposed to our best interests and, in the case of a criminal proceeding, had no reasonable cause to believe that his or her conduct was unlawful, and to advance expenses incurred by such individual in connection with any proceeding against such individual with respect to which such individual may be entitled to indemnification by us.

We believe that our certificate of incorporation and bylaw provisions, our directors and officers liability insurance policy and our indemnification agreements are necessary to attract and retain qualified persons to serve as our directors and officers.

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

Not applicable.

**Item 8. Exhibits.**

See Index to Exhibits.

**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;

(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. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective 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 Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, 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.

(4) That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities:

The undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(ii) The portions of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) 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 of 1933 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 Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 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 of 1933 and will be governed by the final adjudication of such issue.

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, 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 Sunnyvale, State of California, on October 26, 2006.

ADVANCED MICRO DEVICES, INC.

By: /s/ Robert J. Rivet

Robert J. Rivet  
*Executive Vice President, Chief Financial Officer*

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below does hereby constitute and appoint Hector de J. Ruiz and Robert J. Rivet, and each of them, with full power of substitution and full power to act without the other, his true and lawful attorney-in-fact and agent to act for him in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement, and to file this registration statement, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in order to effectuate the same as fully, to all intents and purposes, as they or he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the date indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Hector de J. Ruiz</u> Hector de J. Ruiz	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	October 26, 2006
<u>/s/ Robert J. Rivet</u> Robert J. Rivet	Executive Vice President, Chief Financial Officer (Principal Financial and Accounting Officer)	October 26, 2006
<u>/s/ W. Michael Barnes</u> W. Michael Barnes	Director	October 26, 2006
<u>/s/ Bruce L. Claflin</u> Bruce L. Claflin	Director	October 26, 2006
<u>/s/ H. Paulett Eberhart</u> H. Paulett Eberhart	Director	October 26, 2006
<u>/s/ Robert B. Palmer</u> Robert B. Palmer	Director	October 26, 2006
<u>Leonard M. Silverman</u>	Director	
<u>/s/ Morton L. Topfer</u> Morton L. Topfer	Director	October 24, 2006
<u>/s/ James D. Fleck</u> James D. Fleck	Director	October 26, 2006
<u>/s/ John E. Caldwell</u> John E. Caldwell	Director	October 25, 2006

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## INDEX TO EXHIBITS

### EXHIBIT

5.1	Opinion of Latham & Watkins LLP.
23.1	Consent of Latham & Watkins LLP (included in Exhibit 5.1).
23.2	Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm.
24.1	Power of Attorney (included in the signature page to this registration statement).
99.1	ATI Technologies Restricted Share Unit Plans for U.S. Directors and Employees, as amended and restated.
99.2	ATI Technologies Restricted Share Unit Plans for Canadian Directors and Employees, as amended and restated.
99.3	ATI Technologies Inc. Share Option Plan, as amended.
99.4	ArtX, Inc. 1997 Equity Incentive Plan, as amended.

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 Menlo Park, California 94025  
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## LATHAM & WATKINS LLP

### FIRM / AFFILIATE OFFICES

Brussels	New York
Chicago	Northern Virginia
Frankfurt	Orange County
Hamburg	Paris
Hong Kong	San Diego
London	San Francisco
Los Angeles	Shanghai
Milan	Silicon Valley
Moscow	Singapore
Munich	Tokyo
New Jersey	Washington, D.C.

October 30, 2006

Advanced Micro Devices, Inc.  
 One AMD Place  
 P.O. Box 3453  
 Sunnyvale, California 94088-3453

Re: Registration Statement on Form S-8;  
19,322,526 shares of Common Stock, par value \$0.01 per share

Ladies and Gentlemen:

We have acted as special counsel to Advanced Micro Devices, Inc., a Delaware corporation (the "Company"), in connection with the proposed issuance of up to 19,322,526 shares (the "Shares") of the Company's common stock, \$0.01 par value per share (the "Common Stock"), issuable upon the exercise of ATI Options (as hereinafter defined) and vesting of ATI RSUs (as hereinafter defined) granted under the Plans (as hereinafter defined) by ATI Technologies Inc., a corporation continued under the laws of Canada ("ATI"). Pursuant to an Acquisition Agreement dated as of July 23, 2006 among the Company, 1252986 Alberta ULC, an unlimited liability company formed under the laws of Alberta ("Alberta ULC"), and ATI, and a related Plan of Arrangement, on October 25, 2006 (the "Effective Date"), Alberta ULC acquired all of the outstanding common shares of ATI, and each ATI share option (the "ATI Options") and restricted share unit (the "ATI RSUs") outstanding on the Effective Date converted into the right to purchase or receive, as the case may be, shares of Common Stock according to specified formulas. 869,829 Shares are to be issued under the ATI Technologies Inc. Restricted Share Unit Plans for U.S. Directors and Employees, as amended and restated, 1,361,197 Shares are to be issued under the ATI Technologies Inc. Restricted Share Unit Plans for Canadian Directors and Employees, as amended and restated, 16,760,412 Shares are to be issued under the ATI Technologies Inc. Share Option Plan, as amended, and 331,088 Shares are to be issued under the ArtX, Inc. 1997 Equity Incentive Plan, as amended (collectively, the "Plans"), pursuant to a registration statement on Form S-8 under the Securities Act of 1933, as amended (the "Act"), filed with the Securities and Exchange Commission (the "Commission") on October 30, 2006 (the "Registration Statement"). This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement, other than as to the validity of the Shares.

As such counsel, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this letter. With your consent, we have relied upon the foregoing and upon certificates and other assurances of officers of the Company and others as to factual matters without having independently verified such factual matters.



**LATHAM & WATKINS** LLP

We are opining herein only as to the General Corporation Law of the State of Delaware, and we express no opinion with respect to any other laws.

Subject to the foregoing, it is our opinion that, as of the date hereof, the Shares to be issued under the Plans have been duly authorized by all necessary corporate action of the Company, and, upon the issuance and delivery of, and payment for, the Shares in the manner contemplated by the Plans and assuming the Company completes all actions and proceedings required on its part to be taken prior to the issuance and delivery of the Shares pursuant to the terms of the Plans, including, without limitation, collection of required payment for the Shares, the Shares will be validly issued, fully paid and nonassessable.

This opinion is for your benefit in connection with the Registration Statement and may be relied upon by you and by persons entitled to rely upon it pursuant to the applicable provisions of federal securities laws.

Very truly yours,

/s/ Latham & Watkins LLP

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in this Registration Statement on Form S-8 pertaining to the ATI Technologies Inc. Restricted Share Unit Plans for U.S. Directors and Employees, as amended and restated, ATI Technologies Inc. Restricted Share Unit Plans for Canadian Directors and Employees, as amended and restated, the ATI Technologies Inc. Share Option Plan, as amended, and the ARTX, Inc. 1997 Equity Incentive Plan, as amended, of our reports dated February 21, 2006, with respect to the consolidated financial statements and schedule of Advanced Micro Devices, Inc. and Subsidiaries, included in its Annual Report (Form 10-K) for the year ended December 25, 2005, Advanced Micro Devices, Inc. management's assessment of the effectiveness of internal control over financial reporting, and the effectiveness of internal control over financial reporting of Advanced Micro Devices, Inc. and Subsidiaries filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP  
San Jose, California

October 27, 2006

**ATI TECHNOLOGIES INC.**  
**RESTRICTED SHARE UNIT PLANS FOR**  
**U.S. DIRECTORS AND EMPLOYEES**  
**AMENDED AND RESTATED**  
**EFFECTIVE JANUARY 31, 2005**

**1. PURPOSE**

The purpose of the ATI Technologies Inc. Restricted Share Unit Plans for U.S. Directors and Employees, to be adopted by ATI Research, Inc., ATI Technologies Systems Corp. and ATI Research Silicon Valley Inc. (the "**Corporations**"), all wholly owned subsidiaries of ATI Technologies Inc., an Ontario corporation ("**ATI**"), is to retain and motivate eligible directors and employees of the Corporations and to promote a greater alignment of interests between directors and employees of the Corporations and the shareholders of ATI.

Certain capitalized terms used in this document are defined in Section 2.

**2. DEFINITIONS**

- (a) "**Act**" means the *Canada Business Corporations Act* or its successor, as amended from time to time;
- (b) "**Affiliate**" means an "affiliated entity" under Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors and Consultants* adopted by the securities regulatory authorities in each of the provinces and territories of Canada other than Quebec;
- (c) "**Associate**" shall have the meaning ascribed thereto in the Ontario Securities Act;
- (d) "**Award**" means an award of Restricted Shares under either the Market Plan or the Treasury Plan;
- (e) "**Award Agreement**" means the agreement or other instrument issued to a Participant that evidences and sets forth the terms, conditions and restrictions pertaining to the Participant's Award;
- (f) "**Board**" means the Board of Directors of ATI;
- (g) "**Broker**" means a broker, as designated by the Board, licensed to purchase, sell or otherwise trade Shares;
- (h) "**Code**" means the United States Internal Revenue Code of 1986, as amended;

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- (i) **“Committee”** means a committee established by the Board, as provided in Section 8(a);
  - (j) **“Common Shares”** means the common stock of ATI;
  - (k) **“Custodian”** means the individual or entity designated by the Board to hold all certificates representing Restricted Shares until they become nonforfeitable and transferable;
  - (l) **“Disability”** means:
    - (i) the Participant is eligible for long-term disability benefits under the Participating Corporation’s long-term disability plan, provided the disability is expected to have a duration of not less than 12 months, as determined by the Board or the Committee in its sole discretion; or,
    - (ii) in the absence of a long-term disability plan, the Participant is unable, by reason of a medically determinable physical or mental impairment, to engage in any substantial gainful activity, which condition, in the determination of the Board or the Committee in its sole discretion, is expected to have a duration of not less than 12 months;
  - (m) **“Employee”** means an employee of the Corporation, ATI, or an Affiliate, other than seasonal and contract employees and independent contractors;
  - (n) **“Forfeiture Expiration Date”** means the date specified in a Participant’s Award Agreement that all or any portion of the Participant’s Award is no longer subject to forfeiture;
  - (o) **“Going Private Transaction”** has the meaning ascribed to the term in the Act;
  - (p) **“Insider”** shall have the meaning ascribed thereto in the Ontario Securities Act;
  - (q) **“Issuer Bid”** has the meaning ascribed to the term in the Ontario Securities Act;
  - (r) **“Market Plan”** means the Restricted Share Plan for U.S. Directors and Employees established by the Corporation under Section Four and pursuant to which Restricted Shares are purchased by the Broker in open market or private transactions and held by the Custodian pending delivery to Participants on the Forfeiture Expiration Date;
  - (s) **“NASDAQ”** means the Nasdaq Stock Market;
  - (t) **“Ontario Securities Act”** means the *Securities Act* (Ontario) or its successor, as amended from time to time;
  - (u) **“Options”** means options to purchase Common Shares granted under ATI’s share option plans;

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- (v) **“Outstanding Issue”** means on any date, the number of Common Shares of ATI issued and outstanding, excluding any Common Shares issued pursuant to share compensation arrangements during the one-year period immediately preceding such date;
  - (w) **“Participant”** means an Employee or director of a Corporation who is selected by the Board to receive an Award under the Plan;
  - (x) **“Participating Corporation”** means the Corporation that enters into an Award Agreement with a given Participant;
  - (y) **“Plans”** means the Market Plan and the Treasury Plan;
  - (z) **“Plan Administrator”** means the third party service provider, if any, retained from time to time by the Corporation to perform certain of the administrative functions of the Plans as delegated by the Board in accordance with Section 8(c);
  - (aa) **“Restricted Shares”** means Common Shares subject to forfeiture, as provided under Sections 4 or 5;
  - (bb) **“Service”** means service as an Employee or director of a Participating Corporation, ATI or an Affiliate;
  - (cc) **“Take-over Bid”** has the meaning ascribed to the term in the Ontario Securities Act;
  - (dd) **“Treasury Plan”** means the Restricted Share Plan for U.S. Directors and Employees established by the Corporation under Section Five and pursuant to which Restricted Shares are issued to Participants by the Corporation from treasury on the Forfeiture Expiration Date; and
  - (ee) **“TSX”** means the Toronto Stock Exchange.

### 3. GRANT OF AWARDS

- (a) Eligibility and Participation. Only directors or Employees of the Corporations (including officers, whether or not directors) are eligible to participate in the Plans. The Board, in its sole discretion, will determine which directors and Employees will participate in the Plans. The Human Resources and Compensation Committee, or such other Committee designated by the Board in accordance with Section 8(a), may make recommendations to the Board for the Board’s consideration concerning the selection of Participants in the Plans and the number of Restricted Shares to be awarded to each Participant.

### 4. MARKET PLAN

- (a) The Market Plan is hereby established for Participants with an effective date of August 12, 2003. An award of Restricted Shares may be granted by the Board

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under the Market Plan and will be evidenced by an Award Agreement. The Award will be subject to terms and conditions that are consistent with the Market Plan and that the Board deems appropriate for inclusion in an Award Agreement.

- (b) Source of Shares. The Restricted Shares granted under the Market Plan will, prior to any Forfeiture Expiration Date, be purchased in open market or private transactions by the Broker, in accordance with all securities, reporting, and notification requirements. The Participating Corporation or ATI will be responsible for the payment of all brokerage commissions or similar fees in connection with the purchase of the Restricted Shares under this provision.
- (c) Limits on Purchases. Notwithstanding the provisions of Section 4(b), the Broker shall avoid disrupting the market price for the Common Shares and may, in its sole discretion, limit the daily volume of the Broker's purchases of Restricted Shares or make such purchases over several trading days to the extent that such action is deemed by the Broker to be necessary for such purposes or is otherwise in the best interests of Participants and ATI.
- (d) Issuance and Custody of Certificates.
  - (i) Issuance of Certificates. The Participating Corporation will cause to be issued one or more stock certificates, registered in the name of the Custodian, as nominee for the benefit of the Participant, evidencing the Restricted Shares that were purchased for the Participant in open market or private transactions.
  - (ii) Custody of Certificates. Each certificate will be held by the Custodian as nominee for the benefit of the Participant. The Custodian will record the number of Restricted Shares held for each Participant.
  - (iii) Delivery of Certificates. As soon as practicable, and no later than 45 days, after the Forfeiture Expiration Date of any Restricted Shares granted under the Market Plan, ATI, the Participating Corporation or the Plan Administrator will have certificates evidencing the Restricted Shares issued in the name of, and delivered to, the Participant (or the Participant's legal representatives, beneficiaries or heirs).
- (e) Forfeiture of Shares. In the event that all or any portion of an Award granted under the Market Plan is forfeited by a Participant in accordance with Section 6(d), the Custodian will have a standing order to sell the Restricted Shares on forfeiture and remit the proceeds to ATI. The Custodian and the Broker shall avoid disrupting the market price for Common Shares in connection with any such sales and the Custodian may, at its sole discretion, limit the daily volume of the Broker's sales of Restricted Shares or make such sales over several trading days to the extent that such action is deemed by the Broker to be necessary for such purposes or is otherwise in the best interests of Participants and ATI.

5. **TREASURY PLAN**

- (a) The Treasury Plan is hereby established for Participants with an effective date of January 27, 2004. An award of Restricted Shares may be granted by the Board under the Treasury Plan and will be evidenced by an Award Agreement. The Award will be subject to terms and conditions that are consistent with the Treasury Plan and that the Board deems appropriate for inclusion in an Award Agreement.
- (b) The Restricted Shares granted under the Treasury Plan will be allotted by ATI for issuance from treasury and will be issued to Participants on or before the Forfeiture Expiration Date as fully paid and non-assessable Common Shares in accordance with all securities, reporting and notification requirements. The Participating Corporation will be responsible for the payment of all fees, including transfer agent fees, in connection with the issuance of Restricted Shares under the provision.
- (c) Limits on Issuances. The maximum number of Common Shares available for issuance under (i) the Treasury Plan, and (ii) the terms of the ATI restricted share plans established for non-U.S. employees and directors shall be limited to the number of Common Shares as set out from time to time in Schedule "A". In addition, any Common Shares issued under the Treasury Plan shall be issued only from the pool of Common Shares set out in the ATI share option plan as being reserved for issuance under the ATI share option plan and any other share compensation plans or arrangements established by the Corporation (excluding, for greater certainty, Common Shares issuable or reserved for issuance in connection with the ArtX Inc. 1997 Equity Investment Plans).

In the event there is any change in the Common Shares through the declaration of stock dividends or subdivisions, consolidations or exchanges of Common Shares, or otherwise, the number of Common Shares available for issuance from treasury as Restricted Shares shall be adjusted appropriately by the Board and such adjustment shall be effective and binding for all purposes of the Treasury Plan.

In addition, the number of Common Shares which may be issued pursuant to the Treasury Plan and other share compensation arrangements established by ATI shall be limited as follows:

- (i) the number of Common Shares reserved for issuance to any one individual shall not exceed 5% of the Outstanding Issue;
- (ii) the number of Restricted Shares granted to Insiders, together with the number of Common Shares reserved for issuance pursuant Options granted to Insiders shall not exceed 10% of the Outstanding Issue;
- (iii) the number of Common Shares that may be issued to Insiders within any one-year period shall not exceed 10% of the Outstanding Issue; and

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- (iv) the number of Common Shares that may be issued to any one Insider and such Insider's Associates within any one-year period shall not exceed 5% of the Outstanding Issue.
  - (d) Issuance of Certificates. As soon as practicable, and no later than 45 days, after the Forfeiture Expiration Date of any Restricted Shares granted under the Treasury Plan, ATI, the Participating Corporation or the Plan Administrator will have certificates evidencing the Restricted Shares issued in the name of, and delivered to, the Participant (or the Participant's legal representatives, beneficiaries or heirs).

**6. TERMS OF AWARDS**

- (a) Number of Shares. Each Award Agreement will specify the number of Restricted Shares granted to the Participant and whether the Restricted Shares were granted under the Market Plan or the Treasury Plan. The number of Restricted Shares granted to a Participant will be determined by the Board in its sole discretion.
- (b) Forfeiture. The Restricted Shares awarded under the Plans to a Participant are subject to forfeiture in accordance with terms specified in the Participant's Award Agreement. The forfeiture provisions of any Award Agreement will be determined by the Board in its sole discretion, provided that for each Award of Restricted Shares to an Employee, such Restricted Shares shall be subject to Forfeiture Expiration Dates that occur over a period of no less than three years from the date such Restricted Shares were awarded to an Employee. The forfeiture provisions of any Award Agreement may be determined from time to time by the Board in its sole discretion to include criteria such as, but not limited to:
  - (i) time restrictions, in which Restricted Shares will not be delivered to an Employee for a specified period of time; and
  - (ii) performance restrictions in which the number of Restricted Shares to be delivered to any Employee fluctuates based upon ATI's performance and/or the market price of the Common Shares, in such manner as determined by the Board, or if so delegated, the Committee, in its sole discretion.
- (c) Restrictions on Transfer. Until the forfeiture provisions of a Restricted Share expire, the Participant's rights to the Restricted Share may not be sold, assigned, transferred, pledged or otherwise encumbered. Until the forfeiture provisions of a Restricted Share expire, no attempt to transfer the Restricted Share, whether voluntary or involuntary, by operation of law or otherwise, will vest the transferee with any interest or right in or with respect to the Restricted Share.



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- (d) Termination of Service.
- (i) Voluntary or Involuntary Termination. Except as provided in subsection (ii), if a Participant's Service terminates for any reason before the Forfeiture Expiration Date of any Restricted Shares, the Participant's rights to those Restricted Shares, whether issued or not, will be immediately and irrevocably forfeited.
  - (ii) Death or Disability. In the event of a Participant's death or Disability prior to termination of Service, the forfeiture provisions applicable to the Participant's Restricted Shares will expire and certificates for the Restricted Shares will be issued and delivered in accordance with Section 4(d) or 5(d) as soon as practicable.
  - (iii) Leave of Absence. For purposes of the Plans, the continuous Service of the Participant as an Employee will not be deemed to have been interrupted and the Participant will not be deemed to have incurred a termination of Service by reason of a leave of absence approved by the Participating Corporation, ATI, or the Affiliate for which the Participant is performing Service at the time of the leave of absence, but only if, and for so long as, the Participant does not work for a competitor of the Corporations or ATI, or otherwise compete with the Corporations or ATI, as determined by the Board in its sole discretion, during the leave of absence. If, in the opinion of the Board, the Participant begins to work for a competitor of the Corporations or ATI, or otherwise competes with the Corporations or ATI, the Participant will cease to be a Participant as of the date the leave of absence begins, and the former Participant will forfeit all Restricted Shares, whether issued or not, that are subject to forfeiture as of that date.
- (e) Bids and Proposed Transactions. If there is a Take-over Bid or Issuer Bid made for all or less than all of the issued and outstanding Common Shares, or if ATI proposes a Going Private Transaction, the Board in its sole discretion may, by resolution, remove any remaining forfeiture restrictions from all outstanding Restricted Shares.
- (f) Voting and Dividends. The Participant will receive all dividends paid on the Restricted Shares awarded under the Market Plan and will be entitled to vote the Restricted Shares awarded under the Market Plan.
- (g) Code § 83(b) Election. A Participant will not be permitted to make an election under Section 83(b) of the Code to include the value of the Restricted Shares in income at the time of grant unless the Participant's Award Agreement provides otherwise.

7. **CONDITIONS TO AWARDS**

- (a) Securities Law Requirements. No Awards may be made and no Restricted Shares may be purchased, issued or delivered under the Plans unless the Award,

purchase, issuance or delivery of these Restricted Shares complies with (or is exempt from) all applicable requirements of law, including (without limitation) the *Ontario Securities Act* and the *United States Securities Act of 1933*, as amended (collectively, the “Securities Acts”), the rules and regulations promulgated under the Securities Acts, state and provincial securities laws and regulations, and the regulations of NASDAQ, the TSX and any other stock exchange or securities market on which ATI then may be traded. Awards may be made contingent on the receipt of all necessary regulatory approvals. If all approvals are not received, the Awards will be null and void *ab initio*.

- (b) Inability to Obtain Authority. The inability of ATI to obtain authority from any regulatory body having jurisdiction, which authority is deemed by ATI’s counsel to be necessary to the lawful delivery of any Restricted Shares under the Plans, will relieve ATI and the Participating Corporation of any liability in respect of the failure to deliver those Restricted Shares as to which the requisite authority has not been obtained.
- (c) Withholding Taxes. As a condition to the delivery of the certificates evidencing Common Shares following the Forfeiture Expiration Date of the Restricted Shares, the Participant will make such arrangements as the Participating Corporation may require for the satisfaction of any federal, state, provincial, local or foreign withholding tax obligations that may arise in connection with the expiration of the forfeiture provisions relating to the Restricted Shares.
- (d) Participant’s Agreement to be Bound. Participation in the Plans and acceptance of an Award by any Participant will be construed as acceptance by the Participant of the terms and conditions of the Plans and the Participant’s Award Agreement and all rules and procedures adopted under the Plans.

## 8. ADMINISTRATION

- (a) Committees and Delegation of Powers. The Plans may be administered by one or more Committees appointed by the Board. A Committee will have the authority and be responsible for those functions assigned to it by the Board. If no Committee is appointed, the entire Board will administer the Plans. Any reference to the Board in the Plans will be construed as a reference to the Committee, if any, to which the Board assigns a particular function in connection with the Plans. In addition, all of the powers exercisable under the Plans by the Board may, to the extent permitted by applicable law and authorized by resolution of the Board, be exercised by the Human Resources and Compensation Committee of the Board or by such other Committee as the Board may designate by resolution.
- (b) Powers of the Board. Subject to the provisions of the Plans, the Board has the power to:
  - (i) determine and designate those individuals selected to receive Awards, the time at which each Award will be granted, and the number of Restricted Shares subject to each Award;

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- (ii) prescribe, amend, or rescind any rules and regulations necessary or appropriate for the administration of the Plans;
  - (iii) correct any defect, supply any deficiency, and reconcile any inconsistency in the Plans or in any related Award Agreement;
  - (iv) adjust the number of Restricted Shares covered by an Award to reflect any change in the Common Shares through the declaration of stock dividends or subdivisions, consolidations or exchanges of Common Shares or other change in ATI's capital structure;
  - (v) modify or waive the forfeiture provisions contained in any Award Agreement, provided that no modification or waiver will, without the consent of the Participant, alter or impair any rights or obligations of the Participant under the Award, unless the modification or waiver is required by applicable law; and
  - (vi) make other determinations and take such other action in connection with the administration of the Plans as it deems necessary or advisable.
- (c) Delegation of Duties. The Board may direct appropriate officers of ATI or the Corporations and/or a Plan Administrator to implement its rules, regulations and determinations. Those officers of ATI or the Corporation may execute and deliver on behalf of ATI and the Corporations such documents, forms, agreements and other instruments as are deemed by the Board to be necessary for the administration and implementation of the Plans.
- (d) Interpretation of Plan. The Board has the power in its sole discretion to interpret and construe the Plans and all related Award Agreements. All decisions, interpretations and determinations of the Board with respect to the Plans will be final and binding on all Participants and all persons deriving their rights from Participants.
- (e) Indemnification. Each member of the Board or Committee is indemnified and held harmless by ATI against any cost or expense (including any sum paid in settlement of a claim with the approval of ATI) arising out of any act or omission to act in connection with the Plans to the extent permitted by applicable law. This indemnification is in addition to any rights of indemnification a Board or Committee member may have as a director or otherwise under the by-laws of ATI or an Affiliate, any agreement, any vote of shareholders or disinterested directors, or otherwise.

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- (f) Discretionary Relief. Notwithstanding any other provisions of the Plans, the Board may, in its sole discretion, waive any condition of the Plans if specific individual circumstances warrant such waiver.

**9. GENERAL**

- (a) No Retention Rights. Nothing in the Plans or in any Award granted under the Plans will confer on a Participant any right to continue in employment for any period of time or will interfere with or otherwise restrict in any way the rights of ATI or the Corporations or of the Participant, which rights are expressly reserved by each, to terminate a Participant's employment at any time and for any reason.
- (b) No Participation Rights. Nothing in the Plans or in any Award granted under the Plans will confer on a Participant any right to receive additional Awards, to participate in or continue to participate in the Plans following termination of Service, or to be entitled to compensation or damages in lieu of participation or continued participation in the Plans.
- (c) Rights of ATI and the Corporations. The grant of an Award under the Plans will not affect in any way the right or power of ATI or any Corporation to make adjustments, reclassifications, reorganizations or changes of its capital or business structure, to merge or consolidate or to dissolve, liquidate, sell or transfer all or any part of its business or assets.
- (d) No Representation or Warranty. ATI and the Corporations make no representation or warranty as to the future market value of any Common Shares awarded in accordance with the provisions of the Plans.
- (e) Plan Terms Control. In the event there is a discrepancy between the terms of the Plans and the terms of any Award Agreement issued under the Plans, the terms of the Plans will control.

**10. AMENDMENT AND TERMINATION**

- (a) Right to Amend or Terminate the Plan. The Board may amend, suspend or terminate the Plans at any time and for any reason.
- (b) Effect of Amendment or Termination. No amendment, suspension, or termination of the Plans will, without the consent of the affected Participant, alter or impair any rights or obligations under any Award previously granted under the Plans, unless the amendment, suspension or termination is required by applicable law.

**11. APPLICABLE LAW**

The Plans and all Awards granted thereunder will be construed and interpreted in accordance with, and governed by, the laws of California, other than its laws regarding choice of law.

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**SCHEDULE "A"**

The Corporation committed, effective December 14, 2004, to limit the maximum number of Common Shares issuable from treasury under all of the Corporation's restricted share plans to 3,000,000 Common Shares.

ATI TECHNOLOGIES INC.  
RESTRICTED SHARE UNIT PLANS  
FOR CANADIAN DIRECTORS AND EMPLOYEES  
AMENDED AND RESTATED  
EFFECTIVE JANUARY 31, 2005  
ARTICLE 1  
DEFINITIONS AND INTERPRETATION

**1.1 Definitions**

For purposes of the Plans:

- (a) **“Account”** means an account maintained by either Management or the Plan Administrator for each Participant and which will be credited with Restricted Share Units in accordance with the terms of the Plans;
- (b) **“Acknowledgement Form”** has the meaning set forth in section 3.2;
- (c) **“Act”** means the *Canada Business Corporations Act* or its successor, as amended from time to time;
- (d) **“Affiliate”** means an “affiliated entity” under Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors and Consultants* adopted by the securities regulatory authorities in each of the provinces and territories of Canada other than Quebec;
- (e) **“Associate”** shall have the meaning ascribed thereto in the Ontario Securities Act;
- (f) **“ATI Share”** means a common share of the Corporation;
- (g) **“Award Date”** means the date or dates on which an award of Restricted Share Units is made to a Participant in accordance with section 4.2 or 5.2;
- (h) **“Basic Administration Expenses”**, as determined in the Committee’s sole discretion, may include, but shall not be limited to, expenses incurred in connection with the establishment and tracking of Accounts and the preparation and distribution of Account statements, ancillary administration costs, fees and expenses payable pursuant to the terms of any agreement or agreements executed from time to time between the Corporation and either the Trustee or the Plan Administrator, any brokerage fees or commissions applicable to the purchase of ATI Shares to be delivered to Participants upon the vesting of Restricted Share Units granted under the Market Plan, and any fees of the Corporation’s transfer agent incurred in connection with the issuance or transfer of ATI Shares under the Plans;

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- (i) **“Board”** means the board of directors of the Corporation as constituted from time to time;
  - (j) **“Committee”** means the committee of the Board responsible for recommending to the Board the compensation of the Participants, which, as at the effective date of each of the Plans, is the Human Resources and Compensation Committee;
  - (k) **“Company Contributions”** means the cash contributions made to the Trustee from time to time by the Corporation for purposes of allowing the Trustee to purchase ATI Shares through the facilities of a Stock Exchange, as contemplated in section 4.4;
  - (l) **“Corporation”** means ATI Technologies Inc.;
  - (m) **“Director”** means a person who is a director of the Corporation;
  - (n) **“Employee”** means an employee of the Corporation, other than seasonal and contract employees and independent contractors, and who is not a Director of the Corporation;
  - (o) **“Forfeited Restricted Share Unit”** means a Restricted Share Unit that relates to an award of Restricted Share Units that does not vest and is forfeited by a Participant pursuant to section 6.3, 6.4, 6.5 or 6.6, as applicable;
  - (p) **“Forfeiture Date”** means the date, as determined by the Committee, on which a Participant:
    - (i) who has retired or has become eligible for long-term or short-term disability benefits or who is on pregnancy, parental, emergency or other approved leave, begins to work for a competitor of the Corporation or otherwise competes with the Corporation as contemplated in section 6.3 or 6.5, as applicable;
    - (ii) resigns from employment with the Corporation as contemplated in section 6.4 and “Forfeiture Date” in such circumstances specifically does not mean the date on which any period of reasonable notice that the Corporation may be required at law to provide to the Participant, would expire; or
    - (iii) is terminated for any reason as contemplated in section 6.6 and, except as specifically provided in section 6.6, “Forfeiture Date” specifically does not mean the date on which any statutory or common law severance period or any period of reasonable notice that the Corporation may be required at law to provide to the Participant, would expire;

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- (q) **“Going Private Transaction”** shall have the meaning ascribed thereto in the Act;
  - (r) **“Insider”** shall have the meaning ascribed thereto in the Ontario Securities Act;
  - (s) **“Issuer Bid”** shall have the meaning ascribed thereto in the Ontario Securities Act;
  - (t) **“Management”** means the senior management of the Corporation;
  - (u) **“Market Plan”** means the Restricted Share Unit Plan for Canadian Directors and Employees established by the Corporation under Article Four and pursuant to which ATI Shares are purchased by the Trustee through the facilities of a Stock Exchange and held by the Trustee in the Market Plan Trust Fund pending delivery to Participants upon the vesting of corresponding Restricted Share Units;
  - (v) **“Market Plan Trust Fund”** means the assets held by the Trustee pursuant to the Market Plan, as more fully set out in section 4.6;
  - (w) **“Ontario Securities Act”** means the *Securities Act* (Ontario) or its successor, as amended from time to time;
  - (x) **“Options”** means options to purchase ATI Shares granted under the Corporation’s share option plans;
  - (y) **“Outstanding Issue”** means on any date, the number of ATI Shares of the Corporation issued and outstanding, excluding any ATI Shares issued pursuant to share compensation arrangements during the one-year period immediately preceding such date;
  - (z) **“Participant”** means a Director or an Employee determined to be eligible to participate in the Plans in accordance with section 3.1 and, where applicable, a former Director or a former Employee deemed eligible to continue to participate in the Plans in accordance with section 6.3, 6.5 or 6.6;
  - (aa) **“Plans”** means the Market Plan and the Treasury Plan;
  - (bb) **“Plan Administrator”** means the third party service provider, if any, retained from time to time by the Corporation to perform certain of the administrative functions of the Plans as delegated by the Committee in accordance with section 2.4;
  - (cc) **“Restricted Share Unit”** means a unit equivalent in value to an ATI Share credited by means of a bookkeeping entry in the Participants’ Accounts;
  - (dd) **“Stock Exchange”** means the Toronto Stock Exchange, The NASDAQ Stock Market or any other stock exchange on which ATI Shares are listed and posted for trading, as applicable;



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- (ee) **“Take-over Bid”** shall have the meaning ascribed thereto in the *Ontario Securities Act*;
  - (ff) **“Treasury Plan”** means the Restricted Share Unit Plan for Canadian Directors and Employees established by the Corporation under Article Five and pursuant to which ATI Shares are issued to Participants by the Corporation from treasury upon the vesting of corresponding Restricted Share Units; and
  - (gg) **“Trustee”** means CIBC Mellon Trust Company or such other trustee or trustees from time to time appointed for purposes of the Market Plan pursuant to section 4.10.

## **1.2 Interpretation**

Words in the singular include the plural and words in the plural include the singular. Words importing male persons include female persons, corporations or other entities, as applicable. The headings in this document are for convenience and reference only and shall not be deemed to alter or affect any provision hereof. The words “hereto”, “herein”, “hereby”, “hereunder”, “hereof” and similar expressions mean or refer to this document as a whole and not to any particular article, section, paragraph or other part hereof.

## **ARTICLE 2 PURPOSE AND ADMINISTRATION OF THE PLANS**

### **2.1 Purpose**

The Plans have been established to retain and motivate eligible Directors and Employees and to promote a greater alignment of interests between Directors, Employees and the shareholders of the Corporation.

### **2.2 Administration of the Plans**

Except for matters that are under the jurisdiction of the Board as specified herein or as required by law, the Plans shall be administered by the Committee.

### **2.3 Authority of the Committee**

Subject to section 2.2, the Committee shall, by majority action, have the full power to administer the Plans, including, but not limited to, the authority to:

- (a) interpret and construe any provision hereof and decide all questions of fact arising in their interpretation;
- (b) adopt, amend, suspend and rescind such rules and regulations for administration of the Plans as the Committee may deem necessary in order to comply with the requirements of the Plans, or in order to conform to any law or regulation or to any change in any laws or regulations applicable thereto;

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- (c) make recommendations to the Board for the Board's consideration concerning the determination of Participants in either of the Plans and the number of Restricted Share Units to be credited to each Participant's Account pursuant to either of the Plans;
  - (d) take any and all actions permitted by the Plans; and
  - (e) make any other determinations and take such other action in connection with the administration of the Plans that it deems necessary or advisable.

#### **2.4 Delegation of Authority**

The Committee may delegate to Management and/or a Plan Administrator the whole or any part of the administration of the Plans and shall determine the scope of such delegation in its sole discretion.

#### **2.5 Discretionary Relief**

Notwithstanding any other provision hereof, the Committee may, in its sole discretion, waive any condition set out herein if specific individual circumstances warrant such waiver.

#### **2.6 Amendment, Suspension, or Termination of Plans**

- (a) The Board may, from time to time, amend the terms set out herein or suspend the Plans in whole or in part and may at any time terminate the Plans without prior notice. However, except as expressly set forth herein, no such amendment, suspension, or termination may adversely affect Restricted Share Units credited to the Participants' Accounts at the time of such amendment, suspension, or termination without the consent of the affected Participant(s).
- (b) The Committee may correct any defect or supply any omission or reconcile any inconsistency in the Plans in the manner and to the extent deemed necessary or desirable, may establish, amend, and rescind any rules and regulations relating to the Plans, and may make such determinations as it deems necessary or desirable for the administration of the Plans.
- (c) No amendment, change or modification shall be made to the Market Plan that will alter the duties of the Trustee without the Trustee's written consent.
- (d) If the Board terminates or suspends a Plan no new Restricted Share Units will be credited to the Account of a Participant under such Plan.
- (e) On termination of a Plan, any outstanding awards of Restricted Share Units shall immediately vest and the number of ATI Shares corresponding to the Restricted Share Units which have been awarded shall be delivered to the Participant in accordance with sections 4.8 and 5.6, as applicable. The Plans will finally cease to operate for all purposes when the last remaining Participant receives delivery of

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all ATI Shares corresponding to Restricted Share Units credited to the Participant's Account and any ATI Shares held in the Market Plan Trust Fund corresponding to any Forfeited Restricted Share Units are sold by the Trustee in accordance with section 6.8.

**2.7 Final Determination**

Any determination or decision by, or opinion of, the Board, the Committee or Management made or held pursuant to the terms set out herein shall be made or held reasonably and shall be final, conclusive and binding on all parties concerned, including, but not limited to, the Corporation, the Participants and their beneficiaries and legal representatives.

Subject to section 2.5, all rights, entitlements and obligations of Participants under the Plans are set forth in the terms hereof and cannot be modified by any other documents, statements or communications, except by amendment to the terms set out herein referred to in section 2.6.

**2.8 Taxes**

A Participant shall be solely responsible for reporting and paying income tax payable in respect of the ATI Shares received by the Participant under the Plans. The Corporation will provide each Participant with (or cause each Participant to be provided with) a T4 slip or such requisite statement as may be required by applicable law to report income for income tax purposes.

**2.9 Expenses**

Subject to section 6.8, the Corporation shall pay all Basic Administration Expenses.

**2.10 Information**

Each Participant shall provide the Corporation with all of the information (including personal information) that it requires in order to administer the Plans.

The Corporation may from time to time transfer or provide access to such information to the Trustee or the Plan Administrator for purposes of the administration of the Plans.

**2.11 Account Information**

Information pertaining to the Restricted Share Units in Participants' Accounts will be made available to the Participants at least annually in such manner as Management or the Plan Administrator may determine and shall include such matters as the Committee may determine from time to time or as otherwise may be required by law.

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## **2.12 Indemnification**

Each member of the Board or Committee is indemnified and held harmless by the Corporation against any cost or expense (including any sum paid in settlement of a claim with the approval of the Corporation) arising out of any act or omission to act in connection with the terms hereof to the extent permitted by applicable law. This indemnification is in addition to any rights of indemnification a Board or Committee member may have as director or otherwise under the by-laws of the Corporation, any agreement, any vote of shareholders, or disinterested directors, or otherwise.

## **ARTICLE 3 ELIGIBILITY AND PARTICIPATION IN THE PLANS**

### **3.1 Participation**

The Board, in its sole discretion, shall determine, or shall delegate to the Committee the determination of which Directors and Employees will participate in either of the Plans.

### **3.2 Acknowledgement Form**

A Participant shall confirm acknowledgement of an award of Restricted Share Units made to such Participant under either the Market Plan or Treasury Plan in the form attached hereto as Schedule "A" (or such similar form as determined by the Committee) (the "Acknowledgement Agreement"), within such time period and in such manner as specified by Management or the Plan Administrator. If Acknowledgement of an award of Restricted Share Units is not confirmed by a Participant within the time specified, the Corporation reserves the right to revoke the crediting of Restricted Share Units to the Participant's Account.

### **3.3 Participant's Agreement to be Bound**

Participation in either of the Plans by any Participant shall be construed as acceptance by the Participant of the terms and conditions set out herein and all rules and procedures adopted hereunder and as amended from time to time.

## **ARTICLE 4 THE MARKET PLAN**

### **4.1 The Market Plan**

The Market Plan is hereby established for Participants with an effective date of August 12, 2003. The Market Plan is intended to constitute an employee benefit plan as defined in subsection 248(1) of the *Income Tax Act* (Canada) or any successor provision under which Company Contributions are made to the Trustee and under which payments are made to or for the benefit of a Participant under the Market Plan in the form of ATI Shares purchased by the Trustee through the facilities of the Stock Exchange.

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#### **4.2 Grant of Restricted Share Units**

Subject to section 3.2, an award of Restricted Share Units will be made and the number of such Restricted Share Units awarded will be credited to each Participant's Account, effective as of the Award Date. The number of Restricted Share Units to be credited to each Participant's Account shall be determined by the Board, or the Committee if delegated by the Board to do so, each in its sole discretion. The Restricted Share Units credited to a Participant's Account pursuant to this section shall be noted as having been granted under the Market Plan.

#### **4.3 Vesting**

- (a) Subject to Article Six, an award of Restricted Share Units under the Market Plan shall vest in accordance with the terms specified in the Participant's Acknowledgment Agreement. The vesting provisions in any Acknowledgment Agreement will be determined either by the Board, or the Committee if delegated by the Board to do so, each in its sole discretion; provided that:
  - (i) unless forfeited prior to such date, all awards of Restricted Share Units shall vest no later than December 15 of the third calendar year following the Award Date of the corresponding Restricted Share Unit, or such later date as may be permitted by applicable income tax laws; and
  - (ii) each award of Restricted Share Units to an Employee shall vest over a period of no less than three years from the Award Date.
- (b) For greater certainty, the vesting of Restricted Share Units may be determined from time to time by the Board, or the Committee if so delegated by the Board, to include criteria such as, but not limited to:
  - (i) time vesting, in which an ATI Share is not delivered to a Participant until the Participant has held the corresponding Restricted Share Unit for a specified period of time; and
  - (ii) performance vesting, in which the number of ATI Shares to be delivered to a Participant for each Restricted Share Unit that vests may fluctuate based upon the Corporation's performance and/or the market price of the ATI Shares, in such manner as determined by the Board or, if so delegated, the Committee, in their sole discretion.

#### **4.4 Restricted Share Purchases by Trustee**

At its discretion, the Corporation shall remit one or more Company Contributions to the Trustee in the amount necessary to allow the Trustee to arrange for the purchase of ATI Shares equal to the maximum number of ATI Shares that may be delivered to a Participant upon the vesting of Restricted Share Units awarded to Participants under section 4.2 prior to the date that such Restricted Share Units vest in accordance with section 4.3.

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The Trustee shall arrange for the purchase of the requisite number of ATI Shares through a Stock Exchange participating organization and the facilities of the Stock Exchange as soon as practicable (but in any event within 30 calendar days) after receipt of any Company Contributions. The ATI Shares shall be purchased at prevailing market prices and the Trustee shall require that purchases be effected in accordance with section 6-501(9) of Appendix F to the Toronto Stock Exchange Company Manual as if such section applies to purchases made by or on behalf of the Trustee.

In the event that any Company Contribution received by the Trustee turns out to be insufficient to acquire the number of ATI Shares required at a particular time, the Trustee will notify the Corporation of the additional Company Contribution required and the Corporation shall forthwith provide such amount to the Trustee.

The Corporation will be responsible for, and Company Contributions may be used by the Trustee to pay, all brokerage commissions or similar fees in connection with such purchases.

#### **4.5 Limit on Purchases**

Notwithstanding the provisions of section 4.4, the Trustee, in its discretion, may limit the daily volume of purchases of ATI Shares or cause such purchases to be made over several trading days to the extent that such action is deemed by it to be necessary to avoid disrupting the market price for ATI Shares or otherwise be in the best interests of the Corporation.

#### **4.6 Assets of the Market Plan Trust Fund**

The Trustee shall receive Company Contributions from the Corporation. Company Contributions and the ATI Shares acquired therewith shall constitute the Market Plan Trust Fund and shall be held, administered and dealt with by the Trustee pursuant to the terms of the Market Plan.

#### **4.7 Registration of ATI Shares and Rights of Ownership**

All ATI Shares purchased by the Trustee pursuant to the Market Plan shall be registered in the name of the Trustee or a nominee thereof and shall be held in the Market Plan Trust Fund in accordance with the terms hereof.

Each Participant shall have the right and shall be afforded the opportunity to instruct the Trustee in writing how to vote, on any issue coming before the holders of ATI Shares, with respect to the ATI Shares held for the benefit of such Participant by the Trustee in the Market Plan Trust Fund at the record date for any meeting of the holders of ATI Shares. Instructions by a Participant to the Trustee shall be in such form and delivered pursuant to such regulations as the Committee may prescribe, subject to the approval of the Trustee, and any such instructions to the Trustee shall remain in the strict confidence of the Trustee. If the Trustee does not receive timely and proper instructions from a Participant regarding the voting of ATI Shares held for the benefit of such Participant by the Trustee in the Market Plan Trust Fund, such ATI Shares shall not be voted. Similar procedures shall apply to any consent solicitation of the holders of ATI Shares. ATI Shares corresponding to Forfeited Restricted Share Units shall not be voted.

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**4.8 Delivery of ATI Shares by the Trustee on Vesting**

The Trustee shall, as soon as practicable after the relevant vesting date of any award of Restricted Share Units under the Market Plan, withdraw from the Market Plan Trust Fund the number of ATI Shares required to be delivered to a Participant upon the vesting of Restricted Share Units in the Participant's Account and shall transfer title, register and deliver certificates for such ATI Shares to the Participant by first class insured mail, unless the Trustee shall have received alternate instructions from the Participant (through Management or the Plan Administrator) for the registration and/or delivery of the certificates. For greater certainty, unless forfeited prior to such date, all ATI Shares to be delivered to Participants upon the vesting of Restricted Share Units shall be delivered to Participants no later than December 31<sup>st</sup> of the third calendar year following the Award Date of the Restricted Share Units awarded to the Participants, or such later date as may be permitted by applicable income tax laws.

**4.9 Changes in ATI Shares**

In the event there is any change in ATI Shares through the declaration of stock dividends or subdivisions, consolidations, or exchanges of ATI Shares or otherwise, the number of ATI Shares available for issuance upon the vesting of Restricted Share Units granted under the Market Plan shall be adjusted appropriately by the Board and such adjustment shall be effective and binding for all purposes of the Market Plan.

**4.10 Trustee**

The Committee may appoint, in replacement for CIBC Mellon Trust Company, a company authorized to carry on the business of a trust company in Canada to act as Trustee and purchasing agent for the Market Plan.

**ARTICLE 5  
THE TREASURY PLAN**

**5.1 The Treasury Plan**

The Treasury Plan is hereby established for Participants with an effective date of January 27, 2004.

**5.2 Grant of Restricted Share Units**

Subject to section 3.2, an award of Restricted Share Units pursuant to the Treasury Plan will be made and the number of such Restricted Share Units awarded will be credited to each Participant's Account, effective as of the Award Date. The number of Restricted Share Units to be credited to each Participant's Account shall be determined by the Board, or the Committee delegated by the Board to do so, each in its sole discretion. The Restricted Share Units credited to a Participant's Account pursuant to this section shall be noted as having been granted under the Treasury Plan.

### **5.3 Vesting**

Subject to Article Six, an award of Restricted Share Units under the Treasury Plan shall vest in accordance with the terms specified in the Participant's Acknowledgement Agreement. The vesting provisions in any Acknowledgement Agreement will be determined by the Board, or the Committee if delegated by the Board to do so, each in its sole discretion; provided that for each award of Restricted Share Units to an Employee, the Restricted Share Units shall vest over a period of no less than three years from the Award Date.

For greater certainty, the vesting of Restricted Share Units may be determined from time to time by the Board or the Committee if so delegated by the Board, to include criteria such as, but not limited to:

- (a) time vesting, in which an ATI Share is not delivered to a Participant until the Participant has held the corresponding Restricted Share Unit for a specified period of time; and
- (b) performance vesting, in which the number of ATI Shares to be delivered to a Participant for each Restricted Share Unit that vests may fluctuate based upon the Corporation's performance and/or the market price of the ATI Shares, in such manner as determined by the Board or, if so delegated, the Committee, in their sole discretion.

### **5.4 Allotment of ATI Shares for Issuance by the Corporation**

The Corporation shall allot for issuance from treasury such number of ATI Shares corresponding to the maximum number of ATI Shares that may be deliverable to Participants upon the vesting of Restricted Share Units awarded to Participants under the Treasury Plan.

### **5.5 Limits on Issuances**

The maximum number of ATI Shares available for issuance under (i) the Treasury Plan, and (ii) the terms of the Corporation's restricted share plans established for non-Canadian employees and directors shall be limited to the number of ATI Shares as set out from time to time in Schedule B. In addition, any ATI Shares issued under the Treasury Plan shall be issued only from the pool of ATI Shares set out in the Corporation's Share Option Plan as being reserved for issuance under the Corporation's Share Option Plan and any other share compensation plans or arrangements established by the Corporation (excluding, for greater certainty, ATI Shares issuable or reserved for issuance in connection with the ArtX Inc. 1997 Equity Investment Plans).

In the event there is any change in the ATI Shares through the declaration of stock dividends or subdivisions, consolidations or exchanges of ATI Shares, or otherwise, the



number of ATI Shares available for issuance upon the vesting of Restricted Share Units granted under the Treasury Plan shall be adjusted appropriately by the Board and such adjustment shall be effective and binding for all purposes of the Treasury Plan.

In addition, the number of ATI Shares reserved for issuance and which may be issued pursuant to the Treasury Plan and other share compensation arrangements established by the Corporation shall be limited as follows:

- (a) the number of ATI Shares reserved for issuance to any one individual shall not exceed 5% of the Outstanding Issue;
- (b) the number of ATI Shares reserved for issuance pursuant to Restricted Share Units and Options granted to Insiders shall not exceed 10% of the Outstanding Issue;
- (c) the number of ATI Shares that may be issued to Insiders within any one-year period shall not exceed 10% of the Outstanding Issue; and
- (d) the number of ATI Shares that may be issued to any one Insider and such Insider's Associates within any one-year period shall not exceed 5% of the Outstanding Issue.

#### **5.6 Delivery of ATI Shares by the Corporation on Vesting**

The Corporation shall, as soon as practicable after the relevant vesting date of any award of Restricted Share Units under the Treasury Plan, issue from treasury to each Participant the number of ATI Shares required to be delivered to a Participant upon the vesting of such Participant's Restricted Share Units in the Participant's Account. The Corporation shall register and deliver certificates for such ATI Shares to the Participant by first class insured mail, unless the Corporation shall have received alternative instructions from the Participant (through Management or the Plan Administrator) for the registration and/or delivery of the certificates.

### **ARTICLE 6 ACCELERATED VESTING AND FORFEITURE**

#### **6.1 Accelerated Vesting**

The Board in its sole discretion may, by resolution, permit all unvested awards of Restricted Share Units to vest immediately and the ATI Shares corresponding to the Restricted Share Units in the Participants' Accounts to be delivered in accordance with section 4.8 or 5.6, as applicable.

Without limiting the generality of the foregoing, if a Take-over Bid is made pursuant to a take-over bid circular or an Issuer Bid is made pursuant to an issuer bid circular or if the Corporation proposes a Going Private Transaction, the Board in its sole discretion may, by resolution, permit all unvested awards of Restricted Share Units to vest immediately and the ATI Shares corresponding to the Restricted Share Units in the Participants'

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Accounts to be paid out in accordance with section 4.8 or 5.6, as applicable. The Trustee and the Plan Administrator shall not tender or deposit ATI Shares corresponding to any unvested awards of Restricted Share Units into any Take-over Bid or Issuer Bid.

## **6.2 Delivery on Forfeiture**

Where a Participant ceases to be a Participant pursuant to sections 6.3, 6.4, 6.5 or 6.6, any ATI Shares corresponding to any remaining vested award of Restricted Share Units shall be delivered to the former Participant in accordance with section 4.8 or 5.6, as applicable, as soon as practicable after the Forfeiture Date and the former Participant shall not be entitled to any further distribution of ATI Shares or any payment from the Plans.

## **6.3 Retirement**

If a Participant retires from employment with the Corporation, as determined by the Committee in its sole discretion, before all awards respecting Restricted Share Units credited to the Participant's Account have vested or are forfeited pursuant to any other provision hereof, such Participant shall be deemed to continue to be a Participant for purposes of the Plans, but only if, and for so long as, such Participant does not work for a competitor of the Corporation, or otherwise compete with the Corporation, as determined by the Committee in its sole discretion. For greater certainty, so long as a Participant continues to be deemed a Participant for purposes of this paragraph, the vesting of such Participant's Restricted Share Units pursuant to section 4.3 or 5.3, as applicable, the delivery of certificates for ATI Shares pursuant to sections 4.8 or 5.6, as applicable, and sections 6.1, 6.2, and 6.7 apply to such Participant. If, in the opinion of the Committee, such Participant begins to work for a competitor of the Corporation, or otherwise competes with the Corporation, the Participant shall cease to be a Participant as of the Forfeiture Date, and the former Participant shall forfeit all unvested awards respecting Restricted Share Units in the Participant's Account effective as at the Forfeiture Date.

## **6.4 Resignation**

If a Participant resigns from employment with the Corporation, as determined by the Committee in its sole discretion, before all of the awards respecting Restricted Share Units credited to the Participant's Account have vested or are forfeited pursuant to any other provision hereof, such Participant shall cease to be a Participant as of the Forfeiture Date, and the former Participant shall forfeit all unvested awards respecting Restricted Share Units in the Participant's Account effective as at the Forfeiture Date.

## **6.5 Disability and Leaves of Absence**

If a Participant becomes eligible for long-term disability benefits under the terms of a long-term disability plan of the Corporation or is eligible for short term disability or is on pregnancy, parental, emergency or other approved leave, as determined by the Committee in its sole discretion, before all of the awards respecting Restricted Share Units credited to the Participant's Account have vested or are forfeited pursuant to any other provision hereof, such Participant shall be deemed to continue to be a Participant for purposes of the Plans, but only if, and for so long as, such Participant does not work for a competitor

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of the Corporation, or otherwise compete with the Corporation, as determined by the Committee in its sole discretion. For greater certainty, so long as a Participant continues to be deemed a Participant for purposes of this paragraph, the vesting of such Participant's Restricted Share Units pursuant to section 4.3 or 5.3, as applicable, the delivery of certificates for ATI Shares pursuant to sections 4.8 or 5.6, as applicable, and sections 6.1, 6.2 and 6.7 apply to such Participant. If, in the opinion of the Committee, such Participant begins to work for a competitor of the Corporation, or otherwise competes with the Corporation, the Participant shall cease to be a Participant as of the Forfeiture Date, and the former Participant shall forfeit all unvested awards respecting Restricted Share Units in the Participant's Account effective as at the Forfeiture Date.

#### **6.6 Termination of Employment**

If a Participant is terminated from the Corporation for any reason (including involuntary termination without cause), as determined by the Committee in its sole discretion, before all of the awards respecting Restricted Share Units credited to the Participant's Account have vested or are forfeited pursuant to any other provision hereof, such Participant shall cease to be a Participant as of the Forfeiture Date, and the former Participant shall forfeit all awards respecting unvested Restricted Share Units in his Account effective as at the Forfeiture Date. Notwithstanding the previous sentence, in the event of an involuntary termination without cause, the Committee may, in its sole discretion, permit a Participant to continue to participate in the Plans during any statutory or common law severance period or any period of reasonable notice that the Corporation may be required at law to provide to the Participant. In such circumstances, the Participant shall cease to be a Participant following the expiry of the severance period.

#### **6.7 Death**

If a Participant dies before all of the awards respecting Restricted Share Units credited to the Participant's Account have vested or are forfeited pursuant to any other provision hereof, all unvested awards respecting Restricted Share Units will vest effective on the date of death. The Corporation and/or Plan Administrator will notify the Trustee as soon as practicable after receiving notice of such death. Upon receipt of satisfactory evidence of the Participant's death from the authorized legal representative of the deceased Participant, the ATI Shares corresponding to the number of Restricted Share Units in such Participant's Account shall be paid out to the legal representative of the deceased former Participant's estate in accordance with section 4.8 or 5.6, as applicable.

#### **6.8 Forfeited ATI Shares**

The Trustee shall sell a sufficient number of ATI Shares held in the Market Plan Trust Fund corresponding to Forfeited Restricted Share Units through a Stock Exchange participating organization and the facilities of the Stock Exchange and shall use the proceeds of such sale to pay Basic Administration Expenses of the Trustee under the Market Plan and to return amounts in respect of Company Contributions. The Trustee, in its discretion, may limit the daily volume of such sale(s) or cause such sales to be made over several trading days to the extent that such action is deemed by it to be necessary to

avoid disrupting the market price for ATI Shares or otherwise be in the best interests of the Corporation. To the extent that the proceeds of such sale(s) of such ATI Shares exceed the Basic Administration Expenses of the Trustee, the excess sale proceeds shall revert to the Corporation as soon as practicable as a return of Company Contributions. The Trustee may also use ATI Shares corresponding to Forfeited Restricted Share Units to satisfy any future awards of Restricted Share Units made pursuant to section 4.2. In no circumstances shall the Trustee transfer and deliver ATI Shares (including any which correspond to Forfeited Restricted Share Units) to the Corporation.

## **ARTICLE 7 GENERAL**

### **7.1 Compliance with Laws**

The administration of the Plans, including without limitation all purchases of ATI Shares under the Market Plan or issuance of ATI Shares under the Treasury Plan, shall be subject to and made in conformity with all applicable laws and any applicable regulations of a duly constituted authority. Should the Corporation, in its sole discretion, determine that it is not feasible or desirable to deliver ATI Shares pursuant to an award of Restricted Share Units due to such laws or regulations, its obligation shall be satisfied by means of an equivalent cash payment (equivalence being determined on a before-tax basis) less any applicable withholding taxes.

### **7.2 Reorganization of the Corporation**

The existence of any Restricted Share Units or ATI Shares corresponding to such Restricted Share Units shall not affect in any way the right or power of the Corporation or its shareholders to make or authorize any adjustment, recapitalization, reorganization or other change in the Corporation's capital structure or its business, or any amalgamation, combination, merger or consolidation involving the Corporation or to create or issue any bonds, debentures, shares or other securities of the Company or the rights and conditions attaching thereto or to effect the dissolution or liquidation of the Company or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar nature or otherwise.

### **7.3 General Restrictions and Assignment**

Except as required by law, the rights of a Participant hereunder are not capable of being anticipated, assigned, transferred, alienated, sold, encumbered, pledged, mortgaged or charged and are not capable of being subject to attachment or legal process for the payment of any debts or obligations of the Participant.

The rights and obligations hereunder may be assigned by the Corporation to a successor in the business of the Corporation.

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#### **7.4 Market Fluctuations**

No amount will be paid to, or in respect of, a Participant under the Plans to compensate for a downward fluctuation in the price of ATI Shares, nor will any other form of benefit be conferred upon, or in respect of, a Participant for such purpose.

The Corporation makes no representations or warranties to Participants with respect to the Plans or the Restricted Share Units whatsoever. Participants are expressly advised that Company Contributions will be used to acquire ATI Shares under the Market Plan and that the value of any Restricted Share Units and ATI Shares under the Plans will fluctuate as the trading price of ATI Shares fluctuates. If the Board or Committee has attached performance vesting criteria to any Restricted Share Units under sections 4.3 or 5.3, the number of ATI Shares delivered to a Participant upon the vesting of such Restricted Share Unit may fluctuate based upon the terms of such vesting criteria.

In seeking the benefits of participation in the Plans, a Participant agrees to exclusively accept all risks associated with a decline in the market price of ATI Shares and all other risks associated with the holding of Restricted Share Units.

#### **7.5 No Rights to Employment**

- (a) Nothing in this document or in the opportunity to participate in the Plans shall confer upon any Participant any right to continued employment with the Corporation nor shall interfere in any way with the right of the Corporation to terminate the Participant's employment at any time.
- (b) Nothing in this document or in the opportunity to participate in the Plans shall be construed to provide the Participant with any rights whatsoever to participate or to continue participation in the Plans, or to compensation or damages in lieu of participation or the right to participate in the Plans upon the termination of the Participant's employment for any reason whatsoever.
- (c) A Participant shall not be entitled to any right to participate or to continue to participate in the Plans or to compensation or damages in lieu of participation or the right to participate in the Plans in consequence of the termination of his employment with the Corporation for any reason (including, without limitation, any breach of contract by the Corporation or in consequence of any other circumstances whatsoever).

#### **7.6 No Trading on Undisclosed Information**

No Participant shall in any manner participate in the trading of ATI Shares based upon insider or undisclosed material corporate information. Any trading based on undisclosed material information by a Participant may be subject to prosecution and may result in discipline by the Corporation up to and including termination of a Participant's employment with the Corporation. Participants should consult the stock trading policy of the Corporation available from the Corporation.

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**7.7 No Shareholder Rights**

Under no circumstances shall Restricted Share Units be considered an interest in any ATI Shares or other securities of the Corporation nor shall any Participant be considered to be the owner of any ATI Shares by virtue of an award of Restricted Share Units until such Restricted Share Units have vested and ATI Shares are delivered to the Participant in accordance with the terms of the Plans. Restricted Share Units shall not entitle any Participant to exercise voting rights with respect to Restricted Shares (except as provided in section 4.4) nor any other rights attaching to the ownership of ATI Shares or other securities of the Corporation. To the extent the assets which constitute the Market Plan Trust Fund are insufficient to satisfy the rights of Participants under the Market Plan, such rights shall be no greater than the rights of an unsecured creditor of the Corporation.

**7.8 Governing Law**

The validity, construction and effect of the Plans and any actions taken or relating to the Plans shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**7.9 Currency**

All amounts paid or values to be determined under the Plans shall be in Canadian dollars.

**7.10 Severability**

The invalidity or unenforceability of any provision of this document shall not affect the validity or enforceability of any other provision and any invalid or unenforceable provision shall be severed from this document.

**SCHEDULE "A"**

**ACKNOWLEDGEMENT AND AGREEMENT**

**RESTRICTED SHARE UNIT PLAN  
FOR CANADIAN EMPLOYEES**

ATI Technologies Inc. ("ATI") is pleased to inform you that the Board of Directors has approved an award of restricted share units ("RSUs") in your name, subject to the terms and conditions of the Restricted Share Unit Plan for Canadian Employees (the "Plan"). Your RSUs have been awarded under the Treasury Plan set out in the Plan, meaning that the common shares of ATI (the "Shares") that will be delivered to you upon vesting of your RSUs will be new shares issued from ATI's treasury. A copy of the Plan can be found on ATI's intranet site at the following address:

<http://>•

**PLEASE READ THE PLAN CAREFULLY AS IT SETS OUT  
TERMS AND CONDITIONS THAT APPLY TO YOUR RSUs.**

**Vesting**

**[INSERT VESTING CRITERIA]**

By clicking the "I Accept" icon below, I accept the award of RSUs made in my name and hereby acknowledge and agree that:

- (a) I have reviewed a copy of the Plan and agree to be bound by it and the terms and conditions of this acknowledgement and agreement;
- (b) I will be liable for all reporting and payment of income tax payable by me in respect of Shares received by me upon the vesting of RSUs;
- (c) **it is my responsibility to confirm the amount of tax payable and the applicable reporting and payment requirements under the relevant taxation legislation with my own tax advisor;**
- (d) the value of an RSU is based on the trading price of ATI's Shares and is not guaranteed; the eventual cash value of an RSU upon vesting may be higher or lower than the value of the RSU on the award date;
- (e) if I (i) retire from employment with ATI, become eligible for long-term disability benefits under the terms of a long-term disability plan sponsored by ATI, become eligible for short-term disability, go on maternity, parental, emergency or other approved leave, and (ii) at any time thereafter, I begin to work for a competitor of ATI or otherwise compete with ATI, I will forfeit any RSUs that have not yet vested, as set out in more detail in the Plan;

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- (f) if I resign or my employment with ATI is terminated for any reason, I will forfeit any RSUs that have not yet vested, as set out in more detail in the Plan;
  - (g) where the number of RSUs that vest on any date is not a whole number, the number of RSUs that vest on each such date, and the number of Shares deliverable on such date, shall be rounded by the Plan Administrator in accordance with its policies and systems;
  - (h) I am required to provide ATI with all of the information (including personal information) that it requires in order to administer the Plan and I hereby consent to the collection of all such information by ATI; I understand that the ATI may from time to time transfer or provide access to such information to third party service providers for purposes of the administration of the Plan and that such service providers will be provided with such information for the sole purpose of providing such services to ATI; the withdrawal of my consent at any time may result in a delay in the administration of the Plan or the inability of the Corporation to deliver Shares to me upon the vesting of my RSUs;
  - (i) any notice required to be provided by me to ATI under the Plan must be made in writing and will only be effective upon its receipt by the ATI contact person indicated below;
  - (j) any notice required to be provided by ATI to me concerning the RSUs will be in writing (either in electronic format or hardcopy) and will be effective if mailed or delivered electronically to me; such notice may also be delivered by Solium Capital; and
  - (k) if ATI waives a provision of this acknowledgement and agreement or the Plan, such waiver shall not operate as or be construed to be a continuing waiver of the same provision or a waiver of any other provision hereof.

**Please acknowledge your acceptance of the terms and conditions of this award of RSUs and the terms and conditions of the Plan by clicking the “I Accept” icon at the bottom of this page.** If you need any further information regarding this award of RSUs, please do not hesitate to contact Barbara Wilcox, Employee Programs Manager, at (905) 882-2600 extension 3689.



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**SCHEDULE "B"**

The Corporation committed, effective December 14, 2004, to limit the maximum number of ATI Shares issuable from treasury under all of the Corporation's restricted share plans to 3,000,000 ATI Shares.

**ATI TECHNOLOGIES INC.**  
**SHARE OPTION PLAN**  
**(AMENDED EFFECTIVE AS OF JANUARY 25, 2005)**

**ARTICLE 1**  
**PURPOSE AND INTERPRETATION**

**Section 1.1 Purpose:** The purpose of the Plan shall be to advance the interests of the Corporation through the motivation, attraction and retention of employees and officers of the Corporation and Designated Affiliates and to align the interests of such employees and officers with the interests of shareholders by encouraging participation in the growth and development of the Corporation through the opportunity to acquire an equity interest in the Corporation.

**Section 1.2 Definitions:** In the Plan, the following capitalized words and terms shall have the following meanings:

- (a) "Act" means the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 or its successor, as amended from time to time.
- (b) "Affiliate" includes any company in which the Corporation has an equity or voting interest of more than 50%.
- (c) "Associate" shall have the meaning ascribed thereto in the Ontario Securities Act.
- (d) "Common Shares" means the common shares of the Corporation.
- (e) "Corporation" means ATI Technologies Inc.
- (f) "Designated Affiliate" means the Affiliates of the Corporation designated by the Board of Directors for purposes of the Plan from time to time.
- (g) "Exercise Price" means the price per Common Share at which any Common Share which is the subject of an Option may be purchased as determined in accordance with section 2.4 of the Plan.
- (h) "Going Private Transaction" shall have the meaning ascribed thereto in the Act.
- (i) "Insider" shall have the meaning ascribed thereto in the Ontario Securities Act.
- (j) "Issuer Bid" shall have the meaning ascribed thereto in the Ontario Securities Act.
- (k) "NASDAQ" means The Nasdaq Stock Market.

- (l) "Ontario Securities Act" means the *Securities Act* (Ontario), R.S.O. 1990, c. S.5 or its successor, as amended from time to time.
- (m) "Options" means options to purchase Common Shares granted pursuant to an agreement entered into between the Corporation and a Participant pursuant to which an Option, with or without SARs, is granted to the Participant, which agreement shall contain provisions that are not inconsistent with this Plan.
- (n) "Outstanding Issue" means on any date, the number of Common Shares of the Corporation issued and outstanding, excluding any Common Shares issued pursuant to share compensation arrangements during the one-year period immediately preceding such date.
- (o) "Participants" shall have the meaning ascribed hereto in section 2.2 of the Plan.
- (p) "Plan" means the Share Option Plan.
- (q) "SAR" and "SARs" shall have the meaning ascribed thereto in section 2.5 of the Plan.
- (r) "Share Premium" means the amount by which the Surrender Price exceeds the Exercise Price per Common Share of the related Option.
- (s) "Surrender Price" means the value of a Common Share at the time of exercise of a SAR.
- (t) "Take-over Bid" shall have the meaning ascribed thereto in the Ontario Securities Act.
- (u) "TSX" means The Toronto Stock Exchange.

**ARTICLE 2**  
**THE PLAN**

**Section 2.1 The Plan:** The Plan is hereby established pursuant to which Options to purchase Common Shares of the Corporation and attached SARs may be granted to employees and officers of the Corporation and its Designated Affiliates in accordance with the terms and conditions set forth herein.

**Section 2.2 Participants:** Participants in the Plan shall be employees (including officers) of the Corporation or any of its Designated Affiliates who, by the nature of their positions or jobs, are, in the opinion of the Board of Directors, in a position to contribute to the success of the Corporation ("Participants"). For greater certainty, Participants in the Plan shall not include non-executive members of the Board of Directors of the Corporation.

**Section 2.3 Amount of Options:** The determination of the number of Common Shares subject to Options in favour of each Participant will take into consideration the Participant's present and potential contribution to the success of the Corporation and shall be determined from

time to time by the Board of Directors provided that the number of Common Shares reserved for issuance to employees, officers and executive members of the Board of Directors pursuant to options to purchase Common Shares granted under the Plan or under any other share compensation arrangements established by the Corporation, including Common Shares issued from treasury under the Corporation's Restricted Share Unit Plans (but excluding, for greater certainty, Common Shares issuable or reserved for issuance in connection with the ArtX, Inc. 1997 Equity Incentive Plan) shall not in the aggregate exceed 47,000,000 Common Shares, subject to any adjustments made pursuant to Section 2.10. In addition, the number of Common Shares reserved for issuance and which may be issued pursuant to the Plan and other share compensation arrangements established by the Corporation shall be limited as follows:

- (a) the number of Common Shares reserved for issuance to any one individual shall not exceed 5% of the Outstanding Issue;
- (b) the number of Common Shares reserved for issuance pursuant to Options granted to Insiders shall not exceed 10% of the Outstanding Issue;
- (c) the number of Common Shares that may be issued to Insiders within any one-year period shall not exceed 10% of the Outstanding Issue; and
- (d) the number of Common Shares that may be issued to any one Insider and such Insider's Associates within any one-year period shall not exceed 5% of the Outstanding Issue.

**Section 2.4 Price:** The Exercise Price per Common Share for Options granted pursuant to the Plan shall not be less than the fair market value of the Common Shares at the time the Option is granted, which shall be determined as the weighted average of the trading prices of the Common Shares on either (i) NASDAQ or (ii) the TSX, as determined in the discretion of the Board of Directors, in each case for the 5 trading days preceding the date on which the Board of Directors determines that the grant of the Option is to be effective.

**Section 2.5 Stock Appreciation Rights:** At the discretion of the Board of Directors, any Options granted under this Plan may have attached thereto, at or after the time of grant, a number of stock appreciation rights (a "SAR" or "SARs") equal to the number of Common Shares which are the subject of the Options. SARs attaching to any Options shall entitle the holder of the related Options, at his or her discretion, to surrender to the Corporation, the unexercised vested Options and to receive from the Corporation such number of Common Shares as determined by the following formula:

$$\begin{array}{l} \text{Number of Common Shares} \\ \text{to be issued from treasury} \\ \text{upon an exercise of SARs} \end{array} = \begin{array}{l} \text{Number of SARs} \\ \text{exercised} \end{array} \times \begin{array}{l} \text{Share Premium/Surrender} \\ \text{Price} \end{array}$$

Any fractional Common Share that may be issuable under the foregoing formula shall be rounded either in the discretion of the senior officers of the Corporation or in accordance with the policies and systems of any third party service provider retained by the Corporation to perform certain specific administrative functions in respect of the Plan, so that only whole Common Shares are issued.

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The exercise of SARs shall terminate the related Options and such Options shall be of no further force and effect. Any unexercised SAR shall terminate when the attached Option is exercised or such Option is surrendered, terminated or expires, as applicable. A SAR is attached to the related Option and is non-transferable and non-assignable except in connection with the transfer of the Option in accordance with the provisions of the Plan.

**Section 2.6 Lapsed Options:** In the event that Options granted under the Plan are surrendered, terminate or expire (whether pursuant to the exercise of SARs or otherwise) without being exercised in whole or in part, new Options may be granted covering the Common Shares not purchased under such lapsed options.

**Section 2.7 Consideration, Option Period and Payment:**

- (a) The term of Options granted pursuant to the Plan and any vesting period prior to which Options or attached SARs may not be exercised, shall be determined by the Board of Directors in its discretion, provided however that in no event shall any Option or attached SARs be exercisable following seven years from the date of the grant of the Option.
- (b) Except as set forth in section 2.8 and section 2.9, no Options or attached SARs may be exercised unless the Participant is, at the time of such exercise, employed by the Corporation or any of its Designated Affiliates and shall have been continuously so employed since the grant of his or her Option. Absence on leave with the approval of the Corporation or a Designated Affiliate shall not be considered an interruption of employment for any purpose of the Plan.
- (c) The exercise of any Option will be contingent upon receipt by the Corporation of cash payment of the full purchase price of the Common Shares which are the subject of the exercised Option. No Participant or his or her legal representatives, legatees or distributees will be, or will be deemed to be, a holder of any Common Shares with respect to which he or she was granted an Option under the Plan, unless and until certificates for such Common Shares are issued to him or her, or them, under the terms of the Plan.
- (d) If there is a Take-over Bid or Issuer Bid made for all of the issued and outstanding Common Shares or if the Corporation proposes a Going Private Transaction, the Board of Directors may, by resolution, permit all outstanding Options and attached SARs to become immediately exercisable in order to permit Common Shares issuable under such Options or attached SARs to be tendered to such Take-over Bid or Issuer Bid or to participate in the Going Private Transaction.
- (e) If there is a Take-over Bid or Issuer Bid made for less than all of the issued and outstanding Common Shares then the Board of Directors may, by resolution, permit all outstanding Options and attached SARs to become immediately exercisable in order to permit Common Shares issuable under such Options or attached SARs to be tendered to such Take-over Bid or Issuer Bid.

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**Section 2.8 Termination of Employment:** If a Participant shall cease to be employed by the Corporation or any of its Designated Affiliates for any reason (other than death) or shall receive notice from the Corporation or any of its Designated Affiliates of the termination of his or her employment, (“Termination”) he or she may, but only within 60 days next succeeding the date of such Termination, (which date of Termination, except as provided in the following sentence, specifically does not mean the date on which any statutory or common law severance period or any period of reasonable notice that the Corporation may be required at law to provide to the Participant would expire) exercise his or her Options or attached SARs to the extent that he or she was entitled to exercise such Options or attached SARs at the date of such Termination. Notwithstanding the previous sentence, in the event of an involuntary termination without cause, the Board of Directors may, in its sole discretion, permit a Participant to continue to participate in the Plan following Termination and during any statutory or common law severance period or any period of reasonable notice that the Corporation may be required at law to provide to the Participant. In such circumstances, the Participant’s Options and attached SARs may continue to be exercised and unvested Options and attached SARs will continue to vest, pursuant to their terms, during the severance or notice period; the Participant shall cease to be a Participant following the expiry of the severance or notice period; and a Participant shall have 60 days following expiry of the severance or notice period to exercise his or her Options or attached SARs to the extent that he or she was entitled to exercise such Options or attached SARs on such expiry date.

**Section 2.9 Death of Participant:** In the event of the death of a Participant all of such Participant’s unvested Options will vest effective on the date of death. All of the deceased Participant’s vested Options or attached SARs shall be exercisable within the six months next succeeding the date of the Participant’s death by the person or persons to whom the Participant’s rights under the Option shall pass by the Participant’s will or the laws of descent and distribution.

**Section 2.10 Adjustment in Shares Subject to the Plan:** In the event there is any change in the Common Shares of the Corporation through the declaration of stock dividends or subdivisions, consolidations or exchanges of Common Shares, or otherwise, the number of Common Shares available for option, the Common Shares subject to any Option and the Exercise Price thereof and the number of SARs attached to any Option shall be adjusted appropriately by the Board of Directors and such adjustment shall be effective and binding for all purposes of the Plan.

**Section 2.11 Record Keeping:** The Corporation shall maintain a register in which shall be recorded:

- (i) the name and address of each Participant; and
- (ii) the number of Options and SARs granted to a Participant and the number of Options and SARs outstanding.

**Section 2.12 Necessary Approvals:** The obligation of the Corporation to issue and deliver any Common Shares in accordance with the Plan shall be subject to any necessary approval of any stock exchange or regulatory authority having jurisdiction over the securities of the Corporation.

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If upon the exercise of Options or SARs any Common Shares cannot be issued to any Participant for whatever reason, the obligation of the Corporation to issue such Common Shares shall terminate. The aggregate Exercise Price paid to the Corporation in connection with the exercise of any Options shall be returned to the Participant.

**Section 2.13 Withholding Taxes:** The Corporation or any Designated Affiliate may take such steps as are considered necessary or appropriate for the withholding of any taxes which the Corporation or any Designated Affiliate is required by any law or regulation of any governmental authority whatsoever to withhold in connection with any Option, SAR or Common Share including, without limiting the generality of the foregoing, the withholding of all or any portion of any payment or the withholding of the issue of Common Shares to be issued upon the exercise of any Option or SARs, until such time as the Participant has paid the Corporation or any Designated Affiliate for any amount which the Corporation or Designated Affiliate is required to withhold with respect to such taxes.

### ARTICLE 3 GENERAL

**Section 3.1 Transferability:** The benefits, rights and Options (together with any attached SARs) accruing to any Participant in accordance with the terms and conditions of the Plan shall not be transferable by a Participant unless specifically provided herein. During the lifetime of a Participant, all benefits, rights and Options (or attached SARs) shall only be exercised by the Participant or by his or her guardian or legal representative.

**Section 3.2 Employment:** Nothing contained in the Plan shall confer upon any Participant any right with respect to employment or continuance of employment with the Corporation or any Affiliate, or interfere in any way with the right of the Corporation or any Affiliate to terminate the Participant's employment at any time. Participation in the Plan by a Participant shall be voluntary.

**Section 3.3 Delegation:** All of the powers exercisable hereunder by the Board of Directors of the Corporation may, to the extent permitted by applicable law and authorized by resolution of the Board of Directors of the Corporation, be exercised by an Executive Committee or Human Resources and Compensation Committee of the Board of Directors or by such other committee as the Board of Directors may designate by resolution and for the purpose of determining whether a Participant may continue to participate under the Plan following Termination under Section 2.8, by any officer or director as authorized by resolution of the Board of Directors.

**Section 3.4 Administration and Amendment of the Plan:**

- (a) Except as otherwise permitted herein, the Plan shall be administered by the Board of Directors of the Corporation. The Board of Directors may delegate all or a part of the administration of the Plan to the senior officers of the Corporation and to any third party service providers that may be retained by the Corporation to perform certain specific administrative functions in respect of the Plan. The Board of Directors shall be authorized to interpret the Plan and may, from time to time, establish, amend or rescind rules and regulations required for carrying out

the Plan. Any such interpretation of the Plan shall be final and conclusive. All administrative costs of the Plan shall be paid by the Corporation. The senior officers of the Corporation are authorized and directed to do all things and execute and deliver all instruments, undertakings and applications and writings as they, in their absolute discretion, consider necessary for the implementation of the Plan and of the rules and regulations established for administering the Plan.

- (b) The Board of Directors reserves the right to amend, modify or terminate the Plan at any time if and when it is advisable in the absolute discretion of the Board of Directors. However, any amendment of the Plan which would:
- (i) materially increase the benefits under the Plan;
  - (ii) re-price by decreasing the Exercise Price of any Options granted under the Plan;
  - (iii) materially increase the number of Common Shares which may be subject to Options granted under the Plan; or
  - (iv) materially modify the requirements as to the eligibility for participation in the Plan;

shall be effective only upon the approval of the shareholders of the Corporation. Any material amendment to any provision of the Plan shall be subject to any necessary approvals by any stock exchange or regulatory body having jurisdiction over the securities of the Corporation.

**Section 3.5 Amalgamation, Consolidation or Merger:** If the Corporation amalgamates, consolidates with or merges with or into another corporation, any Common Shares receivable on the exercise of an Option granted under the Plan shall be converted into the securities, property or cash which the Participant would have received upon such amalgamation, consolidation or merger had the Option (or attached SAR) been exercised prior to such event.

**Section 3.6 No Representation or Warranty:** The Corporation makes no representation or warranty as to the future market value of any Common Shares issued in accordance with the provisions of the Plan.

**Section 3.7 Interpretation:** The Plan shall be governed and construed in accordance with the laws of the Province of Ontario.

Originally Approved: October 13, 1993

Amended Effective: December 31, 1995 (to fix the aggregate number of common shares available for issuance at 4,725,000 common shares, to fix the maximum number of common shares issuable during any one year period to no more than 10% of the number of outstanding common shares, and to set the exercise price for options at the five day weighted average price of the common shares)



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January 9, 1997 (to increase the aggregate number of common shares available for issuance to 7,100,000 common shares, and to add the restrictions in sections 2.03(a) through (d))

January 15, 1998 (to increase the aggregate number of common shares available for issuance to 9,500,000 common shares, an increase of 3,875,156 shares)

April 24, 1998 (to adjust the aggregate number of common shares available for issuance to 38,000,000 common shares as a result of the four-for-one stock split, and to add provisions regarding withholdings and registration under the United States Securities Act of 1933)

November 3, 1998 (to delete provisions regarding registration under the United States Securities Act of 1933)

January 14, 1999 (to reconstitute the plan by 4,706,279 shares)

January 13, 2000 (to reconstitute the plan by 5,635,388 shares)

January 11, 2001 (to reconstitute the plan by 3,677,678 shares and to confirm the exclusion of shares issuable under the Art X plan)

January 10, 2002 (to reconstitute the plan by 1,239,895 shares)

April 4, 2002 (to permit the exercise price to be determined as the five day weighted average price of the common shares on NASDAQ)

January 29, 2003 (to increase the aggregate number of common shares available for issuance as at November 22, 2002 by 12,427,922 shares to a maximum of 47,000,000 common shares)

December 14, 2004 (to add Appendix A relating to the issuance of options to employees in India; to reduce the maximum term of options from ten years to seven years; to conform the terms of the Plan to the terms of the RSU Plans with respect to the termination or death of a participant; to allow options to be granted with an exercise price greater than the market price; to prohibit the downward re-pricing of options without shareholder approval; to provide that options are no longer issuable to non-executive directors of the Corporation)

January 25, 2005 (to reconstitute the plan by 11,972,871 shares; to provide for the discretion to award SARs in connection with the grant of any options)

**APPENDIX A**  
**ATI TECHNOLOGIES INC.**  
**SHARE OPTION PLAN**

**ADDITIONAL TERMS AND CONDITIONS FOR EMPLOYEES RESIDENT IN INDIA**

The additional terms and conditions detailed below are to be read in conjunction with the Plan. Any terms and provisions not specifically defined below for Employees subject to the laws of India will have the same meaning as defined in the Plan and the agreement entered into between the Corporation and an Employee pursuant to which an Option, with or without SARs, is granted to the Employee.

1. **Definitions.** Notwithstanding the provisions of the Plan, for purposes of this Appendix A the following terms shall have the following meanings when used in the context of Options granted to Employees resident in India:
  - (a) “Employee” means any person permanently employed by the Corporation or any Parent or Subsidiary of the Corporation within the meaning of the Employees’ Stock Option Plan or Scheme Guidelines issued by the Ministry of Finance of the Government of India on October 11, 2001. The term “Employee”, however, shall not include an individual who is a promoter (or belongs to the promoter group) of the Corporation or any Parent or Subsidiary of the Corporation who, either by himself or through his Relative or through a corporate entity, holds, directly or indirectly, more than 10% of the equity of the Corporation.
  - (b) “FEMA” means the Foreign Exchange Management Act, 1999 of India, the rules and regulations notified thereunder and any amendments thereto. The restrictions under FEMA, as referred to in this Appendix A and as existing on the effective date of this Appendix A, shall be read to include the amendments made to FEMA subsequent to the effective date of this Appendix A and will be deemed to have always included such amendments.
  - (c) “Relative” means immediate relative, namely one’s spouse, parent, brother, sister or child of the person or spouse.
2. **Consideration.** Except as otherwise provided below, payment of the Exercise Price for the number of Common Shares being purchased pursuant to the exercise of any Option or attached SAR shall be made (i) in cash, by cheque or cash equivalent, (ii) pursuant to a cashless exercise program implemented by the Corporation in connection with the Plan, (iii) by such other consideration as may be approved by the Corporation from time to time to the extent permitted by applicable laws, or (iv) by any combination thereof. Notwithstanding the foregoing, the above procedures will be subject to compliance with the applicable regulations under FEMA.

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3. **Eligibility.** Notwithstanding the provisions of the Plan, Options and attached SARs granted to residents of India may only be granted to Employees who, either by themselves or through a corporate entity, do not hold, directly or indirectly, more than 10% of the equity of the Corporation. Consultants resident in India shall not be eligible to receive Options or attached SARs.  
  
Options and attached SARs may be granted to Employees in accordance with the terms of the Plan and this Appendix A to the Plan as the Board of Directors of the Corporation deems appropriate. In determining which Employees may be granted Options and attached SARs, the Board of Directors of the Corporation will take into account whether Options and attached SARs will provide additional incentive to Employees and whether such Options and attached SARs will promote the success of the Corporation's business.
  4. **Corporate Transaction.** Notwithstanding the provisions of the Plan, in the event of an amalgamation or merger of the Corporation with or into another company, if the successor corporation (or its Parent) intends to assume or substitute each outstanding Option and attached SAR and the rules and regulations governing Options and attached SARs granted to Employees in India (the "Indian Options and SARs") do not permit assumption or substitution of Indian Options and attached SARs in the same manner as the other Options and SARs then the Board of Directors of the Corporation, in its discretion, may provide for the termination of the Indian Options and SARs upon the consummation of the transaction or provide for the assumption or substitution of the Indian Options and SARs in a different manner than the assumption or substitution of the other Options and attached SARs.
  5. **Amendment and Termination.** The Board of Directors of the Corporation may at any time amend, modify or terminate this Appendix A in accordance with section 3.4 of the Plan; provided, however, that it will obtain approval for any such amendment or modification as it may relate to Options and attached SARs granted to Employees under this Appendix A as may be required by the Indian Chief Commissioner of income tax.

**ARTX, INC. 1997  
EQUITY INCENTIVE PLAN**

**As Adopted by the Board of Directors on December 31, 1997  
as Amended on September 10, 1999, December 22, 1999  
and March 20, 2000**

**1. PURPOSE.** The purpose of this Plan is to provide incentives to attract, retain and motivate eligible persons whose present and potential contributions are important to the success of the Company, its Parent and Subsidiaries, by offering them an opportunity to participate in the Company's future performance through awards of Options and Restricted Stock. Capitalized terms not defined in the text are defined in Section 22 hereof. This Plan is intended to be a written compensatory benefit plan within the meaning of Rule 701 promulgated under the Securities Act.

**2. SHARES SUBJECT TO THE PLAN.**

2.1 Number of Shares Available. Subject to Sections 2.2 and 17, the total number of Shares reserved and available for grant and issuance pursuant to this Plan will be Five Million Three Hundred Forty Four Thousand Seven Hundred (5,344,700) Shares or such lesser number of Shares as permitted under Section 260.140.45 of Title 10 of the California Code of Regulations. Subject to Sections 2.2 and 17 hereof, Shares will again be available for grant and issuance in connection with future Awards under this Plan that: (a) are subject to issuance upon exercise of an Option but cease to be subject to such Option for any reason other than exercise of such Option or (b) are subject to an Award that otherwise terminates without Shares being issued. At all times the Company will reserve and keep available a sufficient number of Shares as will be required to satisfy the requirements of all Awards granted under this Plan.

2.2 Adjustment of Shares. In the event that the number of outstanding shares of the Company's Common Stock is changed by a stock dividend, recapitalization, stock split, reverse stock split, subdivision, combination, reclassification or similar change in the capital structure of the Company without consideration, then (a) the number of Shares reserved for issuance under this Plan, (b) the Exercise Prices of and number of Shares subject to outstanding Options and (c) the Purchase Prices of and number of Shares subject to other outstanding Awards will be proportionately adjusted, subject to any required action by the Board or the shareholders of the Company and compliance with applicable securities laws; provided, however, that fractions of a Share will not be issued but will either be paid in cash at Fair Market Value of such fraction of a Share or will be rounded down to the nearest whole Share, as determined by the Committee.

**3. ELIGIBILITY.** ISOs (as defined in Section 5 hereof) may be granted only to employees (including officers and directors who are also employees) of the Company or of a Parent or Subsidiary of the Company. All other Awards may be granted to employees, officers, directors and consultants of the Company or any Parent or Subsidiary of the Company; provided such consultants render bona fide services not in connection with the offer and sale of securities in a capital-raising transaction. A person may be granted more than one Award under this Plan.

**4. ADMINISTRATION.**

4.1 Committee Authority. This Plan will be administered by the Committee or the Board acting as the Committee. Subject to the general purposes, terms and conditions of this Plan, and to the direction of the Board, the Committee will have full power to implement and carry out this Plan. Without limitation, the Committee will have the authority to:

- (a) construe and interpret this Plan, any Award Agreement and any other agreement or document executed pursuant to this Plan;

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- (b) prescribe, amend and rescind rules and regulations relating to this Plan;
  - (c) select persons to receive Awards;
  - (d) determine the form and terms of Awards;
  - (e) determine the number of Shares or other consideration subject to Awards;
  - (f) determine whether Awards will be granted singly, in combination with, in tandem with, in replacement of, or as a alternatives to, other Awards under this Plan or any other incentive or compensation plan of the Company or any Parent or Subsidiary of the Company;
  - (g) grant waivers of Plan or Award conditions;
  - (h) determine the vesting, exercisability and payment of Awards;
  - (i) correct any defect, supply any omission, or reconcile any inconsistency in this Plan, any Award, any Award Agreement, any Exercise Agreement or any Restricted Stock Purchase Agreement;
  - (j) determine whether an Award has been earned; and
  - (k) make all other determinations necessary or advisable for the administration of this Plan.

4.2 Committee Discretion. Any determination made by the Committee with respect to any Award will be made in its sole discretion at the time of grant of the Award or, unless in contravention of any express term of this Plan or Award, and subject to Section 5.9 hereof, at any later time, and such determination will be final and binding on the Company and on all persons having an interest in any Award under this Plan. The Committee may delegate to one or more officers of the Company the authority to grant an Award under this Plan.

**5. OPTIONS.** The Committee may grant Options to eligible persons and will determine whether such Options will be Incentive Stock Options within the meaning of the Code (“*ISOs*”) or Nonqualified Stock Options (“*NQSOs*”), the number of Shares subject to the Option, the Exercise Price of the Option, the period during which the Option may be exercised, and all other terms and conditions of the Option, subject to the following:

5.1 Form of Option Grant. Each Option granted under this Plan will be evidenced by an Award Agreement which will expressly identify the Option as an ISO or an NQSO (“*Stock Option Agreement*”), and will be in such form and contain such provisions (which need not be the same for each Participant) as the Committee may from time to time approve, and which will comply with and be subject to the terms and conditions of this Plan.

5.2 Date of Grant. The date of grant of an Option will be the date on which the Committee makes the determination to grant such Option, unless otherwise specified by the Committee. The Stock Option Agreement and a copy of this Plan will be delivered to the Participant within a reasonable time after the granting of the Option.

5.3 Exercise Period. Options may be exercisable immediately (subject to repurchase pursuant to Section 11 hereof) or may be exercisable within the times or upon the events determined by the Committee as set forth in the Stock Option Agreement governing such Option; provided, however, that no Option will be exercisable after the expiration of ten (10) years from the date the Option is granted; and provided further that no ISO granted to a person who directly or by attribution owns more than ten percent (10%) of the total combined voting power of all

classes of stock of the Company or of any Parent or Subsidiary of the Company (“**Ten Percent Shareholder**”) will be exercisable after the expiration of five (5) years from the date the ISO is granted. The Committee also may provide for Options to become exercisable at one time or from time to time, periodically or otherwise, in such number of Shares or percentage of Shares as the Committee determines. Subject to earlier termination of the Option as provided herein, each Participant who is not an officer, director or consultant of the Company or of a Parent or Subsidiary of the Company shall have the right to exercise an Option granted hereunder at the rate of at least twenty percent (20%) per year over five (5) years from the date such Option is granted.

5.4 **Exercise Price.** The Exercise Price of an Option will be determined by the Committee when the Option is granted and may not be less than eighty-five percent (85%) of the Fair Market Value of the Shares on the date of grant; provided that (a) the Exercise Price of an ISO will not be less than one hundred percent (100%) of the Fair Market Value of the Shares on the date of grant and (b) the Exercise Price of any Option granted to a Ten Percent Shareholder will not be less than one hundred ten percent (110%) of the Fair Market Value of the Shares on the date of grant. Payment for the Shares purchased must be made in accordance with Section 7 hereof.

5.5 **Method of Exercise.** Options may be exercised only by delivery to the Company of a written stock option exercise agreement (the “**Exercise Agreement**”) in a form approved by the Committee (which need not be the same for each Participant), stating the number of Shares being purchased, the restrictions imposed on the Shares purchased under such Exercise Agreement, if any, and such representations and agreements regarding Participant’s investment intent and access to information and other matters, if any, as may be required or desirable by the Company to comply with applicable securities laws, together with payment in full of the Exercise Price, and any applicable taxes, for the number of Shares being purchased.

5.6 **Termination.** Subject to earlier termination pursuant to Sections 17 and 18 hereof and notwithstanding the exercise periods set forth in the Stock Option Agreement, exercise of an Option will always be subject to the following:

- (a) If the Participant is Terminated for any reason except death, Disability or for Cause, then the Participant may exercise such Participant’s Options (only to the extent that such Options are exercisable upon the Termination Date) within three (3) months after the Termination Date (or within such shorter time period, not less than thirty (30) days as specified in the Stock Option Agreement), or within such longer time period, not exceeding five (5) years, after the Termination Date as may be determined by the Committee, with any exercise beyond three (3) months after the Termination Date deemed to be an NQSO) but in any event, no later than the expiration date of the Options.
- (b) If the Participant is Terminated because of a Participant’s death or Disability (or the Participant dies within three (3) months after a Termination other than a Termination for disability or for Cause), then Participant’s Options may be exercised only to the extent that such Options are exercisable by Participant on the Termination Date and must be exercised by Participant (or Participant’s legal representative or authorized assignee) no later than twelve (12) months after the Termination Date (or within such shorter time period, not less than six (6) months, as may be specified in the Stock Option Agreement or within such longer time period, not exceeding five (5) years, after the Termination Date as may be determined by the Committee, with any exercise beyond (i) three (3) months after the Termination Date when the Termination is for any reason other than the Participant’s death or disability, within the meaning of Section 22(e)(3) of the Code, or (ii) twelve (12) months after the Termination Date when the Termination is for Participant’s disability, within the meaning of Section 22(e)(3) of the Code, deemed to be an NQSO) but in any event no later than the expiration date of the Options.
- (c) If the Participant is terminated for Cause, then Participant’s Options shall expire on such Participant’s Termination Date, or at such later time and on such conditions as are determined by the Committee.

5.7 Limitations on Exercise. The Committee may specify a reasonable minimum number of Shares that may be purchased on any exercise of an Option, provided that such minimum number will not prevent Participant from exercising the Option for the full number of Shares for which is then exercisable.

5.8 Limitations on ISOs. The aggregate Fair Market Value (determined as of the date of grant) of Shares with respect to which ISOs are exercisable for the first time by a Participant during any calendar year (under this Plan or under any other incentive stock option plan of the Company or any Parent or Subsidiary of the Company) will not exceed \$100,000. If the Fair Market Value of Shares on the date of grant with respect to which ISOs are exercisable for the first time by a Participant during any calendar year exceeds \$100,000, then the Options for the first \$100,000 worth of Shares to become exercisable in such calendar year will be ISOs and the Options for the amount in excess of \$100,000 that become exercisable in that calendar year will be NQSOs. In the event that the Code or the regulations promulgated thereunder are amended after the Effective Date (as defined in Section 18 hereof) to provide for a different limit on the Fair Market Value of Shares permitted to be subject to ISOs, then such different limit will be automatically incorporated herein and will apply to any Options granted after the effective date of such amendment.

5.9 Modification, Extension or Renewal. The Committee may modify, extend or renew outstanding Options and authorize the grant of new Options in substitution therefor, provided that any such action may not, without the written consent of a Participant, impair any of such Participant's rights under any Option previously granted. Any outstanding ISO that is modified, extended, renewed or otherwise altered will be treated in accordance with Section 424(h) of the Code. The Committee may reduce the Exercise Price of outstanding Options without the consent of Participants affected by a written notice them; provided, however, that the Exercise Price may not be reduced below the minimum Exercise Price that would be permitted under Section 5.4 hereof for Options granted on the date the action is taken to reduce the Exercise Price.

5.10 No Disqualification. Notwithstanding any other provisions this Plan, no term of this Plan relating to ISOs will be interpreted, amended or altered, nor will any discretion or authority granted under this Plan be exercised, so as to disqualify this Plan under Section 422 of the Code or, without the consent of the Participant affected, to disqualify any ISO under Section 422 of the Code.

**6. RESTRICTED STOCK.** A Restricted Stock Award is an offer by the Company to sell to an eligible person Shares that are subject to restrictions. The Committee will determine to whom an offer will be made, the number of Shares the person may purchase, the Purchase Price, the restrictions to which the Shares will be subject, and all other terms and conditions of the Restricted Stock Award, subject to the following:

6.1 Form of Restricted Stock Award. All purchases under a Restricted Stock Award made pursuant to this Plan will be evidenced by an Award Agreement ("*Restricted Stock Purchase Agreement*") that will be in such form (which need not be the same for each Participant) as the Committee will from time to time approve, and will comply with and be subject to the terms and conditions of this Plan. The Restricted Stock Award will be accepted by the Participant's execution and delivery of the Restricted Stock Purchase Agreement and full payment for the Shares to the Company within thirty (30) days from the date the Restricted Stock Purchase Agreement is delivered to the person. If such person does not execute and deliver the Restricted Stock Purchase Agreement along with full payment for the Shares to the Company within such thirty (30) days, then the offer will terminate, unless otherwise determined by the Committee.

6.2 Purchase Price. The Purchase Price of Shares sold pursuant to a Restricted Stock Award will be determined by the Committee and will be at least eighty-five percent (85%) of the Fair Market Value of the Shares on the date the Restricted Stock Award is granted or at the time the purchase is consummated, except in the case of a sale to a Ten Percent Shareholder, in which case the Purchase Price will be one hundred percent (100%) of the Fair Market Value on the date the Restricted Stock Award is granted or at the time the purchase is consummated. Payment of the Purchase Price must be made in accordance with Section 7 hereof.

6.3 Restrictions. Restricted Stock Awards may be subject to the restrictions set forth in Section 11 hereof or such other restrictions not inconsistent with Section 25102(o) of the California Corporations Code.

## **7. PAYMENT FOR SHARE PURCHASES.**

7.1 Payment. Payment for Shares purchased pursuant to this Plan may be made in cash (by check) or, where expressly approved for the Participant by the Committee and where permitted by law:

- (a) by cancellation of indebtedness of the Company to the Participants;
- (b) by surrender of shares that: (i) either (A) have been owned by Participant for more than six (6) months and have been paid for within the meaning of SEC Rule 144 (and, if such shares were purchased from the Company by use of a promissory note, such note has been fully paid with respect to such shares) or (B) were obtained by Participant in the public market and (ii) are clear of all liens, claims, encumbrances or security interest;
- (c) by tender of a full recourse promissory note having such terms as may be approved by the Committee and bearing interest at a rate sufficient to avoid imputation of income under Sections 483 and 1274 of the Code; provided, however, that Participants who are not employees or directors of the Company will not be entitled to purchase Shares with a promissory note unless the note is adequately secured by collateral other than the Shares;
- (d) by waiver of compensation due or accrued to the Participant for services rendered;
- (e) with respect only to purchases upon exercise of an Option, and provided that a public market for the Company's stock exists:
  - (1) through a "same day sale" commitment from the Participant and a broker-dealer that is a member of the National Association of Securities Dealers (an "*NASD Dealer*") whereby the Participant irrevocably elects to exercise the Option and to sell a portion of the Shares so purchased to pay for the Exercise Price, and whereby the NASD Dealer irrevocably commits upon receipt of such Shares to forward the Exercise Price directly to the Company; or
  - (2) through a "margin" commitment from the Participant and an NASD Dealer whereby the Participant irrevocably elects to exercise the Option and to pledge the Shares so purchased to the NASD Dealer in a margin account as security for a loan from the NASD Dealer in the amount of the Exercise Price, and whereby the NASD Dealer irrevocably commits upon receipt of such Shares to forward the Exercise Price directly to the Company; or
- (f) by any combination of the foregoing.

7.2 Loan Guarantees. The Committee may help the Participant pay for Shares purchased under this Plan by authorizing a guarantee by the Company of a third-party loan to the Participant.

## **8. WITHHOLDING TAXES.**

8.1 Withholding Generally. Whenever Shares are to be issued in satisfaction of Awards granted under this Plan, the Company may require the Participant to remit to the Company an amount sufficient to satisfy federal, state and local withholding tax requirements prior to the delivery of any certificate or certificates for such Shares. Whenever, under this Plan, payments in satisfaction of Awards are to be made in cash, such payment will be net of an amount sufficient to satisfy federal, state, and local withholding tax requirements.

8.2 Stock Withholding. When, under applicable tax laws, a Participant incurs tax liability in connection with the exercise or vesting of any Award that is subject to tax withholding and the Participant is obligated to pay the Company the amount required to be withheld, the Committee may in its sole discretion allow the Participant to satisfy the minimum withholding tax obligation by electing to have the Company withhold from



the Shares to be issued that number of Shares having a Fair Market Value equal to the minimum amount required to be withheld, determined on the date that the amount of tax to be withheld is to be determined. All elections by a Participant to have Shares withheld for this purpose will be made in accordance with the requirements established by the Committee for such elections and be in writing in a form acceptable to the Committee.

#### **9. PRIVILEGES OF STOCK OWNERSHIP.**

9.1 Voting and Dividends. No Participant will have any of the rights of a shareholder with respect to any Shares until the Shares are issued to the Participant. After Shares are issued to the Participant, the Participant will be a shareholder and have all the rights of a shareholder with respect to such Shares, including the right to vote and receive all dividends or other distributions made or paid with respect to such Shares; provided, that if such Shares are Restricted Stock, then any new, additional or different securities the Participant may become entitled to receive with respect to such Shares by virtue of a stock dividend, stock split or any other change in the corporate or capital structure of the Company will be subject to the same restrictions as the Restricted Stock; provided, further, that the Participant will have no right to retain such stock dividends or stock distributions with respect to Unvested Shares that are repurchased pursuant to Section 11 hereof. The Company will comply with Section 260.140.1 of Title 10 of the California Code of Regulations with respect to the voting rights of Common Stock.

9.2 Financial Statements. The Company will provide financial statements to each Participant prior to such Participant's purchase of Shares under this Plan, and to each Participant annually during the period such Participant has Awards outstanding, or as otherwise required under Section 260.140.46 of Title 10 of the California Code of Regulations. Notwithstanding the foregoing, the Company will not be required to provide such financial statements to Participants when issuance is limited to key employees whose services in connection with the Company assure them access to equivalent information.

**10. TRANSFERABILITY.** Awards granted under this Plan, and any interest therein, will not be transferable or assignable by Participant, and may not be made subject to execution, attachment or similar process, otherwise than by will or by the laws of descent and distribution. During the lifetime of the Participant an Award will be exercisable only by the Participant and any elections with respect to an Award, may be made only by the Participant.

#### **11. RESTRICTIONS OF SHARES.**

11.1 Right of First Refusal. At the discretion of the Committee, the Company may reserve to itself and/or its assignee(s) in the Award Agreement a right of first refusal to purchase all Shares that a Participant (or a subsequent transferee) may propose to transfer to a third party, unless otherwise not permitted by Section 25102(o) of the California Corporations Code, provided, that such right of first refusal terminates upon the Company's initial public offering of Common Stock pursuant to an effective registration statement filed under the Securities Act.

11.2 Right of Repurchase. At the discretion of the Committee, the Company reserve to itself and/or its assignee(s) in the Award Agreement a right to repurchase Unvested Shares held by a Participant for cash and/or cancellation of purchase money indebtedness following such Participant's Termination at any time within the later of ninety (90) days after the Participant's Termination Date and the date the Participant purchases Shares under the Plan at the Participant's Exercise Price or Purchase Price, as the case may be, provided, that unless the Participant is an officer, director or consultant of the Company or of a Parent or Subsidiary of the Company, such right of repurchase lapses at the rate of at least twenty percent (20%) per year over five (5) years from: (a) the date of grant of the Option or (b) in the case of Restricted Stock, the date the Participant purchases the Shares.

**12. CERTIFICATES.** All certificates for Shares or other securities delivered under this Plan will be subject to such stock transfer orders, legends and other restrictions as the Committee may deem necessary or advisable, including restrictions under any applicable federal, state or foreign securities law, or any rules, regulations and other requirements of the SEC or any stock exchange or automated quotation system upon which the Shares may be listed or quoted.

**13. ESCROW; PLEDGE OF SHARES.** To enforce any restrictions on a Participant's Shares, the Committee may require the Participant to deposit all certificates representing Shares, together with stock powers or other instruments of transfer approved by the Committee, appropriately endorsed in blank, with the Company or an agent designated by the Company to hold in escrow until such restrictions have lapsed or terminated, and the Committee may cause a legend or legends referencing such restrictions to be placed on the certificates. Any Participant who is permitted to execute a promissory note as partial or full consideration for the purchase of Shares under this Plan will be required to pledge and deposit with the Company all or part of the Shares so purchased as collateral to secure the payment of Participant's obligation to the Company under the promissory note; provided, however, that the Committee may require or accept other or additional forms of collateral to secure the payment of such obligation and, in any event, the Company will have full recourse against the Participant under the promissory note notwithstanding any pledge of the Participant's Shares or other collateral. In connection with any pledge of the Shares, Participant will be required to execute and deliver a written pledge agreement in such form as the Committee will from time to time approve. The Shares purchased with the promissory note may be released from the pledge on a pro rata basis as the promissory note is paid.

**14. EXCHANGE AND BUYOUT OF AWARDS.** The Committee may, at any time or from time to time, authorize the Company, with the consent of the respective Participants, to issue new Awards in exchange for the surrender and cancellation of any or all outstanding Awards. The Committee may at any time buy from a Participant an Award previously granted with payment in cash, shares of Common Stock of the Company (including Restricted Stock) or other consideration, based on such terms and conditions as the Committee and the Participant may agree.

**15. SECURITIES LAW AND OTHER REGULATORY COMPLIANCE.** This Plan is intended to comply with Section 25102(o) of the California Corporations Code. Any provision of this Plan which is inconsistent with Section 25102(o) shall, without further act or amendment by the Company or the Board, be reformed to comply with the requirements of Section 25102(o). An Award will not be effective unless such Award is in compliance with all applicable federal and state securities laws, rules and regulations of any governmental body, and the requirements of any stock exchange or automated quotation system upon which the Shares may then be listed or quoted, as they are in effect on the date of grant of the Award and also on the date of exercise or other issuance. Notwithstanding any other provision in this Plan, the Company will have no obligation to issue or deliver certificates for Shares under this Plan prior to (a) obtaining any approvals from governmental agencies that the Company determines are necessary or advisable, and/or (b) compliance with any exemption, completion of any registration or other qualification of such Shares under any state or federal law or ruling of any governmental body that the Company determines to be necessary or advisable. The Company will be under no obligation to register the Shares with the SEC or to effect compliance with the exemption, registration, qualification or listing requirements of any state securities laws, stock exchange or automated quotation system, and the Company will have no liability for any inability or failure to do so.

**16. NO OBLIGATION TO EMPLOY.** Nothing in this Plan or any Award granted under this Plan will confer or be deemed to confer on any Participant any right to continue in the employ of, or to continue any other relationship with, the Company or any Parent or Subsidiary of the Company or limit in any way the right of the Company or any Parent or Subsidiary of the Company to terminate Participant's employment or other relationship at any time with or without Cause.

**17. CORPORATE TRANSACTIONS.**

17.1 Assumption or Replacement of Awards by Successor or Acquiring Corporation. In the event of (a) a dissolution or liquidation of the Company, (b) a merger or consolidation in which the Company is not the surviving corporation, (c) a merger in which the Company is the surviving corporation but after which the shareholders of the Company immediately prior to such merger (other than any shareholder which merges with the Company in such merger, or which owns or controls another corporation which merges, with the Company in such merger) cease to own their shares or other equity interests in the Company, or (d) the sale of all or substantially all of the assets of the Company, any or all outstanding Awards may be assumed, converted or replaced by the successor or acquiring corporation (if any), which assumption, conversion or replacement will be binding on all Participants. In the alternative, the successor or acquiring corporation may substitute equivalent Awards or provide substantially similar consideration to Participants as was provided to shareholders (after taking into account the

existing provisions of the Awards). The successor or acquiring corporation may also issue, in place of outstanding Shares of the Company held by the Participant, substantially similar shares or other property subject to repurchase restrictions and other provisions no less favorable to the Participant than those which applied to such outstanding Shares immediately prior to such transaction described in this Section 17.1. In the event such successor or acquiring corporation (if any) does not assume or substitute Awards, as provided above, pursuant to a transaction described in this Section 17.1, then notwithstanding any other provision in this Plan to the contrary, such Awards will expire on such transaction at such time and on such conditions as the Board will determine.

**17.2 Other Treatment of Awards.** Subject to any greater rights granted to Participants under the foregoing provisions of this Section 17, in the event of the occurrence of any transaction described in Section 17.1 hereof, any outstanding Awards will be treated as provided in the applicable agreement or plan of merger, consolidation, dissolution, liquidation or sale of assets.

**17.3 Assumption of Awards by the Company.** The Company, from time to time, also may substitute or assume outstanding awards granted by another company, whether in connection with an acquisition of such other company or otherwise, by either (a) granting an Award under this Plan in substitution of such other company's award or (b) assuming such award as if it had been granted under this Plan if the terms of such assumed award could be applied to an Award granted under this Plan. Such substitution or assumption will be permissible if the holder of the substituted or assumed award would have been eligible to be granted an Award under this Plan if the other company had applied the rules of this Plan to such grant. In the event the Company assumes an award granted by another company, the terms and conditions of such award will remain unchanged (except that the exercise price and the number and nature of shares issuable upon exercise of any such option will be adjusted appropriately pursuant to Section 424(a) of the Code). In the event the Company elects to grant a new Option rather than assuming an existing option, such new Option may be granted with a similarly adjusted Exercise Price.

**18. ADOPTION AND SHAREHOLDER APPROVAL.** This Plan will become effective on the date that it is adopted by the Board (the "*Effective Date*"). This Plan will be approved by the shareholders of the Company (excluding Shares issued pursuant to this Plan), consistent with applicable laws, within twelve (12) months before or after the Effective Date. Upon the Effective Date, the Board may grant Awards pursuant to this Plan; provided, however, that no Option may be exercised prior to initial shareholder approval of this Plan. If initial shareholder approval is not obtained within twelve (12) months before or after the date this Plan is adopted by the Board, all Awards granted hereunder will be canceled, any Shares issued pursuant to any Award will be canceled and any purchase of Shares hereunder will be rescinded. If, after timely shareholder approval of this Plan, Awards are granted pursuant to an increase in the number of Shares approved by the Board and such increase is not timely approved by the shareholders such Awards shall be canceled, any Shares issued pursuant to any such Awards shall be canceled, and any purchase of Shares subject to any such Award shall be rescinded.

**19. TERM OF PLAN/GOVERNING LAW.** Unless earlier terminated as provided herein, this Plan will terminate ten (10) years from the Effective Date or, if earlier, the date of shareholder approval. This Plan and all agreements hereunder shall be governed by and construed in accordance with the laws of the State of California.

**20. AMENDMENT OR TERMINATION OF PLAN.** Subject to Section 5.9 hereof, the Board may at any time terminate or amend this Plan in any respect, including without limitation amendment of any form of Award Agreement or instrument to be executed pursuant to this Plan; provided, however, that the Board will not, without the approval of the shareholders of the Company, amend this Plan in any manner that requires such shareholder approval pursuant to the California Corporations Code or the Code or the regulations promulgated thereunder as such provisions apply to ISO plans.

**21. NONEXCLUSIVITY OF THE PLAN.** Neither the adoption of this Plan by the Board, the submission of this Plan to the shareholders of the Company for approval, nor any provision of this Plan will be construed as creating any limitations on the power of the Board to adopt such additional compensation arrangements as it may deem desirable, including, without limitation, the granting of stock options and other equity awards otherwise than under this Plan, and such arrangements may be either generally applicable or applicable only in specific cases.

**22. DEFINITIONS.** As used in this Plan, the following terms will have the following meanings:

"*Award*" means any award under this Plan, including any Option or Restricted Stock Award.

“**Award Agreement**” means, with respect to each Award, the signed written agreement between the Company and the Participant setting forth the terms and conditions of the Award.

“**Board**” means the Board of Directors of the Company.

“**Cause**” means Termination because of (i) any willful material violation by the Participant of any law or regulation applicable to the business of the Company or a Parent or Subsidiary of the Company, (ii) the Participant’s conviction for, or guilty plea to, a felony or a crime involving moral turpitude, any willful perpetration by the Participant of a common law fraud, (iii) any unlawful use by the participant of drugs or other controlled substances, (iv) the Participant’s commission of an act of personal dishonesty which involves personal profit in connection with the Company or any other entity having a business relationship with the Company, (v) any material breach by the Participant of any provision of any agreement or understanding between the Company and the Participant regarding the terms of the Participant’s service as an employee, director or consultant to the Company or a Parent or Subsidiary of the Company, including without limitation, the willful and continued failure or refusal of the Participant to perform the material duties required of such Participant as an employee, director or consultant of the Company or a Parent or Subsidiary of the Company, other than as a result of having a Disability, or a breach of any applicable invention assignment and confidentiality agreement or similar agreement between the Company and the Participant, (vi) Participant’s disregard of the policies of the Company so as to cause loss, damage or injury to the property, reputation or employees of the Company or a Parent or Subsidiary of the Company, or (vii) any other misconduct by the Participant which is materially injurious to the financial condition or business reputation of, or is otherwise materially injurious to, the Company or a Parent or Subsidiary of the Company.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Committee**” means the committee appointed by the Board to administer this Plan, or if no committee is appointed, the Board.

“**Company**” means ArtX, Inc., or any successor corporation.

“**Disability**” means a disability, whether temporary or permanent, partial or total, as determined by the Committee.

“**Exercise Price**” means the price at which a holder of an Option may purchase the Shares issuable upon exercise of the Option.

“**Fair Market Value**” means, as of any date, the value of a share of the Company’s Common Stock determined as follows:

- (a) if such Common Stock is then quoted on the Nasdaq National Market, its closing price on the Nasdaq National Market on the date of determination as reported in The Wall Street Journal;
- (b) if such Common Stock is publicly traded and is then listed on a national securities exchange, its closing price on the date of determination on the principal national securities exchange on which the Common Stock is listed or admitted to trading as reported in The Wall Street Journal;
- (c) if such Common Stock is publicly traded but is not quoted on the Nasdaq National Market nor listed or admitted to trading on a national securities exchange, the average of the closing bid and asked prices on the date of determination as reported by The Wall Street Journal (or, if not so reported, as otherwise reported by any newspaper or other source as the Board may determine); or

(d) if none of the foregoing is applicable, by the Committee in good faith.

“**Option**” means an award of an option to purchase Shares pursuant to Section 5 hereof.

“**Parent**” means any corporation (other than the Company) in an unbroken chain of corporations ending with the Company if each of such corporations other than the Company 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

“**Participant**” means a person who receives an Award under this Plan.

“**Plan**” means this 1997 ArtX, Inc. Equity Incentive Plan, as amended from time to time.

“**Purchase Price**” means the price at which a Participant may purchase Restricted Stock.

“**Restricted Stock**” means Shares purchased pursuant to a Restricted Stock Award.

“**Restricted Stock Award**” means an award of Shares pursuant to Section 6 hereof.

“**SEC**” means the Securities and Exchange Commission.

“**Securities Act**” means the Securities Act of 1933, as amended.

“**Shares**” means shares of the Company’s Common Stock reserved for issuance under this Plan, as adjusted pursuant to Sections 2 and 17 hereof, and any successor security.

“**Subsidiary**” means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company if each of the corporations other than the last corporation in the unbroken chain 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.

“**Termination**” or “**Terminated**” means, for purposes of this Plan with respect to a Participant, that the Participant has for any reason ceased to provide services as an employee, officer, director or consultant to the Company or a Parent or Subsidiary of the Company. A Participant will not be deemed to have ceased to provide services in the case of (i) sick leave, (ii) military leave or (iii) any other leave of absence approved by the Committee, provided that such leave is for a period of not more than ninety (90) days unless reinstatement (or, in the case of an employee with an ISO, reemployment) upon the expiration of such leave is guaranteed by contract or statute, or unless provided otherwise pursuant to formal policy adopted from time to time by the Company and issued and promulgated in writing. In the case of any Participant on (i) sick leave, (ii) military leave or (iii) an approved leave of absence, the Committee may make such provisions respecting suspension of vesting of the Award while the Participant is on leave from the Company as the Committee may deem appropriate, except that in no event may an Option be exercised after the expiration of the term set forth in the Stock Option Agreement. The Committee will have sole discretion to determine whether a Participant has ceased to provide services and the effective date on which the Participant ceased to provide services (the “**Termination Date**”).

“**Unvested Shares**” means “Unvested Shares” as defined in the Award Agreement.

“**Vested Shares**” means “Unvested Shares” as defined in the Award Agreement.