



DELIVERING STRATEGIC SOLUTIONS ACCA'S 2000 ANNUAL MEETING

EXHIBIT 3.2

Sec. Exhibit 3.4

EXHIBIT 3.4

List of Common Stock Shareholders

<u>Name</u>	<u>Amount</u>	<u>Escrow</u>
Person A	442,953	354,362
Person B.	148,993	148,993
Person C	442,953	354,362
Person D	442,993	354,362
Person E	402,685	322,147
XXX LLC	2,214,768	37,877
*Common Stock Option Pool	1,506,360	
Total	5,601,666	1,562,104

***Common Stock Option Grants**

<u>Grant</u>	<u>Option Price</u>
Person A	30,000 \$2.25
Person B	60,000 \$1.00
Person C	160,000 \$1.00
Person D	45,000 \$1.00

Note: Offer letters have been issued to prospective employees, which contain a grant of options. Such option grant provides that the option price shall be the then current fair market value, which is currently determined to be \$2.25.

List of Series A Preferred Stock Shareholders

<u>Name</u>	<u>Amount</u>
Venture, L.P.	1,065,000

Form of Agreements involving Principal Shareholders and Series A Convertible Preferred Shareholders

Form of Agreements involving Principal Shareholders and Series A Convertible Preferred Shareholders

1. Stock Issuance and Escrow Agreement (Exhibit 3.4(1))
2. Right of First Refusal and Co-Sale Agreement (Exhibit 3.4(2)): Superseded by Series A Convertible Preferred Stock Purchase Agreement
3. Shareholders' Voting Agreement (Exhibit 3.4(3))
4. Employment Agreement (see, Exhibit 3.18(1))
5. Stock Option Agreement with Plan Attached (see, Exhibit 3.4(4))
6. Series A Convertible Preferred Stock Purchase Agreement (see, Exhibit 3.4(5))

EXHIBIT 3.4(1)

Stock Issuance and Escrow Agreement

STOCK ISSUANCE AND ESCROW AGREEMENT

STOCK ISSUANCE AND ESCROW AGREEMENT (the "**Agreement**") is made and entered into as of April 28, 1999, by and between, Sample Technologies, Inc., a Delaware corporation (the "**Company**") with offices at [Address] and each of the shareholders (singly, "**Shareholder**" and together, "**Shareholders**") identified on the signature pages hereto.

WITNESSETH:

WHEREAS, each of the undersigned Shareholders and certain other persons agreed to form the Company and receive founders stock in the Company;

WHEREAS, each of the undersigned Shareholders have either entered into an individual employment agreement or accepted an offer of employment with the Company on or about the date hereof (capitalized terms used herein and the Exhibits hereto and not otherwise defined shall have the respective meanings provided for in the individual employment agreements);

WHEREAS, in recognition and consideration of their obligation to provide certain employment services pursuant to an employment agreement, each of the undersigned Shareholders have agreed to escrow with the Company certain of the Shares (as defined herein) to be issued to the Shareholders pursuant to the terms hereof.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and Shareholders, intending to be legally bound hereby, agree as set forth below.

SECTION 1. Issuance of Shares. Upon delivery to the Company of cash or a promissory note in the amount set opposite the Shareholder's name as set forth in Exhibit A, the Company shall issue to the Shareholders an aggregate of _____ common shares, with \$0.01 par value, of Company (the "**Shares**") in the individual amounts as are indicated on Exhibit A hereto; provided, however, that _____ of such Shares (the "**Escrow Shares**") shall be held in escrow (the "**Escrow**") by the Company in accordance with the terms specified in Section 2 hereof.

SECTION 2. Escrow. The Escrow Shares shall be deposited by the Shareholders into Escrow with the Company in the individual amounts indicated on Exhibit A hereto, shall be issued in the name of the Shareholders and shall be released to each Shareholder only in accordance with the terms and the release dates specified on Exhibit A hereto.

SECTION 3. Representations, Warranties and Restrictions.

(a) each Shareholder represents and warrants that:

(i) the Shareholder has sufficient knowledge and experience in investing in companies similar to Company in terms of Company's stage of development so as to be able to evaluate the risks and merits of his or her investment in the Company and he or she is able financially to bear the risks thereof;

(ii) the Shareholder has had an opportunity to discuss Company's business, management and financial affairs with the Company's management; and

(iii) the Shares being acquired by him or her are being acquired for his or her own account for the purpose of investment and not with a view to or for

(iii) the Shares being acquired by him or her are being acquired for his or her own account for the purpose of investment and not with a view to or for sale in connection with any distribution thereof.

(b) Each Shareholder understands, acknowledges and agrees that:

(i) the Shares to be issued hereunder shall be subject to a Right of First Refusal and Co-Sale Agreement and Stockholders' Voting Agreement, each of which dated April 28, 1999;

(ii) the Shares to be issued hereunder have not been and will not be registered under the United States Securities Act of 1933, as amended (the "**1933 Act**"), or the securities laws of any state of the United States;

(iii) the issuance contemplated hereby is being made in a transaction not involving any public offering within the meaning of the 1933 Act, and that, accordingly, the Shares issued hereunder are "restricted securities" within the meaning of Rule 144 under the 1933 Act ("**Rule 144**"), and therefore may not be offered or sold by the undersigned, directly or indirectly, in the United States without registration under United States federal and state securities laws, except in compliance with paragraph (v) below;

(iv) the Shareholder will not have acquired the Shares issued hereunder as a result of any general solicitation or general advertising, including advertisements, articles, notices or other communications published in any newspaper, magazine or similar media or broadcast over radio or television, or any seminar or meeting whose attendees have been invited by any general solicitation or general advertising;

(v) the Shareholder will not offer, sell, pledge or otherwise transfer any of the Shares to be issued hereunder except (a) outside the United States in accordance with Rule 904 of Regulation S under the 1933 Act, (b) in another transaction otherwise exempt from registration under the 1933 Act in compliance with Rule 144 or 701, if applicable, and in compliance with any applicable state securities laws of the United States, or (c) pursuant to another applicable exemption from such registration and applicable state securities laws; it being understood and acknowledged by the Shareholders that Company is not obligated to file and has no present intention of filing with the United States Securities and Exchange Commission or with any state securities administrator any registration statement in respect of resales of any of the shares issued hereunder in the United States, as evidenced, if requested, by an opinion of counsel of recognized standing in form reasonably satisfactory to Company; and

(vi) Company has the right to instruct its transfer agent, if any, not to record a transfer by any person in the United States without first being notified by the Company that it is reasonably satisfied that such transfer is exempt from or not subject to registration under the 1933 Act and any applicable state securities laws.

(c) Each certificate representing Shares shall bear legends substantially in the following form:

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFER AND MAY NOT BE SOLD, EXCHANGED, TRANSFERRED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED OF EXCEPT IN ACCORDANCE WITH AND SUBJECT TO ALL THE TERMS AND CONDITIONS OF A CERTAIN EMPLOYMENT AGREEMENT, STOCK ISSUANCE AND ESCROW AGREEMENT, STOCKHOLDERS' VOTING AGREEMENT, AND RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT, EACH DATED AS OF APRIL 28, 1999, A COPY OF WHICH THE COMPANY WILL FURNISH TO THE HOLDER OF THIS CERTIFICATE UPON REQUEST AND WITHOUT CHARGE.

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"). THE HOLDER HEREOF, BY PURCHASING SUCH SECURITIES, AGREES FOR THE BENEFIT OF THE COMPANY THAT SUCH SECURITIES MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED ONLY (A) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE 1933 ACT, OR (B) INSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 144 OR 701 UNDER THE 1933 ACT, IF APPLICABLE, AND IN COMPLIANCE WITH APPLICABLE STATE SECURITIES LAWS, OR (C) PURSUANT TO ANOTHER APPLICABLE EXEMPTION FROM SUCH REGISTRATION AND APPLICABLE STATE SECURITIES LAWS, AS EVIDENCED, IF REQUESTED, BY AN OPINION OF COUNSEL OF RECOGNIZED STANDING IN FORM SATISFACTORY TO THE COMPANY.

Section 4. Voting, Etc.

(a) **Dividends/Voting Rights.** Except for dividends paid in stock declared with respect to the Escrow Shares excluded from gross income for U.S. federal income tax purposes pursuant to Section 305(a) of the Internal Revenue Code of 1986, as amended, any cash dividends, dividends payable in securities or other distributions of any kind made in respect of the Escrow Shares will be distributed currently to the Shareholders on a pro rata basis.

(b) **Restrictions on Transfer.** No Shareholder will offer, sell, assign, pledge, hypothecate, transfer or otherwise dispose of any Escrow Shares until released from the Escrow.

(c) **Division of Stock Certificates.** The parties hereby authorize the Company Secretary or to apply to Company's transfer agent, if any, or any successor transfer agent, for the Escrow Shares (i) for any division of certificates evidencing Escrow Shares which may be required in connection with the distribution of Escrow Shares pursuant to this Agreement or (ii) for any transfer to Company of any Escrow Shares in connection with any forfeiture of such shares by any Shareholder pursuant to the terms of this Agreement.

Section 5. Withholding Taxes. If the Company determines that it is obligated to withhold any tax in connection with the Shares issued or to be issued pursuant to this Agreement (including with respect to the release from the Escrow of any Escrow Shares), each Shareholder hereby agrees that the Company may withhold in cash from such Shareholder's wages or other remuneration the appropriate amount of tax.

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The Shareholder covenants to file an election under Section 83 (an "83(b) Election") of the Internal Revenue Code of 1986, as amended (the "Code") with respect to the Shares to be issued pursuant to this Agreement within the statutory requirements, and acknowledges that the Shares issuable pursuant to this Agreement will be treated as subject to a substantial risk of forfeiture within the meaning of Section 83 of the Code.

SECTION 6. Miscellaneous.

(a) **Notices.** All notices, consents and other communications under this Agreement shall be in writing and shall, except as otherwise provided herein, be deemed to have been duly given when (i) delivered by hand, (ii) sent by telex or telecopier (with receipt confirmed), provided that a copy is mailed by first class mail, postage prepaid, or (iii) when received by the addressee, if sent by Express Mail, Federal Express or other express delivery service (receipt requested), in each case, at the appropriate addresses, telex numbers and telecopier numbers as set forth below:

If to Company: Sample Technologies, Inc.

[Address]

Attention:

Telecopier:

If to the Employees, to the address indicated

on the signature pages hereto;

or to such other addresses, telex numbers and telecopier numbers as a party may designate as to itself by notice to the other parties.

(b) **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws (other than the choice or conflicts of laws rules and provisions) of the State of Delaware.

a. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original instrument and all of which together shall constitute a single agreement.

(d) **Successors/Assigns.** The rights and obligations of the Company hereunder shall inure to the benefit of, and shall be binding upon, the successors and assigns of the Company.

[INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

Sample Technologies, Inc.

By: _____

Chief Executive Officer

Shareholders:

_____ _____ Person A [Address]	_____ _____ Person B [Address]
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_____ _____ Person C [Address]	_____ _____ Person D [Address]
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_____ _____ XXX, LLC [Address]	_____ _____ Person E [Address]
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Exhibit A

<u>Shareholder</u>	<u>Amount</u>
Person A	\$790.75
Person B	\$790.75
Person C	\$790.75
Person D	\$718.87
Person E	\$265.98
XXX, LLC	\$378.77
TOTAL:	\$3,735.88

Issuance of Shares/Escrow

1. Aggregate number of Shares to be issued to each Shareholder (subject to escrow provisions outlined below):

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<u>Shareholder</u>	<u>Number of Shares</u>
Person A	79,075
Person B	79,075
Person C	79,075
Person D	71,887
Person E.	26,598
XXX, LLC	37,877
TOTAL:	373,588

2. Aggregate number of Escrow Shares to be placed in escrow by each Shareholder:

<u>Shareholder</u>	<u>Number of Escrow Shares</u>
Person A	63,260
Person B	63,260
Person C	63,260
Person D	57,509
Person E	26,598
XXX, LLC	37,877
TOTAL:	311,765

3. Number of Escrow Shares to be released from Escrow for each Shareholder:

<u>Shareholder</u>	<u>Date</u>	<u>Number of Shares</u>
Person A	April 28, 2000	15,815
		15,815
	April 28, 2001	15,815
		15,815
Person B	April 28, 2000	15,815
		15,815
	April 28, 2001	15,815
		15,815
Person B	April 28, 2002	15,815
		15,815
	April 28, 2003	15,815
		15,815