

13.08 Form: Stock Option Agreement

STOCK OPTION AGREEMENT

[corporate name] (the "Company"), desiring to afford an opportunity to the Grantee named below to purchase certain shares of the Company's [title of class; e.g., common stock without par value], to provide the Grantee with an added incentive as an employee of the Company or of one or more of its subsidiaries, hereby grants to Grantee, and the Grantee hereby accepts, an option to purchase the number of such shares optioned as specified below, during the term ending at midnight (prevailing local time at the Company's principal offices) on the expiration date of this Option specified below, at the option exercise price specified below, subject to and upon the following terms and conditions:

1. Identifying Provisions: As used in this Option, the following terms shall have the following respective meanings:

- (a) Grantee: _____
- (b) Date of grant: _____
- (c) Number of shares optioned: _____
- (d) Option exercise price per share: _____
- (e) Expiration date: _____

This Option is not intended to be and shall not be treated as an incentive stock option under Section 422 of the Internal Revenue Code unless this sentence has been manually lined out and its deletion is followed by the signature of the corporate officer who signed this Option on behalf of the Company: _____.

2. Timing of Purchases: This Option is not exercisable in any part until one (1) year after the date of grant. Upon the expiration of one (1) year after the date of grant and subject to the provisions for termination and acceleration herein, this Option shall become exercisable, but it may not in the cumulative aggregate be exercised at any time as to more than one-twelfth

(1/12th) of twenty-five percent (25%) of the total number of shares optioned for each complete calendar month that had occurred subsequently to the date of grant and prior to that time, in each case to the nearest whole share. Upon the expiration of four (4) years after the date of grant this Option may be exercised as to all optioned shares for which it had not previously been exercised, until and including the expiration date of this Option whereupon the Option shall expire and may thereafter no longer be exercised.

3. Restrictions on Exercise: The following additional provisions shall apply to the exercise of this Option:

(i) Termination of Employment. If the Grantee's employment by the Company or any of its subsidiaries is terminated for any reason other than death only that portion of this Option exercisable at the time of such termination of employment may thereafter be exercised, and it may not be exercised more than three (3) months after such termination nor after the expiration date of this Option, whichever date is sooner, unless such termination is by reason of the Grantee's permanent and total disability, in which case such period of three (3) months shall be extended to one (1) year.³ In all other respects, this Option shall terminate upon such termination of employment.

(ii) Death of Grantee. If the Grantee shall die during the term of this Option, the Grantee's legal representative or representatives, or the person or persons entitled to do so under the Grantee's last will and testament or under applicable intestate laws, shall have the right to exercise this Option, but only for the number of shares as to which the Grantee was entitled to exercise this Option in accordance with Section 2 hereof on the date of his death, and

such right shall expire and this Option shall terminate one (1) year after the date of the Grantee's death or on the expiration date of this Option, whichever date is sooner. In all other respects, this Option shall terminate upon such death.

(iii) Continuity of Employment. This Option shall not be exercisable by the Grantee in any part unless at all times beginning with the date of grant and ending no more than three (3) months prior to the date of exercise, the Grantee has, except for military service leave, sick leave or other bona fide leave of absence (such as temporary employment by the United States Government) been in the continuous employ of the Company or a parent or subsidiary thereof, except that such period of three (3) months shall be one (1) year following any termination of the Grantee's employment by reason of his permanent and total disability.

4. Non-Transferable: The Grantee may not transfer this Option except by will or the laws of descent and distribution and except as otherwise provided in this paragraph. If Section 1 above indicates that this Option is intended to be an incentive stock option under Section 422 of the Internal Revenue Code, this Option shall not be otherwise transferred, assigned, pledged, hypothecated or disposed of in any way, whether by operation of law or otherwise, and shall be exercisable during the Grantee's lifetime only by the Grantee or his guardian or legal representative. If Section 1 above indicates that this Option is not intended to be an incentive stock option under the Internal Revenue Code, it may also be transferred during the Grantee's lifetime (a) by gift to members of the Grantee's Immediate Family (defined hereinbelow), and/or (b) by gift to a trust for the benefit of only the Grantee and/or members of the Grantee's Immediate Family, and/or (c) by gift to a foundation whose assets are controlled by the Grantee and/or members of the Grantee's Immediate Family, and/or (d) either by gift or in exchange solely for an interest in the transferee to a partnership whose members are only the Grantee and/or members of the Grantee's Immediate Family or to an entity in which the Grantee and/or members of the Grantee's Immediate Family hold more than 50% of the voting interests.

5. Adjustments and Corporate Reorganizations: Subject to the provisions of the Company's Stock Option Plan under which this Option is granted, if the outstanding shares of the class then subject to this Option are increased or decreased, or are changed into or exchanged for a different number or kind of shares or securities, as a result of one or more reorganizations, recapitalizations, stock splits, reverse stock splits, stock dividends or the like, appropriate adjustments shall be made in the number and/or kind of shares or securities for which the unexercised portions of this Option may thereafter be exercised, all without any change in the aggregate exercise price applicable to the unexercised portions of this Option, but with a corresponding adjustment in the exercise price per share or other unit. No fractional share of stock shall be issued under this Option or in connection with any such adjustment. Such adjustments shall be made by or under authority of the Company's board of directors whose determinations as to what adjustments shall be made, and the extent thereof, shall be final, binding and conclusive.

Upon the dissolution or liquidation of the Company, or upon a reorganization, merger or consolidation of the Company as a result of which the outstanding securities of the class then subject to this Option are changed into or exchanged for cash or property or securities not of the Company's issue, or any combination thereof, or upon a sale of substantially all the property of the Company to, or the acquisition of stock representing more than eighty percent (80%) of the voting power of the stock of the Company then outstanding by, another corporation or person, this Option shall terminate, unless provision be made in writing in connection with such transaction for the assumption of

options theretofore granted under the Stock Option Plan under which this Option was granted, or the substitution for such options of any options covering the stock of a successor employer corporation, or a parent or subsidiary thereof, with appropriate adjustments as to the number and kind of shares and prices, in which event this Option shall continue in the manner and under the terms so provided. If this Option shall terminate pursuant to the foregoing sentence, the Grantee shall have the right, at such time prior to the consummation of the transaction causing such termination as the Company shall designate, to exercise the unexercised portions of this Option, including the portions thereof which would, but for this Section entitled "Adjustments and Corporate Reorganizations," not yet be exercisable.

6. Changes in Control: Notwithstanding any other provisions hereof, this Option shall accelerate so that the Grantee shall have the right, at all times until the expiration or earlier termination of the Option, to exercise the unexercised portions of this Option, including the portions thereof which would, but for this Section entitled "Changes in Control," not yet be exercisable, from and after any Involuntary Termination within twenty-four (24) months after a Change in Control that occurs while the Grantee is an employee of the Company or any of its subsidiaries. For purposes of this paragraph: (a) an "Involuntary Termination" is any termination of the Grantee's employment with the Company or any of its subsidiaries for reasons other than (1) the Grantee's death, (2) the Grantee's total and permanent disability, (3) the Grantee's retirement under circumstances that entitle the Grantee to full benefits under one or another of his employer's retirement or pension plans or programs generally applicable to salaried employees, (4) termination for cause (meaning (i) an act by the Grantee resulting or intended to result directly or indirectly in substantial gain or personal enrichment at the expense of the Company or any of its affiliated corporations, or (ii) the Grantee's willful engagement in misconduct that results in material injury to the Company or any of its affiliated corporations, or (iii) the Grantee's willful and continued failure substantially to perform the Grantee's duties to the Company or a subsidiary after a written demand for substantial performance is delivered to the Grantee by the Company's chief executive officer, or by the Company's board of directors if the Grantee is the chief executive officer, which specifically identifies the manner in which it is believed that the Grantee has not substantially performed his duties), or (5) the Grantee's voluntary termination of employment, other than such a voluntary termination following the assignment to the Grantee by his employer of any duties that are significantly incompatible with, and detract from, the Grantee's position, duties, titles, offices, responsibilities or status with the Company or a subsidiary immediately before the Change in Control; and (b) a "Change in Control" means any of the following events if they occur after the date of grant of this Option and after the class of stock then subject to this Option becomes Publicly Traded (as defined herein): the direct or indirect beneficial ownership (within the meaning of Section 13(d) of the Securities Exchange Act of 1934 and Regulation 13D-G thereunder) of [e.g., 30%] or more of the class of securities then subject to this Option is acquired or becomes held by any person or group of persons (within the meaning of Section 13(d) (3) of the Securities Exchange Act of 1934), or the sale, mortgage, lease or other transfer in one or more transactions not in the ordinary course of the Company's business of assets or earning power constituting more than 50% of the assets or earning power of the Company and its subsidiaries (taken as a whole) to any such person or group of persons.

7. Exercise, Payment For and Delivery of Stock: This Option may be exercised by the Grantee or other person then entitled to exercise it by giving four (4) business days' written notice of exercise to the Company specifying the number

of shares to be purchased and the total purchase price, accompanied by a check to the order of the Company in payment of such price. If the Company is required to withhold on account of any present or future tax imposed as a result of such exercise, the notice of exercise shall be accompanied by a check to the order of the Company in payment of the amount of such withholding.

8. Alternative Payment with Stock: Notwithstanding the foregoing provisions requiring payment by check, payment of such purchase price or any portion thereof may be made with shares of stock of the same class as the shares then subject to this Option, if shares of that class are then Publicly Traded (as defined herein), such shares to be credited toward such purchase price on the valuation basis set forth below, in which event the stock certificates evidencing the shares so to be used shall accompany the notice of exercise and shall be duly endorsed or accompanied by duly executed stock powers to transfer the same to the Company; provided, however, that such payment in stock instead of cash shall not be effective and shall be rejected by the Company if (i) the Company is then prohibited from purchasing or acquiring shares of the class of its stock thus tendered to it, or (ii) the right or power of the person exercising the Option to deliver such shares in payment of said purchase price is subject to the prior interests of any other person (excepting the Company), as indicated by legends upon the certificate(s) or as known to the Company. For credit toward the purchase price, shares so surrendered shall be valued at their Fair Market Value (as defined herein) as of the day immediately preceding the delivery to the Company of the certificate(s) evidencing such shares. If the Company rejects the payment in stock, the tendered notice of exercise shall not be effective hereunder unless promptly after being notified of such rejection the person exercising the Option pays the purchase price in acceptable form. If and while payment of the purchase price with stock is permitted in accordance with the foregoing provisions, the person then entitled to exercise this Option may, in lieu of using previously outstanding shares therefor, use some of the shares as to which this Option is then being exercised, in which case the notice of exercise need not be accompanied by any stock certificates but shall include a statement directing the Company to withhold so many of the shares that would otherwise have been delivered upon that exercise of this Option as equals the number of shares that would have been transferred to the Company if the purchase price had been paid with previously issued stock. The forms of alternative payment permitted under this paragraph may also be used for payment of the amounts required to be withheld for taxes, but any shares of stock withheld by the Company for this purpose shall not exceed the number required to satisfy the minimum statutory withholding rates applicable for federal, state and local taxes.

9. Rights in Shares Before Issuance and Delivery: No person shall be entitled to the privileges of stock ownership in respect of any shares issuable upon exercise of this Option, unless and until such shares have been issued to such person as fully paid shares.

10. Requirements of Law and of Stock Exchanges: By accepting this Option, the Grantee represents and agrees for himself and his transferees by will or the laws of descent and distribution that, unless a registration statement under the Securities Act of 1933 is in effect as to shares purchased upon any exercise of this Option, (i) any and all shares so purchased shall be acquired for his personal account and not with a view to or for sale in connection with any distribution, and (ii) each notice of the exercise of any portion of this Option shall be accompanied by a representation and warranty in writing, signed by the person entitled to exercise the same, that the shares are being so acquired in

good faith for his personal account and not with view to or for sale in connection with any distribution.

No certificate or certificates for shares of stock purchased upon exercise of this Option shall be issued and delivered prior to the admission of such shares to listing on notice of issuance on any stock exchange or other securities market on which shares of that class are then listed, nor unless and until, in the opinion of counsel for the Company, such securities may be issued and delivered without causing the Company to be in violation of or incur any liability under any federal, state or other securities law, any requirement of any securities exchange listing agreement to which the Company may be a party, or any other requirement of law or of any regulatory body having jurisdiction over the Company.

11. Stock Appreciation Rights: The Grantee or other person entitled to exercise this Option is further hereby granted the right ("Stock Appreciation Right") in lieu of exercising this Option or any portion thereof to receive an amount equal to the lesser of (i) the excess of the Fair Market Value (as defined herein) of the shares subject to this Option or such portion thereof over the aggregate exercise price for such shares hereunder as of the date the Stock Appreciation Right is exercised, or (ii) [specify a percentage, e.g., 200%] of the aggregate exercise price for such shares hereunder. The amount payable upon exercise of such Stock Appreciation Right may be settled by payment in cash or in shares of the class then subject to this Option (valued on the basis of their Fair Market Value on the date the Stock Appreciation Right is exercised), or in a combination of cash and such shares so valued. The Company shall have sole discretion to determine the form of settlement of such Stock Appreciation Right, upon exercise thereof, although the Grantee or other person exercising it may, in connection with his exercise thereof, indicate his preferences subject to the consent or disapproval of the Company. Notwithstanding the foregoing, no Stock Appreciation Right may be exercised, in whole or in part, (a) other than in connection with the contemporaneous surrender without exercise of this Option or of the portion hereof that corresponds to the portion of the Stock Appreciation Right being exercised, or (b) except to the extent that this Option or such portion thereof is exercisable on the date of the exercise of the Stock Appreciation Right by the person exercising the Stock Appreciation Right, or (c) unless the class of stock then subject to this Option is then Publicly Traded (as defined herein).

12. Restricted Stock Provisions: 2 Shares of stock issued on exercise of this Option shall upon issuance be subject to the following restrictions (and, as used herein, "restricted stock" means shares issued on exercise of this Option which are still subject to the restrictions imposed under this paragraph that have not yet expired or terminated):

(a) Such shares of restricted stock may not be sold or otherwise transferred or hypothecated;

(b) If the employment of the Grantee with the Company or a subsidiary of the Company is terminated for any reason other than his death, normal or early retirement in accordance with his employer's established retirement policies and practices, or total disability, the Company (or any subsidiary designated by it) shall have the option for sixty (60) days after such termination of employment to purchase for cash all or any part of his restricted stock at the lesser of (i) the price paid therefor upon exercise of this Option, or (ii) the Fair Market Value (as defined herein) of the restricted stock on the date of such termination of employment. The restrictions imposed under this Section entitled "Restricted Stock Provisions" shall apply as well to all shares or other securities issued in respect of restricted stock in connection with any stock split, reverse stock split, stock dividend, recapitalization, reclassification,

spin-off, split-off, merger, consolidation or reorganization, but such restrictions shall expire or terminate on the earliest to occur of the following:

(i) The ninetieth (90th) day after the date on which shares of the same class of stock as such restricted stock first become Publicly Traded (as defined herein).

(ii) The tenth (10th) anniversary of the date of grant hereof.

(iii) As to any shares for which the Company's (or a subsidiary's) sixty (60) day option to purchase upon termination of employment shall have become exercisable but shall expire without having been exercised on the first business day of the calendar month next following the expiration of such sixty (60) day option period.

(iv) The first business day of the calendar month next following the termination of the Grantee's employment with the Company or a subsidiary because of his death, normal or early retirement in accordance with his employer's established employment policies or practices, or total disability.

(v) The occurrence of any event or transaction upon which this Option terminates by reason of the provisions of paragraph 5 hereof.

Any certificates evidencing shares of restricted stock may contain such legends as the Company may deem necessary or advisable to reflect and give effect to the restrictions imposed thereon hereunder.

13. Replacement Options: If and when this Option is exercised and the exercise price is paid with previously outstanding shares or with shares as to which this Option is being exercised, as permitted in paragraph 8 hereof, upon such exercise of this Option the Grantee or other person who duly exercised this Option will automatically and simultaneously receive a supplemental option (herein sometimes referred to as a "replacement option") for a number of shares equal to the number of shares delivered by the Grantee or other person or retained by the Company in such exercise of this Option, subject to adjustments of the sort provided in paragraph 5 hereof, at an exercise price per share equal to the Fair Market Value (as defined herein) of the shares subject to the replacement option on the date this Option is thus exercised. The replacement option shall expire on the expiration date of this Option and shall in other respects contain the same terms and provisions as this Option, except that: (a) the replacement option shall not itself provide for any further replacement options upon its exercise, whether or not the exercise price of the replacement option is paid with previously outstanding shares or with shares as to which it is being exercised; and (b) the replacement option may not be exercised before the earlier of (i) the expiration of one year after the date it is granted or (ii) the first day of the calendar month in which its expiration date occurs, subject to any acceleration of its exercisability under provisions such as those in paragraph 5 hereof.

14. Restrictions Applicable Until the Company Is Subject to Federal Reporting Requirements: Notwithstanding any other provisions of this Option, unless and until the Company has become a reporting company with respect to any class of its equity securities under the Securities Exchange Act of 1934, as amended, neither this Option nor any stock issued upon exercise of this Option may be transferred, except that: (1) such stock may be transferred to the Company; (2) such stock will be released from this restriction against transfers in the event of the Grantee's total disability (within the meaning of the Company's then-established policies governing employees' disabilities or of any disability insurance coverage available to the Grantee as an employee of the Company or an affiliate of the Company) before the Company has become such a reporting company; and (3) in the event of the Grantee's death before the Company has become such a reporting company (i) this Option and such stock may be

transferred to the Grantee's estate or the administrator(s) or executor(s) of that estate and (ii) such stock may be distributed by that estate to the Grantee's successors by will or in accordance with the laws of descent and distribution (this exception does not extend to or permit the distribution or other transfer of this Option by that estate or executor(s) or administrator(s) to the Grantee's heirs or other beneficiaries of the estate, and under the circumstances described in this paragraph any portion of this Option remaining unexercised at the time of the final distribution of that estate will then terminate). Stock certificates evidencing stock subject to these restrictions shall be appropriately legended to reflect them.

15. Consent to Market Standoff Agreement: If an underwritten initial public offering of any of the Company's stock occurs while this Option or any stock issued on exercise of this Option is held by the Grantee (or by any person or entity to whom this Option was transferred as permitted in Section 4 hereof), and if the underwriter or managing underwriter in that offering requires or requests it and obtains a market standoff agreement from the stockholders of the Company who are its directors and officers and/or who constitute a majority of those who then own five percent (5%) or more of the Company's outstanding stock of the class subject to this Option, the Grantee, on behalf of himself/herself and each such transferee, consents to and agrees to participate in and enter into a market standoff agreement under which the Grantee and/or such transferee may not, without the written consent of the underwriter or managing underwriter, directly or indirectly sell or offer or agree to sell any stock issued on exercise of this Option during the same time period as the shortest period agreed to by any of the Company's directors, officers and/or principal stockholders who enter market standoff agreements in connection with that public offering, but in any event for not longer than 180 days after the effective date of the registration statement under the Securities Act of 1933 relating to that public offering, other than (1) any pledge of such stock to a financial institution in connection with a bona fide financing transaction; (2) transfers of such stock to any person or persons to whom this Option is permitted to be transferred in Section 4 hereof, provided each such transferee enters into a similar market standoff agreement; and (3) any other transfer that the market standoff agreement sought by the underwriter or managing underwriter may permit. The Company may issue stop transfer instructions to its transfer agent against transfers of the stock subject to any such market standoff agreement that are not in compliance with that agreement. This consent does not relate to any public offering of the Company's stock other than the initial one.

16. Certain Definitions: As used in this Option:

"Fair Market Value" of corporate stock shall mean:

(a) If the stock is then Publicly Traded: The closing price of stock of that class as of the day in question (or, if such day is not a trading day in the principal securities market or markets for such stock, on the nearest preceding trading day), as reported with respect to the market (or the composite of markets, if more than one) in which shares of such stock are then traded, or, if no such closing prices are reported, on the basis of the mean between the high bid and low asking prices that day on the principal market or quotation system on which shares of such stock are then quoted, or, if not so quoted, as furnished by a professional securities dealer making a market in such stock selected by or under authority of the board of directors of the Company.

(b) If the stock is then not Publicly Traded: The price at which one could reasonably expect such stock to be sold in an arm's length transaction, for cash, other than on an installment basis, to a person not employed by, controlled by, in control of or under common control with the issuer of such shares. Such Fair Market Value shall be that which has currently or most

recently been determined for this purpose by the Company's board of directors, or at the discretion of that board by an independent appraiser or appraisers selected by the board, in either case giving due consideration to recent transactions involving shares of such stock, if any, the issuer's net worth, prospective earning power and dividend-paying capacity, the goodwill of the issuer's business, the issuer's industry position and its management, that industry's economic outlook, the value of securities of issuers whose stock is Publicly Traded and which are engaged in similar businesses, the effect of transfer restrictions to which such stock may be subject under law and under the applicable terms of any contract governing such stock, the absence of a public market for such stock and such other matters as the board or its appraiser or appraisers deem pertinent. The determination by the Company's board of directors or its appraiser or appraisers of the Fair Market Value shall, if not unreasonable, be conclusive and binding notwithstanding the possibility that other persons might make a different, and also reasonable, determination. If the Fair Market Value to be used was thus fixed more than sixteen months prior to the day as of which Fair Market Value is being determined, it shall in any event be no less than the book value of the stock being valued at the end of the most recent period for which financial statements of the issuer are available. An individual's "Immediate Family" includes his or her spouse and persons who are children or other direct descendants, parents or other ancestors, siblings, nieces or nephews of that individual or of his or her spouse, in each case including adoptive relationships.

Corporate stock is "Publicly Traded" if stock of that class is listed or admitted to unlisted trading privileges on a national securities exchange or on the Nasdaq National Market or if sales or bid and offer quotations are reported for that class of stock in the automated quotation system ("NASDAQ") operated by the National Association of Securities Dealers, Inc. ("NASD").

17. Stock Option Plan: This Option is subject to, and the Company and the Grantee agree to be bound by, all of the terms and conditions of the Company's Stock Option Plan under which this Option was granted, as the same shall have been amended from time to time in accordance with the terms thereof, provided that no such amendment shall deprive the Grantee, without his consent, of this Option or any of his rights hereunder. Pursuant to said Plan, the board of directors of the Company or its Committee established for such purposes is vested with final authority to interpret and construe the Plan and this Option, and is authorized to adopt rules and regulations for carrying out the Plan. A copy of the Plan in its present form is available for inspection during business hours by the Grantee or other persons entitled to exercise this Option at the Company's principal office.

18. Notices: Any notice to be given to the Company shall be addressed to the Company in care of its Secretary at its principal office, and any notice to be given to the Grantee shall be addressed to him at the address given beneath his signature hereto or at such other address as the Grantee may hereafter designate in writing to the Company. Any such notice shall be deemed duly given when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, registered or certified, and deposited, postage and registry or certification fee prepaid, in a post office or branch post office regularly maintained by the United States Postal Service.

19. Laws Applicable to Construction: This Agreement has been executed and delivered by the Company in [state], and this Agreement shall be construed and enforced in accordance with the laws of said State.

IN WITNESS WHEREOF, the Company has granted this Option on the date of grant specified above.

[corporate name]

By _____

Title _____

ACCEPTED:

Grantee

Street Address

City and State