

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

QUALCOMM INCORPORATED

(Exact name of registrant as specified in its charter)

DELAWARE

95-3685934

(State or other jurisdiction
of incorporation or organization)

(I.R.S. employer identification no.)

5775 MOREHOUSE DRIVE
SAN DIEGO, CALIFORNIA 92121
858-587-1121

(Address of principal executive offices)

Options to purchase common stock granted under the
Spike Technologies, Inc. 1998 Stock Option Plan and
assumed by QUALCOMM Incorporated

(Full title of the plan)

IRWIN MARK JACOBS
CHAIRMAN OF THE BOARD AND CHIEF EXECUTIVE OFFICER
QUALCOMM INCORPORATED
5775 MOREHOUSE DRIVE
SAN DIEGO, CALIFORNIA 92121
858-587-1121

(Name and address of agent for service)

This registration statement shall hereafter become effective in accordance with Rule 462 promulgated under the Securities Act of 1933, as amended.

CALCULATION OF REGISTRATION FEE

Title of Securities to be registered ¹	Amount to be registered ²	Proposed maximum offering price per share ³	Proposed maximum aggregate offering price ³	Amount of registration fee
Common Stock Par Value \$.0001	41,411 ⁴	\$ 12.75	\$ 527,990.25	\$ 66.90

¹ The securities to be registered include options to acquire Common Stock.² Pursuant to Rule 416(a), this registration statement also covers any additional securities that may be offered or issued in connection with any stock split, stock dividend or similar transaction.³ Calculated solely for the purposes of this offering under Rule 457(h) on the basis of the weighted average exercise price of the outstanding assumed options.⁴ Represents shares subject to issuance upon the exercise of outstanding stock options under the Spike Technologies, Inc. 1998 Stock Option Plan and assumed by QUALCOMM Incorporated on November 17, 2004 pursuant to the Agreement and Plan of Merger by and among QUALCOMM Incorporated, a wholly-owned subsidiary of QUALCOMM Incorporated, and Spike Technologies, Inc.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

QUALCOMM Incorporated (the "Company") hereby incorporates by reference in this registration statement the following documents:

(a) The Company's latest annual report on Form 10-K filed pursuant to Sections 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), containing audited financial statements for the Company's latest fiscal year ended September 26, 2004 as filed with the Securities and Exchange Commission on November 3, 2004.

(b) All other reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the registrant document referred to in (a) above.

(c) The description of the Company's Common Stock contained in the Company's registration statement filed under the Exchange Act, including any amendment or report filed for the purpose of updating such description.

All documents subsequently filed by the Company pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment to this registration statement which indicates that all securities offered hereby have been sold or which deregisters all securities remaining unsold, shall be deemed to be incorporated by reference in this registration statement and to be a part hereof from the date of filing of such documents.

Item 4. Description of Securities

The class of securities to be offered is registered under Section 12 of the Exchange Act.

Item 5. Interests of Named Experts and Counsel

Inapplicable.

Item 6. Indemnification of Directors and Officers

Under Section 145 of the Delaware General Corporation Law, the Company has broad powers to indemnify its directors and officers against liabilities they may incur in such capacities, including liabilities under the Securities Act of 1933, as amended (the "Securities Act"). The Company's Bylaws require the Company to indemnify its directors and executive officers and may indemnify its other officers to the full extent permitted by law. The Company believes that indemnification under its Bylaws covers at least negligence and gross negligence by officers and directors, and requires the Company to advance litigation expenses in the case of stockholder derivative actions or other actions, against an undertaking by the officer or director to repay such advances if it is ultimately determined that the officer or director is not entitled to indemnification. The Bylaws further provide that rights conferred under such Bylaws shall not be deemed to be exclusive of any other right such persons may have or acquire under any statute, provision of any Certificate of Incorporation, Bylaw, agreement, vote of stockholders, disinterested directors or otherwise.

In addition, the Company's Certificate of Incorporation provides that, pursuant to Delaware law, its directors shall not be liable for monetary damages for breach of the directors' fiduciary duty of care to the Company and its stockholders. This provision in the Certificate of Incorporation does not eliminate the duty of care, and in appropriate circumstances equitable remedies such as injunctive or other forms of non-monetary relief will remain available under Delaware law. In addition, each director will continue to be subject to liability for breach of the director's duty of loyalty to the Company, or acts or omissions not in good faith or involving intentional misconduct, for knowing violations of law, for actions leading to improper personal benefit to the director, and for payment of dividends or approval of stock repurchases or redemptions that are unlawful under Delaware law. The provision also does not affect a director's responsibilities under any other law, such as the federal securities laws or state or federal environmental laws.

The Company currently has a policy providing directors and officers liability insurance with insured directors and officers of the Company in certain circumstances. The policy also insures the Company against losses as to which its directors and officers are entitled to indemnification.

Item 7. Exemption From Registration Claimed

Inapplicable.

Item 8. Exhibits

See Exhibit Index.

Item 9. Undertakings

The undersigned registrant hereby undertakes:

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

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

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

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

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

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

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

The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

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

SIGNATURE

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of San Diego, State of California, on November 23, 2004.

QUALCOMM Incorporated

By: /s/ Irwin Mark Jacobs

Irwin Mark Jacobs, Chief Executive
Officer and Chairman of the Board

SIGNATURES AND POWER OF ATTORNEY

The officers and directors of QUALCOMM Incorporated whose signatures appear below, hereby constitute and appoint IRWIN MARK JACOBS and WILLIAM E. KEITEL, and each of them, their true and lawful attorneys and agents, with full power of substitution, each with power to act alone, to sign and execute on behalf of the undersigned any amendment or amendments to this registration statement on Form S-8, and each of the undersigned does hereby ratify and confirm all that each of said attorney and agent, or their or his substitutes, shall do or cause to be done by virtue hereof.

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

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Irwin Mark Jacobs</u> Irwin Mark Jacobs	Chief Executive Officer and Chairman of the Board (Principal Executive Officer)	November 23, 2004
<u>/s/ William E. Keitel</u> William E. Keitel	Executive Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)	November 24, 2004
<u>/s/ Richard C. Atkinson</u> Richard C. Atkinson	Director	November 20, 2004
<u>/s/ Adelia A. Coffman</u> Adelia A. Coffman	Director	November 22, 2004
<u>/s/ Raymond V. Dittamore</u> Raymond V. Dittamore	Director	November 20, 2004
<u>/s/ Diana Lady Dougan</u> Diana Lady Dougan	Director	November 19, 2004
<u>/s/ Robert E. Kahn</u> Robert E. Kahn	Director	November 23, 2004
<u>/s/ Duane A. Nelles</u> Duane A. Nelles	Director	November 19, 2004
<u>/s/ Peter M. Sacerdote</u> Peter M. Sacerdote	Director	November 23, 2004
<u>/s/ Brent Scowcroft</u> Brent Scowcroft	Director	November 19, 2004
<u>/s/ Marc I. Stern</u> Marc I. Stern	Director	November 22, 2004
<u>/s/ Richard Sulpizio</u> Richard Sulpizio	Director	November 24, 2004

EXHIBIT INDEX

- 4.1 Restated Certificate of Incorporation of the Company, as amended, is incorporated by reference to Exhibit 3.5 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 30, 2003, filed with the Securities and Exchange Commission on April 23, 2003.
- 4.2 Bylaws of the Company are incorporated by reference to Exhibit 3.8 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 30, 2003, filed with the Securities and Exchange Commission on April 23, 2003.
- 5 Opinion re legality
- 23.1 Consent of Counsel (included in Exhibit 5)
- 23.2 Consent of PricewaterhouseCoopers LLP, Independent Registered Public Accounting Firm
- 24 Power of Attorney (included in signature pages to this registration statement)
- 99.1 Spike Technologies, Inc. 1998 Stock Option Plan
- 99.2 Forms of Stock Option Agreements under the Spike Technologies, Inc. 1998 Stock Option Plan

[LETTERHEAD OF GRAY CARY WARE & FREIDENRICH LLP]
4365 Executive Drive, Suite 1100, San Diego, CA 92121-2189
Phone: 858-677-1400 Fax: 858-677-1477 www.graycary.com

December 2, 2004

Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549

Ladies and Gentlemen:

As legal counsel for QUALCOMM Incorporated, a Delaware corporation (the "Company"), we are rendering this opinion in connection with the registration under the Securities Act of 1933, as amended, of up to 41,411 shares of the Common Stock, \$0.0001 par value, of the Company which may be issued pursuant to the exercise of options granted under the Spike Technologies, Inc. 1998 Stock Option Plan (the "Plan") and assumed by QUALCOMM Incorporated.

We have examined all instruments, documents and records which we deemed relevant and necessary for the basis of our opinion hereinafter expressed. In such examination, we have assumed the genuineness of all signatures and the authenticity of all documents submitted to us as originals and the conformity to the originals of all documents submitted to us as copies. We express no opinion concerning any law other than the corporation laws of the State of Delaware. As to matters of Delaware corporation law, we have based our opinion solely upon our examination of such laws and the rules and regulations of the authorities administering such laws, all as reported in standard, unofficial compilations.

Based on such examination, we are of the opinion that the 41,411 shares of Common Stock which may be issued upon exercise of options granted under the Plan and assumed by QUALCOMM Incorporated are duly authorized shares of the Company's Common Stock, and, when issued against receipt of the consideration therefor in accordance with the provisions of the Plan, will be validly issued, fully paid and nonassessable. We hereby consent to the filing of this opinion as an exhibit to the Registration Statement referred to above and the use of our name wherever it appears in said Registration Statement.

Respectfully submitted,
/s/ Gray Cary Ware & Freidenrich LLP
GRAY CARY WARE & FREIDENRICH LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Registration Statement on Form S-8 of our report dated November 2, 2004 relating to the consolidated financial statements, the financial statement schedule, management's assessment of the effectiveness of internal control over financial reporting and the effectiveness of internal control over financial reporting of QUALCOMM Incorporated, which appears in QUALCOMM Incorporated's Annual Report on Form 10-K for the year ended September 26, 2004.

/s/ PRICEWATERHOUSECOOPERS LLP

San Diego, California

December 2, 2004

SPIKE TECHNOLOGIES, INC.
1998 STOCK OPTION PLAN

1. PURPOSE

The purpose of the Spike Technologies, Inc. 1998 Stock Option Plan (the "Plan") of Spike Technologies, Inc., a California corporation (the "Corporation"), is to encourage ownership in the Corporation by key employees and nonemployee directors of the Corporation, because long-term employment of key employees and retention of directors is considered essential to the Corporation's continued progress. The Plan provides a further incentive for key employees and nonemployee directors to continue in the service of the Corporation. Where permitted by applicable laws, the Plan allows the participation of certain selected consultants in the Corporation's success through their participation in the growth in the value of the Common Stock of the Corporation.

2. ADMINISTRATION

The Board of Directors of the Corporation (the "Board") shall supervise and administer the Plan. The Board shall from time to time designate the key employees and nonemployee directors of the Corporation who shall be granted stock options under the Plan and the amount of stock to be optioned to each. If permitted by Rule 16b-3 of the Securities Exchange Act of 1934, the Plan may be administered by different bodies with respect to directors, non-director officers and employees who are neither directors nor officers. The Corporation shall give notice of the stock option grant to the employee or nonemployee director. All questions of interpretation of the Plan or of any options issued under it shall be determined by the Board, and that determination shall be final and binding upon all persons having an interest in the Plan. Any or all powers and discretion vested in the Board under the Plan may be exercised by any subcommittee of the Board so authorized by the Board.

3. STOCK SUBJECT TO THE PLAN

The maximum number of shares of the Common Stock of the Corporation that may be optioned under the Plan shall be three million (3,000,000) shares (the "Shares"). The limitation on the number of Shares that may be optioned under the Plan shall be subject to adjustment as provided in Section 13 of the Plan. If any outstanding option under the Plan for any reason expires or is terminated without having been exercised in full, the Shares allocable to the unexercised portion of that option shall again become available for option pursuant to the Plan.

4. PARTICIPATION IN THE PLAN

A. INCENTIVE STOCK OPTIONS. Only employees may be granted Incentive Stock Options. Except where options are stated to be nonqualified stock options, options granted to employees are intended to qualify as Incentive Stock Options, to the extent permitted under applicable laws. No consultant or non-employee director may be granted incentive stock options.

B. NONSTATUTORY STOCK OPTIONS. Employees, directors, and consultants may be granted nonstatutory stock options, which may also be called "nonqualified stock options".

5. TIME FOR GRANTING OPTIONS

All options for Shares subject to the Plan shall be granted, if at all, not later than ten (10) years after the approval of the Plan by the shareholders of the Corporation.

6. INCENTIVE STOCK OPTION TERMS AND CONDITIONS

Options granted to employees (but not to nonemployee directors) under the terms and conditions of this Section 6 are intended to be incentive stock options ("ISOs") under section 422 of the Internal Revenue Code of 1986, as amended (the "Code"). Each incentive stock option granted under the Plan shall be authorized by action of the Board and shall be evidenced by a written agreement in such form as the Board shall from time to time approve, which agreement shall comply with and be subject to the following terms and conditions:

A. EXERCISE PRICE. The exercise price of each incentive stock option shall be at least one hundred percent (100%) of the fair market value of a Share of the Corporation on the date the option is granted; provided, however, that the exercise price of an incentive stock option granted to an individual who owns stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Corporation, as determined under the stock ownership rules specified in Subsection 6.C, shall be one hundred ten percent (110%) of the fair market value of a Share of the Corporation on the date the

option is granted. The fair market value shall be determined by the Board.

B. DURATION OF OPTIONS. No incentive stock option shall be exercisable after the expiration often (10) years from the date on which that option is granted; provided, however, that no incentive stock option granted to an individual who owns stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Corporation, as determined under the stock ownership rules specified in Subsection 6.C, shall be exercisable after the expiration of five (5) years from the date on which that option is granted.

C. DETERMINATION OF STOCK OWNERSHIP. For purposes of determining in Subsections 6.A and 6.B whether an employee owns stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Corporation, an employee shall be considered as owning the stock owned, directly or indirectly, by or for his or her brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants. Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. Stock with respect to which the employee holds an option shall not be counted.

D. RIGHT TO EXERCISE. Each incentive stock option shall become exercisable and vest according to the terms and conditions established by the Board and reflected in the written agreement evidencing the option. Notwithstanding the preceding sentence, after an initial public offering, all outstanding incentive stock options shall immediately become exercisable in full in the event that a tender within the meaning of section 14 of the Securities Exchange Act of 1934, as amended, is made for five percent (5%) or more of the Corporation's outstanding capital stock

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by any person other than the Corporation or an affiliate. Each incentive stock option shall be subject to termination before its date of expiration as provided in Subsection 6.E.

E. TERMINATIONS OF OPTIONS. If an optionee ceases to be an employee of the Corporation, his or her rights to exercise an incentive stock option then held shall be only as follows:

i. DEATH: If an optionee dies while he or she is employed by the Corporation, the optionee's estate shall have the right for a period of six (6) months (or such longer period as the Board may determine at the date of grant or during the term of the option) after the date of death to exercise the option to the extent the optionee was entitled to exercise the option on that date, provided the date of exercise is in no event after the expiration of the term of the option. To the extent the option is not exercised within this period, the option will terminate. An optionee's "estate" shall mean the optionee's legal representative or any person who acquires the right to exercise an option by reason of the optionee's death.

ii. DISABILITY: If an optionee's employment with the Corporation ends because the optionee becomes disabled, the optionee or his or her qualified representative (in the event of the optionee's mental disability) shall have the right for a period of six (6) months after the date on which the optionee's employment ends to exercise the option to the extent the optionee was entitled to exercise the option on that date, provided the date of exercise is in no event after the expiration of the term of the option. To the extent the option is not exercised within this period, the option will terminate.

iii. RESIGNATION: If an optionee voluntarily resigns from the Corporation, the optionee shall have the right for a period of two (2) months after the date of resignation to exercise the option to the extent the optionee was entitled to exercise the option on that date, provided the date of exercise is in no event after the expiration of the term of the option. To the extent the option is not exercised within this period, the option will terminate.

iv. TERMINATION FOR REASONS OTHER THAN CAUSE: If an optionee's employment is terminated by the Corporation for reasons other than cause, the optionee shall have the right for a period of two (2) months after the date of termination to exercise the option to the extent the optionee was entitled to exercise the option on that date, provided the date of exercise is in no event after the expiration of the term of the option. To the extent the option is not exercised within this period, the option will terminate. The termination of an optionee's employment by the Corporation will be for reasons other than cause if the termination is NOT due to an act by the optionee of embezzlement, fraud, dishonesty, or breach of fiduciary duty to the Corporation, or to deliberate disregard by the optionee of the rules of the Corporation resulting in loss, damage, or injury to the Corporation, or to any unauthorized disclosure by the optionee of any of the secrets or confidential information of the Corporation, or to the optionee's having induced any client or customer of the Corporation to break any contract with the Corporation, or to the optionee's having induced any principal for whom the Corporation acts as agent to terminate the agency relationship, or to any conduct of the optionee that constitutes unfair

competition with the Corporation.

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v. OTHER REASONS: If an optionee's employment with the Corporation ends for any reason not mentioned above in this Subsection 6.E, (including without limitation, termination for cause), all rights of the optionee in an incentive stock option, to the extent that it has not been exercised, shall terminate on the date the optionee's employment ends.

F. NOTICE OF SALE. If an optionee sells or otherwise disposes of any Shares acquired upon exercise of an incentive stock option, the optionee shall give the Corporation notice of the sale or disposition within five (5) days thereafter.

G. LIMIT ON EXERCISE OF INCENTIVE STOCK OPTIONS. To the extent that the aggregate fair market value (determined as of the time the option is granted) of the Stock with respect to which incentive stock options are exercisable for the first time by any individual during any calendar year (under all plans of the Corporation and its parent and subsidiary corporations) exceeds One Hundred Thousand Dollars (\$100,000), the options shall be treated as options that are not incentive stock options.

7. NONQUALIFIED STOCK OPTION TERMS AND CONDITIONS

The options granted under the terms and conditions of this Section 7 are nonqualified stock options and are not intended to qualify as either a qualified stock option or an incentive stock option as those terms are defined by applicable provisions of the Code. Each nonqualified stock option granted under the Plan shall be authorized by action of the Board and shall be evidenced by a written agreement in such form as the Board shall from time to time approve, which agreement shall comply with and be subject to the following terms and conditions:

A. EXERCISE PRICE. The exercise price of each nonqualified stock option shall not be less than forty-six cents (\$0.46) per Share.

B. DURATION OF OPTIONS. Each nonqualified stock option shall be for a term determined by the Board; provided, however, that the term of any option may not exceed ten (10) years.

C. RIGHT TO EXERCISE. Each nonqualified stock option shall become exercisable and vest according to the terms and conditions established by the Board and reflected in the written agreement evidencing the option. Notwithstanding the preceding sentence, after an initial public offering, all outstanding nonqualified stock options shall immediately become exercisable in full in the event that a tender within the meaning of section 14 of the Securities Exchange Act of 1934, as amended, is made for five percent (5%) or more of the Corporation's outstanding capital stock by any person other than the Corporation or an affiliate. Each nonqualified stock option shall be subject to termination before its date of expiration as provided in Subsection 7.D.

D. TERMINATIONS OF OPTIONS. If an optionee ceases to be an employee of the Corporation, his or her rights to exercise a nonqualified stock option then held shall be only as follows:

i. DEATH: If an optionee dies while he or she is employed by the Corporation, the optionee's estate shall have the right for a period of six (6) months (or such longer period as the Board may determine at the date of grant or during the term of the option)

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after the date of death to exercise the option to the extent the optionee was entitled to exercise the option on that date, provided the date of exercise is in no event after the expiration of the term of the option. To the extent the option is not exercised within this period, the option will terminate. An optionee's "estate" shall mean the optionee's legal representative or any person who acquires the right to exercise an option by reason of the optionee's death.

ii. DISABILITY: If an optionee's employment with the Corporation ends because the optionee becomes disabled, the optionee or his or her qualified representative (in the event of the optionee's mental disability) shall have the right for a period of six (6) months after the date on which the optionee's employment ends to exercise the option to the extent the optionee was entitled to exercise the option on that date, provided the date of exercise is in no event after the expiration of the term of the option. To the extent the option is not exercised within this period, the option will terminate.

iii. RESIGNATION: If an optionee voluntarily resigns from the Corporation, the optionee shall have the right for a period of two (2) months after the date of resignation to exercise the option to the extent the optionee was entitled to exercise the option on that date, provided the date of exercise is in no event after the expiration of the term of the option. To the extent the option is not exercised within this period, the option will terminate.

iv. TERMINATION FOR REASONS OTHER THAN CAUSE: If an optionee's employment is terminated by the Corporation for reasons other than cause, the optionee shall have the right for a period of two (2) months after the date of termination to exercise the option to the extent the optionee was entitled to exercise the option on that date, provided the date of exercise is in no event after the expiration of the term of the option. To the extent the option is not exercised within this period, the option will terminate. The termination of an optionee's employment by the Corporation will be for reasons other than cause if the termination is NOT due to an act by the optionee of embezzlement, fraud, dishonesty, or breach of fiduciary duty to the Corporation, or to deliberate disregard by the optionee of the rules of the Corporation resulting in loss, damage, or injury to the Corporation, or to any unauthorized disclosure by the optionee of any of the secrets or confidential information of the Corporation, or to the optionee's having induced any client or customer of the Corporation to break any contract with the Corporation, or to the optionee's having induced any principal for whom the Corporation acts as agent to terminate the agency relationship, or to any conduct of the optionee that constitutes unfair competition with the Corporation,

v. OTHER REASONS: If an optionee's employment with the Corporation ends for any reason not mentioned above in this Subsection 7.D, all rights of the optionee in a nonqualified stock option, to the extent that it has not been exercised, shall terminate on the date the optionee's employment ends.

8. GRANTS TO NONEMPLOYEE DIRECTORS

All options granted to nonemployee directors shall be subject to the following terms and conditions:

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A. NONQUALIFIED OPTIONS. All stock options granted to nonemployee directors pursuant to the Plan shall be nonqualified stock options.

B. EXERCISE PRICE. The exercise price of each option granted to a nonemployee director shall not be less than forty-six cents (\$0.46) per Share.

C. DURATION OF OPTIONS. Each option granted to a nonemployee director shall be for a term determined by the Board; provided, however, that the term of any option may not exceed ten (10) years.

D. RIGHT TO EXERCISE. Each option granted to a nonemployee director shall become exercisable and vest according to the terms and conditions established by the Board and reflected in the written agreement evidencing the option. Notwithstanding the preceding sentence, after an initial public offering, all outstanding nonemployee directors' options shall immediately become exercisable in full in the event that a tender within the meaning of section 14 of the Securities Exchange Act of 1934, as amended, is made for five percent (5%) or more of the Corporation's outstanding capital stock by any person other than the Corporation or an affiliate. Each option granted to a nonemployee director shall be subject to termination before its date of expiration as provided in Subsection 8.E.

E. TERMINATIONS OF OPTIONS. If a nonemployee director ceases to be a director of the Corporation, his or her rights to exercise an option then held shall be only as follows:

i. DEATH: If a nonemployee director dies while he or she is serving on the Board of the Corporation, the director's estate shall have the right for a period of six (6) months (or such longer period as the Board may determine at the date of grant or during the term of the option) after the date of death to exercise the option to the extent the director was entitled to exercise the option on that date, provided the date of exercise is in no event after the expiration of the term of the option. To the extent the option is not exercised within this period, the option will terminate. A director's "estate" shall mean the director's legal representative or any person who acquires the right to exercise an option by reason of the director's death.

ii. DISABILITY: If a nonemployee director's Board membership ends because the director becomes disabled, the director or his or her qualified representative (in the event of the director's mental disability) shall have the right for a period of six (6) months after the date on which the director's Board membership ends to exercise the option to the extent the director was entitled to exercise the option on that date, provided the date of exercise is in no event after the expiration of the term of the option. To the extent the option is not exercised within this period, the option will terminate.

iii. RESIGNATION: If a nonemployee director voluntarily resigns from the Corporation's Board, the director shall have the right for a period of two (2) months after the date of resignation to exercise the option to the extent the director was entitled to exercise the option on that date, provided the date of exercise is in no event after the expiration of the term of the option. To the extent the option is not exercised within this period, the option will terminate.

iv. TERMINATION FOR REASONS OTHER THAN CAUSE: If a nonemployee director's Board membership is terminated by the Corporation for reasons other

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than cause, the director shall have the right for a period of two (2) months after the date of termination to exercise the option to the extent the director was entitled to exercise the option on that date, provided the date of exercise is in no event after the expiration of the term of the option. To the extent the option is not exercised within this period, the option will terminate. The termination of a nonemployee director's Board membership will be for reasons other than cause if the termination is NOT due to an act by the director of embezzlement, fraud, dishonesty, or breach of fiduciary duty to the Corporation, or to deliberate disregard by the director of the rules of the Corporation resulting in loss, damage, or injury to the Corporation, or to any unauthorized disclosure by the director of any of the secrets or confidential information of the Corporation, or to the director's having induced any client or customer of the Corporation to break any contract with the Corporation, or to the director's having induced any principal for whom the Corporation acts as agent to terminate the agency relationship, or to any conduct of the director that constitutes unfair competition with the Corporation.

v. OTHER REASONS: If a nonemployee director's Board membership ends for any reason not mentioned above in this Subsection 8.E, all rights of the director in an option, to the extent that it has not been exercised, shall terminate on the date the director's Board membership ends.

9. EXERCISE OF OPTIONS

Optionees may exercise options only by providing written notice to the Corporation at the address specified in the written agreement evidencing the option. The notice must be accompanied by full payment in cash for the Shares as to which the options are exercised.

10. TRANSFERABILITY

Each option granted under the Plan by its terms shall not be transferable by the optionee and shall be exercisable only by the optionee during his or her lifetime. No option or interest therein may be transferred, assigned, pledged, or hypothecated by the optionee, whether by operation of law or otherwise, or be made subject to execution, attachment, or similar process.

11. MODIFICATION, EXTENSION AND RENEWAL OF OPTIONS

The Board shall have the power to modify, extend, or renew outstanding options and authorize the grant of new options in substitution therefor, provided that any such action may not have the effect of altering or impairing any rights or obligations of any option previously granted without the consent of the optionee.

12. LIMITATION OF RIGHTS

A. NO RIGHT TO AN OPTION. Nothing in the Plan shall be construed to give any employee or any nonemployee director of the Corporation any right to be granted an option.

B. NO EMPLOYMENT RIGHTS. Neither the Plan nor the granting of an option nor any other action taken pursuant to the Plan shall constitute or be evidence of any agreement or understanding, express or implied, that the Corporation will employ or continue the Board

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membership of an optionee for any period of time, or in any position, or at any particular rate of compensation.

C. NO SHAREHOLDERS' RIGHTS. An optionee shall have no rights as a shareholder with respect to the Shares covered by his or her options until the date of the issuance to him or her of a share certificate for the Shares, and no adjustment will be made for dividends or other rights for which the record date is prior to the date the certificate is issued.

13. CHANGES IN PRESENT SHARES

A. The grant of a stock option pursuant to the Plan shall not affect in any way the right or power of the Corporation to make adjustments, reclassifications, reorganizations or changes of its capital or business structure or to merge or consolidate or to dissolve, liquidate, sell or transfer all or any part of its business or assets.

B. In the event of any merger, consolidation, reorganization, recapitalization, stock dividend, stock split, or other change in the corporate structure or capitalization affecting the Corporation's present Shares, appropriate adjustment shall be made by the Board in the kind, option price, and

number of Shares (including the maximum number of Shares that may be optioned under the Plan, as specified in Section 3) that are or may become subject to options granted or to be granted under the Plan.

C. In the event of the proposed dissolution or liquidation of the Corporation, the Board shall notify the optionee at least fifteen (15) days prior to such proposed action. To the extent it has not been previously exercised, the stock option shall terminate immediately prior to the consummation of such proposed action.

D. In the event of a merger of the Corporation with or into another corporation, the stock option shall be assumed or an equivalent option shall be substituted by such successor corporation or a parent or subsidiary of such successor corporation. In the event that such successor corporation does not agree to assume the stock option or to substitute an equivalent option, the Board may, in lieu of such assumption or substitution, provide for the optionee to have the right to exercise the stock option as to all of the options granted, including shares which would not otherwise be exercisable.

i. If the Board does not make a stock option fully exercisable in lieu of assumption or substitution in the event of a merger, the Board shall notify the optionee at least fifteen (15) days prior to such proposed action. To the extent it has not been previously exercised, the stock option shall terminate immediately upon the expiration of such fifteen-day period.

ii. If the Board makes a stock option fully exercisable in lieu of assumption or substitution in the event of a merger, the Board shall notify the optionee that the stock option shall be fully exercisable for a period of fifteen (15) days from the date of such notice, and the stock option will terminate upon the expiration of such period.

iii. For the purposes of this Paragraph 13.D, the stock option shall be considered assumed if, following the merger, the option confers the right to purchase, for each

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share of stock subject to the option immediately prior to the merger, the consideration (whether stock, cash, or other securities or property) received in the merger 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 was not solely common stock of the successor corporation or its parent, the Board may, with the consent of the successor corporation and the participant, provide for the consideration to be received upon the exercise of the stock option, for each share of stock subject to the option, 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.

14. EFFECTIVE DATE OF THE PLAN

The Plan will become effective upon approval by the Corporation's shareholders within twelve (12) months of the date the Plan is adopted by the Corporation's Board of Directors. Options may be granted under the Plan at any time after the Plan becomes effective and before the termination of the Plan.

15. AMENDMENT OF THE PLAN

A. AUTHORITY TO AMEND OR TERMINATE. The board may at any time amend, alter, suspend or discontinue the Plan, but no amendment, alteration, suspension or discontinuation shall be made that would impair the rights of any optionee under any grant theretofore made, with his or her consent. In addition, to the extent necessary and desirable to comply with Rule 16b-3 of the Securities and Exchange Act of 1934 or with Section 422 of the Internal revenue Code (or any applicable law or regulation, including the requirements of any Stock Exchange), the Company shall be required to obtain shareholder approval of any plan amendment in such a manner and to such a degree as required.

B. EFFECT OF AMENDMENT OR TERMINATION. No amendment or termination of the Plan shall adversely affect Options already granted, unless mutually agreed otherwise between the Optionee and the Board, Which agreement must be in writing and signed by the Optionee and the Company.

Date Plan Approved by the Board: March 1, 1998
Date Plan Approved by Shareholders: March 1, 1998

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THE SECURITIES REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR QUALIFIED UNDER ANY STATE SECURITIES LAW, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED UNLESS (A) THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT OR LAWS COVERING SUCH SECURITIES, OR (B) THE HOLDER RECEIVES AN OPINION OF COUNSEL FOR THE HOLDER OF THE SECURITIES SATISFACTORY TO THE CORPORATION, STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT AND THE QUALIFICATION REQUIREMENTS UNDER APPLICABLE STATE LAW.

INCENTIVE STOCK
OPTION AGREEMENT

This Stock Option Agreement ("Option Agreement") is by and between Spike Technologies, Inc., a California corporation (hereinafter referred to as the "Company") and the "Optionee" identified below. The terms and conditions of this Option Agreement are subject to the terms, definitions and provisions of the 1998 Stock Option Plan (the "Plan") adopted by the Company. The Plan is hereby incorporated by reference and attached hereto as Exhibit 3, as may be amended from time to time in accordance with the provisions of the Plan.

1. PRINCIPAL TERMS. The principal terms and conditions of this Option Agreement are summarized below, subject to the more detailed provisions set forth elsewhere in this Option Agreement:

A. GRANT DATE. The "Grant Date" is _____.

B. OPTIONEE. The "Optionee" _____.

C. OPTION SHARES. The Company hereby grants to Optionee an Option to purchase _____ shares of Common Stock (the "Shares"), subject to the terms and conditions of this Option Agreement and the Plan.

D. EXERCISE PRICE. The exercise price is U.S. \$0.46 for each share of Common Stock, which price is not less than the fair market value per share of Common Stock on the Grant Date, as determined by the Board; provided, however, in the event Optionee is an Employee and owns stock representing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or of its parent or subsidiary corporations immediately before the Grant Date, said exercise price is not less than one hundred ten percent (110%) of the fair market value per share of Common Stock on the Grant Date as determined by the Board.

E. TERM. The term of this Option commences on the Grant Date and shall terminate ten (10) years from the ---- Grant Date. In no event may this Option be exercised more than ten (10) years from the Grant Date, and this Option may be exercised during such term only in accordance with the Plan and the terms of this Option. However, in the case of an Option granted to an Optionee who, at the time the Option is granted, is an employee and 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 ("Control Person"), the term of the Option shall be no more than five (5) years from the Grant Date.

F. VESTING/EXERCISE.

i. "Vested" shares are the only Shares that Optionee may purchase hereunder. As of the Grant Date, zero (0) Shares are Vested Shares. The remaining balance of the Shares shall vest as set forth on Exhibit 1 attached hereto and incorporated herein by reference (provided, however, that in no event shall all such Option Shares vest at a rate less than twenty percent (20%) per year; the Option shall be exercised pursuant to the terms of Section 3 below only as to whole shares; no fractional shares may be purchased).

ii. In the event of Optionee's termination, disability or death, the exercise rights of Optionee are also subject to Section 9 (termination), Section 10 (disability), and Section 11 (death).

iii. In no event may this Option as an Incentive Stock Option become exercisable at a time or times which, when this Option is aggregated with all other incentive stock options granted to Optionee by the Company or any Parent or Subsidiary, would result in Shares having an aggregate fair market value (determined for each Share as of the date of grant of the option covering such share) in excess of \$100,000 becoming first available for purchase upon exercise of one or more incentive stock options during any calendar year. All such shares in excess of the \$100,000 limit shall automatically become shares covered by non-statutory stock options.

2. NATURE OF THE OPTION. If Optionee is an employee of the Company, this Option is intended to qualify as an Incentive Stock Option. If Optionee is a consultant of the Company or the provisions of this Option Agreement or the Plan

fail to qualify for Incentive Stock Option treatment under the Internal Revenue Code of 1986, as amended (the "Code"), this Option shall be deemed a Nonstatutory Stock Option. It is the intention of the Company, however, that the provisions of this Option Agreement and the Plan qualify for Incentive Stock Option treatment under the Code with respect to Optionees who are employees of the Company.

3. METHOD OF EXERCISE. This Option shall be exercisable by written notice in the form attached as Exhibit 2. The Notice of Exercise shall state the election to exercise the Option, the number of Shares in respect of which the Option is being exercised, and such other representations and agreements as to the holder's investment intent with respect to such Shares as may be required by the Company pursuant to the provisions of the Plan. Such written notice shall be signed by Optionee and shall be delivered in person or by certified mail to the President, Secretary or Chief Financial Officer of the Company. The written notice shall be accompanied by payment of the exercise price. This Option shall be deemed to be exercised upon receipt by the Company of such written notice accompanied by the exercise price. Until the issuance (as evidenced by the appropriate entry on the books of the Company or a duly authorized transfer agent of the Company) of the stock certificate evidencing such Shares, no right to vote or receive dividends or any other rights as a shareholder shall exist with respect

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to the Optioned Stock, notwithstanding the exercise of the Option. The Company shall issue (or cause to be issued) such stock certificate promptly upon exercise of the Option.

No shares will be issued pursuant to the exercise of an Option unless such issuance and such exercise shall comply with all relevant provisions of law and the requirements of any stock exchange upon which the Shares may then be listed.

4. INVESTMENT REPRESENTATIONS; RESTRICTIONS ON TRANSFER. By receipt of this Option, by its execution, and by its exercise in whole or in part, Optionee represents to the Company the following:

A. Optionee understands that this Option and any Shares purchased upon its exercise are securities, the issuance of which requires compliance with federal and state securities laws.

B. Optionee is aware of the Company's business affairs and financial condition and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the securities. Optionee is acquiring these securities for investment for Optionee's own account only and not with a view to, or for resale in connection with, any "distribution" thereof within the meaning of the Securities Act of 1933, as amended (the "Securities Act").

C. Optionee acknowledges and understands that the securities constitute "restricted securities" under the Securities Act and must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. Optionee further acknowledges and understands that the Company is under no obligation to register the securities. Optionee understands that the certificate evidencing the securities will be imprinted with a legend which prohibits the transfer of the securities unless they are registered or such registration is not required in the opinion of counsel satisfactory to the Company, and any other legend required under applicable state securities laws.

D. Optionee is familiar with the provisions of Rule 701 and Rule 144, each promulgated under the Securities Act, which, in substance, permit limited public resale of "restricted securities" acquired, directly or indirectly, from the issuer thereof, in a non-public offering subject to the satisfaction of certain conditions. Rule 701 provides that if the issuer qualifies under Rule 701 at the time of exercise of the Option by the Optionee, such exercise will be exempt from registration under the Securities Act. In the event the Company later becomes subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, ninety (90) days thereafter the securities exempt under Rule 701 may be resold, subject to the satisfaction of certain conditions specified by Rule 144, including among other things: (i) the sale being made through a broker in an unsolicited "broker's transaction" or in transactions directly with a market maker (as said term is defined under the Securities Exchange Act of 1934); and, in the case of an affiliate, (ii) the availability of certain public information about the Company, and the amount of securities being sold during any three month period not exceeding the limitations specified in Rule 144(e), if applicable. Notwithstanding this Section 4.D, the Optionee acknowledges and agrees to the restrictions set forth in Section 4.E.

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In the event that the Company does not qualify under Rule 701 at the time of exercise of the Option, then the securities may be resold in certain limited circumstances subject to the provisions of Rule 144, which requires

among other things: (i) the availability of certain public information about the Company; (ii) the resale occurring not less than two years after the party has purchased, and made full payment for, within the meaning of Rule 144, the securities to be sold; and (iii) in the case of an affiliate, or of a non-affiliate who has held the securities less than three years, the sale being made through a broker in an unsolicited "broker's transaction" or in transactions directly with a market maker (as said term is defined under the Securities Exchange Act of 1934) and the amount of securities being sold during any three month period not exceeding the specified limitations stated therein, if applicable.

E. In the event of the Company's subsequent underwritten public offering of the Company's securities, Optionee agrees:

i. not to sell, make short sale of, loan, grant any options for the purchase of, or otherwise dispose of any shares of Common Stock of the Company held by Optionee (except traded shares Optionee purchased in the open market and those shares included in the registration) without the prior written consent of the Company or the underwriters managing such underwritten public offering of the Company's securities for one hundred eighty (180) days from the effective date of such registration, and

ii. to execute any agreement reflecting Section 4.E.i above as may be requested by the underwriters at the time of the public offering.

5. METHOD OF PAYMENT. Payment of the purchase price shall be made in U.S. Dollars by check or money order; provided that the Company shall have no obligation to issue the shares until the funds are cleared by the bank or financial institution where the deposit is made.

6. RESTRICTIONS ON EXERCISE. This Option may not be exercised if the issuance of such Shares upon such exercise or the method of payment of consideration for such shares would constitute a violation of any applicable federal or state securities or other law or regulation, including any rule under Part 207 of Title 12 of the Code of Federal Regulations ("Regulation G") as promulgated by the Federal Reserve Board. As a condition to the exercise of this Option, the Company may require Optionee to make any representation and warranty to the Company as may be required by any applicable law or regulation.

7. SHARE REPURCHASE OPTION. In the event the Optionee's employment with the Company is terminated for any reason, with or without cause, or if the Optionee or the Optionee's legal representative attempts to sell, exchange, transfer, pledge or otherwise dispose of any Shares acquired upon exercise of the Option, the Company shall have the right to reacquire the Shares under the terms and subject to the conditions set forth in this Section 7.

A. EXERCISE OF SHARE REPURCHASE OPTION. Except as provided in Section 7.D below, if the employment of the Optionee is terminated for any reason, the Company may exercise the Share Repurchase Option by written notice to the Optionee or the Optionee's legal representative within ninety (90) days after such termination or after the Company has received actual notice of exercise of Option by the Optionee, whichever is later.

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B. PAYMENT FOR SHARES AND RETURN OF SHARES. Payment by the Company to the Optionee or the Optionee's legal representative shall be made in cash within thirty (30) days after the date of the mailing of the written notice of exercise of the Share Repurchase Option and receipt of the Optionee's Option Share certificate(s); provided, however, that for payments above \$5,000, the Company, at its election, may pay in twelve (12) equal installments over a twelve (12) month period. For purposes of the foregoing, cancellation of any promissory note of the Optionee of the Company shall be treated as payment to the Optionee in cash to the extent of the unpaid principal and any accrued interest cancelled. The repurchase price per Option Share being purchased by the Company shall be the fair market value of the Shares as determined by the Board as of the date of the event giving rise to the Share Repurchase Option; provided, however, if the employment of the Optionee is terminated because of a Discharge for Cause or if the Optionee or the Optionee's legal representative has attempted to dispose of any Option Shares other than as allowed in this Agreement, the repurchase price per Option Share being purchased by the Company shall be an amount equal to the lesser of (i) the Optionee's original cost per Option Share or (ii) the fair market value of the Shares as determined by the Board as of the date of the event giving rise to the Share Repurchase Option.

C. EARLY TERMINATION OF SHARE REPURCHASE OPTION. The other provisions of Section 7 notwithstanding, the Share Repurchase Option shall terminate and be of no further force and effect upon the existence of a Public Market.

D. TRANSFERS NOT SUBJECT TO THE SHARE REPURCHASE OPTION. The Unvested Share Repurchase Option shall not apply to a transfer to the Optionee's ancestors or descendants or spouse or to a trustee for their benefit, provided that such transferee shall agree in writing (in a form satisfactory to the Board) to take the stock subject to all the terms and conditions of this Section 7 providing for an Share Repurchase Option with respect to any subsequent

transfer.

E. LEGENDS. The Company may place a legend or legends referencing the Share Repurchase Option on any shares subject to the Share Repurchase Option.

F. ASSIGNMENT OF SHARE REPURCHASE OPTION. In the event the Company is unable to exercise the Share Repurchase Option pursuant to the provisions of Section 500, et seq. of the California Corporations Code, or the corresponding provisions of other applicable law, the Company shall have the right to assign the Share Repurchase Option to one or more persons as may be selected by the Board; provided, however, that the assignee must pay the Company cash equal to any difference between the repurchase purchase price and the fair market value of the Option Shares in question if the fair market value is greater than the repurchase price.

8. RIGHT OF FIRST REFUSAL. In the event the Optionee proposes to sell, pledge or otherwise transfer any Vested Shares (the "Transfer Shares"), the Company shall have the right to reacquire the Transfer Shares under the terms and subject to the conditions set forth in this Section 8 (the "Right of First Refusal").

A. NOTICE OF PROPOSED TRANSFER. Prior to any proposed transfer of the Transfer Shares, the Optionee shall give a written notice (the "Transfer Notice") to the

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Company describing fully the proposed transfer, including the number of Transfer Shares, the name and address of the proposed transferee (the "Proposed Transferee"), and if the transfer is voluntary, the proposed transfer price. The Transfer Notice shall be signed by both the Optionee and the Proposed Transferee and must constitute a binding commitment of the Optionee and the Proposed Transferee for the transfer of the Transfer Shares to the proposed Transferee subject only to the Right of First Refusal.

B. BONA FIDE TRANSFER. Within fourteen (14) business days after receipt of the Transfer Notice, the Board shall determine the bona fide nature of the proposed voluntary transfer and give the Optionee written notice of the Board's determination. If the proposed transfer is not deemed to be bona fide, the Optionee shall be responsible for providing additional information to the Board to show the bona fide nature of the proposed transfer. The Board shall have the right to demand further assurances from the Optionee and the Proposed Transferee (in a form satisfactory to the Board) that the Transfer Notice fully and accurately sets forth all of the terms and conditions of the proposed transfer, including, without limitation, assurance that the Transfer Notice fully and accurately sets forth the consideration actually paid for the Transfer Shares that the Proposed Transferee was willing to pay.

C. EXERCISE OF THE RIGHT OF FIRST REFUSAL. In the event the proposed transfer is deemed to be bona fide, the Company shall have the right to purchase all or none of the Transfer Shares at the purchase price and on the terms set forth in the Transfer Notice by delivery to the Optionee of a notice of exercise of the Right of First Refusal within thirty (30) days after the date the Transfer Notice is delivered to the Company. If the Board has reasonably requested additional assurances of the bona fide nature of the proposed transfer, the period for the Company's exercise of its Right of First Refusal shall be extended for a period ending five (5) business days after the Company has received such additional assurances. If the Company exercises the Right of First Refusal, the Company and the Optionee shall thereupon consummate the sale of the Transfer Shares to the Company on the terms set forth in the Transfer Notice; provided, however, in the event the Transfer Notice provides for the payment for the Transfer Shares other than in cash, the Company shall have the option of paying for the Transfer Shares by the discounted cash equivalent of the consideration described in the Transfer Notice as reasonably determined by the Board. For purposes of the foregoing, cancellation of any promissory note from the Optionee to the Company shall be treated as payment to the Optionee in cash to the extent of the unpaid principal and any accrued interest cancelled. If no price is specified in the Transfer Notice, then the purchase price shall be the fair market value of the Transfer Shares as determined by the Board in good faith.

D. FAILURE TO EXERCISE RIGHT OF FIRST REFUSAL. If the Company fails to exercise in full the Right of First Refusal within thirty (30) days after the date the Transfer Notice is delivered to the Company, the Optionee may, not later than sixty (60) days after delivery to the Company of the Transfer Notice (and any extensions thereof), conclude a transfer to the Proposed Transferee of the Transfer Shares not purchased by the Company on the terms and conditions described in the Transfer Notice. The Board shall have the right to demand further assurances from the Optionee and the Proposed Transferee (in a form satisfactory to the Board) that the transfer of the Transfer Shares was actually carried out on the terms and

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conditions described in the Transfer Notice. No Transfer Shares shall be

transferred on the books of the Company until the Board has received such assurances, if so demanded, and has approved the proposed transfer as bona fide, pursuant to Section 8.C above. Any proposed transfer on terms and conditions different from those described in the Transfer Notice, as well as any subsequent proposed transfer by the Optionee, shall again be subject to the Right of First Refusal and shall require compliance by the Optionee with the procedure described in this Section 8.

E. TRANSFEREE OF THE TRANSFER SHARES. Any transferee of the Transfer Shares or any interest therein, other than the Company, shall be required as a condition of such transfer to agree in writing (in a form satisfactory to the Company) that such transferee shall receive and hold such Transfer Shares or interests subject to the provisions of this Section 8 providing for the Right of First Refusal with respect to any subsequent transfer. Any sale or transfer of any Option Shares shall be void unless the provisions of this Section 8 are met.

F. EARLY TERMINATION OF THE RIGHT OF FIRST REFUSAL. The other provisions of this Section 8 notwithstanding, the Right of First refusal shall terminate, and be of no further force and effect upon the existence of a Public Market.

G. TRANSFERS NOT SUBJECT TO THE RIGHT OF FIRST REFUSAL. The Right of First Refusal shall not apply to a transfer to the Optionee's ancestors or descendants or spouse or to a trustee for their benefit, provided that such transferee shall agree in writing (in a form satisfactory to the Company) to take the stock subject to all the terms of this Section 8 providing for a Right of First Refusal with respect to any subsequent transfer.

H. LEGENDS. The Company may place a legend or legends referencing the Right of First Refusal on any Option Shares subject to the Right of First Refusal.

I. ASSIGNMENT OF THE RIGHT OF FIRST REFUSAL. In the event the Company is unable to exercise the Right of First Refusal pursuant to the provisions of section 500 et. seg. of the California Corporations Code, or the corresponding provisions of any other applicable law, the Company shall have the right to assign the Right of First Refusal to one or more persons as may be selected by the Board; provided, however, that the assignee must pay the Company cash equal to any difference between the repurchase purchase price and the fair market value of the Option Shares in question if the fair market value is greater than the purchase price.

9. TERMINATION OF STATUS AS AN EMPLOYEE.

In the event of termination of Optionee's Continuous Status as an Employee, Optionee shall have only two month after such termination date (but not later than expiration of the option term) to exercise this Option and then the exercise can be only to the extent that Optionee was entitled to exercise it at the date of such termination (i.e. vested Options). To the extent that Optionee was not entitled to exercise this Option at the date of such termination, this Option shall terminate as to those "non-vested" Shares and the non-vested Shares, if any, shall be forfeited to the Plan. To the extent Optionee does not exercise this Option timely, then any unexercised option shares, if any, shall be forfeited to the Plan.

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10. DISABILITY OF OPTIONEE. Notwithstanding the provisions of Section 9 above, in the event of termination of Optionee's Continuous Status as an Employee or Consultant as a result of Optionee's permanent and total disability (as defined in Section 22(e) (3) of the Code), Optionee may, but only within six (6) months from the date of termination of employment or consulting relationship (but in no event later than the date of expiration of the Term of this Option as set forth in Section 1 .E hereof), exercise this Option to the extent Optionee was entitled to exercise it at the date of such termination. To the extent that Optionee was not entitled to exercise this Option at the date of termination, or if Optionee does not exercise such Option (which Optionee was entitled to exercise) within the time specified herein, this Option shall terminate and all unexercised option shares, if any, shall be forfeited to the Plan.

11. DEATH OF OPTIONEE. In the event of the death of Optionee:

A. During the term of this Option while an Employee or Consultant of the Company and having been in Continuous Status as an Employee or Consultant since the Grant Date of this Option, this Option may be exercised, at any time within six (6) months following the date of death (but in no event later than the date of expiration of the term of this Option as set forth in Section 1.E hereof), by Optionee's estate or by a person who acquired the right to exercise the Option by bequest or inheritance, but only to the extent of the right to exercise that would have accrued had Optionee continued living and remained in Continuous Status as an Employee or Consultant six (6) months after the date of death.

B. Within two months after the termination of Optionee's Continuous Status as an Employee or Consultant for a reason other than death, this Option may be exercised, at any time within six (6) months following the date of death (but in no event later than the date of expiration of the term of this Option as set

forth in Section 1 .E hereof), by Optionee's estate or by a person who acquired the right to exercise this Option by bequest or inheritance, but only to the extent of the right to exercise that had accrued at the date of termination.

12. 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 Optionee. The terms of this Option shall be binding upon the executors, administrators, heirs, successors and assigns of Optionee.

13. EARLY DISPOSITION OF STOCK. If Optionee is an employee, Optionee understands that, if Optionee disposes of any Shares received under this Option within two (2) years after the date of this Agreement or within one (1) year after such Shares were transferred to Optionee, Optionee will be treated for federal income tax purposes as having received ordinary income at the time of such disposition in an amount generally measured as the excess of (i) the lower of the fair market value of the Shares at the date of disposition or the fair market value of the Shares at the Grant Date over (ii) the price paid for the Shares. The amount of such ordinary income may be measured differently if Optionee is an officer, director or 10% control person (defined in Section 1.E hereof) or if the Shares were subject to a substantial risk of forfeiture at the time they were transferred. Any gain recognized on such a premature sale of the Shares in excess of the amount treated as ordinary income will be characterized as capital gain. Optionee hereby agrees to notify the Company in writing within thirty (30)

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days after the date of any such disposition. Optionee understands that if Optionee disposes of such Shares at any time after the expiration of such two-year and one-year holding periods, any gain on such sale will generally be treated as long-term capital gain.

14. TAXATION UPON EXERCISE OF OPTION. If Optionee is a consultant, Optionee understands that, upon exercise of this Option, Optionee will generally recognize income for tax purposes in an amount equal to the excess of the then fair market value of the Shares over the exercise price. If Optionee is an employee and this Option is an Incentive Stock Option, Optionee understands that, upon exercise of this Option, Optionee will generally recognize income for purposes of the alternative minimum tax in amount equal to the excess of the then fair market value of the Shares over the exercise price.

15. TAX CONSEQUENCES. The Optionee understands that any of the foregoing references to taxation are based on federal income tax laws and regulations now in effect. The Optionee has reviewed with the Optionee's own tax advisors the federal, state, local and foreign tax consequences of the transactions contemplated by this Agreement. The Optionee is relying solely on such advisors and not on any statements or representations of the Company or any of its agents. The Optionee understands that the Optionee (and not the Company) shall be responsible for the Optionee's own tax liability that may arise as a result of the transactions contemplated by this Agreement. The Optionee hereby authorizes the company to make appropriate arrangements for any withholding of tax liability which may be required under applicable law in connection with the grant or exercise of this Option.

16. PARTIES' SIGNATURES - DUPLICATE ORIGINALS. This Option Agreement between the parties identified in Section 1 hereof shall be signed in two duplicate originals as follows:

A. The Company shall sign two (2) duplicate originals of the "Company's Signature Page" for this Option Agreement.

B. The Optionee shall sign two (2) duplicate originals of the "Optionee's Signature Page" for this Option Agreement together, where applicable, with Optionee's spouse.

C. One complete duplicate original of this Option Agreement, (complete with one company signature page and one Optionee signature page) will be given to the Company and the other to Optionee.

Executed on behalf of the Company to be effective on the date first set forth above.

Nikhil Modi
President & CEO

LIST OF EXHIBITS:

1. Vesting Schedule

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2. Form of Notice of Exercise

ACKNOWLEDGEMENT BY OPTIONEE

OPTIONEE ACKNOWLEDGES AND AGREES THAT THE VESTING OF SHARES PURSUANT TO SECTION 1(F) HEREOF IS EARNED ONLY BY CONTINUING SERVICE AS AN EMPLOYEE, OR CONSULTANT AT THE WILL OF THE COMPANY (NOT THROUGH THE ACT OF BEING HIRED, BEING GRANTED THIS OPTION OR ACQUIRING SHARES HEREUNDER). OPTIONEE FURTHER ACKNOWLEDGES AND AGREES THAT THIS OPTION, THE COMPANY'S PLAN WHICH IS INCORPORATED HEREIN BY REFERENCE, THE TRANSACTIONS CONTEMPLATED HEREUNDER AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS AN EMPLOYEE, OR CONSULTANT 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 EMPLOYMENT OR CONSULTING RELATIONSHIP AT ANY TIME, WITH OR WITHOUT CAUSE.

Optionee acknowledges receipt of a copy of the Plan (a copy of which is annexed hereto as Exhibit 3) represents that Optionee is familiar with the terms and provisions thereof, and hereby accepts this Option subject to all of the terms and provisions thereof. 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 and fully understands all provisions of the Option. Optionee hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Board or of the Committee upon any questions arising under the Plan. Optionee further agrees to notify the Company upon any change in the residence address indicated below.

This Acknowledgement is executed by Optionee this _____ day of _____, 200____, to be considered effective as of the Grant Date of the Option.

OPTIONEE Residence: _____
NAME: _____ (Street)

(City, State, Zip)

Please also complete the following (if applicable):

The undersigned, being the spouse of the above-named Optionee, does hereby acknowledge that the undersigned has read and is familiar with the provisions of the Option Agreement (including this page), and the undersigned hereby agrees thereto and joins therein to the extent, if any, that the agreement and joinder of the undersigned may be necessary.

OPTIONEE'S SPOUSE

Signature Print Name

EXHIBIT 1

VESTING SCHEDULE

Optionee: _____

TOTAL NUMBER OF SHARES: _____

INCENTIVE STOCK OPTION SHARES:

Number of Shares: _____
Price per Share: \$0.46

Initially 25 % of the options shall vest on _____. Thereafter, the remaining 75% of the options shall vest at the end of each month, at the rate of 2.0833% per month.

NON-QUALIFIED OPTION SHARES:

Number of Shares: 0
Price per Share: N/A

EXHIBIT 2

FORM OF NOTICE OF EXERCISE OF STOCK OPTION

DATE: _____

TO: SPIKE TECHNOLOGIES, INC.
698 Gibraltar Court
Milpitas, CA 95035 U.S.A.

FROM: _____ ("Optionee")

RE: Exercise of Stock Option By Optionee Named Above

In accordance with the terms of my Stock Option Agreement dated _____, 19____, I hereby exercise my option to purchase _____ Shares at \$_____ per share (total exercise price of \$_____), effective today. The option price and vested amount is in accordance with the provisions of my aforementioned Stock Option Agreement.

Unless a different form of payment is agreed to by the parties, attached is a check, in U.S. Dollars, payable to _____ for the total exercise price of the Shares being purchased. The undersigned confirms the representations made in Section 4 of the Stock Option Agreement.

Please prepare the stock certificate in the following name(s). (Note, if the stock is to be registered in a name other than Optionee's name, the Company's approval for said other person's ownership is required,

Sincerely,

(Signature)

(Print or Type Name)

Letter and consideration received by Company on _____, 200__.

By: _____

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EXHIBIT 3

SPIKE TECHNOLOGIES, INC.
1998 STOCK OPTION PLAN

Acknowledgment:

By signing below, Optionee acknowledges receipt of 1998 Stock Option Plan from the Company.

NAME: [PRINT NAME]

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