

SECURITIES AND EXCHANGE COMMISSION

FORM 10-K/A

Annual report pursuant to section 13 and 15(d) [amend]

Filing Date: **2003-04-03** | Period of Report: **2002-12-31**
SEC Accession No. **0000891618-03-001648**

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FILER

FAFCO INC

CIK: **352956** | IRS No.: **942159547** | State of Incorpor.: **CA** | Fiscal Year End: **1231**
Type: **10-K/A** | Act: **34** | File No.: **000-10120** | Film No.: **03638179**
SIC: **3433** Heating equipment, except electric & warm air furnaces

Business Address
435 OTTERSON DRIVE
CHICO CA 95928
5303322100X131

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K/A

(Amendment No. 1)

[Mark One]

Annual report pursuant to Section 13 or 15[d] of the Securities Exchange Act of 1934

For the fiscal year ended December 31, 2002 or

Transition report pursuant to Section 13 or 15[d] of the Securities Exchange Act of 1934

For the transition period from to .

Commission file number 0-10120

FAFCO, Inc.

[Exact name of registrant as specified in its charter]

California

[State or other jurisdiction of incorporation or organization]

94-2159547

[IRS Employer Identification No.]

435 Otterson Drive, Chico, California

[Address of principal executive offices]

95928

[Zip Code]

Registrant's telephone number, including area code: **530-332-2100**

Securities registered pursuant to Section 12[b] of the Act: **None**

Securities registered pursuant to Section 12[g] of the Act:

Common Stock, \$0.125 par value

[Title of Class]

Indicate by check mark whether the registrant [1] has filed all reports required to be filed by Section 13 or 15[d] of the Securities Exchange Act of 1934 during the preceding 12 months [or for such shorter period that the registrant was required to file such reports], and [2] has been subject to such filing requirements for the past 90 days.

Yes No

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

Indicate by check mark whether the registrant is an accelerated filer (as defined in Exchange Act Rule 12b-2).

Yes [] No [X]

The aggregate market value of the registrant' s Common Stock held by non-affiliates of the registrant as of June 30, 2002, the last day of the registrant' s most recently completed second fiscal quarter, was \$909,782 based upon the average of the bid and ask prices reported for such date by the National Quotation Bureau. Shares of common stock held by each officer and director and each person who owns 5% or more of the outstanding shares of common stock have been excluded in that such persons may be deemed affiliates. The determination of affiliate status in this context is not necessarily a conclusive determination for other purposes.

The number of shares of the registrant' s Common Stock outstanding as of March 13, 2003, was 3,864,111.

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The registrant hereby files this Amendment No. 1 to its Annual Report on Form 10-K for the fiscal year ended December 31, 2002 (the "Annual Report") to amend Part IV, Item 15(a)(2) of the Annual Report to include (1) the Licensing Agreement dated May 16, 2002 between the registrant and Beijing ZhongDian Duoli Refrigeration Engineering Co. Ltd., as Exhibit 10.13, and (2) the registrant's 2002 Stock Plan as Exhibit 10.14. No other portion of the Annual Report is amended.

Item 15. Exhibits, Financial Statement Schedules, and Reports on Form 8K

[a][3] Exhibits

Exhibit No.	Description
3.1 ^[1]	Articles of Incorporation, as amended.
3.2 ^[2]	Bylaws, as amended.
3.2[a][1]	Certificate of Amendment of Bylaws.
4.1	Reference Exhibits 3.1 and 3.2.
4.2	Subordinated Notes Purchase Agreement dated January 2, 2002, between Registrant and certain investors [the "Purchase Agreement"]
4.2[a]	Forms of Subordinated Promissory Note issued under Purchase Agreement.
4.2[b]	Form of Warrant issued under Purchase Agreement.
10.1	Reference Exhibit 4.1.
10.2 ^{[4]*}	1981 Incentive Stock Option Plan.
10.3 ^{[4]*}	Form of 1981 Incentive Stock Option Agreement.
10.4 ^[1]	Standard Form of Distributor Agreement.
10.5 ^[3]	Licensing Agreement between the Registrant, as Licensor, and Enercon Engineering, as Licensee, dated May 20, 1988.
10.6 ^{[8]*}	1991 Stock Option Plan, as amended.
10.6[a][5]*	Form of Stock Option Agreement used under the 1991 Stock Option Plan.
10.7 ^{[5]*}	1991 Directors' Stock Option Plan.
10.7[a][5]*	Form of Nonstatutory Stock Option Agreement used under 1991 Director's Stock Option Plan.

- 10.8[5]* Employee Stock Purchase Plan.
- 10.8[a][5]* Form of Subscription Agreement used under Employee Stock Purchase Plan.
- 10.9[6] Licensing Agreement and Addendum between the Registrant, as Licensor, and Jang-Han Systems Engineering, as Licensee, dated January 1, 1993.
- 10.10[7] Export - Import and Technical License Agreement between the Registrant, as Licensor, and Ebara Corporation, as Licensee, dated October 22, 1993.
- 10.11⁽¹¹⁾ Construction Trust Deed between Registrant as Trustor and Butte Community Bank as Lender, dated April 13, 2000.
- 10.11[a][12] Promissory Note between Registrant as Borrower and Butte Community Bank as Lender dated April 13, 2000.
- 10.11[b][12] Change in Terms Agreement between Registrant as Borrower and Butte Community Bank as Lender dated October 16, 2000.
- 10.11[c][12] Change in Terms Agreement between Registrant as Borrower and Butte Community Bank as Lender dated December 15, 2000.
- 10.11[d][12] Business Loan Agreement between Registrant as Borrower and Butte Community Bank as Lender, dated May 15, 2000.
- 10.11[e][12] Change in Terms Agreement between Registrant as Borrower and Butte Community Bank as Lender dated May 9, 2001.
- 10.11[f][12] Promissory Note between Registrant as Borrower and Butte Community Bank as Lender, dated May 15, 2000.
- 10.11[g][12] Promissory Note between Registrant as Borrower and Butte Community Bank as Lender dated January 26, 2001.
- 10.11[h][12] Promissory Note between Registrant as Borrower and Butte Community Bank as Lender dated July 26, 2001.
- 10.11[i] Change in Terms Agreement between Registrant as Borrower and Butte Community Bank as Lender dated August 8, 2002.
- 10.11[j] Change in Terms Agreement between Registrant as Borrower and Butte Community Bank as Lender dated November 10, 2002.
- 10.12^[8] Agency/Distributorship Agreement between Registrant as Manufacturer and Jabria Establishment, as Agent/Distributorship, dated December 10, 1994.
- 10.13 Licensing Agreement between Registrant, as Licensor, and Beijing ZhongDian Duoli Refrigeration Engineering Co. Ltd., as Licensee, dated May 16, 2002
- 10.14* 2002 Stock Plan

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18.1 ^[9]	Letter re change in Accounting Principle from Burr, Pilger & Mayer dated November 5, 1997.
21.1 ^[10]	Subsidiaries of Registrant.
23.1	Consent of Independent Accountants
24.1 ⁺	Power of Attorney
99.1	Management Certifications pursuant to 18 U.S.C. 1350

* Denotes a management contract or compensatory plan or arrangement.

+ Previously filed.

- (1) Incorporated by reference to exhibit filed with Registrant' s Registration Statement on Form S-1 [File No. 2-72297] filed May 14, 1981.
- (2) Incorporated by reference to exhibit filed with Registrant' s Annual Report on Form 10-K for the fiscal year ended December 31, 1983.
- (3) Incorporated by reference to exhibit filed with Registrant' s Annual Report on Form 10-K for the fiscal year ended December 31, 1988.
- (4) Incorporated by reference to exhibit filed with Registrant' s Annual Report on Form 10-K for the fiscal year ended December 31, 1990.
- (5) Incorporated by reference to exhibit filed with Registrant' s Annual Report on Form 10-K for the fiscal year ended December 31, 1991.
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- (7) Incorporated by reference to exhibit filed with Registrant' s Annual Report on Form 10-K for the fiscal year ended December 31, 1993.
- (8) Incorporated by reference to exhibit filed with Registrant' s Annual Report on Form 10-K for the fiscal year ended December 31, 1994
- (9) Incorporated by reference to exhibit filed with Registrant' s Annual Report on Form 10K for the fiscal year ended December 31, 1998.
- (10) Incorporated by reference to exhibit filed with Registrant' s Annual Report on Form 10K for the fiscal year ended December 31, 1999.
- (11) Incorporated by reference to exhibit filed with Registrant' s Annual Report on Form 10K for the fiscal year ended December 31, 2000.
- (12) Incorporated by reference to exhibit filed with Registrant' s Annual Report on Form 10K for the fiscal year ended December 31, 2002, as amended.

SIGNATURES

Pursuant to the requirements of Section 13 or 15[d] of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: April 2, 2003

FAFCO, Inc.

/s/ Freeman A. Ford _____

Freeman A. Ford,
Chairman of Board, President and
Chief Executive Officer

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

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Freeman A. Ford</u> Freeman A. Ford	Chairman of the Board, President and Chief Executive Officer [Principal Executive Officer]	April 2, 2003
<u>/s/ Nancy I. Garvin</u> Nancy I. Garvin	Vice President, Finance and Chief Financial Officer [Principal Financial and Accounting Officer]	April 2, 2003
<u>/s/ William A. Berry*</u> William A. Berry	Director	April 2, 2003
<u>/s/ Robert W. Selig, Jr.*</u> Robert W. Selig, Jr.	Director	April 2, 2003
<u>/s/ William Chisholm*</u> William Chisholm	Director	April 2, 2003
<u>/s/ David Ford*</u> David Ford	Director	April 2, 2003
<u>*By: /s/ Nancy I. Garvin</u> Nancy I. Garvin, Attorney-in-Fact		April 2, 2003

CERTIFICATION

I, Freeman A. Ford, certify that:

1. I have reviewed this annual report on Form 10K of FAFCO, Inc. [The "Registrant"]

Based on my knowledge, this annual report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this annual report;

2. Based on my knowledge, the financial statements, and other financial information included in this annual report, fairly present in all material respects the financial condition results of operations and cash flows of the Registrant as of, and for, the periods presented in this annual report;

3. The Registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures [as defined in Exchange Act Rules 13a-14 and 15d-14] for the Registrant and we have:

- a. designed such disclosure controls and procedures to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;

- b. evaluated the effectiveness of the Registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this annual report [the "Evaluation Date"]; and

- c. presented in this annual report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;

4. The Registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the Registrant's auditors and the audit committee of Registrant's board of directors [or persons performing the equivalent functions]:

- a. all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the Registrant's auditors any material weaknesses in internal controls; and

- b. any fraud, whether or not material, that involves management of other employees who have a significant role in the Registrant's internal controls; and

5. The Registrant's other certifying officers and I have indicated in the annual report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: April 2, 2003

By: /s/ Freeman A. Ford _____

Name: Freeman A. Ford

Title: Chairman of the Board, President, and
Chief Executive Officer [Principal Executive Officer]

CERTIFICATION

I, Nancy I. Garvin, certify that:

1 I have reviewed this annual report on Form 10K of FAFCO, Inc. [The "Registrant"]

2 Based on my knowledge, this annual report does not contain any untrue statement of a material fact of omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this annual report;

3 Based on my knowledge, the financial statements, and other financial information included in this annual report, fairly present in all material respects the financial condition results of operations and cash flows of the Registrant as of, and for, the periods presented in this annual report;

4 The Registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures [as defined in Exchange Act Rules 13a-14 and 15d-14] for the Registrant and we have:

a designed such disclosure controls and procedures to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;

b evaluated the effectiveness of the Registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this annual report [the "Evaluation Date"]; and

c presented in this annual report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;

5 The Registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the Registrant's auditors and the audit committee of registrant's board of directors [or persons performing the equivalent functions]:

a all significant deficiencies in the design or operation of internal controls which could adversely affect the Registrant's ability to record, process, summarize and report financial data and have identified for the Registrant's auditors any material weaknesses in internal controls; and

b any fraud, whether or not material, that involves management of other employees who have a significant role in the Registrant's internal controls; and

6 The Registrant's other certifying officers and I have indicated in the annual report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: April 2, 2003

By: /s/ Nancy I. Garvin _____

Name: Nancy I. Garvin

Title: Vice President of Finance and
Chief Financial Officer [Principal Financial Officer]

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- (11) Incorporated by reference to exhibit filed with Registrant' s Annual Report on Form 10K for the fiscal year ended December 31, 2000.
- (12) Incorporated by reference to exhibit filed with Registrant' s Annual Report in Forms 10K for the fiscal year ended December 31, 2001, as amended.

LICENSEE AGREEMENT

This Licensee Agreement ("Agreement") is entered into in Chico, California, as of May 16, 2002 (the "Effective Date") by and between FAFCO, Inc., a California corporation, with offices at 435 Otterson Drive, Chico, CA 95928-8207 ("FAFCO"), and Beijing ZhongDian DuoLi Refrigeration Engineering Co., Ltd., a Beijing corporation, with offices at 4F, South Building, Yuexiu Hotel, Xuanwumen, Beijing, China 100051 ("Licensee").

WHEREAS, FAFCO has been engaged in the development, manufacture, and sale of polymer heat exchanger technology, products, and components, and has devoted considerable time and effort and expended large sums of money in that regard; and

WHEREAS, FAFCO possesses of certain patents, trademarks and proprietary information used in connection with the manufacture and sale of such products; and

WHEREAS, Licensee wishes to undertake the purchase, assembly and distribution of such products; and

WHEREAS, FAFCO is willing to grant to Licensee the right to do so in accordance with the terms of this Agreement; and

WHEREAS, the parties desire to name Mr. David Huang as technical coordinator of the parties' obligations under this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. DEFINITIONS

(a) "Assemble" means the (i) conversion of FAFCO's IceStor(TM) brand unsplit, unbent, unseparated heat exchangers into, split, bent, and separated heat exchangers and/or (ii) the installation of such split, bent and separated heat exchangers into (a) site-built, thermal energy storage tanks manufactured by third parties, (b) metal thermal energy storage tanks assembled by Licensee using locally-sourced materials or (c) IceStor(TM) brand thermal energy storage tank parts purchased from FAFCO and assembled by Licensee, all in accordance with the specifications set forth in Licensed Materials.

(b) "Components" means FAFCO's IceStor(TM) brand (i) unsplit, unbent, unseparated heat exchanger devices up to twenty-four (24) feet in length, and (ii) thermal energy storage tank parts, as set forth in Exhibit A.

(c) "Licensed Materials" means FAFCO's proprietary policies, procedures, plans, specifications, drawings, technical information, installation manuals, maintenance manuals, selection charts and tooling information and devices pertaining to the assembly, sale, installation, and servicing of Components and Products, as updated from time to time by FAFCO.

(d) "Manufacture" means FAFCO's patented process of converting resin and additives into flat heat exchangers.

(e) "Products" means FAFCO's finished IceStor(TM) brand thermal energy storage tanks, including split, bent, and separated heat exchangers, whether Assembled by Licensee or purchased by Licensee from FAFCO.

(f) "Equipment" means tools, jigs, fixtures and machinery needed to Assemble Components into Products.

(g) "Territory" means NORTHERN CHINA, including Hebei, Henan, Shandong, Shanxi, Anhui Provinces, Beijing, Tianjin, Inner Mogolia, and Northeastern China.

2. APPOINTMENT AND AUTHORITY OF LICENSEE,

(a) Appointment and License Grant.

(i) Appointment. FAFCO hereby appoints Licensee as FAFCO's exclusive Licensee of the Products and Components in the Territory. Licensee will have the right to purchase Products and Components from FAFCO and will sell, install, and service Products and Components in the Territory. Licensee agrees to abide by FAFCO's policies, procedures and specifications as set forth in the Licensed Materials with respect to Licensee's obligations under this Agreement. Licensee may distribute Products or Components outside the Territory only with the prior written consent of FAFCO, which consent may be given or withheld in its sole discretion.

(ii) License Grant. FAFCO grants Licensee an exclusive license to use the Licensed Materials to Assemble Components and Products for sale in the Territory. Licensee may use the Licensed Materials for its internal purposes only, and may not sublicense the Licensed Materials without the prior written approval of FAFCO. Licensee agrees to Assemble Components and Products which are of a satisfactory and merchantable quality and in accordance with the policies, procedures and specifications in the Licensed Materials.

(iii) License Fee. The license fee is One Hundred Thousand Dollars (\$100,000.00). Twenty-Five Thousand Dollars (\$25,000) should be paid upon signing of this Agreement. The balance, divided as three installments (\$25,000 each), should be paid every other four months after signing of this

Agreement. This license fee is a once for all charge and will not be collected again upon future renewal of this Agreement.

(b) Annual Purchase Commitment. Attached hereto as Exhibit B are the numbers of ton hours to be purchased by Licensee from FAFCO during each year of this Agreement ("Annual Purchase Commitments"). Throughout the term of this Agreement, if Licensee does not purchase its Annual Purchase Commitment in any given year, then FAFCO may terminate this Agreement pursuant to Subsection 5(b) below, and/or appoint one or more additional Licensees of the Components and Products in the Territory. Components and Products returned to FAFCO under the provisions of Section 3 will not count towards the fulfillment of Licensee's Annual Purchase Commitment.

(c) Services by Licensee. Licensee will have the responsibility to sell, install, service and repair the Products. These services will be performed only by properly trained personnel of Licensee and will be prompt and of the highest quality.

(d) Training by FAFCO. FAFCO will promptly provide Licensee with marketing information concerning the Components and Products, as well as reasonable quantities of brochures, instructional material, advertising literature, and other product data, all in the English language. FAFCO will provide service and repair training to Licensee at FAFCO's facilities in the United States at periodic intervals, as determined by FAFCO. Licensee will be responsible for its own costs for travel, food and lodging during such training periods. At Licensee's request, FAFCO will provide it with technical assistance at sites other than FAFCO's facilities in the United States in connection with the Assembly of Components and Products at FAFCO's then current daily rates for such assistance, plus expenses.

(e) Technical Coordinator. All aspects of the parties' performance under this Agreement will be monitored and coordinated by Mr. David S. H. Huang (the "Technical Coordinator"). The parties will grant the Technical Coordinator complete cooperation and access to all areas and information necessary for him to fulfill his oversight responsibilities. All reasonable requests made by the Technical Coordinator will be adhered to by Licensee, including all requests that Licensee comply with the provisions of this Agreement.

(f) Conflict of Interest. Licensee represents and warrants that it currently does not purchase, distribute or assist any third party in the purchase or distribution of competing products, and agrees not to do so during the term of this Agreement and for a period of two (2) years thereafter. If Licensee purchases, distributes or assists any third party in the purchase or distribution of competing products, FAFCO will have the right to terminate this Agreement in accordance with Section 5(b). A product will be deemed to be a competing product if it provides substantial overlap of any of the uses of the Components or Products.

(g) Intellectual Property Rights Registrations. Licensee will assist FAFCO with any registrations or filings required to obtain patent, copyright, trademark or other intellectual property rights protection, in FAFCO's name, for the Components and Products in the Territory. FAFCO will pay all intellectual property rights registration and filing fees.

(h) Product Improvements. Throughout the course of this Agreement, FAFCO and Licensee will inform and assist each other with respect to developments, modifications and improvements to the Components and Products ("Improvements"). Licensee agrees, however not to reverse assemble or reverse engineer the Components or in any way copy or duplicate the Manufacture of heat exchangers nor assist others to do so, without the prior approval of FAFCO, and nothing under this Section 2(h) shall be deemed a grant of a right to Licensee to Manufacture heat exchangers. Improvements will be considered Confidential Information in accordance with the provision of Section 6, and will be owned as follows:

(i) FAFCO Improvements. Improvements made solely by FAFCO during the course of this Agreement will be the exclusive property of FAFCO and will be incorporated into the components and Products sold to Licensee hereunder or licensed to Licensee as Licensed Materials in accordance with the terms of Section 2(a)(ii).

(ii) Jointly Owned Improvements. Improvements made solely by Licensee or jointly by both parties during the course of this Agreement will be owned jointly by both parties without any obligation on the part of either party to account to the other for profits or to obtain the consent of the other with respect to the exploitation of such Improvements, subject to the license grant in Section 2(a)(ii). The filing for, prosecution and maintenance of any patents that constitute jointly owned improvements hereunder shall be as mutually agreed. In the absence of an agreement, each party may proceed in such manner as the United States law permits joint owners of a patent to do so. Either party may bring a legal action to enforce, against third party infringers of any jointly owned patents. The other party shall have the right, but not the obligation, to join in such legal action. If the other party elects not to join such legal action, then the initiating party shall have the right to continue such action at its sole expense and to retain any proceeds from such action. In the case of any dispute between the parties with respect to the ownership of a patent, such dispute shall be settled in accordance with the provisions of Section 8(b) under United States patent law.

(i) Right to Manufacture. Neither Licensee nor its heirs and assigns has any right to Manufacture heat exchangers.

(j) Independent Contractors: Compliance With Laws. The relationship of FAFCO and Licensee is that of independent contractors. Neither party will have the power to direct or control the day-to-day activities of the other, or create or

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assume any obligation on behalf of the other. All sales and other agreements between Licensee and its customers are Licensee's exclusive responsibility. Both parties will at all times comply with all applicable laws and regulations, including the United States Foreign Corrupt Practices Act and Export Administration Act. Licensee hereby represents and warrants that it possesses all necessary licenses to perform its responsibilities under this Agreement and will obtain all necessary governmental approvals of this Agreement in the Territory. The provisions of this Agreement under which the liability of FAFCO is excluded or limited will not apply to the extent that such exclusions or limitations are void under the laws of the Territory, unless cured by the fact that the law of California governs this Agreement.

3. TERMS OF PURCHASE OF COMPONENTS BY LICENSEE

(a) Terms and Conditions. Licensee's orders for Components, Products and Equipment from FAFCO will be subject to the following terms and conditions. Nothing contained in any purchase order or like document submitted by Licensee to FAFCO will in any way modify or add to the following.

(b) Prices. All prices are F.O.B. FAFCO's facility currently located at the address listed for FAFCO at the beginning of this Agreement ("F.O.B. Point"). The price to Licensee for each of the Components and Products and any discounts will be as set forth in Exhibit A attached hereto. Equipment prices will be quoted upon request. The difference between Licensee's purchase price and Licensee's price to its customers will be Licensee's sole remuneration for distribution of the Products. FAFCO has the right at any time to revise its prices upon written notice to Licensee. Such revisions will apply to an orders received after the effective date of the revision. Price increases will not affect unfulfilled orders accepted by FAFCO prior to the effective date of the price increase. Price decreases will apply to pending orders accepted by FAFCO prior to the effective date of the decrease.

(c) Taxes. Licensee's purchase price is payable in full to FAFCO without deduction for custom duties or taxes, including any value-added or withholding taxes. Licensee will pay all such duties and taxes, however designated, levied, or based on amounts payable to FAFCO or on Licensee's use or possession of the Components and Products, exclusive of national, state, and local taxes based on FAFCO's net income. Upon FAFCO's request, Licensee will provide FAFCO with official receipts issued by the appropriate taxing authority or such other evidence as is reasonably requested by FAFCO to establish that such taxes have

been paid in order to facilitate any efforts of FAFCO to obtain United States tax credits.

(d) Order and Acceptance. Orders for Components and Products submitted by Licensee will be initiated by facsimile or e-mail. To facilitate

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FAFCO's production scheduling, Licensee will submit purchase orders to FAFCO in accordance with FAFCO's then current lead times. No order will be binding upon FAFCO until accepted by FAFCO in writing. FAFCO will notify Licensee of the acceptance or rejection of an order and of the assigned ship date for accepted orders within five (5) business days of receipt of the order.

(e) Payment. Payment will be in U.S. Dollars and will be effected by means of an irrevocable letter of credit drawn on a California bank approved by FAFCO. The letter of credit will be upon terms acceptable to FAFCO, will provide for payment upon delivery of FAFCO's invoice and the bill of lading that relate to the shipment, will allow for partial shipments, and will be in an amount equal to Licensee's purchase price for the Products and Components, including all applicable taxes, shipping charges, and other charges to be borne by Licensee. All exchange, interest, banking, collection and other charges will be at Licensee's expense. All references to "dollars", "U.S.\$" or "\$" will mean United States dollars.

(f) Shipping. All Components and Products will be marked for shipment to Licensee's address set forth above, and delivered to Licensee or its carrier agent at the F.O.B. Point, at which time risk of loss will pass to Licensee. Unless otherwise instructed in writing by Licensee, FAFCO will select the carrier and the forwarding agent. Licensee agrees to undertake all import formalities required to import the Components and Products into the Territory. All customs, freight, insurance, and other shipping expenses, as well as any special packing expense, will be paid by Licensee. Licensee will also bear all applicable taxes, duties, and similar charges that may be assessed against the Components and Products after delivery to Licensee or its carrier agent.

(g) Cancellations. Licensee may cancel any order placed with FAFCO without penalty, provided FAFCO has not yet incurred any direct costs as a result of the order being placed. If such costs have been incurred, Licensee is liable for a cancellation charge equal to such costs. All Licensee cancellation requests must be made via facsimile or e-mail.

(h) Rejection of Components and Products. Licensee will inspect all Components and Products in the manner specified in Exhibit C promptly upon receipt and may reject any Component or Product that fails in any material way to meet FAFCO's then current specifications. Any Component or Product not rejected within thirty (30) days after receipt by Licensee ("Rejection Period") will be deemed accepted. If any unit of a Component or Product is shipped by

Licensee to a SubLicensee or Customer prior to expiration of the Rejection Period, then that unit will be deemed accepted. To reject a Component or Product, Licensee will, within the Rejection Period, notify FAFCO by facsimile or e-mail of its rejection and request a Material Return Authorization ("MRA") number. FAFCO will provide the MRA number by facsimile or e-mail to Licensee within five (5) days after receipt of the request. Within ten (10) days after receipt of the MRA number, Licensee will return to FAFCO the rejected Component

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and/or Product, freight prepaid, in its original shipping carton with the MRA number displayed on the outside of the carton. No later than thirty (30) working days after receipt by FAFCO, FAFCO will either repair or replace the Components and/or Products and pay shipping charges back to Licensee. No returns will be accepted after the Rejection Period.

(i) Alternative Method of Rejection. As an alternative to Section 3(h), Licensee may, if so instructed by FAFCO, destroy any rejected Component or Product, certify the destruction in writing to FAFCO and return the header portion of any destroyed heat exchanger to FAFCO.

4. DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY

(a) Exclusive Remedy. The parties acknowledge that the proper functioning and performance of any thermal energy storage systems in which the Components and Product may be used will depend entirely on the Assembly, installation and servicing of Components and Products as well as the design and sizing of such thermal energy storage systems, and that FAFCO will have no control over such factors. Accordingly, Licensee's sole and exclusive remedy for Components and Products which fail to meet FAFCO's then current specifications will be as set forth above in Sections 3(h)-(i) above.

(b) Disclaimer of Warranty. FAFCO GRANTS NO WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE WITH RESPECT TO THE COMPONENTS OR PRODUCTS, AND SPECIFICALLY DISCLAIMS ANY IMPLIED OR STATUTORY WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(c) Limitation of Liability. IN NO EVENT WILL FAFCO HAVE ANY LIABILITY TO LICENSEE, ITS CUSTOMERS OR ANY OTHER THIRD PARTY, FOR ANY LOST PROFITS, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY OTHER INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR ITS TERMINATION, UNDER ANY CAUSE OF ACTION WHETHER OR NOT FAFCO HAD BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

5. TERM AND TERMINATION

(a) Term. This agreement will continue in force for a period of five (5)

years after the Effective Date, unless terminated earlier under the provisions of this Section. At the end of the initial term, the parties may renew this Agreement for an additional five (5) year term subject to mutual agreement between the parties on all material terms, including future Annual Purchase Commitments. No more license fee will be charged upon renewal of this Agreement.

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(b) Termination. If either party defaults in the performance of any provision of this Agreement, then the non-defaulting party may give written notice to the defaulting party that if the default is not cured within thirty (30) days the Agreement will be terminated. If the non-defaulting party gives such notice and the default is not cured during the thirty-day period, then the Agreement will automatically terminate at the end of that period. The provisions of this Agreement which require performance of the parties after termination of this Agreement will survive its termination.

6. CONFIDENTIALITY

Licensee acknowledges that by reason of its relationship to FAFCO hereunder it may have access to certain information and materials concerning FAFCO's business, including the Licensed Materials, that are confidential and of substantial value to FAFCO ("Confidential Information"). Except as set forth in this Agreement, Licensee agrees that it will not use or disclose to any third party, any Confidential Information revealed to it by FAFCO. Licensee will take every reasonable precaution to protect the confidentiality of such information. In the event of termination of this Agreement, Licensee may no longer use the Confidential Information and Licensee will immediately return all such information to FAFCO. Licensee will have no obligation under this Section 6 with respect to any information which (i) was publicly known and made generally available in the public domain prior to the time of disclosure by FAFCO; (ii) becomes publicly known and made generally available after disclosure by FAFCO through no action or inaction of Licensee; (iii) is already in the possession of Licensee at the time of disclosure by FAFCO, as shown by Licensee's files and records immediately prior to the time of disclosure; (iv) is obtained by Licensee from a third party without a breach of such third party's obligations of confidentiality; or (v) is independently developed by Licensee without use of or reference to Confidential Information, as shown by documents and other competent evidence in Licensee's possession.

7. TRADEMARKS

During the term of this agreement Licensee shall use the FAFCO IceStor(TM) trademark prominently displayed on all literature, technical information, advertising, products and installed components licensed under this agreement. Licensee has no right, title or interest in the Trademarks. At no time during or after the term of this Agreement will Licensee challenge or assist others to challenge the Trademarks or the registration thereof or attempt to register any trademarks, marks or trade names confusingly similar to the Trademarks. All uses of the Trademarks by the Licensee must be approved in advance by FAFCO.

(a) Indemnification. Licensee agrees to indemnify, defend and hold FAFCO harmless from and against any and all claims, losses, damages, liabilities, causes of action or suits, including reasonable attorneys' fees, arising out of or relating to any negligence or intentional acts or omissions of Licensee in connection with this Agreement or the breach by Licensee of any material provision of this Agreement.

(b) Governing Law and Arbitration. This Agreement will not be governed by the 1980 U.N. Convention on Contracts for the International Sale of Goods; rather such rights and obligations will be governed by and construed under the laws of the State of California, including its Uniform Commercial Code, without reference to conflict of laws principles. Any dispute or claim arising out of or in connection with this Agreement will be finally settled by binding arbitration in Honolulu, Hawaii under the Rules of Arbitration of the International Chamber of Commerce by one neutral arbitrator appointed in accordance with those rules. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, the parties may apply to any court of competent jurisdiction for injunctive relief without breach of this arbitration provision.

(c) Entire Agreement. This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges all prior discussions between them. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing signed by both parties.

(d) Notices. All notices, demands, and communications required or permitted under this Agreement will be sent via facsimile or e-mail to the other party's then current facsimile transmission number or e-mail address, directed to the individual currently holding the title of the respective signatory of this Agreement. Confirmation of such transmission will be sent by prepaid, registered or certified mail, return-receipt requested, addressed to the other party at the address shown at the beginning of this Agreement or at such other address for which such party gives notice hereunder. All notices complying with this section will be deemed to have been received on the date of facsimile transmission.

(e) Force Majeure. Non-performance of either party, except non-performance of any obligation to pay money, will be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts or orders or restrictions, failure of suppliers, lack of transportation, or any other reason where failure to perform is beyond the control and not caused by the negligence of the non-performing party.

(f) English Language. This Agreement may be written and executed in English and Chinese, but the English language version will be controlling in all respects. All communications and notices to be made or given pursuant to this

Agreement will be in English.

(g) Non-assignability and Binding Effect. A mutually agreed consideration for FAFCO's entering into this Agreement is the reputation, business standing, and goodwill already honored and enjoyed by Licensee under its present ownership, and, accordingly, Licensee agrees that its rights and obligations under this Agreement may not be transferred or assigned directly or indirectly without the prior written consent of FAFCO. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

(h) Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will constitute one instrument.

IN WITNESS WHEREOF, the parties by their duly authorized representatives have entered into this Agreement as of the Effective Date.

FAFCO, INC.

BEIJING ZHONGDIAN DUOLI
REFRIGERATION
ENGINEERING CO., LTD.

By: /s/ F.A. Ford

By: [Illegible]

Name: F.A. FORD

Name: [Illegible]

Title: President

Title: Vice-General Manager

5/18/202

FAFCO, EXHIBIT A

PRICE LIST

FLAT HEAT EXCHANGERS

(INCLUDES FLAT PANEL, SEPARATOR STRIPS)

PART #	HX SIZE	SELLING PRICE	APPROXIMATE* TON HOURS
661	10 feet	133	6.9
667	12 feet	143	8.3
684S	14 feet	165	9.7
663	16 feet	190	11.1
664	18 feet	225	12.5
621	20 feet	252	13.9
669	22 feet	288	15.3
660	24 feet	306	16.7

 OPTIONS

Capacity Display Unit	1,610
Capacity Sensors	260

FOB Chico, California, USA

* Not to be used for sizing purposes

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FAFCO, EXHIBIT B

ANNUAL PURCHASE COMMITMENTS

YEAR	TON HOURS
2002	10,000
2003	15,000
2004	20,000
2005	25,000
2006	30,000

FAFCO, EXHIBIT C

ACCEPTANCE TESTING

FAFCO conducts rigorous testing of IceStor(TM) panels during the manufacturing process (see attached flowchart). These tests ensure that the panels meet our specifications at the time of shipping.

To ensure that there has been no shipping damage the Licensee may consider performing visual inspection of panels upon request.

The licensee may also elect to perform low pressure and high pressure water leak testing according to a statistical sampling plan developed by the licensee. The attached flowchart also shows the test process that FAFCO uses on heat exchanges when integrating them into complete IceStor(TM) tanks.

PRODUCTION PANEL TEST

Each production panel is flow and pressure tested directly after forming.

The panel is loaded onto the testing fixture and pneumatically clamped in place.

Air is purged out and flow is measured, panel is pressurized to 35-40 psi and visually inspected for leaks, surface defects, or damage.

LCD TUBE FLOW TEST

To assure the positive flow in all designated tubes, a blocked tube test is performed hourly. This test is performed while the panel is on the production test fixture, and has heated water flowing through the tubes. A heat sensitive liquid crystal film is pressed across the width of the panel.

The warm flowing tubes will show on the film, while any tube without flow will clearly be absent.

BURST TEST

A burst test is performed at the beginning of every shift--approximately every ten (10) production hours. The test consists of a representative test panel taken directly from the forming process to a variable high pressure testing fixture. The air within the test panel is purged out, and the panel is

pressurized to 250 psi for two minutes and then increased in 50 psi increments for two minutes each until failure occurs (typically at 450-500 psi). The test panel is then sectioned and examined to determine failure cause.

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HX ASSEMBLY TESTING

After panel is split and woven, the following tests are performed.

150 PSI LEAK TEST Air is purged out and flow is measured, panel is pressurized to 150 psi for a period of five minutes, and visually inspected for leaks, surface defects, or damage.

80 PSI AIR LEAK TEST Panel is pressurized to 80 psi with air. Header pipes are submerged under water and a visual inspection for leaks is performed.

MODULE LEAK TESTING

After module assembly is installed into tank, a final module test is performed.

80 PSI LEAK TEST Entire module is pressurized to 80 psi for a period of one hour.

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FAFCO, INCORPORATED

2002 STOCK PLAN

1. Purposes of the Plan. The purposes of this 2002 Stock Plan are:

- to attract and retain the best available personnel for positions of substantial responsibility,
- to provide additional incentive to Employees, Directors and Consultants, and
- to promote the success of the Company's business.

Options granted under the Plan may be Incentive Stock Options or Nonstatutory Stock Options, as determined by the Administrator at the time of grant. Stock Purchase Rights may also be granted under the Plan.

2. Definitions. As used herein, the following definitions shall apply:

(a) "Administrator" means the Board or any of its Committees as shall be administering the Plan, in accordance with Section 4 of the Plan.

(b) "Applicable Laws" means the requirements relating to the administration of stock option plans under U.S. state corporate laws, U.S. federal and state securities laws, the Code, any stock exchange or quotation system on which the Common Stock is listed or quoted and the applicable laws of any foreign country or jurisdiction where Options or Stock Purchase Rights are, or will be, granted under the Plan.

(c) "Board" means the Board of Directors of the Company.

(d) "Change in Control" means the occurrence of any of the following events:

(i) Any "person" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) becomes the "beneficial owner" (as defined in Rule 13d-3 of the Exchange Act), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of the total voting power represented by the Company's then outstanding voting securities; or

(ii) The consummation of the sale or disposition by the Company of all or substantially all of the Company's assets;

(iii) A change in the composition of the Board occurring within a two-year period, as a result of which fewer than a majority of the directors are Incumbent Directors. "Incumbent Directors" means directors who either (A) are Directors as of the effective date of the Plan, or (B) are elected, or nominated for election, to the Board with the affirmative votes of at least a majority of the Incumbent Directors at the time of such election or nomination (but will not include

an individual whose election or nomination is in connection with an actual or threatened proxy contest relating to the election of directors to the Company); or

(iv) The consummation of a merger or consolidation of the Company with any other corporation, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by

being converted into voting securities of the surviving entity or its parent) at least fifty percent (50%) of the total voting power represented by the voting securities of the Company or such surviving entity or its parent outstanding immediately after such merger or consolidation.

(e) "Code" means the Internal Revenue Code of 1986, as amended.

(f) "Committee" means a committee of Directors appointed by the Board in accordance with Section 4 of the Plan.

(g) "Common Stock" means the common stock of the Company.

(h) "Company" means FAFCO, Incorporated, a California corporation.

(i) "Consultant" means any natural person, including an advisor, engaged by the Company or a Parent or Subsidiary to render services to such entity.

(j) "Director" means a member of the Board.

(k) "Employee" means any person, including Officers and Directors, employed by the Company or any Parent or Subsidiary of the Company. A Service Provider shall not cease to be an Employee in the case of

(i) any leave of absence approved by the Company or

(ii) transfers between locations of the Company or between the Company, its Parent, any Subsidiary, or any successor. For purposes of Incentive Stock Options, no such leave may exceed ninety days, unless reemployment upon expiration of such leave is guaranteed by statute or contract. If reemployment upon expiration of a leave of absence approved by the Company is not so guaranteed, then three (3) months following the 91st day of such leave any Incentive Stock Option held by the Optionee shall cease to be treated as an Incentive Stock Option and shall be treated for tax purposes as a Nonstatutory Stock Option. Neither service as a Director nor payment of a director's fee by the Company shall be sufficient to constitute "employment" by the Company.

(l) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(m) "Fair Market Value" means, as of any date, the value of Common Stock determined as follows:

(i) If the Common Stock is listed on any established stock exchange or a national market system, including without limitation the Nasdaq National Market or The Nasdaq SmallCap Market of The Nasdaq Stock Market, its Fair Market Value shall be the closing sales price for such stock (or the closing bid, if no sales were reported) as quoted on such exchange or system on the day of determination, as reported in The Wall Street Journal or such other source as the Administrator deems reliable;

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(ii) If the Common Stock is regularly quoted by a recognized securities dealer but selling prices are not reported, the Fair Market Value of a Share of Common Stock shall be the mean between the high bid and low asked prices for the Common Stock on the day of determination, as reported in The Wall Street Journal or such other source as the Administrator deems reliable; or

(iii) In the absence of an established market for the Common Stock, the Fair Market Value shall be determined in good faith by the Administrator.

(n) "Incentive Stock Option" means an Option intended to qualify as an incentive stock option within the meaning of Section 422 of the Code and the regulations promulgated thereunder.

(o) "Nonstatutory Stock Option" means an Option not intended to qualify as an Incentive Stock Option.

(p) "Notice of Grant" means a written or electronic notice evidencing certain terms and conditions of an individual Option or Stock Purchase Right grant. The Notice of Grant is part of the Option Agreement.

(q) "Officer" means a person who is an officer of the Company within the meaning of Section 16 of the Exchange Act and the rules and regulations promulgated thereunder.

(r) "Option" means a stock option granted pursuant to the Plan.

(s) "Option Agreement" means an agreement between the Company and an Optionee evidencing the terms and conditions of an individual Option grant. The Option Agreement is subject to the terms and conditions of the Plan.

(t) "Option Exchange Program" means a program whereby outstanding Options are surrendered in exchange for Options with a lower exercise price.

(u) "Optioned Stock" means the Common Stock subject to an Option or Stock Purchase Right.

(v) "Optionee" means the holder of an outstanding Option or Stock Purchase Right granted under the Plan.

(w) "Parent" means a "parent corporation," whether now or hereafter existing, as defined in Section 424(e) of the Code.

(x) "Plan" means this 2002 Stock Plan.

(y) "Restricted Stock" means shares of Common Stock acquired pursuant to a grant of Stock Purchase Rights under Section 11 of the Plan.

(z) "Restricted Stock Purchase Agreement" means a written agreement between the Company and the Optionee evidencing the terms and restrictions applying to stock purchased

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under a Stock Purchase Right. The Restricted Stock Purchase Agreement is subject to the terms and conditions of the Plan and the Notice of Grant.

(aa) "Rule 16b-3" means Rule 16b-3 of the Exchange Act or any successor to Rule 16b-3, as in effect when discretion is being exercised with respect to the Plan.

(bb) "Section 16(b) " means Section 16(b) of the Exchange Act.

(cc) "Service Provider" means an Employee, Director or Consultant.

(dd) "Share" means a share of the Common Stock, as adjusted in accordance with Section 13 of the Plan.

(ee) "Stock Purchase Right" means the right to purchase Common Stock pursuant to Section 11 of the Plan, as evidenced by a Notice of Grant.

(ff) "Subsidiary" means a "subsidiary corporation", whether now or hereafter existing, as defined in Section 424(f) of the Code.

3. Stock Subject to the Plan. Subject to the provisions of Section 13 of the Plan, the maximum aggregate number of Shares that may be optioned and sold under the Plan is 500,000 Shares plus an annual increase to be added on the first day of the Company's fiscal year beginning in 2003, equal to the lesser of (i) 200,000 shares, (ii) 3% of the outstanding shares on such date or (iii) a lesser amount determined by the Board. The Shares may be authorized, but unissued, or reacquired Common Stock.

Notwithstanding the preceding paragraph, or any other provision of this Plan, in no event may the number of Shares subject to outstanding options granted under this Plan, when combined with the number of Shares which are issuable upon exercise of all other outstanding options, warrants or other rights granted by the Company to purchase shares of capital stock of the Company, exceed a number of Shares equal to 30% of the aggregate number of Shares which are issued and outstanding as of the applicable determination date.

If an Option or Stock Purchase Right expires or becomes unexercisable without having been exercised in full, or is surrendered pursuant to an Option Exchange Program, the unpurchased Shares which were subject thereto shall become available for future grant or sale under the Plan (unless the Plan has terminated); provided, however, that Shares that have actually been issued under the Plan, whether upon exercise of an Option or Right, shall not be returned to the Plan and shall not become available for future distribution under the Plan, except that if Shares of Restricted Stock are repurchased by the Company at their original purchase price, such Shares shall become available for future grant under the Plan.

4. Administration of the Plan.

(a) Procedure.

(i) Multiple Administrative Bodies. Different Committees with respect to different groups of Service Providers may administer the Plan.

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(ii) Section 162(m). To the extent that the Administrator determines it to be desirable to qualify Options granted hereunder as "performance-based compensation" within the meaning of Section 162(m) of the Code, the Plan shall be administered by a Committee of two or more "outside directors" within the meaning of Section 162(m) of the Code.

(iii) Rule 16b-3. To the extent desirable to qualify transactions hereunder as exempt under Rule 16b-3, the transactions contemplated hereunder shall be structured to satisfy the requirements for exemption under Rule 16b-3.

(iv) Other Administration. Other than as provided above, the Plan shall be administered by (A) the Board or (B) a Committee, which committee shall be constituted to satisfy Applicable Laws.

(b) Powers of the Administrator. Subject to the provisions of the Plan, and in the case of a Committee, subject to the specific duties delegated by the Board to such Committee, the Administrator shall have the authority, in its discretion:

(i) to determine the Fair Market Value;

(ii) to select the Service Providers to whom Options and Stock Purchase Rights may be granted hereunder;

(iii) to determine the number of shares of Common Stock to be covered by each Option and Stock Purchase Right granted hereunder;

(iv) to approve forms of agreement for use under the Plan;

(v) to determine the terms and conditions, not inconsistent with the terms of the Plan, of any Option or Stock Purchase Right granted hereunder. Such terms and conditions include, but are not limited to, the exercise price, the time or times when Options or Stock Purchase Rights may be exercised (which may be based on performance criteria), any vesting acceleration or waiver of forfeiture restrictions, and any restriction or limitation regarding any Option or Stock Purchase Right or the shares of Common Stock relating thereto, based in each case on such factors as the Administrator, in its sole discretion, shall determine;

(vi) to construe and interpret the terms of the Plan and awards granted pursuant to the Plan;

(vii) to prescribe, amend and rescind rules and regulations relating to the Plan, including rules and regulations relating to sub-plans established for the purpose of satisfying applicable foreign laws;

(viii) to modify or amend each Option or Stock Purchase Right (subject to Section 15(c) of the Plan), including the discretionary authority to extend the post-termination exercisability period of Options longer than is otherwise provided for in the Plan;

(ix) to allow Optionees to satisfy withholding tax obligations by electing to have the Company withhold from the Shares to be issued upon exercise of an Option or Stock

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Purchase Right that number of Shares having a Fair Market Value equal to the minimum amount required to be withheld. The Fair Market Value of the Shares to be withheld shall be determined on the date that the amount of tax to be withheld is to be determined. All elections by an Optionee to have Shares withheld for this purpose shall be made in such form and under such conditions as the Administrator may deem necessary or advisable;

(x) to authorize any person to execute on behalf of the Company any instrument required to effect the grant of an Option or Stock Purchase Right previously granted by the Administrator;

(xi) to make all other determinations deemed necessary or advisable for administering the Plan.

(c) Effect of Administrator's Decision. The Administrator's decisions, determinations and interpretations shall be final and binding on all Optionees and any other holders of Options or Stock Purchase Rights.

5. Eligibility. Nonstatutory Stock Options and Stock Purchase Rights may be granted to Service Providers. Incentive Stock Options may be granted only to Employees.

6. Limitations.

(a) Each Option shall be designated in the Option Agreement as either an Incentive Stock Option or a Nonstatutory Stock Option. However, notwithstanding such designation, to the extent that the aggregate Fair Market Value of the Shares with respect to which Incentive Stock Options are exercisable for the first time by the Optionee during any calendar year (under all plans of the Company and any Parent or Subsidiary) exceeds \$100,000, such Options shall be treated as Nonstatutory Stock Options. For purposes of this Section 6(a), Incentive Stock Options shall be taken into account in the order in which they were granted. The Fair Market Value of the Shares shall be determined as of the time the Option with respect to such Shares is granted.

(b) Neither the Plan nor any Option or Stock Purchase Right shall confer upon an Optionee any right with respect to continuing the Optionee's relationship as a Service Provider with the Company, nor shall they interfere in any way with the Optionee's right or the Company's right to terminate such relationship at any time, with or without cause.

(c) The following limitations shall apply to grants of Options:

(i) No Service Provider shall be granted, in any fiscal year of the Company, Options to purchase more than 200,000 Shares.

(ii) In connection with his or her initial service, a Service Provider may be granted Options to purchase up to an additional 200,000 Shares, which shall not count against the limit set forth in subsection (i) above.

(iii) The foregoing limitations shall be adjusted proportionately in connection with any change in the Company's capitalization as described in Section 13.

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(iv) If an Option is cancelled in the same fiscal year of the Company in which it was granted (other than in connection with a transaction described in Section 13), the cancelled Option will be counted against the limits set forth in subsections (i) and (ii) above. For this purpose, if the exercise price of an Option is reduced, the transaction will be treated as a cancellation of the Option and the grant of a new Option.

7. Term of Plan. Subject to Section 19 of the Plan, the Plan shall become effective upon its adoption by the Board. It shall continue in effect for a term of ten (10) years unless terminated earlier under Section 15 of the Plan.

8. Term of Option. The term of each Option shall be stated in the Option Agreement; provided, however, that the term shall be no more than ten (10) years from the date of grant thereof. Moreover, in the case of an Incentive Stock Option granted to an Optionee who, at the time the Incentive Stock Option is granted, owns stock representing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or any Parent or Subsidiary, the term of the Incentive Stock Option shall be five (5) years from the date of grant or such shorter term as may be provided in the Option Agreement.

9. Option Exercise Price and Consideration.

(a) Exercise Price. The per share exercise price for the Shares to be issued pursuant to exercise of an Option shall be determined by the Administrator, subject to the following:

(i) In the case of an Incentive Stock Option

(A) granted to an Employee who, at the time the Incentive Stock Option is granted, owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the per Share exercise price shall be no less than 110% of the Fair Market Value per Share on the date of grant.

(B) granted to any Employee other than an Employee described in paragraph (A) immediately above, the per Share exercise price shall be no less than 100% of the Fair Market Value per Share on the date of grant.

(ii) In the case of a Nonstatutory Stock Option, the per Share exercise price shall be no less than 85% of the Fair Market Value per Share on

the date of grant. In the case of a Nonstatutory Stock Option intended to qualify as "performance-based compensation" within the meaning of Section 162(m) of the Code, the per Share exercise price shall be no less than 100% of the Fair Market Value per Share on the date of grant.

(iii) Notwithstanding the foregoing, Options may be granted with a per Share exercise price of less than 100% of the Fair Market Value per Share on the date of grant pursuant to a merger or other corporate transaction.

(b) Waiting Period and Exercise Dates. Subject to the constraints herein, at the time an Option is granted, the Administrator shall fix the period within which the Option may be exercised and shall determine any conditions that must be satisfied before the Option may be exercised.

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(c) Form of Consideration. The Administrator shall determine the acceptable form of consideration for exercising an Option, including the method of payment. In the case of an Incentive Stock Option, the Administrator shall determine the acceptable form of consideration at the time of grant. Such consideration may consist entirely of:

(i) cash;

(ii) check;

(iii) promissory note;

(iv) other Shares which, in the case of Shares acquired directly or indirectly from the Company, (A) have been owned by the Optionee for more than six (6) months on the date of surrender, and (B) have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares as to which said Option shall be exercised;

(v) consideration received by the Company under a cashless exercise program implemented by the Company in connection with the Plan;

(vi) a reduction in the amount of any Company liability to the Optionee, including any liability attributable to the Optionee's participation in any Company-sponsored deferred compensation program or arrangement; '

(vii) any combination of the foregoing methods of payment; or

(viii) such other consideration and method of payment for the issuance of Shares to the extent permitted by Applicable Laws.

10. Exercise of Option.

(a) Procedure for Exercise; Rights as a Stockholder. Any Option granted hereunder shall be exercisable according to the terms of the Plan and at such times and under such conditions as determined by the Administrator and set forth in the Option Agreement. Unless the Administrator provides otherwise, vesting of Options granted hereunder shall be suspended during any unpaid leave of absence. An Option may not be exercised for a fraction of a Share. Except in the case of Options granted to officers, Directors and Consultants, Options shall become exercisable at a rate of no less than 20% per year over five (5) years from the date the Options are granted.

An Option shall be deemed exercised when the Company receives: (i) written or electronic notice of exercise (in accordance with the Option Agreement) from the person entitled to exercise the Option, and (ii) full payment for the Shares with respect to which the Option is exercised. Full payment may consist of any consideration and method of payment authorized by the

Administrator and permitted by the Option Agreement and the Plan. Shares issued upon exercise of an Option shall be issued in the name of the Optionee or, if requested by the Optionee, in the name of the Optionee and his or her spouse. Until the Shares are issued (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), no right to vote or receive dividends or any other rights as a stockholder shall exist with respect to the Optioned Stock, notwithstanding the exercise of the Option. The Company shall issue (or cause to

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be issued) such Shares promptly after the Option is exercised. No adjustment will be made for a dividend or other right for which the record date is prior to the date the Shares are issued, except as provided in Section 13 of the Plan.

Exercising an Option in any manner shall decrease the number of Shares thereafter available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

(b) Termination of Relationship as a Service Provider. If an Optionee ceases to be a Service Provider, other than upon the Optionee's death or Disability, the Optionee may exercise his or her Option within thirty (30) days of termination, or such longer period of time as is specified in the Option Agreement, to the extent that the Option is vested on the date of termination (but in no event later than the expiration of the term of such Option as set forth in the Option Agreement). If, on the date of termination, the Optionee is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option shall revert to the Plan. If, after termination, the Optionee does not exercise his or her Option within the time specified by the Administrator, the Option shall terminate, and the Shares covered by such Option shall revert to the Plan.

(c) Disability of Optionee. If an Optionee ceases to be a Service Provider as a result of the Optionee's disability, the Optionee may exercise his or her Option within six (6) months of termination, or such longer period of time as is specified in the Option Agreement, to the extent the Option is vested on the date of termination (but in no event later than the expiration of the term of such Option as set forth in the Option Agreement). If, on the date of termination, the Optionee is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option shall revert to the Plan. If, after termination, the Optionee does not exercise his or her Option within the time specified herein, the Option shall terminate, and the Shares covered by such Option shall revert to the Plan.

(d) Death of Optionee. If an Optionee dies while a Service Provider, the Option may be exercised within six (6) months following the Optionee's death, or within such longer period of time as is specified in the Option Agreement, to the extent that the Option is vested on the date of death (but in no event may the option be exercised later than the expiration of the term of such Option as set forth in the Option Agreement), by the Optionee's designated beneficiary, provided such beneficiary has been designated prior to Optionee's death in a form acceptable to the Administrator. If no such beneficiary has been designated by the Optionee, then such Option may be exercised by the personal representative of the Optionee's estate or by the person(s) to whom the Option is transferred pursuant to the Optionee's will or in accordance with the laws of descent and distribution. If, at the time of death, Optionee is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option shall immediately revert to the Plan. If the Option is not so exercised within the time specified herein, the Option shall terminate, and the Shares covered by such Option shall revert to the Plan.

11. Stock Purchase Rights.

(a) Rights to Purchase. Stock Purchase Rights may be issued either

alone, in addition to, or in tandem with other awards granted under the Plan and/or cash awards made outside of the Plan. After the Administrator determines that it will offer Stock Purchase Rights under the

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Plan, it shall advise the offeree in writing or electronically, by means of a Notice of Grant, of the terms, conditions and restrictions related to the offer, including the number of Shares that the offeree shall be entitled to purchase, the price to be paid, and the time within which the offeree must accept such offer. The terms of the offer shall comply in all respects with Section 260.140.42 of Title 10 of the California Code of Regulations. The offer shall be accepted by execution of a Restricted Stock Purchase Agreement in the form determined by the Administrator.

(b) Repurchase Option. Unless the Administrator determines otherwise, the Restricted Stock Purchase Agreement shall grant the Company a repurchase option exercisable upon the voluntary or involuntary termination of the purchaser's service with the Company for any reason (including death or Disability). The purchase price for Shares repurchased pursuant to the Restricted Stock Purchase Agreement shall be the original price paid by the purchaser and may be paid by cancellation of any indebtedness of the purchaser to the Company. The repurchase option shall lapse at a rate determined by the Administrator; provided that such rate may not exceed the term permitted under applicable laws and regulations, including Section 260.140.42 of Title 10 of the California Code of Regulations.

(c) Other Provisions. The Restricted Stock Purchase Agreement shall contain such other terms, provisions and conditions not inconsistent with the Plan as may be determined by the Administrator in its sole discretion.

(d) Rights as a Stockholder. Once the Stock Purchase Right is exercised, the purchaser shall have the rights equivalent to those of a stockholder, and shall be a stockholder when his or her purchase is entered upon the records of the duly authorized transfer agent of the Company. No adjustment will be made for a dividend or other right for which the record date is prior to the date the Stock Purchase Right is exercised, except as provided in Section 13 of the Plan.

12. Transferability of Options and Stock Purchase Rights. Unless determined otherwise by the Administrator, an Option or Stock Purchase Right may not be sold, pledged, assigned, hypothecated, transferred, or disposed of in any manner other than by will or by the laws of descent or distribution and may be exercised, during the lifetime of the Optionee, only by the Optionee. If the Administrator in its sole discretion makes an Option or Stock Purchase Right transferable, such Option or Stock Purchase Right may only be transferred (i) by will, (ii) by the laws of descent and distribution, or (iii) as permitted by Rule 701 of the Securities Act and by Sections 260.140.41 and 260.140.42 of Title 10 of the California Code of Regulations.

13. Adjustments Upon Changes in Capitalization, Merger or Change in Control.

(a) Adjustments. In the event that any dividend or other distribution (whether in the form of cash, Shares, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Shares or other securities of the Company, or other change in the corporate structure of the Company affecting the Shares occurs, the Administrator, in order to prevent diminution or enlargement of the benefits or potential benefits intended to be made available under the Plan, may (in its sole discretion) adjust the number and class of Shares that may be delivered under the Plan and/or the number, class, and price of Shares covered by each outstanding Option or Stock Purchase Right.

(b) Dissolution or Liquidation. In the event of the proposed dissolution or liquidation of the Company, the Administrator shall notify each Optionee as soon as practicable prior to the effective date of such proposed transaction. The Administrator in its discretion may provide for an Optionee to have the right to exercise his or her Option until ten (10) days prior to such transaction as to all of the Optioned Stock covered thereby, including Shares as to which the Option would not otherwise be exercisable. In addition, the Administrator may provide that any Company repurchase option applicable to any Shares purchased upon exercise of an Option or Stock Purchase Right shall lapse as to all such Shares, provided the proposed dissolution or liquidation takes place at the time and in the manner contemplated. To the extent it has not been previously exercised, an Option or Stock Purchase Right will terminate immediately prior to the consummation of such proposed action.

(c) Merger or Change in Control. In the event of a merger of the Company with or into another corporation, or a Change in Control, each outstanding Option and Stock Purchase Right shall be assumed or an equivalent option or right substituted by the successor corporation or a Parent or Subsidiary of the successor corporation. In the event that the successor corporation refuses to assume or substitute for the Option or Stock Purchase Right, the Optionee shall fully vest in and have the right to exercise the Option or Stock Purchase Right as to all of the Optioned Stock, including Shares as to which it would not otherwise be vested or exercisable. If an Option or Stock Purchase Right becomes fully vested and exercisable in lieu of assumption or substitution in the event of a merger or sale of assets, the Administrator shall notify the Optionee in writing or electronically that the Option or Stock Purchase Right shall be fully vested and exercisable for a period of fifteen (15) days from the date of such notice, and the Option or Stock Purchase Right shall terminate upon the expiration of such period.

For the purposes of this subsection (c), the Option or Stock Purchase Right shall be considered assumed if, following the merger or Change in Control, the option or right confers the right to purchase or receive, for each Share of Optioned Stock subject to the Option or Stock Purchase Right immediately prior to the merger or Change in Control, the consideration (whether stock, cash, or other securities or property) received in the merger or Change in Control by holders of Common Stock for each Share held on the effective date of the transaction (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Shares); provided, however, that if such consideration received in the merger or Change in Control is not solely common stock of the successor corporation or its Parent, the Administrator may, with the consent of the successor corporation, provide for the consideration to be received upon the exercise of the Option or Stock Purchase Right, for each Share of Optioned Stock subject to the Option or Stock Purchase Right, to be solely common stock of the successor corporation or its Parent equal in fair market value to the per share consideration received by holders of Common Stock in the merger or Change in Control.

14. Date of Grant. The date of grant of an Option or Stock Purchase Right shall be, for all purposes, the date on which the Administrator makes the determination granting such Option or Stock Purchase Right, or such other later date as is determined by the Administrator. Notice of the determination shall be provided to each Optionee within a reasonable time after the date of such grant.

15. Amendment and Termination of the Plan.

(a) Amendment and Termination. The Board may at any time amend,

alter, suspend or terminate the Plan.

(b) Stockholder Approval. The Company shall obtain stockholder approval of any Plan amendment to the extent necessary and desirable to comply with Applicable Laws.

(c) Effect of Amendment or Termination. No amendment, alteration, suspension or termination of the Plan shall impair the rights of any Optionee, unless mutually agreed otherwise between the Optionee and the Administrator, which agreement must be in writing and signed by the Optionee and the Company. Termination of the Plan shall not affect the Administrator's ability to exercise the powers granted to it hereunder with respect to Options granted under the Plan prior to the date of such termination.

16. Conditions Upon Issuance of Shares.

(a) Legal Compliance. Shares shall not be issued pursuant to the exercise of an Option or Stock Purchase Right unless the exercise of such Option or Stock Purchase Right and the issuance and delivery of such Shares shall comply with Applicable Laws and shall be further subject to the approval of counsel for the Company with respect to such compliance.

(b) Investment Representations. As a condition to the exercise of an Option or Stock Purchase Right, the Company may require the person exercising such Option or Stock Purchase Right to represent and warrant at the time of any such exercise that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required.

17. Inability to Obtain Authority. The inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder, shall relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority shall not have been obtained.

18. Reservation of Shares. The Company, during the term of this Plan, will at all times reserve and keep available such number of Shares as shall be sufficient to satisfy the requirements of the Plan.

19. Stockholder Approval. The Plan shall be subject to approval by the stockholders of the Company within twelve (12) months after the date the Plan is adopted. Such stockholder approval shall be obtained in the manner and to the degree required under Applicable Laws.

20. Information to Optionees. The Company shall provide to each Optionee and to each individual who acquires Shares pursuant to the Plan, not less frequently than annually during the period such Optionee has one or more Options or Stock Purchase Rights outstanding, and, in the case of an individual who acquires Shares pursuant to the Plan, during the period such individual owns such Shares, copies of annual financial statements. The Company shall not be required to

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provide such statements to key employees whose duties in connection with the Company assure their access to equivalent information.

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2002 STOCK PLAN

FORM OF STOCK OPTION AGREEMENT

Unless otherwise defined herein, the terms defined in the 2002 Stock Plan shall have the same defined meanings in this Stock Option Agreement.

I. NOTICE OF STOCK OPTION GRANT

NAME:

ADDRESS:

You have been granted an option to purchase Common Stock of the Company, subject to the terms and conditions of the Plan and this Option Agreement, as follows:

Grant Number -----

Date of Grant -----

Vesting Commencement Date -----

Exercise Price per Share \$ -----

Total Number of Shares Granted -----

Total Exercise Price -----

Type of Option: _____ Incentive Stock Option
_____ Nonstatutory Stock Option

Term/Expiration Date: -----

Vesting Schedule:

This Option shall be exercisable, in whole or in part, in accordance with the following schedule:

[25% of the Shares subject to the Option shall vest twelve months after the Vesting Commencement Date, and 1/48 of the Shares subject to the Option shall vest each month thereafter, subject to the Optionee continuing to be a Service Provider on such dates].

Termination Period:

This Option may be exercised for [three months] after Optionee ceases to be a Service Provider. Upon the death or Disability of the Optionee, this Option may be exercised for [twelve months] after Optionee ceases to be a Service Provider. In no event shall this Option be exercised later than the Term/Expiration Date as provided above.

II. AGREEMENT

A. Grant of Option.

The Plan Administrator of the Company hereby grants to the Optionee named in the Notice of Grant attached as Part I of this Agreement (the "Optionee") an option (the "Option") to purchase the number of Shares, as set forth in the Notice of Grant, at the exercise price per share set forth in the Notice of Grant (the "Exercise Price"), subject to the terms and conditions of the Plan, which is incorporated herein by reference. Subject to Section 15(c) of the Plan, in the event of a conflict between the terms and conditions of the Plan and the terms and conditions of this Option Agreement, the terms and conditions of the Plan shall prevail.

If designated in the Notice of Grant as an Incentive Stock Option ("ISO"), this Option is intended to qualify as an Incentive Stock Option under Section 422 of the Code. However, if this Option is intended to be an Incentive Stock Option, to the extent that it exceeds the \$100,000 rule of Code Section 422(d) it shall be treated as a Nonstatutory Stock Option ("NSO").

B. Exercise of Option.

(a) Right to Exercise. This Option is exercisable during its term in accordance with the Vesting Schedule set out in the Notice of Grant and the applicable provisions of the Plan and this Option Agreement.

(b) Method of Exercise. This Option is exercisable by delivery of an exercise notice, in the form attached as Exhibit A (the "Exercise Notice"), which shall state the election to exercise the Option, the number of Shares in respect of which the Option is being exercised (the "Exercised Shares"), and such other representations and agreements as may be required by the Company pursuant to the provisions of the Plan. The Exercise Notice shall be completed by the Optionee and delivered to the Company. The Exercise Notice shall be accompanied by payment of the aggregate Exercise Price as to all Exercised Shares. This Option shall be deemed to be exercised upon receipt by the Company of such fully executed Exercise Notice accompanied by such aggregate Exercise Price.

No Shares shall be issued pursuant to the exercise of this Option unless such issuance and exercise complies with Applicable Laws. Assuming such compliance, for income tax purposes the Exercised Shares shall be considered transferred to the Optionee on the date the Option is exercised with respect to such Exercised Shares.

C. Method of Payment.

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Payment of the aggregate Exercise Price shall be by any of the following, or a combination thereof, at the election of the Optionee:

1. cash; or
2. check; or
3. consideration received by the Company under a formal cashless exercise program implemented by the Company in connection with the Plan; or
4. surrender of other Shares which (i) in the case of Shares acquired either directly or indirectly from the Company, have been owned by the Optionee for more than six (6) months on the date of surrender, and (ii) have a Fair Market Value on the date of surrender equal to the aggregate Exercise Price of the Exercised Shares.

D. Non-Transferability of Option.

This Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of Optionee only by the Optionee. The terms of the Plan and this Option Agreement shall be binding upon the executors, administrators, heirs, successors and assigns of the Optionee.

E. Term of Option.

This Option may be exercised only within the term set out in the Notice of Grant, and may be exercised during such term only in accordance with the Plan and the terms of this Option Agreement.

F. Tax Obligations.

(a) Withholding Taxes. Optionee agrees to make appropriate arrangements with the Company (or the Parent or Subsidiary employing or retaining Optionee) for the satisfaction of all Federal, state, local and foreign income and employment tax withholding requirements applicable to the Option exercise. Optionee acknowledges and agrees that the Company may refuse to honor the exercise and refuse to deliver Shares if such withholding amounts are not delivered at the time of exercise.

(b) Notice of Disqualifying Disposition of ISO Shares. If the Option granted to Optionee herein is an ISO, and if Optionee sells or otherwise disposes of any of the Shares acquired pursuant to the ISO on or before the later of (1) the date two years after the Date of Grant, or (2) the date one year after the date of exercise, the Optionee shall immediately notify the Company in writing of such disposition. Optionee agrees that Optionee may be subject to income tax withholding by the Company on the compensation income recognized by the Optionee.

G. Entire Agreement; Governing Law.

The Plan is incorporated herein by reference. The Plan and this Option Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their

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entirety all prior undertakings and agreements of the Company and Optionee with respect to the subject matter hereof, and may not be modified adversely to the Optionee's interest except by means of a writing signed by the Company and Optionee. This agreement is governed by the internal substantive laws, but not the choice of law rules, of California.

H. NO GUARANTEE OF CONTINUED SERVICE.

OPTIONEE ACKNOWLEDGES AND AGREES THAT THE VESTING OF SHARES PURSUANT TO THE VESTING SCHEDULE HEREOF IS EARNED ONLY BY CONTINUING AS A SERVICE PROVIDER AT THE WILL OF THE COMPANY (AND NOT THROUGH THE ACT OF BEING HIRED, BEING GRANTED AN OPTION OR PURCHASING SHARES HEREUNDER). OPTIONEE FURTHER ACKNOWLEDGES AND AGREES THAT THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREUNDER AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS A SERVICE PROVIDER FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND SHALL NOT INTERFERE WITH OPTIONEE'S RIGHT OR THE COMPANY'S RIGHT TO TERMINATE OPTIONEE'S RELATIONSHIP AS A SERVICE PROVIDER AT ANY TIME, WITH OR WITHOUT CAUSE.

By Optionee's signature and the signature of the Company's representative below, Optionee and the Company agree that this Option is granted under and governed by the terms and conditions of the Plan and this Option Agreement. Optionee has reviewed the Plan and this Option Agreement in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Option Agreement and fully understands all provisions of the Plan and Option

Agreement. Optionee hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions relating to the Plan and Option Agreement. Optionee further agrees to notify the Company upon any change in the residence address indicated below.

<TABLE>

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OPTIONEE:

FAFCO, INCORPORATED

Signature

By

Print Name

Title

Residence Address

</TABLE>

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FAFCO, INCORPORATED
2002 STOCK PLAN
EXERCISE NOTICE

FAFCO, INCORPORATED
435 Otterson Drive
Chico, CA 95928-8207
Attention: [Title]

1. Exercise of Option. Effective as of today, _____, _____, the undersigned ("Purchaser") hereby elects to purchase _____ shares (the "Shares") of the Common Stock of FAFCO, Incorporated (the "Company") under and pursuant to the 2002 Stock Plan (the "Plan") and the Stock Option Agreement dated, _____ (the "Option Agreement"). Subject to adjustment in accordance with Section 13 of the Plan, the purchase price for the Shares shall be \$_____, as required by the Option Agreement.

2. Delivery of Payment. Purchaser herewith delivers to the Company the full purchase price for the Shares together with any applicable withholding taxes.

3. Representations of Purchaser. Purchaser acknowledges that Purchaser has received, read and understood the Plan and the Option Agreement and agrees to abide by and be bound by their terms and conditions.

4. Rights as Shareholder. Until the issuance (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company) of the Shares, no right to vote or receive dividends or any other rights as a shareholder shall exist with respect to the Optioned Stock, notwithstanding the exercise of the Option. The Shares so acquired shall be issued to the Optionee as soon as practicable after exercise of the Option. No adjustment will be made for a dividend or other right for which the record date is prior to the date of issuance, except as provided in Section 13 of the Plan.

5. Tax Consultation. Purchaser understands that Purchaser may suffer adverse tax consequences as a result of Purchaser's purchase or disposition of the Shares. Purchaser represents that Purchaser has consulted with any tax consultants Purchaser deems advisable in connection with the purchase or disposition of the Shares and that Purchaser is not relying on the Company for

any tax advice.

6. Entire Agreement; Governing Law. The Plan and Option Agreement are incorporated herein by reference. This Agreement, the Plan and the Option Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Purchaser with respect to the subject matter hereof, and may not be modified adversely to the Purchaser's interest except by means of a writing signed by the Company and Purchaser. This agreement is governed by the internal substantive laws, but not the choice of law rules, of California.

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<TABLE>

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<C>

Submitted by:

Accepted by:

PURCHASER:

FAFCO, INCORPORATED

Signature

By

Print Name

Its

Address:

Address:

435 Otterson Drive
Chico, CA 95928-8207

Date Received

</TABLE>

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CONSENT OF INDEPENDENT ACCOUNTANTS

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 [Nos. 2-75201, 2-86299, 2-95390 and 33-76220] and related prospectuses of FAFCO, Inc. of our report dated February 28, 2003, relating to the financial statements and financial statement schedule, which appears in this Annual Report on Form 10K, as amended by Amendment No. 1 thereto.

/s/ Burr, Pilger & Mayer, LLP

Burr, Pilger & Mayer, LLP
San Francisco, California

April 2, 2003

EXHIBIT 99.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Freeman A. Ford, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Annual Report of FAFCO, Inc. on Form 10-K for the annual period ended December 31, 2002 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in such Annual Report on Form 10-K fairly presents in all material respects the financial condition and results of operations of FAFCO, Inc.

Dated: April 2, 2003

By: /s/ FREEMAN A. FORD

Name: Freeman A. Ford
Title: Chief Executive Officer

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Nancy Garvin, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Annual Report of FAFCO, Inc. on Form 10-K for the annual period ended December 31, 2002 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in such Annual Report on Form 10-K fairly presents in all material respects the financial condition and results of operations of FAFCO, Inc.

Dated: April 2, 2003

By: /s/ NANCY GARVIN

Name: Nancy Garvin
Title: Chief Financial Officer