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**ALTIERRE CORPORATION**

**2004 STOCK INCENTIVE PLAN**

**Adopted by the Board on December 1, 2004**

**Approved by the Shareholders on December 1, 2004**

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**ALTIERRE CORPORATION**  
**2004 STOCK INCENTIVE PLAN**

**SECTION 1 PURPOSE**

The Plan was adopted by the Board of Directors effective December 1, 2004. The purpose of the Plan is to offer selected service providers the opportunity to acquire equity in the Company through awards of Options (which may constitute incentive stock options or nonstatutory stock options) and the award or sale of Shares.

The award of Options and the award or sale of Shares under the Plan is intended to be exempt from the securities qualification requirements of the California Corporations Code by satisfying the exemption under section 25102(o) of the California Corporations Code. However, awards of Options and the award or sale of Shares may be made in reliance upon other state securities law exemptions. To the extent that such other exemptions are relied upon, the terms of this Plan which are included only to comply with section 25102(o) shall be disregarded to the extent provided in the Stock Option Agreement or Restricted Share Agreement.

**SECTION 2 DEFINITIONS**

2.1 *Board* shall mean the Board of Directors of the Company, as constituted from time to time.

2.2 *Change in Control* shall mean the occurrence of any of the following events:

- (a) The consummation of a merger or consolidation of the Company with or into another entity or any other corporate reorganization, if persons who were not shareholders of the Company immediately prior to such merger, consolidation or other reorganization own immediately after such merger, consolidation or other reorganization fifty percent (50%) or more of the voting power of the outstanding securities of each of (A) the continuing or surviving entity and (B) any direct or indirect parent corporation of such continuing or surviving entity,
- (b) The consummation of the sale, transfer or other disposition of all or substantially all of the Company's assets or the shareholders of the Company approve a plan of complete liquidation of the Company, or
- (c) Any "person" (as defined below) who, by the acquisition or aggregation of securities, is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of the combined voting power of the Company's then outstanding securities ordinarily (and apart from rights accruing under special circumstances) having the right to vote at elections of directors (the "Base Capital Stock"), except that any change in the relative beneficial ownership of the Company's securities by any person resulting solely from a reduction in the aggregate number of outstanding shares of Base Capital Stock, and any decrease

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thereafter in such person's ownership of securities, shall be disregarded until such person increases in any manner, directly or indirectly, such person's beneficial ownership of any securities of the Company

For purposes of Section 2 2(c), the term "person" shall have the same meaning as when used in sections 13(d) and 14(d) of the Exchange Act but shall exclude (1) a trustee or other fiduciary holding securities under an employee benefit plan maintained by the Company or a Parent or Subsidiary and (2) a corporation owned directly or indirectly by the shareholders of the Company in substantially the same proportions as their ownership of the Stock

Notwithstanding the foregoing, the term "Change in Control" shall not include a transaction the sole purpose of which is (a) to change the state of the Company's incorporation, (b) to form a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately before such transaction, or (c) to make an initial public offering of the Company's Stock

- 2 3     "*Code*" shall mean the Internal Revenue Code of 1986, as amended
- 2 4     "*Committee*" shall mean the committee designated by the Board, which is authorized to administer the Plan, as described in Section 3 hereof
- 2 5     "*Company*" shall mean Altierre Corporation, a California corporation
- 2 6     "*Consultant*" shall mean a consultant or advisor who is not an Employee or Outside Director and who performs bona fide services for the Company, a Parent or Subsidiary
- 2 7     "*Disability*" shall mean a condition that renders an individual unable to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment
- 2 8     "*Employee*" shall mean any individual who is a common-law employee of the Company, a Parent or a Subsidiary and who is an "employee" within the meaning of section 3401(c) of the Code and regulations issued thereunder
- 2 9     "*Exchange Act*" shall mean the U S Securities and Exchange Act of 1934, as amended
- 2 10    "*Exercise Price*" shall mean the amount for which one Share may be purchased upon the exercise of an Option, as specified in a Stock Option Agreement
- 2 11    "*Fair Market Value*" means, with respect to a Share, the market price of one Share of Stock, determined by the Board in good faith. Such determination shall be conclusive and binding on all persons
- 2 12    "*ISO*" shall mean an incentive stock option described in section 422(b) of the Code
- 2 13    "*NSO*" shall mean a stock option that is not an ISO

- 2 14    *Option*” shall mean an ISO or NSO granted under the Plan and entitling the holder to purchase Shares
- 2 15    *Optionee* shall mean an individual or estate that holds an Option
- 2 16    ‘*Outside Director* ’ shall mean a member of the Board of the Company, a Parent or a Subsidiary who is not an Employee
- 2 17    *Parent*’ shall mean any corporation (other than the Company) in an unbroken chain of corporations ending with the Company, if each of the corporations other than the Company owns stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Parent on a date after the adoption of the Plan shall be considered a Parent commencing as of such date
- 2 18    ‘*Plan*” shall mean the Altierre Corporation 2004 Stock Incentive Plan
- 2 19    ‘*Purchase Price*” shall mean the consideration for which one Share may be acquired under the Plan (other than upon exercise of an Option)
- 2 20    ‘*Purchaser* ’ shall mean a person to whom the Board has offered the right to acquire Shares under the Plan (other than upon exercise of an Option)
- 2 21    ‘*Restricted Share Agreement* ’ shall mean the agreement between the Company and a Purchaser who acquires Shares under the Plan that contains the terms, conditions and restrictions pertaining to the acquisition of such Shares
- 2 22    *Securities Act* shall mean the U S Securities Act of 1933, as amended
- 2 23    ‘*Service* ’ shall mean service as an Employee, a Consultant or an Outside Director. Service shall be deemed to continue during a bona fide leave of absence approved by the Company in writing if and to the extent that continued crediting of Service for purposes of the Plan is expressly required by the terms of such leave or by applicable law, as determined by the Company. However, for purposes of determining whether an Option is entitled to ISO status, and to the extent required under the Code, an Employee’s Service will be treated as terminating ninety (90) days after such Employee went on leave, unless such Employee’s right to return to active work is guaranteed by law or by a contract or such Employee immediately returns to active work
- 2 24    *Share* shall mean one share of Stock, as adjusted in accordance with Section 9 (if applicable)
- 2 25    ‘*Stock*” shall mean the common stock of the Company
- 2 26    ‘*Stock Option Agreement*” shall mean the agreement between the Company and an Optionee which contains the terms, conditions and restrictions pertaining to the Optionee’s Option

- 2 27 *"Subsidiary"* means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company, if each of the corporations other than the last corporation in the unbroken chain owns stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Subsidiary on a date after the adoption of the Plan shall be considered a Subsidiary commencing as of such date.
- 2 28 *"Ten-Percent Shareholder"* means an individual who owns more than ten percent (10%) of the total combined voting power of all classes of outstanding stock of the Company, its Parent or any of its Subsidiaries. In determining stock ownership for purposes of this Section 2 28, the attribution rules of section 424(d) of the Code shall be applied.

### SECTION 3 ADMINISTRATION

- 3 1 *General Rule* The Plan shall be administered by the Board. However, the Board may delegate any or all administrative functions under the Plan otherwise exercisable by the Board to one or more Committees. Each Committee shall consist of at least two directors of the Board who have been appointed by the Board. Each Committee shall have the authority and be responsible for such functions as the Board has assigned to it. If a Committee has been appointed, any reference to the Board in the Plan shall be construed as a reference to the Committee to whom the Board has assigned a particular function.
- 3 2 *Board Authority and Responsibility* Subject to the provisions of the Plan, the Board shall have full authority and discretion to take any actions it deems necessary or advisable for the administration of the Plan. All decisions, interpretations and any other actions of the Board with respect to the Plan shall be final and binding on all persons deriving rights under the Plan.

### SECTION 4 ELIGIBILITY

- 4 1 *General Rule* Only Employees shall be eligible for the grant of ISOs. Only Employees, Consultants and Outside Directors shall be eligible for the grant of NSOs or the award or sale of Shares.

### SECTION 5 STOCK SUBJECT TO PLAN

- 5 1 *Share Limit* Subject to Sections 5 2 and 9, the aggregate number of Shares which may be issued under the Plan shall not exceed 9,357,143 Shares<sup>1</sup>. The number of Shares which are subject to Options or other rights outstanding at any time shall not exceed the number of Shares which then remain available for issuance under the Plan. The Company, during the term of the Plan, shall at all times reserve and keep available sufficient Shares to satisfy the requirements of the Plan. Shares offered under the Plan may be authorized but unissued Shares.

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<sup>1</sup> If the number of shares reserved (including shares provided under any stock bonus or similar plan) exceeds 30% of outstanding shares, the Plan must be approved by at least two-thirds of shareholders rather than a majority.



- 5 2 *Additional Shares* In the event that any outstanding Option or other right expires or is canceled for any reason, the Shares allocable to the unexercised portion of such Option or other right shall remain available for issuance pursuant to the Plan. If a Share previously issued under the Plan is reacquired by the Company pursuant to a forfeiture provision, right of repurchase or right of first refusal, then such Share shall again become available for issuance under the Plan.

## SECTION 6 RESTRICTED SHARES

- 6 1 *Restricted Share Agreement* Each award or sale of Shares under the Plan (other than upon exercise of an Option) shall be evidenced by a Restricted Share Agreement between the Purchaser and the Company. Such award or sale shall be subject to all applicable terms and conditions of the Plan and may be subject to any other terms and conditions imposed by the Board, as set forth in the Restricted Share Agreement, that are not inconsistent with the Plan. The provisions of the various Restricted Share Agreements entered into under the Plan need not be identical.
- 6 2 *Duration of Offers and Nontransferability of Purchase Rights* Any right to acquire Shares (other than an Option) shall automatically expire if not exercised by the Purchaser within thirty (30) days after the Company communicates the grant of such right to the Purchaser. Such right shall be nontransferable and shall be exercisable only by the Purchaser to whom the right was granted.
- 6 3 *Purchase Price* The Purchase Price of Shares offered under the Plan shall not be less than eighty-five percent (85%) of the Fair Market Value of such Shares, provided, however, if the Purchaser is a Ten-Percent Shareholder, the Purchase Price shall not be less than one hundred percent (100%) of the Fair Market Value of such Shares. Subject to the foregoing in this Section 6 3, the Board shall determine the amount of the Purchase Price in its sole discretion. The Purchase Price shall be payable in a form described in Section 8.
- 6 4 *Repurchase Rights and Transfer Restrictions* Each award or sale of Shares shall be subject to such forfeiture conditions, rights of repurchase, rights of first refusal and other transfer restrictions as the Board may determine, subject to the requirements of Section 10. Such restrictions shall be set forth in the applicable Restricted Share Agreement and shall apply in addition to any restrictions otherwise applicable to holders of Shares generally.

## SECTION 7 STOCK OPTIONS

- 7 1 *Stock Option Agreement* Each grant of an Option under the Plan shall be evidenced by a Stock Option Agreement between the Optionee and the Company. The Option shall be subject to all applicable terms and conditions of the Plan and may be subject to any other terms and conditions imposed by the Board, as set forth in the Stock Option Agreement, which are not inconsistent with the Plan. The provisions of the various Stock Option Agreements entered into under the Plan need not be identical.

- 7.2 *Number of Shares, Kind of Option* Each Stock Option Agreement shall specify the number of Shares that are subject to the Option and shall provide for the adjustment of such number in accordance with Section 9. The Stock Option Agreement shall also specify whether the Option is intended to be an ISO or an NSO.
- 7.3 *Exercise Price* Each Stock Option Agreement shall set forth the Exercise Price, which shall be payable in a form described in Section 8. Subject to the following requirements, the Exercise Price under any Option shall be determined by the Board in its sole discretion.
- (a) Minimum Exercise Price for ISOs The Exercise Price per Share of an ISO shall not be less than one hundred percent (100%) of the Fair Market Value of a Share on the date of grant, provided, however, that the Exercise Price per Share of an ISO granted to a Ten-Percent Shareholder shall not be less than one hundred ten percent (110%) of the Fair Market Value of a Share on the date of grant.
  - (b) Minimum Exercise Price for NSOs The Exercise Price per Share of an NSO shall not be less than eighty-five percent (85%) of the Fair Market Value of a Share on the date of grant, provided, however, that the Exercise Price per Share of an NSO granted to a Ten-Percent Shareholder shall not be less than one hundred ten percent (110%) of the Fair Market Value of a Share on the date of grant.
- 7.4 *Term* Each Stock Option Agreement shall specify the term of the Option. The term of an Option shall in no event exceed ten (10) years from the date of grant. The term of an ISO granted to a Ten-Percent Shareholder shall not exceed five (5) years from the date of grant. Subject to the foregoing, the Board in its sole discretion shall determine when an Option shall expire.
- 7.5 *Exercisability* Each Stock Option Agreement shall specify the date when all or any installment of the Option is to become exercisable, provided, however, that no Option shall be exercisable unless the Optionee has delivered to the Company an executed copy of the Stock Option Agreement. Subject to the following restrictions, the Board in its sole discretion shall determine when all or any installment of an Option is to become exercisable and may, in its discretion, provide for accelerated exercisability in the event of a Change in Control or other events.
- (a) Options Granted to Employees An Option granted to an Optionee who is not a Consultant or an officer or director of the Company, a Parent or a Subsidiary shall be exercisable at the minimum rate of twenty percent (20%) per year for each of the first five (5) years starting from the date of grant, subject to reasonable conditions such as continued Service.

- (b) Options Granted to Outside Directors, Consultants or Officers An Option granted to an Optionee who is a Consultant or an officer or director of the Company, a Parent or a Subsidiary shall be exercisable at any time or during any period established by the Board, subject to reasonable conditions such as continued Service
- (c) Early Exercise A Stock Option Agreement may permit the Optionee to exercise the Option as to Shares that are subject to a right of repurchase by the Company in accordance with the requirements of Section 10.1

7.6 *Repurchase Rights and Transfer Restrictions* Shares purchased on exercise of Options shall be subject to such forfeiture conditions, rights of repurchase, rights of first refusal and other transfer restrictions as the Board may determine, subject to the requirements of Section 10. Such restrictions shall be set forth in the applicable Stock Option Agreement and shall apply in addition to any restrictions otherwise applicable to holders of Shares generally.

7.7 *Transferability of Options* During an Optionee's lifetime, his or her Options shall be exercisable only by the Optionee or by the Optionee's guardian or legal representatives, and shall not be transferable other than by beneficiary designation, will or the laws of descent and distribution. Notwithstanding the foregoing, however, to the extent that a Stock Option Agreement so provides, an NSO may be transferred by the Optionee to one or more family members or a trust established for the benefit of the Optionee and/or one or more family members to the extent permitted by section 260.140.41(d) of Title 10 of the California Code of Regulations and Rule 701 of the Securities Act.

7.8 *Exercise of Options on Termination of Service* Each Option shall set forth the extent to which the Optionee shall have the right to exercise the Option following termination of the Optionee's Service. Each Stock Option Agreement shall provide the Optionee with the right to exercise the Option following the Optionee's termination of Service during the Option term, to the extent the Option was exercisable for vested Shares upon termination of Service, for at least thirty (30) days if termination of Service is due to any reason other than cause, death or Disability, and for at least six (6) months after termination of Service if due to death or Disability (but in no event later than the expiration of the Option term). If the Optionee's Service is terminated for cause, the Stock Option Agreement may provide that the Optionee's right to exercise the Option terminates immediately on the effective date of the Optionee's termination. To the extent the Option was not exercisable for vested Shares upon termination of Service, the Option shall terminate when the Optionee's Service terminates. Subject to the foregoing, such provisions shall be determined in the sole discretion of the Board, need not be uniform among all Options issued pursuant to the Plan, and may reflect distinctions based on the reasons for termination of Service.

7.9 *No Rights as a Shareholder* An Optionee, or a transferee of an Optionee, shall have no rights as a shareholder with respect to any Shares covered by the Option until such person

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becomes entitled to receive such Shares by filing a notice of exercise and paying the Exercise Price pursuant to the terms of the Option. No adjustments shall be made, except as provided in Section 9.

- 7 10 *Modification, Extension and Renewal of Options* Within the limitations of the Plan, the Board may modify, extend or renew outstanding Options or may accept the cancellation of outstanding Options (to the extent not previously exercised), whether or not granted hereunder, in return for the grant of new Options for the same or a different number of Shares and at the same or a different Exercise Price. The foregoing notwithstanding, no modification of an Option shall, without the consent of the Optionee, impair his or her rights or increase the Optionee's obligations under such Option.

## SECTION 8 PAYMENT FOR SHARES

- 8 1 *General* The entire Purchase Price or Exercise Price of Shares issued under the Plan shall be payable in cash, cash equivalents or one of the other forms provided in this Section 8.
- 8 2 *Surrender of Stock* To the extent permitted by the Board in its sole discretion, payment may be made in whole or in part by surrendering, or attesting to ownership of, Shares which have already been owned by the Optionee, provided, however, that payment may not be made in such form if such action would cause the Company to recognize any (or additional) compensation expense with respect to the Option for financial reporting purposes. Such Shares shall be surrendered to the Company in good form for transfer and shall be valued at their Fair Market Value on the date of Option exercise.
- 8 3 *Services Rendered* As determined by the Board in its discretion, Shares may be awarded under the Plan in consideration of past services rendered to the Company, a Parent or Subsidiary.
- 8 4 *Promissory Notes* To the extent permitted by the Board in its sole discretion, payment may be made in whole or in part with a full-recourse promissory note executed by the Optionee or Purchaser. The interest rate payable under the promissory note shall not be less than the minimum rate required to avoid the imputation of income for U.S. federal income tax purposes. Shares shall be pledged as security for payment of the principal amount of the promissory note, and interest thereon, provided that if the Optionee or Purchaser is a Consultant, such note must be collateralized with such additional security to the extent required by applicable laws. In no event shall the stock certificate(s) representing such Shares be released to the Optionee or Purchaser until such note is paid in full. Subject to the foregoing, the Board shall determine the term, interest rate and other provisions of the note.
- 8 5 *Exercise/Sale* To the extent permitted by the Board in its sole discretion, and if a public market for the Shares exists, payment may be made in whole or in part by delivery (on a form prescribed by the Company) of an irrevocable direction to a securities broker.

approved by the Company to sell Shares and to deliver all or part of the sale proceeds to the Company in payment of all or part of the Exercise Price and any withholding taxes

- 8 6 *Exercise/Pledge* To the extent permitted by the Board in its sole discretion, and if a public market for the Shares exists, payment may be made in whole or in part by delivery (on a form prescribed by the Company) of an irrevocable direction to a securities broker or lender approved by the Company to pledge Shares, as security for a loan, and to deliver all or part of the loan proceeds to the Company in payment of all or part of the Exercise Price and any withholding taxes
- 8 7 *Other Forms of Payment* To the extent permitted by the Board in its sole discretion, payment may be made in any other form that is consistent with applicable laws, regulations and rules

## SECTION 9 ADJUSTMENT OF SHARES

- 9 1 *General* In the event of a subdivision of the outstanding Stock, a declaration of a dividend payable in Shares, a declaration of an extraordinary dividend payable in a form other than Shares in an amount that has a material effect on the Fair Market Value of the Stock, a combination or consolidation of the outstanding Stock into a lesser number of Shares, a recapitalization, a spin-off, a reclassification, or a similar occurrence, the Board shall make appropriate adjustments to one or more of the following (i) the number of Shares available for future awards under Section 5, (ii) the number of Shares covered by each outstanding Option, (iii) the Exercise Price under each outstanding Option, or (iv) the price of Shares subject to the Company's right of repurchase
- 9 2 *Dissolution or Liquidation* To the extent not previously exercised or settled, Options shall terminate immediately prior to the dissolution or liquidation of the Company
- 9 3 *Mergers and Consolidations* In the event that the Company is a party to a merger or other consolidation, or in the event of a transaction providing for the sale of all or substantially all of the Company's stock or assets, outstanding Options shall be subject to the agreement of merger, consolidation or sale. Such agreement may provide for one or more of the following (i) the continuation of the outstanding Options by the Company, if the Company is a surviving corporation, (ii) the assumption of the Plan and outstanding Options by the surviving corporation or its parent, (iii) the substitution by the surviving corporation or its parent of options with substantially the same terms for such outstanding Options, (iv) immediate exercisability of such outstanding Options followed by the cancellation of such Options, or (v) settlement of the full value of the outstanding Options (whether or not then exercisable) in cash or cash equivalents followed by the cancellation of such Options, in each case without the Optionee's consent
- 9 4 *Reservation of Rights* Except as provided in this Section 9, an Optionee or offeree shall have no rights by reason of any subdivision or consolidation of shares of stock of any class, the payment of any dividend or any other increase or decrease in the number of shares of stock of any class. Any issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall not affect, and no

adjustment by reason thereof shall be made with respect to, the number or Exercise Price of Shares subject to an Option. The grant of an Option pursuant to the Plan shall not affect in any way the right or power of the Company to make adjustments, reclassifications, reorganizations or changes of its capital or business structure, to merge or consolidate or to dissolve, liquidate, sell or transfer all or any part of its business or assets.

## SECTION 10 REPURCHASE RIGHTS

10.1 *Company's Right To Repurchase Shares* The Company shall have the right to repurchase Shares that have been acquired through an award or sale of Shares or exercise of an Option upon termination of the Purchaser's or Optionee's Service if provided in the applicable Restricted Share Agreement or Stock Option Agreement. Subject to the following restrictions, the Board in its sole discretion shall determine when the right to repurchase shall lapse as to all or any portion of the Shares, and may, in its discretion, provide for accelerated vesting in the event of a Change in Control or other events. The following restrictions shall apply in the case of a Purchaser or Optionee who is not a Consultant or an officer or director of the Company, a Parent or Subsidiary:

- (a) Repurchase Price If the Company retains a right to repurchase the Shares at not less than the Fair Market Value of the Shares on the date that the Purchaser's Service terminates, then such repurchase right shall terminate when the Company's Stock becomes publicly traded. If the Company retains a right to repurchase the Shares at the original Purchase Price or Exercise Price, then such repurchase right shall lapse at the minimum rate of twenty percent (20%) per year over the five (5) year period starting on the date of the award or sale of Shares or grant of the Option.
- (b) Exercise of Repurchase Right The Company's right of repurchase under this Section 10.1 may be exercised only within ninety (90) days of the date on which the Purchaser's or Optionee's Service terminates or, if the Optionee acquired the Shares upon exercise of an Option after the date of termination, within ninety (90) days from the date of exercise.
- (c) Payment of Repurchase Price The Company shall pay the repurchase price in cash, cash equivalents or for cancellation of indebtedness incurred in purchasing the Shares.

## SECTION 11 WITHHOLDING TAXES

11.1 *General* An Optionee or Purchaser or his or her successor shall pay, or make arrangements satisfactory to the Board for the satisfaction of, any federal, state, local or foreign withholding tax obligations that may arise in connection with the Plan. The Company shall not be required to issue any Shares or make any cash payment under the Plan until such obligations are satisfied.

- 11 2 *Share Withholding* The Board may permit an Optionee or Purchaser to satisfy all or part of his or her withholding or income tax obligations by having the Company withhold all or a portion of any Shares that otherwise would be issued to him or her or by surrendering all or a portion of any Shares that he or she previously acquired, provided, however, that in no event may an Optionee or Purchaser surrender Shares in excess of the legally required withholding amount. Such Shares shall be valued at their Fair Market Value on the date when taxes otherwise would be withheld in cash. Any payment of taxes by assigning Shares to the Company may be subject to restrictions, including any restrictions required by rules of any federal or state regulatory body or other authority.
- 11 3 *Cashless Exercise/Pledge* The Board may provide that if Company Shares are publicly traded at the time of exercise, arrangements may be made to meet the Optionee's or Purchaser's withholding obligation by cashless exercise or pledge.
- 11 4 *Other Forms of Payment* The Board may permit such other means of tax withholding as it deems appropriate.

## SECTION 12 SECURITIES LAW REQUIREMENTS

- 12 1 *General* Shares shall not be issued under the Plan unless the issuance and delivery of such Shares complies with (or is exempt from) all applicable requirements of law, including (without limitation) the Securities Act, the rules and regulations promulgated thereunder, state securities laws and regulations, and the regulations of any stock exchange or other securities market on which the Company's securities may then be listed.
- 12 2 *Voting and Dividend Rights* The holders of Shares acquired under the Plan shall have the same voting, dividend and other rights as the Company's other shareholders. A Restricted Share Agreement, however, may require that the holders of Shares invest any cash dividends received in additional Shares. Such additional Shares shall be subject to the same conditions and restrictions as the award with respect to which the dividends were paid.
- 12 3 *Financial Reports* At least annually, the Company shall furnish its financial statements, including a balance sheet regarding the Company's financial condition and results of operations, to Optionees, Purchasers and shareholders who have received Shares under the Plan, unless such persons are key employees whose duties at the Company assure them access to equivalent information. Financial statements need not be audited.

## SECTION 13 NO RETENTION RIGHTS

No provision of the Plan, or any right or Option granted under the Plan, shall be construed to give any Optionee or Purchaser any right to become an Employee, to be treated as an Employee, or to continue in Service for any period of time, or restrict in any way the rights of the Company (or Parent or subsidiary to whom the Optionee or Purchaser provides Service), which rights are expressly reserved, to terminate the Service of such person at any time and for any reason, with or without cause, without thereby incurring any liability to him or her.

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#### SECTION 14 DURATION AND AMENDMENTS

- 14 1 *Term of the Plan* The Plan, as set forth herein, shall become effective on the date of its adoption by the Board, subject to the approval of the Company's shareholders. In the event that the shareholders fail to approve the Plan within twelve (12) months after its adoption by the Board, any grants, exercises or sales that have already occurred under the Plan shall be rescinded, and no additional grants, exercises or sales shall be made under the Plan after such date. The Plan shall terminate automatically ten (10) years after its adoption by the Board. The Plan may be terminated on any earlier date pursuant to Section 14 2 below.
- 14 2 *Right to Amend or Terminate the Plan* The Board may amend, suspend, or terminate the Plan at any time and for any reason. An amendment of the Plan shall not be subject to the approval of the Company's shareholders unless it (i) increases the number of Shares available for issuance under the Plan (except as provided in Section 9) or (ii) materially changes the class of persons who are eligible for the grant of Options or the award or sale of Shares. At least two-thirds (2/3) of the Company's Shares entitled to vote must affirmatively approve an increase in the number of Shares available for issuance if the total number of Shares that may be issued upon the exercise of all outstanding Options and the total number of Shares provided under any stock bonus or similar plan of the Company exceed thirty percent (30%) of all outstanding Shares of the Company.
- 14 3 *Effect of Amendment or Termination* No Shares shall be issued or sold under the Plan after the termination thereof, except upon exercise of an Option granted prior to such termination. The termination of the Plan, or any amendment thereof, shall not adversely affect any Shares previously issued or any Option previously granted under the Plan without the holder's consent.

[Remainder of this page intentionally left blank ]



**THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED OR QUALIFIED UNDER THE U S SECURITIES ACT OF 1933 OR THE SECURITIES LAWS OF ANY STATE OR FOREIGN JURISDICTION, AND MAY BE OFFERED AND SOLD ONLY IF REGISTERED AND QUALIFIED PURSUANT TO THE RELEVANT PROVISIONS OF U S FEDERAL AND STATE AND APPLICABLE FOREIGN SECURITIES LAWS OR IF THE COMPANY IS PROVIDED AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT REGISTRATION AND QUALIFICATION UNDER U S FEDERAL AND STATE AND APPLICABLE FOREIGN SECURITIES LAWS IS NOT REQUIRED**

**ALTIERRE CORPORATION  
2004 STOCK INCENTIVE PLAN  
NOTICE OF STOCK OPTION GRANT**

Altierre Corporation (the "Company") hereby grants you the following Option to purchase shares of its common stock ("Shares") The terms and conditions of this Option are set forth in the Stock Option Agreement and the Altierre Corporation 2004 Stock Incentive Plan (the "Plan"), both of which are attached to and made a part of this document

*Date of Grant*

*Name of Optionee*

*Number of Option Shares*

*Exercise Price per Share*      \$x xx (The Exercise Price per Share of an ISO shall not be less than one hundred percent (100%) of the Fair Market Value The Exercise Price per Share of an NSO shall not be less than eighty-five percent (85%) of the Fair Market Value of a Share on the date of grant If Optionee is a Ten-Percent Shareholder, the Exercise Price per Share of an ISO or an NSO must be at least one hundred ten percent (110%) of Fair Market Value )

*Vesting Start Date*

*Type of Option*      ISO

*Vesting Schedule*      The Option vests with respect to the first 25% of the Shares when the Optionee completes 12 months of continuous Service after the Vesting Start Date, and with respect to an additional  $\frac{1}{48}$  of the Shares when the Optionee completes each full month of continuous Service thereafter, up to a maximum of 48 months from the Vesting Start Date

ALTIERRE CORPORATION  
NOTICE OF STOCK OPTION GRANT

By signing this document, you acknowledge receipt of a copy of the Plan, and agree that (a) you have carefully read, fully understand and agree to all of the terms and conditions described in the attached Stock Option Agreement, the Plan document and "Notice of Exercise and Common Stock Purchase Agreement" (the "Exercise Notice"), (b) you hereby make the purchaser's investment representations contained in the Exercise Notice with respect to the grant of this Option, (c) you understand and agree that this Stock Option Agreement, including its cover sheet and attachments, constitutes the entire understanding between you and the Company regarding this Option, and that any prior agreements, commitments or negotiations concerning this Option are replaced and superseded, and (d) you have been given an opportunity to consult legal counsel with respect to all matters relating to this Option prior to signing this cover sheet and that you have either consulted such counsel or voluntarily declined to consult such counsel

OPTIONEE

ALTIERRE CORPORATION

\_\_\_\_\_

By \_\_\_\_\_  
Print Name Sunit Saxena  
Title CEO

ALTIERRE CORPORATION  
NOTICE OF STOCK OPTION GRANT

**ALTIERRE CORPORATION**  
**2004 STOCK INCENTIVE PLAN**  
**STOCK OPTION AGREEMENT**

**SECTION 1 KIND OF OPTION**

This Option is intended to be either an incentive stock option intended to meet the requirements of section 422 of the Internal Revenue Code (an "ISO") or a non-statutory option (an "NSO"), which is not intended to meet the requirements of an ISO, as indicated in the Notice of Stock Option Grant. Even if this Option is designated as an ISO, it shall be deemed to be an NSO to the extent required by the \$100,000 annual limitation under Section 422(d) of the Code.

**SECTION 2 VESTING**

Subject to the terms and conditions of the Plan and this Stock Option Agreement (the "Agreement"), your Option and the Shares shall vest in accordance with the schedule set forth in the Notice of Stock Option Grant. After your Service terminates for any reason, vesting of your Option and Shares immediately stops and your Option expires immediately as to the number of Shares that are not vested as of your Service termination date.

**SECTION 3 TERM**

Your Option will expire in any event at the close of business at Company headquarters on the date that is ten (10) years after the Date of Grant, provided, however, that if your Option is an ISO it will expire five (5) years after the Date of Grant if you are a Ten-Percent Shareholder of the Company (the "Expiration Date"). Also, your Option will expire earlier if your Service terminates, as described below.

**SECTION 4 REGULAR TERMINATION**

- (a) If your Service terminates for any reason except death or Disability, the vested portion of your Option will expire at the close of business at Company headquarters on the date three (3) months after your termination of Service. During that three (3) month period, you may exercise the portion of your Option that was vested on your termination date. Notwithstanding the foregoing, the Option may not be exercised after the Expiration Date determined under Section 3 above.
- (b) If your Option is an ISO and you exercise it more than three months after termination of your Service as an Employee for any reason other than death or Disability expected to result in death or to last for a continuous period of at least twelve (12) months, your Option will cease to be eligible for ISO tax treatment.
- (c) Your Option will cease to be eligible for ISO tax treatment if you exercise it more than three months after the 90th day of a bona fide leave of absence approved by

ALTIERRE CORPORATION  
STOCK OPTION AGREEMENT

the Company, unless you return to employment immediately upon termination of such leave or your right to reemployment after your leave was guaranteed by statute or contract

## **SECTION 5 DEATH**

If you die while in Service with the Company, the vested portion of your Option will expire at the close of business at Company headquarters on the date twelve (12) months after the date of your death. During that twelve (12) month period, your estate, legatees or heirs may exercise that portion of your Option that was vested on the date of your death. Notwithstanding the foregoing, the Option may not be exercised after the Expiration Date determined under Section 3 above.

## **SECTION 6 DISABILITY**

- (a) If your Service terminates because of a Disability, the vested portion of your Option will expire at the close of business at Company headquarters on the date six (6) months after your termination date. During that six (6) month period, you may exercise that portion of your Option that was vested on the date of your Disability. "Disability" means that you are unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment. Notwithstanding the foregoing, the Option may not be exercised after the Expiration Date determined under Section 3 above.
- (b) If your Option is an ISO and your Disability is not expected to result in death or to last for a continuous period of at least twelve (12) months, your Option will be eligible for ISO tax treatment only if it is exercised within three (3) months following the termination of your Service as an Employee.

## **SECTION 7 EXERCISING YOUR OPTION**

To exercise your Option, you must execute the Notice of Exercise and Common Stock Purchase Agreement (the "Exercise Notice"), attached as Exhibit A. You must submit this form, together with full payment, to the Company. Your exercise will be effective when it is received by the Company. If you exercise your Option prior to vesting as provided in Section 8, you must also sign an Assignment Separate from Certificate attached as Exhibit C. If someone else wants to exercise your Option after your death, that person must prove to the Company's satisfaction that he or she is entitled to do so.

## **SECTION 8 EXERCISE OF OPTION BEFORE VESTING**

If you wish, you may exercise your Option before it is vested ("Early Exercise"). The Company may in its sole and absolute discretion prohibit you from undertaking an Early Exercise at any time prior to the expiration of six (6) months from the Date of Grant. Your Option Shares will be subject to a repurchase right which shall lapse according to the same vesting schedule applicable had you not exercised your Option. The repurchase right allows the Company to repurchase the unvested Shares for the Exercise Price. If you exercise this Option

before it is vested, you should consider making an election under Section 83(b) of the Internal Revenue Code (the "83(b) Election"), a form of which can be found on page E-3 of Exhibit E. Please review the document entitled "U S Federal Tax Information" attached as Exhibit F. A general explanation of Early Exercise can be found on page F-3 of Exhibit F. *The 83(b) Election must be filed within thirty (30) days after the date you exercise all or any portion of your Option in which you are not vested*

**YOU SHOULD CONSULT A TAX AND/OR FINANCIAL ADVISOR BEFORE EXERCISING PRIOR TO VESTING**

**SECTION 9 PAYMENT FORMS**

When you exercise your Option, you must include payment of the Exercise Price for the Shares you are purchasing in cash or cash equivalents. Alternatively, you may pay all or part of the Exercise Price by surrendering, or attesting to ownership of, Shares already owned by you, unless such action would cause the Company to recognize any (or additional) compensation expense with respect to the Option for financial reporting purposes. Such Shares shall be surrendered to the Company in good form for transfer and shall be valued at their Fair Market Value on the date of Option exercise. To the extent that a public market for the Shares exists and to the extent permitted by applicable law, in each case as determined by the Company, you also may exercise your Option by delivery (on a form prescribed by the Company) of an irrevocable direction to a securities broker to sell Shares and to deliver all or part of the sale proceeds to the Company in payment of the aggregate Exercise Price and, if requested, applicable withholding taxes. The Company will provide the forms necessary to make such a cashless exercise. The Board may permit such other payment forms as it deems appropriate, subject to applicable laws, regulations and rules.

**SECTION 10 TAX WITHHOLDING AND REPORTING**

- (a) You will not be allowed to exercise this Option unless you pay, or make acceptable arrangements to pay, any taxes required to be withheld as a result of the Option exercise or the sale of Shares acquired upon exercise of this Option. You hereby authorize withholding from payroll or any other payment due you from the Company or your employer to satisfy any such withholding tax obligation.
- (b) If you sell or otherwise dispose of any of the Shares acquired pursuant to an ISO on or before the later of (i) two years after the grant date, or (ii) one year after the exercise date, you shall immediately notify the Company in writing of such disposition.

**SECTION 11 RIGHT OF FIRST REFUSAL**

In the event that you propose to sell, pledge or otherwise transfer to a third party any Shares acquired under this Agreement, or any interest in such Shares, the Company shall have a "Right of First Refusal" with respect to such Shares in accordance with the provisions of the Exercise Notice.

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## **SECTION 12**            **RESALE RESTRICTIONS/MARKET STAND-OFF**

In connection with any underwritten public offering by the Company of its equity securities pursuant to an effective registration statement filed under the U S Securities Act of 1933, as amended, including the Company's initial public offering, you may be prohibited from engaging in any transaction with respect to any of the Company's common stock without the prior written consent of the Company or its underwriters in accordance with the provisions of the Exercise Notice

## **SECTION 13**            **TRANSFER OF OPTION**

Prior to your death, only you may exercise this Option. This Option and the rights and privileges conferred hereby cannot be sold, pledged or otherwise transferred (whether by operation of law or otherwise) and shall not be subject to sale under execution, attachment, levy or similar process. For instance, you may not sell this Option or use it as security for a loan. If you attempt to do any of these things, this Option will immediately become invalid. You may, however, dispose of this Option in your will. Regardless of any marital property settlement agreement, the Company is not obligated to honor an Exercise Notice from your spouse or former spouse, nor is the Company obligated to recognize such individual's interest in your Option in any other way.

## **SECTION 14**            **RETENTION RIGHTS**

This Agreement does not give you the right to be retained by the Company in any capacity. The Company reserves the right to terminate your Service at any time and for any reason without thereby incurring any liability to you.

## **SECTION 15**            **SHAREHOLDER RIGHTS**

Neither you nor your estate or heirs have any rights as a shareholder of the Company until a certificate for the Shares acquired upon exercise of this Option has been issued. No adjustments are made for dividends or other rights if the applicable record date occurs before your stock certificate is issued, except as described in the Plan.

## **SECTION 16**            **ADJUSTMENTS**

In the event of a stock split, a stock dividend or a similar change in the Company's Stock, the number of Shares covered by this Option and the Exercise Price per share may be adjusted pursuant to the Plan. Your Option shall be subject to the terms of the agreement of merger, liquidation or reorganization in the event the Company is subject to such corporate activity as set forth in the Plan.

## **SECTION 17**            **LEGENDS**

All certificates representing the Shares issued upon exercise of this Option shall, where applicable, have endorsed thereon the following legends:

ALTIERRE CORPORATION  
STOCK OPTION AGREEMENT

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED OR QUALIFIED UNDER THE U S SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION, AND MAY BE OFFERED AND SOLD ONLY IF REGISTERED AND QUALIFIED PURSUANT TO THE RELEVANT PROVISIONS OF U S FEDERAL, STATE AND FOREIGN SECURITIES LAWS OR IF THE COMPANY IS PROVIDED AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT REGISTRATION AND QUALIFICATION UNDER U S FEDERAL, STATE AND FOREIGN SECURITIES LAWS IS NOT REQUIRED

THE SECURITIES REPRESENTED BY THIS CERTIFICATE MAY NOT BE SOLD, TRANSFERRED, ENCUMBERED OR IN ANY MANNER DISPOSED OF, EXCEPT IN COMPLIANCE WITH THE TERMS OF A WRITTEN AGREEMENT BETWEEN THE COMPANY AND THE INITIAL HOLDER HEREOF SUCH AGREEMENT PROVIDES FOR CERTAIN TRANSFER RESTRICTIONS, INCLUDING RIGHTS OF FIRST REFUSAL UPON AN ATTEMPTED TRANSFER OF THE SECURITIES AND CERTAIN REPURCHASE RIGHTS IN FAVOR OF THE COMPANY THE SECRETARY OF THE COMPANY WILL UPON WRITTEN REQUEST FURNISH A COPY OF SUCH AGREEMENT TO THE HOLDER HEREOF WITHOUT CHARGE

*If the Option is an ISO then the following legend should be included*

THE SHARES REPRESENTED BY THIS CERTIFICATE WERE ISSUED UPON EXERCISE OF AN INCENTIVE STOCK OPTION, AND THE COMPANY MUST BE NOTIFIED IF THE SHARES SHALL BE TRANSFERRED BEFORE THE LATER OF THE TWO (2) YEAR ANNIVERSARY OF THE DATE OF GRANT OF THE OPTION OR THE ONE (1) YEAR ANNIVERSARY OF THE DATE ON WHICH THE OPTION WAS EXERCISED THE REGISTERED HOLDER MAY RECOGNIZE ORDINARY INCOME IF THE SHARES ARE TRANSFERRED BEFORE SUCH DATE

**SECTION 18**

**APPLICABLE LAW AND TAX DISCLAIMER**

This Agreement will be interpreted and enforced under the laws of the State of California (without regard to their choice of law provisions) You agree that you are responsible for consulting your own tax advisor as to the tax consequences associated with your Option The tax rules governing options are complex, change frequently and depend on the individual taxpayer's situation Although the Company will make available to you general tax information about stock options, you agree that the Company shall not be held liable or responsible for making such information available to you and any tax or financial consequences that you may incur in connection with your Option

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STOCK OPTION AGREEMENT

**SECTION 19****THE PLAN AND OTHER AGREEMENTS**

The text of the Plan is incorporated in this Agreement by reference. Certain capitalized terms used in this Agreement are defined in the Plan. The Notice of Stock Option Grant, this Agreement, including its attachments, and the Plan constitute the entire understanding between you and the Company regarding this Option. Any prior agreements, commitments or negotiations concerning this Option are superseded.



**EXHIBIT A**

**ALTIERRE CORPORATION 2004 STOCK INCENTIVE PLAN  
NOTICE OF EXERCISE AND COMMON STOCK PURCHASE AGREEMENT**

THIS AGREEMENT is dated as of \_\_\_\_\_, \_\_\_\_\_, between Altierre Corporation (the "Company"), and \_\_\_\_\_ ("Purchaser")

**WITNESSETH**

WHEREAS, the Company and Purchaser are parties to a stock option agreement dated as of \_\_\_\_\_ (the "Option Agreement") under which Purchaser has the right to purchase up to \_\_\_\_\_ shares of the Company's common stock (the "Option Shares"), and

WHEREAS, the Option is exercisable with respect to certain of the Option Shares as of the date hereof, and

WHEREAS, pursuant to the Option Agreement, Purchaser desires to purchase shares of the Company as herein described, on the terms and conditions set forth in this Agreement, the Option Agreement and the Altierre Corporation 2004 Stock Incentive Plan (the "Plan") Certain capitalized terms used in this Agreement are defined in the Plan

NOW, THEREFORE, it is agreed between the parties as follows

**SECTION 1 PURCHASE OF SHARES**

- (i) Pursuant to the terms of the Option Agreement, Purchaser hereby agrees to purchase from the Company and the Company agrees to sell and issue to Purchaser \_\_\_\_\_ shares of the Company's common stock (the "Common Stock") for the Exercise Price per share specified in the Option Agreement payable by personal check, cashier's check, money order or otherwise as permitted by the Option Agreement Payment shall be delivered at the Closing, as such term is defined below
- (ii) The closing (the "Closing") under this Agreement shall occur at the offices of the Company as of the date hereof, or such other time and place as may be designated by the Company (the "Closing Date")

**SECTION 2 REPURCHASE RIGHT**

All shares of the Stock purchased by Purchaser pursuant to this Agreement that have not vested under the terms of the Option Agreement, together with any shares of Common Stock issued as a dividend or other distribution on, in exchange for or upon the conversion of such unvested Stock (collectively, the "Subject Shares") shall be subject to the following right of repurchase by the Company (the "Repurchase Right") The Company shall have the right, within ninety (90) days after the termination of Purchaser's services to the Company (the "Termination

ALTIERRE CORPORATION  
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Date”), to purchase from Purchaser all Subject Shares as of the Termination Date. The repurchase price shall be the Exercise Price per share paid by Purchaser for such shares pursuant to this Agreement. For purposes of this Section 2, the date the Company exercises its Repurchase Right shall be deemed to be the Termination Date. The Repurchase Right under this Section 2 shall lapse with respect to the Subject Shares in accordance with the vesting schedule in the Option Agreement.

### **SECTION 3 EXERCISE OF REPURCHASE RIGHT**

The Company shall be deemed to have exercised its Repurchase Right automatically for all Subject Shares as of the Termination Date, unless within ninety (90) days thereafter, the Company notifies the holder of the Subject Shares pursuant to Section 16 that it will not exercise its Repurchase Rights as to some or all of the Subject Shares. The certificate(s) representing the shares to be repurchased shall be delivered to the Company properly endorsed for transfer. The Company shall, concurrently with the receipt of such certificate(s), pay to Purchaser the repurchase price determined according to Section 2, above. The repurchase price shall be paid by certified or cashier’s check or by cancellation of any purchase money indebtedness of Purchaser to the Company.

### **SECTION 4 WAIVER, ASSIGNMENT, EXPIRATION OF REPURCHASE RIGHT**

If the Company waives or fails to exercise the Repurchase Right as to all of the shares subject thereto, the Company may, in the discretion of its Board of Directors, assign the Repurchase Right to any other holder or holders of preferred or common stock of the Company in such proportions as such Board of Directors may determine. In the event of such an assignment, the Board may require that the assignee pay to the Company in cash an amount equal to the fair market value of the Repurchase Right. The Company shall promptly, prior to expiration of the ninety (90) day period referred to in Section 2 above, notify Purchaser of the number of shares subject to the Repurchase Right assigned to such shareholders and shall notify both Purchaser and the assignees of the time, place and date for settlement of such purchase, which must be made within ninety (90) days from the Termination Date. In the event that the Company and/or such assignees do not elect to exercise the Repurchase Right as to all or part of the shares subject to it, the Repurchase Right shall expire as to all shares which the Company and/or such assignees have not elected to purchase.

### **SECTION 5 ESCROW OF SHARES**

- (i) To ensure that Purchaser’s unvested Shares are delivered to the Company upon its exercise of its Repurchase Right, Purchaser agrees at the Closing under this Agreement, to deliver to and deposit with the escrow agent (the “Escrow Agent”) named in the Joint Escrow Instructions attached as Exhibit B, the certificate(s) evidencing the unvested Shares and an Assignment Separate from Certificate executed by Purchaser (with date and number of shares in blank) in the form attached as Exhibit C. The certificate(s) evidencing the unvested Shares and the Assignment Separate from Certificate shall be delivered to the Escrow Agent and

held under the Joint Escrow Instructions, which shall be delivered to the Escrow Agent at the Closing under this Agreement

- (ii) Within thirty (30) days after the last day of each successive completed calendar quarter after the Closing Date, if Purchaser so requests, the Escrow Agent shall deliver to Purchaser certificates representing so many shares of Common Stock as are no longer subject to the Repurchase Right (less such shares as have been previously delivered) Ninety (90) days after the Termination Date, the Company shall direct the Escrow Agent to deliver to Purchaser a certificate or certificates representing the number of shares not repurchased by the Company or its assignees pursuant to exercise of the Repurchase Right (less such shares as have been previously delivered)

## **SECTION 6 ADJUSTMENT OF SHARES**

Subject to the provisions of the Articles of Incorporation of the Company, if (a) there is any stock dividend or liquidating dividend of cash and/or property, stock split or other change in the character or amount of any of the outstanding securities of the Company, or (b) there is any consolidation, merger or sale of all or substantially all of the assets of the Company, then, in such event, any and all new, substituted or additional securities or other property to which Purchaser is entitled by reason of Purchaser's ownership of the shares shall be immediately subject to the Repurchase Right and the Right of First Refusal, as defined below, with the same force and effect as the shares subject to the Repurchase Right and the Right of First Refusal While the total repurchase price shall remain the same after each such event, the repurchase price per share upon exercise of the Repurchase Right shall be appropriately and equitably adjusted as determined by the Board of Directors of the Company Appropriate adjustments shall also be made to the number and/or class of shares subject to the Repurchase Right and the Right of First Refusal to reflect the exchange or distribution of such securities In the event of a merger or consolidation of the Company with or into another entity or any other corporate reorganization, the Repurchase Right and Right of First Refusal may be exercised by the Company's successor

## **SECTION 7 THE COMPANY'S RIGHT OF FIRST REFUSAL**

Before any shares of Common Stock registered in the name of Purchaser may be sold or transferred, such shares shall first be offered to the Company as follows (the "Right of First Refusal")

- (i) Purchaser shall promptly deliver a notice ("Notice") to the Company stating (i) Purchaser's bona fide intention to sell or transfer such shares, (ii) the number of such shares to be sold or transferred, and the basic terms and conditions of such sale or transfer, (iii) the price for which Purchaser proposes to sell or transfer such shares, (iv) the name of the proposed purchaser or transferee, and (v) proof satisfactory to the Company that the proposed sale or transfer will not violate any applicable U S federal, state or foreign securities laws The Notice shall be signed by both Purchaser and the proposed purchaser or transferee and must

constitute a binding commitment subject to the Company's Right of First Refusal as set forth herein

- (ii) Within thirty (30) days after receipt of the Notice, the Company may elect to purchase all or any portion of the shares to which the Notice refers, at the price per share specified in the Notice. If the Company elects not to purchase all or any portion of the shares, the Company may assign its right to purchase all or any portion of the shares. The assignees may elect within thirty (30) days after receipt by the Company of the Notice to purchase all or any portion of the shares to which the Notice refers, at the price per share specified in the Notice. An election to purchase shall be made by written notice to Purchaser. Payment for shares purchased pursuant to this Section 7 shall be made within thirty (30) days after receipt of the Notice by the Company and, at the option of the Company, may be made by cancellation of all or a portion of outstanding indebtedness, if any, or in cash or both.
- (iii) If all or any portion of the shares to which the Notice refers are not elected to be purchased, as provided in subparagraph 7(b), Purchaser may sell those shares to any person named in the Notice at the price specified in the Notice, provided that such sale or transfer is consummated within sixty (60) days of the date of said Notice to the Company, and provided, further, that any such sale is made in compliance with applicable U.S. federal, state and foreign securities laws and not in violation of any other contractual restrictions to which Purchaser is bound. The third-party purchaser shall be bound by, and shall acquire the shares of stock subject to, the provisions of this Agreement, including the Company's Right of First Refusal.
- (iv) Any proposed transfer on terms and conditions different from those set forth in the Notice, as well as any subsequent proposed transfer shall again be subject to the Company's Right of First Refusal and shall require compliance with the procedures described in this Section 7.
- (v) Purchaser agrees to cooperate affirmatively with the Company, to the extent reasonably requested by the Company, to enforce rights and obligations pursuant to this Agreement.
- (vi) Notwithstanding the above, neither the Company nor any assignee of the Company under this Section 7 shall have any right under this Section 7 at any time subsequent to the closing of a public offering of the common stock of the Company pursuant to a registration statement declared effective under the U.S. Securities Act of 1933, as amended (the "Securities Act").
- (vii) This Section 7 shall not apply to (i) a transfer by will or intestate succession, or (ii) a transfer to one or more members of Purchaser's Immediate Family (defined below) or to a trust established by Purchaser for the benefit of Purchaser and/or one or more members of Purchaser's Immediate Family, provided that the

transferee agrees in writing on a form prescribed by the Company to be bound by all of the provisions of this Agreement to the same extent as they apply to Purchaser. The transferee shall execute a copy of the attached Exhibit D and file the same with the Secretary of the Company.

#### **SECTION 8 PURCHASER'S RIGHTS AFTER EXERCISE OF REPURCHASE RIGHT OR RIGHT OF FIRST REFUSAL**

If the Company makes available, at the time and place and in the amount and form provided in this Agreement, the consideration for the Common Stock to be repurchased in accordance with the provisions of Sections 2 and 7 of this Agreement, then from and after such time the person from whom such shares are to be repurchased shall no longer have any rights as a holder of such shares (other than the right to receive payment of such consideration in accordance with this Agreement). Such shares shall be deemed to have been repurchased in accordance with the applicable provisions hereof, whether or not the certificate(s) therefor have been delivered as required by this Agreement.

#### **SECTION 9 TRANSFER BY PURCHASER TO CERTAIN PEOPLE**

- (i) Notwithstanding anything herein to the contrary, Purchaser may not transfer, assign, encumber or otherwise dispose of any Subject Shares without the Company's written consent, except that Purchaser may transfer Subject Shares to one or more members of Purchaser's Immediate Family (as defined below), or to a trust established by Purchaser for the benefit of Purchaser and/or one or more members of Purchaser's Immediate Family, provided that the transferee agrees in writing on a form prescribed by the Company to be bound by all of the provisions of this Agreement to the same extent as they apply to Purchaser. The transferee shall execute a copy of Exhibit D and file the same with the Secretary of the Company.
- (ii) For purposes of this Agreement, Immediate Family means any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law, and shall include adoptive relationships.

#### **SECTION 10 LEGEND OF SHARES**

All certificates representing the Common Stock purchased under this Agreement shall, where applicable, have endorsed thereon the following legends and any other legends required by applicable securities laws.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED OR QUALIFIED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE OR FOREIGN JURISDICTION, AND MAY BE OFFERED AND SOLD ONLY IF REGISTERED AND QUALIFIED PURSUANT TO THE RELEVANT

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PROVISIONS OF U S FEDERAL AND STATE AND APPLICABLE FOREIGN SECURITIES LAWS OR IF THE COMPANY IS PROVIDED AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT REGISTRATION AND QUALIFICATION UNDER U S FEDERAL AND STATE AND APPLICABLE FOREIGN SECURITIES LAWS IS NOT REQUIRED

THE SECURITIES REPRESENTED BY THIS CERTIFICATE MAY NOT BE SOLD, TRANSFERRED, ENCUMBERED OR IN ANY MANNER DISPOSED OF, EXCEPT IN COMPLIANCE WITH THE TERMS OF A WRITTEN AGREEMENT BETWEEN THE COMPANY AND THE INITIAL HOLDER HEREOF SUCH AGREEMENT PROVIDES FOR CERTAIN TRANSFER RESTRICTIONS, INCLUDING RIGHTS OF FIRST REFUSAL UPON AN ATTEMPTED TRANSFER OF THE SECURITIES AND CERTAIN REPURCHASE RIGHTS IN FAVOR OF THE COMPANY THE SECRETARY OF THE COMPANY WILL UPON WRITTEN REQUEST FURNISH A COPY OF SUCH AGREEMENT TO THE HOLDER HEREOF WITHOUT CHARGE

*If the Option is an ISO then the following legend should be included*

THE SHARES REPRESENTED BY THIS CERTIFICATE WERE ISSUED UPON EXERCISE OF AN INCENTIVE STOCK OPTION, AND THE COMPANY MUST BE NOTIFIED IF THE SHARES SHALL BE TRANSFERRED BEFORE THE LATER OF THE TWO (2) YEAR ANNIVERSARY OF THE DATE OF GRANT OF THE OPTION OR THE ONE (1) YEAR ANNIVERSARY OF THE DATE ON WHICH THE OPTION WAS EXERCISED THE REGISTERED HOLDER MAY RECOGNIZE ORDINARY INCOME IF THE SHARES ARE TRANSFERRED BEFORE SUCH DATE

#### **SECTION 11 PURCHASER'S INVESTMENT REPRESENTATIONS**

- (i) This Agreement is made with Purchaser in reliance upon Purchaser's representation to the Company, which by Purchaser's acceptance hereof Purchaser confirms, that the Common Stock which Purchaser will receive will be acquired with Purchaser's own funds for investment for an indefinite period for Purchaser's own account, not as a nominee or agent, and not with a view to the sale or distribution of any part thereof, and that Purchaser has no present intention of selling, granting participation in, or otherwise distributing the same, but subject, nevertheless, to any requirement of law that the disposition of Purchaser's property shall at all times be within Purchaser's control By executing this Agreement, Purchaser further represents that Purchaser does not have any contract, understanding or agreement with any person to sell, transfer, or grant participation to such person or to any third person, with respect to any of the Common Stock

- (ii) Purchaser understands that the Common Stock will not be registered or qualified under applicable U S federal, state or foreign securities laws on the ground that the sale provided for in this Agreement is exempt from registration or qualification under applicable U S federal, state or foreign securities laws and that the Company's reliance on such exemption is predicated on Purchaser's representations set forth herein
- (iii) Purchaser agrees that in no event shall Purchaser make a disposition of any of the Common Stock (including a disposition under Section 9 of this Agreement), unless and until (i) Purchaser shall have notified the Company of the proposed disposition and shall have furnished the Company with a statement of the circumstances surrounding the proposed disposition and (ii) Purchaser shall have furnished the Company with an opinion of counsel satisfactory to the Company to the effect that (A) such disposition will not require registration or qualification of such Common Stock under applicable U S federal, state or foreign securities laws or (B) appropriate action necessary for compliance with the U S federal, state or foreign securities laws has been taken or (iii) the Company shall have waived, expressly and in writing, its rights under clauses (i) and (ii) of this Section
- (iv) With respect to a transaction occurring prior to such date as the Plan and Common Stock thereunder are covered by a valid Form S-8 or similar U S federal registration statement, this Subsection shall apply unless the transaction is covered by the exemption in California Corporations Code section 25102(o) or a similar broad-based exemption In connection with the investment representations made herein, Purchaser represents that Purchaser is able to fend for himself or herself in the transactions contemplated by this Agreement, has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of Purchaser's investment, has the ability to bear the economic risks of Purchaser's investment and has been furnished with and has had access to such information as would be made available in the form of a registration statement together with such additional information as is necessary to verify the accuracy of the information supplied and to have all questions answered by the Company
- (v) Purchaser understands that if the Company does not register with the Securities and Exchange Commission pursuant to section 12 of the U S Securities Exchange Act of 1934, as amended, or if a registration statement covering the Common Stock (or a filing pursuant to the exemption from registration under Regulation A of the Securities Act) under the Securities Act is not in effect when Purchaser desires to sell the Common Stock, Purchaser may be required to hold the Common Stock for an indeterminate period Purchaser also acknowledges that Purchaser understands that any sale of the Common Stock which might be made by Purchaser in reliance upon Rule 144 under the Securities Act may be made only in limited amounts in accordance with the terms and conditions of that Rule

## **SECTION 12 NO DUTY TO TRANSFER IN VIOLATION OF THIS AGREEMENT**

The Company shall not be required (a) to transfer on its books any shares of Common Stock of the Company which shall have been sold or transferred in violation of any of the provisions set forth in this Agreement or (b) to treat as owner of such shares or to accord the right to vote as such owner or to pay dividends to any transferee to whom such shares shall have been so transferred

## **SECTION 13 RIGHTS OF PURCHASER.**

- (i) Except as otherwise provided herein, Purchaser shall, during the term of this Agreement, exercise all rights and privileges of a shareholder of the Company with respect to the Common Stock
- (ii) Nothing in this Agreement shall be construed as a right by Purchaser to be retained by the Company, or a parent or subsidiary of the Company in any capacity. The Company reserves the right to terminate Purchaser's Service at any time and for any reason without thereby incurring any liability to Purchaser

## **SECTION 14 RESALE RESTRICTIONS/MARKET STAND-OFF**

Purchaser hereby agrees that in connection with any underwritten public offering by the Company of its equity securities pursuant to an effective registration statement filed under the Securities Act, including the Company's initial public offering, Purchaser shall not, directly or indirectly, engage in any transaction prohibited by the underwriter, or sell, make any short sale of, contract to sell, transfer the economic risk of ownership in, loan, hypothecate, pledge, grant any option for the purchase of, or otherwise dispose or transfer for value or agree to engage in any of the foregoing transactions with respect to any Common Stock without the prior written consent of the Company or its underwriters, for such period of time after the effective date of such registration statement as may be requested by the Company or such underwriters. Such period of time shall not exceed one hundred eighty (180) days, provided, however, that if either (a) during the last seventeen (17) days of such one hundred eighty (180) day period, the Company issues an earnings release or material news or a material event relating to the Company occurs or (b) prior to the expiration of such one hundred eighty (180) day period, the Company announces that it will release earnings results during the sixteen (16) day period beginning on the last day of the one hundred eighty (180) day period, then the restrictions imposed during such one hundred eighty (180) day period shall continue to apply until the expiration of the eighteen (18) day period beginning on the issuance of the earnings release or the occurrence of the material news or material event, and provided, further, that in the event the Company or the underwriter requests that the one hundred eighty (180) day period be extended or modified pursuant to then-applicable law, rules, regulations or trading policies, the restrictions imposed during the one hundred eighty (180) day period shall continue to apply to the extent requested by the Company or the underwriter to comply with such law, rules, regulations or trading policies. Purchaser hereby agrees to execute and deliver such other agreements as may be reasonably requested by the Company or the underwriter which are consistent with the foregoing or which are necessary to give further effect thereto. To enforce the provisions of this Section, the



Company may impose stop-transfer instructions with respect to the Common Stock until the end of the applicable stand-off period

#### **SECTION 15 OTHER NECESSARY ACTIONS**

The parties agree to execute such further instruments and to take such further action as may reasonably be necessary to carry out the intent of this Agreement

#### **SECTION 16 NOTICE**

Any notice required or permitted under this Agreement shall be given in writing and shall be deemed effectively given upon the earliest of personal delivery, receipt or the third full day following deposit in the United States Post Office with postage and fees prepaid, addressed to the other party hereto at the address last known or at such other address as such party may designate by ten (10) days' advance written notice to the other party hereto

#### **SECTION 17 SUCCESSORS AND ASSIGNS**

This Agreement shall inure to the benefit of the successors and assigns of the Company and, subject to the restrictions on transfer herein set forth, be binding upon Purchaser and Purchaser's heirs, executors, administrators, successors and assigns. The failure of the Company in any instance to exercise the Repurchase Right or Right of First Refusal described herein shall not constitute a waiver of any other Repurchase Right or Right of First Refusal that may subsequently arise under the provisions of this Agreement. No waiver of any breach or condition of this Agreement shall be deemed to be a waiver of any other or subsequent breach or condition, whether of a like or different nature

#### **SECTION 18 APPLICABLE LAW**

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California, as such laws are applied to contracts entered into and performed in such state

#### **SECTION 19 NO STATE QUALIFICATION**

THE SALE OF THE SECURITIES WHICH ARE THE SUBJECT OF THIS AGREEMENT HAS NOT BEEN QUALIFIED WITH THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA, AND THE ISSUANCE OF SUCH SECURITIES OR THE PAYMENT OR RECEIPT OF ANY PART OF THE CONSIDERATION THEREFOR PRIOR TO SUCH QUALIFICATION IS UNLAWFUL, UNLESS THE SALE OF SECURITIES IS EXEMPT FROM QUALIFICATION BY SECTION 25100, 25102 OR 25105 OF THE CALIFORNIA CORPORATIONS CODE. THE RIGHTS OF ALL PARTIES TO THIS AGREEMENT ARE EXPRESSLY CONDITIONED UPON SUCH QUALIFICATION BEING OBTAINED, UNLESS THE SALE IS SO EXEMPT

**SECTION 20   NO ORAL MODIFICATION**

No modification of this Agreement shall be valid unless made in writing and signed by the parties hereto

**SECTION 21   ENTIRE AGREEMENT**

This Agreement, the Option Agreement and the Plan constitute the entire complete and final agreement between the parties hereto with regard to the subject matter hereof

[Remainder of this page intentionally left blank ]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written

ALTIERRE CORPORATION

\_\_\_\_\_ (PURCHASER)

By \_\_\_\_\_  
Print Name \_\_\_\_\_  
Title \_\_\_\_\_

\_\_\_\_\_  
Signature

ALTIERRE CORPORATION  
EXHIBIT A TO STOCK OPTION AGREEMENT  
NOTICE OF EXERCISE AND COMMON STOCK PURCHASE AGREEMENT

## **EXHIBIT B**

### **JOINT ESCROW INSTRUCTIONS**

\_\_\_\_\_, \_\_\_\_\_

To Secretary  
Altierre Corporation  
1980 Concourse Drive  
San Jose, CA 95131

Dear Sir or Madam

As Escrow Agent for Altierre Corporation (the "Company"), and \_\_\_\_\_ (the "Purchaser"), you are authorized and directed to hold the Assignment Separate from Certificate form(s) executed by Purchaser and the certificate(s) of stock representing Purchaser's unvested shares purchased in accordance with the terms of the notice of exercise and common stock purchase agreement (the "Agreement") and stock option agreement (the "Option Agreement") entered into between the Company and Purchaser, in accordance with the following instructions

1 In the event that the Company elects to exercise the Repurchase Right as described in Section 2 of the Agreement, Purchaser and the Company hereby irrevocably authorize and direct you to close the transaction contemplated, and to promptly deliver the stock certificates

2 At the closing, you are directed (a) to date the Assignment Separate from Certificate form(s) necessary for the transfer in question, (b) to fill in the number of shares being transferred, and (c) to deliver the form(s), together with the certificate or certificates evidencing the shares to be transferred, to the Company. The Company shall simultaneously deliver to you the repurchase price for the number of shares being purchased pursuant to the exercise of the Repurchase Right

3 Purchaser irrevocably authorizes the Company to deposit with you any certificates evidencing shares to be held by you under this letter and any additions and substitutions to the shares as defined in the Agreement. Purchaser irrevocably appoints you as his or her attorney-in-fact and agent for the term of this escrow to execute, with respect to the shares of stock, all documents necessary or appropriate to make such securities negotiable and to complete any transaction contemplated by these Joint Escrow Instructions. Subject to the provisions of this Section 3, Purchaser shall exercise all rights and privileges, including but not limited to, the right to vote and to receive dividends (if any), of a shareholder of the Company while the shares are held by you

4 In accordance with the terms of Section 5 of the Agreement, you may, from time to time, deliver to Purchaser a certificate or certificates representing shares that are no longer subject to the Repurchase Right

ALTIERRE CORPORATION  
EXHIBIT B TO STOCK OPTION AGREEMENT  
JOINT ESCROW INSTRUCTIONS

5 This escrow shall terminate upon the release of all shares held under the terms and provisions hereof

6 If at the time of termination of this escrow you should have in your possession any documents, securities or other property belonging to Purchaser, you shall deliver them to Purchaser and shall be discharged from all further obligations under these Joint Escrow Instructions

7 Your duties under these Joint Escrow Instructions may be altered, amended, modified or revoked only by a writing signed by all of the parties

8 You shall be obligated to perform the duties described in these Joint Escrow Instructions and shall be protected in relying or refraining from acting on any instrument reasonably believed by you to be genuine and to have been signed or presented by the proper party or parties. You shall not be personally liable for any act or omission as Escrow Agent or as attorney-in-fact of Purchaser while acting in good faith and in the exercise of your own good judgment, and any act or omission by you pursuant to the advice of your own attorneys shall be conclusive evidence of such good faith

9 You are expressly authorized to disregard any and all warnings given by any of the parties hereto or by any other person or corporation, excepting only orders or process of courts of law, and are expressly authorized to comply with and obey orders, judgments or decrees of any court. In case you obey or comply with any such order, judgment or decree of any court, you shall not be liable to any of the parties under these Joint Escrow Instructions or to any other person, firm or corporation by reason of such compliance, notwithstanding any such order, judgment or decree being subsequently reversed, modified, annulled, set aside, vacated or found to have been entered without jurisdiction

10 You shall not be liable in any respect on account of the identity, authority or rights of the parties executing or delivering or purporting to execute or deliver the Agreement or any documents or papers deposited or called for under these Joint Escrow Instructions

11 You shall not be liable for the outlawing of any rights under any statute of limitations with respect to these Joint Escrow Instructions or any documents deposited with you

12 You shall be entitled to employ such legal counsel and other experts as you may deem necessary properly to advise you in connection with your obligations under these Joint Escrow Instructions and may rely upon the advice of such counsel

13 Your responsibilities as Escrow Agent under these Joint Escrow Instructions shall terminate if you shall cease to be employed by the Company or if you shall resign by written notice to each party. In the event of any such termination, the Company shall appoint any officer of the Company as successor Escrow Agent

14 If you reasonably require other or further instruments in connection with these Joint Escrow Instructions or obligations under these Joint Escrow Instructions, the parties shall furnish such instruments

15 It is understood and agreed that should any dispute arise with respect to the delivery and/or ownership or right of possession of the securities held by you under these Joint Escrow Instructions, you are authorized and directed to retain in your possession without liability to anyone all or any part of the securities until the dispute is settled either by mutual written agreement of the parties or by a final order, decree or judgment of a court of competent jurisdiction after the time for appeal has expired and no appeal has been perfected. You are under no duty whatsoever to institute or defend against any such proceedings

16 Any notice required or permitted under these Joint Escrow Instructions shall be given in writing and will be deemed effectively given upon personal delivery or upon deposit in the United States Post Office, by registered or certified mail with postage and fees prepaid, addressed to each of the other parties

17 By signing these Joint Escrow Instructions, you become a party only for the purpose of these Joint Escrow Instructions, you do not become a party to the Agreement

18 This instrument shall be governed by and construed in accordance with the laws of the State of California

19 This instrument shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns

Very truly yours,

ALTIERRE CORPORATION

By \_\_\_\_\_  
Print Name Sunit Saxena  
Title CEO

ESCROW AGENT \_\_\_\_\_ (PURCHASER)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

**INSTRUCTIONS YOU MUST SIGN THIS LETTER IF YOU ARE EXERCISING PRIOR TO VESTING ("EARLY EXERCISE") IF YOU ARE NOT EARLY EXERCISING, DO NOT COMPLETE THIS FORM**

ALTIERRE CORPORATION  
EXHIBIT B TO STOCK OPTION AGREEMENT  
JOINT ESCROW INSTRUCTIONS

## EXHIBIT C

### ASSIGNMENT SEPARATE FROM CERTIFICATE

FOR VALUE RECEIVED, \_\_\_\_\_ sells, assigns and transfers to Altierre Corporation (the "Company") or its assignee \_\_\_\_\_ (\_\_\_\_\_) shares of the Common Stock of the Company (the "Shares"), standing in his or her name on the books of the Company represented by Certificate No \_\_\_\_\_ and irrevocably constitutes and appoints \_\_\_\_\_ as Attorney to transfer the Shares on the books of the Company with full power of substitution in the premises

Dated \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Optionee)

\_\_\_\_\_  
(Signature)

#### Spousal Consent (if applicable)

\_\_\_\_\_ (Purchaser's spouse) indicates by the execution of this Assignment his or her consent to be bound by the terms herein as to his or her interests, whether as community property or otherwise, if any, in the Shares

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

**INSTRUCTIONS YOU MUST SIGN THIS FORM IF YOU ARE EXERCISING PRIOR TO VESTING ("EARLY EXERCISE") IF YOU ARE NOT EARLY EXERCISING, DO NOT COMPLETE THIS FORM PLEASE DO NOT FILL IN ANY BLANKS OTHER THAN THE SIGNATURE LINE THE PURPOSE OF THIS ASSIGNMENT IS TO ENABLE THE COMPANY TO EXERCISE ITS "REPURCHASE RIGHT" SET FORTH IN THE NOTICE OF EXERCISE AND COMMON STOCK PURCHASE AGREEMENT WITHOUT REQUIRING ADDITIONAL SIGNATURES**

ALTIERRE CORPORATION  
EXHIBIT C TO STOCK OPTION AGREEMENT  
ASSIGNMENT SEPARATE FROM CERTIFICATE

**EXHIBIT D**

**ACKNOWLEDGMENT OF AND AGREEMENT TO BE BOUND  
BY THE NOTICE OF EXERCISE AND COMMON STOCK PURCHASE AGREEMENT  
OF  
ALTIERRE CORPORATION**

The undersigned, as transferee of shares of Altierre Corporation hereby acknowledges that he or she has read and reviewed the terms of the Notice of Exercise and Common Stock Purchase Agreement of Altierre Corporation and hereby agrees to be bound by the terms and conditions thereof, as if the undersigned had executed said Agreement as an original party thereto

Dated \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Signature of Transferee)

\_\_\_\_\_  
(Printed Name of Transferee)



## **EXHIBIT E**

### **STEP-BY-STEP INSTRUCTIONS TO MAKE A SECTION 83(b) ELECTION**

**WORD OF CAUTION IF YOU CHOOSE TO FILE A SECTION 83(b) ELECTION, YOU MUST FILE YOUR SECTION 83(b) ELECTION FORM WITH THE IRS NO LATER THAN 30 DAYS FOLLOWING THE DATE ON WHICH YOU SIGN THE NOTICE OF EXERCISE (EXHIBIT A) AND PAY THE EXERCISE PRICE. THE 30-DAY DEADLINE IS ABSOLUTE AND CANNOT BE WAIVED UNDER ANY CIRCUMSTANCES. ALSO, ONCE FILED, YOUR SECTION 83(b) ELECTION FORM MAY NOT BE REVOKED, EXCEPT WITH THE CONSENT OF THE IRS (WHICH CONSENT IS GENERALLY DENIED).**

**THESE INSTRUCTIONS ARE DISTRIBUTED MERELY FOR CONVENIENCE IN THE EVENT YOU CHOOSE TO FILE AN 83(b) ELECTION. THEY SHOULD NOT BE RELIED UPON BY ANY PERSON IN DECIDING WHETHER OR WHEN TO EXERCISE AN OPTION OR TO MAKE AN 83(b) ELECTION. EACH PERSON SHOULD CONSULT HIS OR HER OWN TAX ADVISOR REGARDING THESE MATTERS.**

- Step 1** Complete and execute the 83(b) Form found on page E-4 of this Exhibit E (the "83(b) Form"). Do not fill in the blank in paragraph 6, which relates to the fair market value of the property at the time of transfer. Submit the 83(b) Form to the Company and ask that the Company insert the per share fair market value of the shares in paragraph 6 of the 83(b) Form.
- Step 2** Make four copies of the executed and completed 83(b) Form.
- Step 3** Mail (a) the cover letter on page E-3, (b) the original executed 83(b) Form on page E-4, and (c) if you are exercising an ISO, the Special Election Form on page E-5 to the Internal Revenue Service Center where you file your U S federal income tax return.

**PLEASE NOTE THAT IF YOU ARE EXERCISING AN ISO FOR UNVESTED SHARES, AN 83(b) ELECTION WILL NOT BE EFFECTIVE TO LIMIT THE AMOUNT OF ORDINARY INCOME THAT YOU MAY BE REQUIRED TO RECOGNIZE ON A DISQUALIFYING DISPOSITION, ACCORDING TO U S TREASURY REGULATIONS. PLEASE SEE SUMMARY OF U S FEDERAL TAX INFORMATION AT EXHIBIT F AND CONSULT YOUR TAX ADVISOR WITH RESPECT TO THE EARLY EXERCISE OF AN ISO.**

The tax, if any, arising out of your election does not have to be paid until you file your tax return for the taxable year in which you purchased your option shares (except to the extent that withholding taxes or estimated taxes are payable). The forms must be filed no later than 30 days following the date on which you sign the Notice of Exercise (Exhibit A) and pay the exercise price. *The 30-day deadline is absolute and cannot be waived under any circumstances.* The filing is deemed to be made on the date that the forms are mailed from the post office, i.e., the postmark date. Mail the forms by registered or certified mail, return receipt requested, so that you have proof that you filed the forms within the 30-day period. If you miss the deadline, you will be taxed on your option shares as they vest based on the value of the shares at that time. Your 83(b) filing with the Internal Revenue Service is deemed to cause a similar election with the California Franchise Tax Board for California income tax purposes. If you do not reside in California, you should seek local tax advice on whether you must make a separate filing with your state of residence.

- Step 4** Mail or submit a copy of the filing with the Company on the same day that you file the 83(b) Form, and make sure that you retain copies of the forms for your records and for filing with your tax returns (see Step 5).
- Step 5** File copies of the forms with your U.S. federal tax (and state tax, if appropriate) returns for the taxable year in which you purchased your option shares.

\_\_\_\_\_(Optionee)  
[Optionee's Address]

[Date]

VIA CERTIFIED MAIL

Return Receipt Requested  
Receipt [enter receipt # here]

Internal Revenue Service Center  
[Appropriate IRS center address]

**Re Election Under Section 83(b) of the Internal Revenue Code**

Ladies and Gentlemen

Enclosed please find an executed form of election under Section 83(b) of the Internal Revenue Code of 1986 relating to the issuance of \_\_\_\_\_ shares of Altierre Corporation Common Stock

Also enclosed is a copy of the 83(b) election and a stamped, self-addressed envelope. Please acknowledge receipt of these materials by stamping the enclosed copy of the 83(b) election with the date of receipt and returning it to me.

Thank you for your attention to this matter.

Very truly yours,

\_\_\_\_\_(Optionee)

Enclosures

cc Altierre Corporation w/ encls

## SECTION 83(b) ELECTION

This statement is being made under Section 83(b) of the Internal Revenue Code of 1986, pursuant to Treasury Regulation section 1.83-2

1 The taxpayer who performed the services is

Name of Optionee \_\_\_\_\_

Optionee's Address \_\_\_\_\_

Optionee's Social Security Number \_\_\_\_\_

2 The property with respect to which the election is being made is \_\_\_\_\_ shares of common stock of Altierre Corporation, a California corporation (the "Company")

3 The property was transferred on \_\_\_\_\_, 200\_\_ (Date of Exercise)

4 The taxable year in which the election is being made is the calendar year 200\_\_

5 If for any reason the taxpayer's service with the issuer is terminated, the property is subject to a repurchase right pursuant to which the issuer has the right to acquire the property at the original purchase price without interest. The issuer's repurchase right lapses in a series of installments over a \_\_\_\_\_ year period

6 The Fair Market Value of the property at the time of transfer (determined without regard to any restriction other than a restriction which by its terms will never lapse) is \$\_\_\_\_\_ per share

7 The amount paid for such property is \$\_\_\_\_\_

8 A copy of this statement was furnished to the Company for whom the taxpayer rendered the service underlying the transfer of property

9 This statement is executed as of \_\_\_\_\_, 200\_\_

\_\_\_\_\_  
Spouse (if any)

\_\_\_\_\_  
Taxpayer

**SPECIAL PROTECTIVE ELECTION PURSUANT TO SECTION 83(b)  
OF THE INTERNAL REVENUE CODE WITH RESPECT TO PROPERTY  
ACQUIRED UPON EXERCISE OF AN INCENTIVE STOCK OPTION**

The property described in the above Section 83(b) election is comprised of shares of common stock acquired pursuant to the exercise of an Incentive Stock Option under Section 422 of the Internal Revenue Code of 1986, as amended (the "Code"). Accordingly, it is the intent of the Taxpayer to utilize this election to have the alternative minimum taxable income attributable to the purchased shares measured by the amount by which the fair market value of such shares at the time of their transfer to the Taxpayer exceeds the purchase price paid for the shares. In the absence of this election, such alternative minimum taxable income would be measured by the spread between the fair market value of the purchased shares and the purchase price which exists on the various lapse dates in effect for the forfeiture restrictions applicable to such shares.

This election is intended to be effective to the full extent permitted under the Code.

## **EXHIBIT F**

### **U S FEDERAL TAX INFORMATION**

(Current as of November 2004)

The following memorandum briefly summarizes current U S federal income tax law. The discussion is intended to be used solely for general information purposes and does not make specific representations to any participant. A taxpayer's particular situation may be such that some variation of the basic rules is applicable to him or her. In addition, the U S federal income tax laws and regulations are revised frequently and may change again in the future. Each participant is urged to consult a tax advisor, both with respect to U S federal income tax consequences as well as any foreign, state or local tax consequences, before exercising any option or before disposing of any shares of stock acquired under the Plan.

#### **Initial Grant of Options**

The grant of an option, whether a nonqualified or nonstatutory stock option ("NSO") or an incentive stock option ("ISO"), is not a taxable event for the optionee, and the Company obtains no deduction for the grant of the option. Note, however, that options granted at a discount from fair market value may be considered "deferred compensation" subject to new tax law requirements generally effective January 1, 2005. The new tax law imposes penalties on taxpayers with respect to deferred compensation arrangements that do not comply with the new requirements.

#### **Nonqualified or Nonstatutory Stock Options**

The exercise of an NSO is a taxable event to the optionee. The amount by which the fair market value of the shares on the date of exercise exceeds the exercise price (the "spread") will be taxed to the optionee as ordinary income. The spread will also be considered "wages" for purposes of FICA taxes. The Company will be entitled to a deduction in the same amount as the ordinary income recognized by the optionee from the exercise of the option that is reported to the IRS by the optionee or the Company. In general, the optionee's tax basis in the shares acquired by exercising an NSO is equal to the fair market value of such shares on the date of exercise. Upon a subsequent sale of any such shares in a taxable transaction, the optionee will realize capital gain or loss (long-term or short-term, depending on whether the shares were held for the required holding period before the sale) in an amount equal to the difference between his or her basis in the shares and the sale price.

The capital gains holding periods are complex. If shares are held for more than one year, the maximum tax rate on the gain is currently fifteen percent (15%) for gain recognized on or after May 6, 2003, and before January 1, 2009. Because the rules are complex and can vary in individual circumstances, each participant should consider consulting his or her own tax advisor.

If an optionee exercises an NSO and pays the exercise price with previously acquired shares of stock, special rules apply. The transaction is treated as a tax-free exchange of the old shares for the same number of new shares, except as described below with respect to shares acquired pursuant to ISOs. The optionee's basis in the new shares is the same as his or her basis in the old shares, and the capital gains holding period runs without interruption from the date when the old shares were acquired. The value of any new shares received by the optionee in excess of the number of old shares surrendered minus any cash the optionee pays for the new shares will be taxed as ordinary income. The optionee's basis in the additional shares is equal to the fair market value of such shares on the date the shares were transferred, and the capital gain holding period commences on the same date. The effect of these rules is to defer recognition of any gain in the old shares when those shares are used to buy new shares. Stated differently, these rules allow an optionee to finance the exercise of an NSO by using shares of stock that he or she already owns, without paying current tax on any unrealized appreciation in those old shares.

### **Incentive Stock Options**

The holder of an ISO will not be subject to U.S. federal income tax upon the exercise of the ISO, and the Company will not be entitled to a tax deduction by reason of such exercise, provided that the holder is employed by the Company on the exercise date (or the holder's employment terminated within the three (3) months preceding the exercise date). Exceptions to this exercise timing requirement apply in the event the optionee dies or becomes disabled. A subsequent sale of the shares received upon the exercise of an ISO will result in the realization of long-term capital gain or loss in the amount of the difference between the amount realized on the sale and the exercise price for such shares, provided that the sale occurs more than one (1) year after the exercise of the ISO and more than two (2) years after the grant of the ISO. In general, if a sale or disposition of the shares occurs prior to satisfaction of the foregoing holding periods (referred to as a "disqualifying disposition"), the optionee will recognize ordinary income and the Company will be entitled to a corresponding deduction, generally equal to the amount of ordinary income recognized by the optionee from the disqualifying disposition that is reported to the IRS by the optionee or the Company.

Favorable tax treatment is accorded to an optionee only to the extent that the value of the shares (determined at the time of grant) covered by an ISO first exercisable in any single calendar year does not exceed one hundred thousand dollars (\$100,000). If ISOs for shares whose aggregate value exceeds one hundred thousand dollars (\$100,000) become exercisable in the same calendar year, the excess will be treated as NSOs.

A special rule applies if an optionee pays all or part of the exercise price of an ISO by surrendering shares of stock that he or she previously acquired by exercising any other ISO. If the optionee has not held the old shares for the full duration of the applicable holding periods, then the surrender of such shares to fund the exercise of the new ISO will be treated as a disqualifying disposition of the old shares. As described above, the result of a disqualifying disposition is the loss of favorable tax treatment with respect to the acquisition of the old shares pursuant to the previously exercised ISO.

Where the applicable holding period requirements have been met, the use of previously acquired shares of stock to pay all or a portion of the exercise price of an ISO may offer significant tax advantages. In particular, a deferral of the recognition of any appreciation in the surrendered shares is available in the same manner as discussed above with respect to NSOs.

### **Alternative Minimum Tax**

Alternative minimum tax is paid when such tax exceeds a taxpayer's regular U.S. federal income tax. Alternative minimum tax is calculated based on alternative minimum taxable income, which is taxable income for U.S. federal income tax purposes, modified by certain adjustments and increased by tax preference items.

The "spread" under an ISO—that is, the difference between (a) the fair market value of the shares of stock at exercise and (b) the exercise price—is classified as alternative minimum taxable income for the year of exercise. Alternative minimum taxable income may be subject to the alternative minimum tax. However, a disqualifying disposition of the shares of stock subject to the ISO during the same year in which the ISO was exercised will generally negate the alternative minimum taxable income generated upon exercise of the ISO.

In general, when a taxpayer sells stock acquired through the exercise of an ISO, only the difference between the fair market value of the shares on the date of exercise and the date of sale is used in computing any alternative minimum tax for the year of the sale. The portion of a taxpayer's alternative minimum tax attributable to certain items of tax preference (including the spread upon the exercise of an ISO) can be credited against the taxpayer's regular liability in later years to the extent that liability exceeds the alternative minimum tax.

### **Withholding Taxes**

Exercise of an NSO produces taxable income which is subject to withholding. The Company will not deliver shares to the optionee unless the optionee has agreed to satisfactory arrangements for meeting all applicable U.S. federal, state and local withholding tax requirements.

U.S. federal tax law does not require unrecognized gain on exercise of an ISO to be treated as "wages" for the purposes of FICA taxes.

### **Early Exercise**

If an optionee is permitted to exercise an option before the optionee's rights in the shares subject to the option are vested, the tax aspects of such an "early exercise" will be as follows:



## **Incentive Stock Options**

When an ISO is exercised, the spread is a "preference" item in the year of exercise, which is taken into account in computing an optionee's alternative minimum tax. One technique which might enable an optionee to minimize the amount recognized as alternative minimum tax income is to exercise the option at or near the date of grant when the spread is nonexistent or small. If the option is not vested, the optionee would also make an election under Section 83(b) of the Code ("Section 83(b) Election") within thirty (30) days after the date of exercise. In this way the optionee will pay alternative minimum tax based on the spread on the date of exercise instead of the spread on the date the shares vest. The exercise of the option also begins the one-year holding requirement under Section 422 of the Code that applies after the exercise of an ISO.

However, according to U.S. Treasury Regulations issued in August, 2004, an 83(b) Election will not be effective for purposes of measuring the amount of ordinary income in the event of a disqualifying disposition of the ISO Shares, and ordinary income will be recognized in an amount equal to the spread on the date the shares vest, instead of the spread on the date the ISO is exercised. For this reason, an optionee is urged to consult with a tax advisor before electing to exercise an ISO for unvested shares.

## **Nonstatutory Stock Options**

If the option is not an ISO but instead is an NSO, exercise prior to vesting and timely filing of a Section 83(b) Election will accomplish two things: (1) it will start the capital gains holding period running, and (2) it will prevent the optionee from being taxed (at ordinary income tax rates) upon vesting, if, at that time, the fair market value of the stock has increased from the date of grant. Of course, when the shares are sold, the gain will be taxed according to how long the shares have been held.

## **Forfeiture of Unvested Shares**

If service with the Company terminates before the shares are vested, the Company may repurchase the shares at the original purchase price of the shares. If you had made a Section 83(b) Election, you will not be entitled to deduct as a loss any income recognized on exercise of the option if the fair market value of the stock had exceeded the exercise price at that time.

**THIS TAX SUMMARY IS GENERAL IN NATURE AND SHOULD NOT BE RELIED UPON BY ANY PERSON IN DECIDING WHETHER OR WHEN TO EXERCISE AN OPTION OR TO MAKE AN ELECTION UNDER SECTION 83(b) OF THE CODE. EACH PERSON SHOULD CONSULT HIS OR HER OWN TAX ADVISOR REGARDING THESE MATTERS.**

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, PLEDGED, OR OTHERWISE TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION THEREOF UNDER SUCH ACT OR PURSUANT TO RULE 144 OR AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE CORPORATION AND ITS COUNSEL, THAT SUCH REGISTRATION IS NOT REQUIRED

## WARRANT TO PURCHASE PREFERRED STOCK

Issuer **ALTIERRE CORPORATION, a California corporation**  
 Number of Shares \_\_\_\_\_  
 Class of Stock \_\_\_\_\_  
 Exercise Price \$ \_\_\_\_\_ per Share  
 Issue Date \_\_\_\_\_  
 Expiration Date The earliest to occur of (i) the tenth anniversary of the Issue Date, (ii) the closing of the first public offering of the Company's Common Stock under the Securities Act of 1933, (iii) the consolidation or merger of the Company with or into another corporation (other than a merger solely to effect a reincorporation of the Company into another state), (iv) the sale by the Company's stockholders of 50% or more of the Company's outstanding securities in one or more related transactions and (v) the sale or other disposition of all or substantially all the properties and assets of the Company in its entirety to any other person

THIS WARRANT CERTIFIES THAT, for the agreed upon value of \$ \_\_\_\_\_ and for other good and valuable consideration, including the execution and delivery of that certain \_\_\_\_\_ (the "Loan"), this Warrant is issued to \_\_\_\_\_, ("Holder") by ALTIERRE CORPORATION, a California corporation (the "Company")

### 1 ISSUANCE

Subject to the terms and conditions hereinafter set forth, the Holder is entitled upon surrender of this Warrant and the duly executed subscription form annexed hereto as Appendix 1, at the office of the Company, 1980 Concourse Drive San Jose, CA 95131, or such other office as the Company shall notify the Holder of in writing, to purchase from the Company up to \_\_\_\_\_ shares of fully paid and non-assessable shares (the "Shares") of the Company's \_\_\_\_\_ Preferred Stock ("Preferred Stock"), at a purchase price per Share of \$ \_\_\_\_\_, (the "Exercise Price") This Warrant may be exercised in whole or in part at any time and from time to time until 5 00 PM, Pacific time, on the Expiration Date set forth above, and shall be void thereafter Until such time as this Warrant is exercised in full or expires, the Exercise Price and the Shares are subject to adjustment from time to time as hereinafter provided

### 2 EXERCISE

(a) Method of Exercise Holder may exercise this Warrant by delivering this Warrant together with a duly executed Notice of Exercise in substantially the form attached as Appendix 1 hereto to the principal office of the Company Unless Holder is exercising the

conversion right set forth in Section 2(b), Holder shall also deliver to the Company a check for the aggregate Exercise Price for the Shares being purchased

(b) Conversion Right In lieu of exercising this Warrant as specified in Section 2(a), Holder may from time to time convert this Warrant, in whole or in part, into a number of Shares determined as follows

$$X = \frac{Y(A-B)}{A}$$

where

X = the number of Shares to be issued to the Holder

Y= the number of Shares with respect to which this Warrant is being exercised

A= the Fair Market Value (as determined pursuant to Section 2 (c) below) of one Share

B= the Exercise Price

(c) Fair Market Value In the event the Warrant is exercised in connection with the Company's initial public offering of Common Stock, the fair market value per share shall be the per share offering price to the public of the Company's initial public offering. Otherwise, the Board of Directors of the Company shall determine the fair market value of a share of Preferred Stock in its reasonable good faith judgment

(d) Delivery of Certificate and New Warrant Promptly after Holder exercises or converts this Warrant, the Company shall deliver to Holder certificates for the Shares acquired and, if this Warrant has not been fully exercised or converted and has not expired, a new Warrant representing the right to purchase the Shares not so acquired

(e) Replacement of Warrants On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form and amount to the Company or, in the case of mutilation, on surrender and cancellation of this Warrant, the Company at its expense shall execute and deliver, in lieu of this Warrant, a new warrant of like tenor

(f) Conversion or Redemption of Preferred Stock Should all of the Company's Preferred Stock be, or if outstanding would be, at any time prior to the expiration of the Warrant or any portion thereof, redeemed or converted into shares of the Company's Common Stock in accordance with Section 4 of the Charter, then this Warrant shall become immediately exercisable prior to such event for that number of shares of the Common Stock that would have been received if this Warrant had been exercised in full and the Preferred Stock received thereupon had been simultaneously converted immediately prior to such event, and the Exercise Price shall immediately be adjusted to equal the quotient obtained by dividing (x) the aggregate Exercise Price of the maximum number of shares of Preferred Stock for which this Warrant was exercisable immediately prior to such conversion or redemption, by (y) the number of shares of Common Stock for which this Warrant is exercisable immediately after such conversion or redemption. For purposes of the forgoing, the "Charter" shall mean the Articles of Incorporation as amended and /or restated and effective immediately prior to the redemption or conversion of all of the Company's Preferred Stock

### 3 ADJUSTMENTS

(a) Stock Dividends, Splits, Etc If the Company declares or pays a dividend on the outstanding shares of Preferred Stock, payable in Common Stock or other securities, or subdivides the outstanding Preferred Stock into a greater amount of Preferred Stock, then upon exercise of this Warrant, for each Share acquired, Holder shall receive, without cost to Holder, the total number and kind of securities to which Holder would have been entitled had Holder owned the Shares of record as of the date the dividend or subdivision occurred. If the outstanding Preferred Stock is subdivided into a greater number of shares, the Exercise Price shall be proportionately decreased and the number of Shares shall be proportionately increased.

(b) Reclassification, Exchange or Substitution Upon any reclassification, exchange, substitution, or other event that results in a change of the number and/or class of the securities issuable upon exercise or conversion of this Warrant, Holder shall be entitled to receive, upon exercise or conversion of this Warrant, the number and kind of securities and property that Holder would have received for the Shares if this Warrant had been exercised immediately before such reclassification, exchange, substitution, or other event. The Company or its successor shall promptly issue to Holder a new Warrant for such new securities or other property. The new Warrant shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 3 including, without limitation, adjustments to the Exercise Price and to the number of securities or property issuable upon exercise of the new Warrant. The provisions of this Section 3(b) shall similarly apply to successive reclassifications, exchanges, substitutions, or other events.

(c) Adjustments for Combinations, Etc If the outstanding shares of Common Stock are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Exercise Price shall be proportionately increased and the number of Shares shall be proportionately decreased.

(d) No Impairment The Company shall not, by amendment of its Certificate of Incorporation or by-laws, or through a reorganization, transfer of assets, consolidation, merger, dissolution, issue, or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed under this Warrant by the Company, but shall at all times in good faith assist in carrying out of all the provisions of this Section 3 and in taking all such action as may be necessary or appropriate to protect Holder's rights under this Article against impairment. The foregoing notwithstanding, the Company shall not be deemed to have impaired Holder's rights if it amends its Articles of Incorporation or shareholders agreements, or the holders of the Company's Preferred Stock waive their rights thereunder, in a manner that does not affect Holder in a manner different from the effect that such amendments or waivers have on the rights of the holders of the Company's Preferred Stock.

(e) Fractional Shares No fractional Shares shall be issuable upon exercise or conversion of the Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional Share interest arises upon any exercise or conversion of this Warrant, the Company shall eliminate such fractional Share interest by paying Holder an amount computed by multiplying such fractional interest by the Fair Market Value (determined in accordance with Section 2(c) above) of one Share.

(f) Certificate as to Adjustments Upon each adjustment of the Exercise Price, number of Shares or class of security for which this Warrant is exercisable, the Company at

its expense shall promptly compute such adjustment, and furnish Holder with a certificate of its chief financial officer setting forth such adjustment and the facts upon which such adjustment is based. The Company shall, upon written request, furnish Holder a certificate setting forth the Exercise Price, number of Shares class of security for which this Warrant is exercisable in effect upon the date thereof and the series of adjustments leading to such Exercise Price, number of Shares and class of security.

(g) Issuance of Additional Shares In the event that the Company shall issue shares of its capital stock at a price less than the Exercise Price after the date hereof, the price at which the Shares may be converted into the Company's Common Stock shall be subject to the same adjustment, if any, to the price at which the Company's Preferred Stock may be converted into the Company's Common Stock provided in the Company's Charter. The Company shall give Holder prior written notice of the issuance of stock occurring after the Issue Date, including the price at which the stock is to be sold the number of shares to be issued.

#### 4 REPRESENTATIONS AND COVENANTS OF THE COMPANY

(a) Representations and Warranties The Company hereby represents and warrants to Holder as follows:

(i) All Shares which may be issued upon the due exercise of this Warrant shall, upon issuance, be duly authorized, validly issued, fully paid and non-assessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws.

(ii) The Company covenants that it shall at all times cause to be reserved and kept available out of its authorized and unissued shares such number of shares of its Preferred Stock and other securities as will be sufficient to permit the exercise in full of this Warrant and the conversion or exchange of such Preferred Stock into or for such other securities.

(iv) The execution and delivery by the Company of this Warrant and the performance of all obligations of the Company hereunder, including the issuance to Holder of the right to acquire the shares of Preferred Stock, have been duly authorized by all necessary corporate action on the part of the Company, and the Loan and this Warrant are not inconsistent with the Company's Charter or By-laws, do not contravene any law or governmental rule, regulation or order applicable to it, do not and will not contravene any provision of, or constitute a default under, any indenture, mortgage, contract or other instrument to which it is a party or by which it is bound, and the Loan and this Warrant Agreement constitute legal, valid and binding agreements of the Company, enforceable in accordance with their respective terms.

(v) No consent or approval of, giving of notice to, registration with, or taking of any other action in respect of any state, Federal or other governmental authority or agency is required with respect to the execution, delivery and performance by the Company of its obligations under this Warrant, except for the filing of notices pursuant to Regulation D under the 1933 Act and any filing required by applicable state securities law, which filings will be effective by the time required thereby.

(b) Notice of Certain Events If the Company proposes at any time to effect any transaction that would cause this Warrant to terminate, as set forth above, the Company will give Holder at least 10 days' prior written notice of such event.

(c) Information Rights After the expiration of the term of the Loan, so long as the Holder holds this Warrant and/or any of the Shares, the Company shall deliver to the Holder all financial statements and reports delivered to other holders of Preferred Stock

(d) Registration Under Securities Act of 1933, as amended The Shares shall have certain registration rights as set forth in that certain Amended and Restated Investors' Rights Agreement dated as of February 14, 2008. On or before the Issue Date of the Warrant, the Company agrees to obtain the consent of at least a majority of the Holders of Registrable Securities to amend the Investors' Rights Agreement to make Holder a party thereto and the Shares Registrable Securities thereunder with registration rights in parity with the rights of the other Holders of Series C Preferred shares. The Company represents and warrants to Holder that the Company's execution, delivery and performance of such Investors' Rights Agreement (a) has been duly authorized by all necessary corporate action of the Company's Board of Directors and shareholders, (b) does not and will not violate the Company's Certificate of Incorporation or By-laws, each as amended, (c) does not and will not violate or cause a breach or default (or an event which with the passage of time or the giving of notice or both, would constitute a breach or default) under any agreement, instrument, mortgage, deed of trust or other arrangement to which the Company is a party or to or by which it or any of its assets is subject or bound, and (d) does not require the approval, consent or waiver of or by any shareholder, registration rights holder or other third party which approval, consent or waiver has not been obtained as of the date of issuance of this Warrant.

## 5 MISCELLANEOUS

(a) Automatic Conversion upon Expiration In the event that, upon the Expiration Date, the Fair Market Value of one Share (or other security issuable upon the exercise hereof) as determined in accordance with Section 2(c) above is greater than the Exercise Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be converted pursuant to Section 2(b) above as to all Shares (or such other securities) for which it shall not previously have been exercised or converted.

(b) Legends This Warrant and the Shares (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) shall be imprinted with a legend in substantially the following form:

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, PLEDGED OR OTHERWISE TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION THEREOF UNDER SUCH ACT OR PURSUANT TO RULE 144 OR AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY AND ITS COUNSEL THAT SUCH REGISTRATION IS NOT REQUIRED.

(c) Compliance with Securities Laws on Transfer This Warrant and the Shares (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part without compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters). The Company shall not require Holder to provide an opinion of counsel if the transfer is to an affiliate of Holder or if (a) there is no material question as

to the availability of current information as referenced in Rule 144(c), (b) Holder represents that it has complied with Rule 144(d) and (e) in reasonable detail, (c) the selling broker represents that it has complied with Rule 144(f), and (d) the Company is provided with a copy of Holder's notice of proposed sale

(d) Transfer Procedure Subject to the provisions of Section 5(c), Holder may transfer all or part of this Warrant and/or the Shares issuable upon exercise of this Warrant (or the securities issuable, directly or indirectly, upon conversion of the Shares, if any) at any time to any affiliate of Holder, or to any other transferee by giving the Company notice of the portion of the Warrant being transferred setting forth the name, address and taxpayer identification number of the transferee and surrendering this Warrant to the Company for reissuance to the transferee(s) (and Holder if applicable)

(e) Notices All notices and other communications from the Company to the Holder, or vice versa, shall be deemed delivered and effective when given personally or sent by electronic facsimile transmission, express overnight courier service, or mailed by first-class registered or certified mail, postage prepaid, at such address as may have been furnished to the Company or the Holder, as the case may be, in writing by the Company or such holder from time to time, but in all cases, unless instructed in writing otherwise, the Company shall deliver a copy of all notices to Holder at 600 California Street, 6<sup>th</sup> Floor, San Francisco CA 94108, Attention General Counsel

(f) Waiver This Warrant and any term hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought

(h) Remedies In the event of any default hereunder, the non-defaulting party may proceed to protect and enforce its rights either by suit in equity and/or by action at law, including but not limited to an action for damages as a result of any such default, and/or an action for specific performance for any default where Holder will not have an adequate remedy at law and where damages will not be readily ascertainable. The Company expressly agrees that it shall not oppose an application by the Holder or any other person entitled to the benefit of this Warrant requiring specific performance of any or all provisions hereof or enjoining the Company from continuing to commit any such breach of this Warrant

(i) Attorneys Fees In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees

(j) Governing Law This Warrant shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its principles regarding conflicts of law

IN WITNESS WHEREOF, the Company has caused this Warrant to Purchase Preferred Stock to be executed by its duly authorized representative as of the date first above written

**COMPANY**

ALTIERRE CORPORATION

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**HOLDER**

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_



APPENDIX 1

NOTICE OF EXERCISE

1        The undersigned hereby elects to purchase \_\_\_\_\_ shares of the Preferred Stock of \_\_\_\_\_ pursuant to Section 2(a) of the attached Warrant, and tenders herewith payment of the Exercise Price of such shares in full

1        The undersigned hereby elects to convert the attached Warrant into Shares in the manner specified in Section 2(b) of the attached Warrant. This conversion is exercised with respect to \_\_\_\_\_ of shares of the \_\_\_\_\_ Preferred Stock of \_\_\_\_\_

[Strike paragraph that does not apply ]

2        Please issue a certificate or certificates representing said shares in the name of the undersigned or in such other name as is specified below

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

3        The undersigned represents it is acquiring the shares solely for its own account and not as a nominee for any other party and not with a view toward the resale or distribution thereof except in compliance with applicable securities laws

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)