

ZIX CORP  
Form DEF 14A  
April 27, 2012  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**SCHEDULE 14A INFORMATION**

**Proxy Statement Pursuant to Section 14(a) of the  
Securities Exchange Act of 1934**

**(Amendment No. )**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material under Rule 14a-12

**ZIX CORPORATION**

(Name of registrant as specified in its charter)

(Name of person(s) filing proxy statement, if other than the registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(4) and 0-11.



(4) Date Filed:

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**ZIX CORPORATION**

2711 North Haskell Avenue

Suite 2200, LB 36

Dallas, Texas 75204-2960

To our Shareholders,

You are cordially invited to attend the Annual Meeting of Shareholders of Zix Corporation, which will take place Wednesday, June 6, 2012, at 10:00 a.m. Central Time at the Cityplace Conference Center, Turtle Creek I Room, 2711 North Haskell Avenue, Dallas, Texas 75204. Details of the business to be conducted at the Annual Meeting are given in the Official Notice of the Meeting, Proxy Statement and form of proxy enclosed with this letter.

Even if you intend to join us in person, we encourage you to vote in advance so that we will know that we have a quorum of shareholders for the meeting. When you vote in advance, please indicate your intention to personally attend the Annual Meeting. Please see the Question and Answer section of the enclosed Proxy Statement for instructions if you plan to personally attend the Annual Meeting.

Whether or not you are able to personally attend the Annual Meeting, it is important that your shares be represented and voted. Your prompt vote over the Internet, by telephone via toll-free number, or by written proxy will save us the expense and extra work of additional proxy solicitation. Voting by any of these methods at your earliest convenience will ensure your representation at the Annual Meeting if you choose not to attend in person. If you decide to attend the Annual Meeting, you will be able to vote in person, even if you have personally submitted your proxy. Please review the instructions on the proxy card or the information forwarded by your bank, broker, or other holder of record concerning each of these voting options.

We appreciate your continued interest in Zix Corporation.

On behalf of the Board of Directors,

Dallas, Texas  
April 27, 2012

/s/ Richard D. Spurr  
Richard D. Spurr  
*Chairman of the Board*

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**ZIX CORPORATION**

2711 North Haskell Avenue

Suite 2200, LB 36

Dallas, Texas 75204-2960

**NOTICE OF ANNUAL MEETING OF SHAREHOLDERS**

The Annual Meeting of Shareholders of Zix Corporation will take place on Wednesday, June 6, 2012, at 10:00 a.m. Central Time at the Cityplace Conference Center, Turtle Creek I Room, 2711 North Haskell Avenue, Dallas, Texas 75204. Registration will begin at 9:30 a.m.

At the meeting, we will ask shareholders to consider and vote on the following proposals:

1. Elect six members of our Board of Directors for a one-year term;
2. Ratify the appointment of Whitley Penn LLP as our independent registered public accountants for the fiscal year ending December 31, 2012;
3. Approve, on an advisory basis, the compensation of our named executive officers;
4. Approve the 2012 Incentive Plan; and
5. Any other matters properly brought before the meeting or any adjournment thereof.

Only shareholders of record at the close of business on April 13, 2012, will be entitled to vote at the meeting. The stock transfer books will not be closed.

By Order of the Board of Directors,

/s/ James F. Brashear

James F. Brashear

*Vice President, General Counsel & Corporate Secretary*

Dallas, Texas

April 27, 2012

**IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS**

**FOR THE SHAREHOLDER MEETING TO BE HELD ON JUNE 6, 2012**

This Proxy Statement, accompanying proxy card and our Annual Report are available at [investor.zixcorp.com](http://investor.zixcorp.com) in a searchable, readable, and printable format and in a cookie-free environment.

**YOUR VOTE IS IMPORTANT.**

**Whether or not you expect to personally attend the meeting, we urge you to vote your shares at your earliest convenience to ensure the presence of a quorum at the meeting. Promptly voting your shares via the Internet, by telephone via toll-free number, or if you received**

**a paper copy of the proxy card, by signing, dating, and returning the proxy card in the enclosed postage-paid envelope will save us the expense and extra work of additional solicitation. Because your proxy is revocable at your option, submitting your proxy now will not prevent you from voting your shares at the meeting if you desire to do so. Please refer to the voting instructions included on your proxy card or the voting instructions forwarded by your bank, broker, or other holder of record.**

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### **Questions and Answers About the Annual Meeting and Voting**

This Question and Answer section provides some background information and brief answers to several questions you might have about the enclosed proposals. We encourage you to read this Proxy Statement in its entirety.

#### **What is a proxy?**

A proxy is your legal designation of another person, called a proxy holder, to vote the shares that you own. If you designate someone as your proxy holder in a written document, that document is called a proxy.

#### **When I vote my shares, whom am I designating as my proxy?**

We have designated James F. Brashear, our Vice President, General Counsel and Corporate Secretary, and Michael W. English, our Chief Financial Officer, to act as proxy holders at the Annual Meeting as to all shares for which proxy cards are returned or voting instructions are provided by Internet or telephonic voting.

#### **What is a proxy statement?**

A proxy statement is a document that SEC regulations require us to give you when we ask you to sign a proxy card designating the proxy holders described above to vote on your behalf.

#### **What is the record date?**

The record date for the Annual Meeting is April 13, 2012. The record date is established by our Board of Directors as required by Texas law. Only shareholders of record at the close of business on the record date are entitled to receive notice of the Annual Meeting and to vote their shares at the meeting.

#### **What is the difference between a shareholder of record and a shareholder who holds stock in street name, also called a beneficial owner ?**

If your shares are registered in your name at our stock registrar and transfer agent, Computershare Trust Company, N.A., you are a shareholder of record.

If your shares are registered at our stock registrar and transfer agent, Computershare Trust Company, N.A., in the name of a broker, bank, trustee, nominee, or other similar shareholder of record, your shares are held in street name and you are the beneficial owner of the shares.

#### **How do I obtain admission to personally attend the Annual Meeting?**

*Shareholders of Record.* You will need to bring a government-issued photo identification card to gain admission to the Annual Meeting.

*Street Name Holders.* You will need to ask your broker or bank for an admission ticket in the form of a legal proxy and you will need to bring the legal proxy with you to the meeting. If you do not receive the legal proxy in time, bring your most recent brokerage statement with you to the meeting. We can use that to verify your ownership of Common Stock and admit you to the meeting; however, you will not be able to vote your shares at the meeting without a legal proxy. You will also need to bring a government-issued photo identification card to gain admission to the Annual Meeting. Please note that if you own shares in street name and you are issued a legal proxy, any previously executed proxy will be revoked and your vote will not be counted unless you appear at the meeting and vote in person.

#### **What methods can I use to vote?**

*By Written Proxy.* All shareholders may vote by mailing the written proxy card.

*By Telephone and Internet Proxy.* All shareholders of record may vote by telephone from the U.S. using the toll-free telephone number on the proxy card, or by the Internet, using the procedures and instructions described on the proxy card and other enclosures. Street name holders may vote by telephone or the Internet if their bank,



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broker, or other shareholder of record makes those methods available, in which case the bank, broker, or other shareholder of record will enclose the instructions with the Proxy Statement. The telephone and Internet voting procedures, including the use of control numbers, are designed to authenticate shareholders' identities, to allow shareholders to vote their shares, and to confirm that their instructions have been properly recorded.

### **What will occur at the Annual Meeting?**

First, we will determine whether we have a quorum of shares represented at the Annual Meeting to conduct business. If a quorum is not present at the Annual Meeting, we will adjourn or reschedule the meeting. If enough shares are represented at the Annual Meeting to conduct business, then we will vote on the proposals described in this Proxy Statement and any other business that is properly brought before the meeting and any adjournments or postponements thereof. We know of no other matters that will be presented for consideration at the Annual Meeting. If, however, other matters or proposals are presented and properly come before the meeting, the proxy holders intend to vote all proxies in accordance with their best judgment in the interest of Zix Corporation and our shareholders.

A representative of Whitley Penn LLP, our independent registered public accounting firm, is expected to be present at the Annual Meeting and will be afforded the opportunity to make a statement, if that representative so desires, and to respond to appropriate questions. A representative of Broadridge Financial Solutions, Inc. will count the votes and act as the independent inspector of election.

### **What is a quorum?**

The holders of a majority of the shares who are entitled to vote at the Annual Meeting must be represented at the meeting in person or by proxy to have a quorum for the transaction of business at the meeting and to act on the matters specified in the notice. A shareholder will be deemed to be represented at the Annual Meeting if the shareholder:

is present in person; or

is not present in person, but has voted by proxy card before the Annual Meeting; or

is not present in person, but a broker has cast for the shareholder a discretionary vote on Proposal 2.

As of the record date, there were 61,775,291 shares outstanding and entitled to vote at the Annual Meeting, held by or through 474 holders of record. Each share of our common stock is entitled to one vote. Our shareholders are entitled to cast an aggregate of 61,775,291 votes at the Annual Meeting, so a quorum equals 30,887,646 shares of our common stock.

### **What proposals are shareholders being asked to consider at the Annual Meeting?**

At the Annual Meeting, we will ask our shareholders to consider and vote on the following:

Proposal 1 is to elect six members of our Board of Directors for a one-year term;

Proposal 2 is to ratify the selection of Whitley Penn LLP as our independent registered public accountants for the fiscal year ending December 31, 2012;

Proposal 3 is a vote to approve, on an advisory basis, the compensation of our named executive officers;

Proposal 4 is to approve the 2012 Incentive Plan; and

Any other matters properly brought before the meeting or any adjournment or postponement thereof.

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### **What are my voting choices on Proposal 1 for director nominees?**

For the vote on the election of the director nominees, shareholders may:

vote in favor of all nominees;

vote to withhold votes from all nominees; or

vote to withhold votes as to specific nominees, and in favor of the remaining nominees.

### **What vote is needed to elect directors?**

The six nominees will be elected who receive a plurality of the FOR votes out of all votes cast (either FOR or WITHHELD) in person or by proxy at the Annual Meeting.

*The Board recommends that you vote **FOR** Proposal 1 and **FOR** each of the director nominees.*

### **What is a plurality of the votes?**

In order to be elected, a director nominee does not have to receive a majority of FOR votes cast out of all votes cast either affirmatively or withheld in person or by proxy at the Annual Meeting. Instead, the six nominees who will be elected are those six who receive the most FOR votes of all the votes cast on Proposal 1 in person or by proxy at the meeting.

### **What are my voting choices on Proposal 2, the ratification of the appointment of Whitley Penn LLP as the Company's independent registered public accounting firm?**

For the vote on the ratification of the appointment of our independent registered public accounting firm, shareholders may:

vote in favor of the ratification;

vote against the ratification; or

abstain from voting on the ratification.

*Our Board recommends that you vote **FOR** Proposal 2.*

### **What vote is required to ratify the appointment of the Company's auditors?**

The proposal to ratify the appointment of our independent registered public accounting firm requires the affirmative vote of a majority of the votes entitled to be cast affirmatively or negatively by the shares of stock present in person or by proxy at the Annual Meeting and entitled to vote thereon.

### **What are my voting choices on Proposal 3, the advisory vote to approve on executive compensation?**

For the advisory vote on executive compensation, shareholders may:

vote for approval on an advisory basis to approve the executive compensation;

vote against the executive compensation advisory approval; or

abstain from voting on the advisory proposal.

***Our Board recommends that you vote FOR Proposal 3.***

**What vote is required for the advisory approval of the Company's executive compensation?**

The Company's executive compensation will receive the advisory approval of the shareholders if the votes cast FOR the proposal are a majority of the votes entitled to be cast affirmatively or negatively by the shares of stock present in person or by proxy at the Annual Meeting and entitled to vote thereon.

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### **How often will the Company hold an advisory vote to approve executive compensation?**

Our Board intends to hold an annual advisory vote for shareholders to approve the compensation of our named executive officers.

### **What are my voting choices on Proposal 4, the approval of 2012 Incentive Plan?**

For the vote on the approval of the 2012 Incentive Plan, shareholders may:

vote to approve the plan;

vote against the plan; or

abstain from voting on the proposal.

*The Board recommends that you vote **FOR** Proposal 4.*

### **What vote is required for the approval of the 2012 Incentive Plan?**

The proposal to approve the 2012 Incentive Plan requires the affirmative vote of a majority of the votes entitled to be cast affirmatively or negatively by the shares of stock present in person or by proxy at the Annual Meeting and entitled to vote thereon.

### **What if a shareholder does not specify a choice for a matter when returning a proxy?**

Shareholders should specify their choice for each proposal described on the enclosed proxy card. Proxy cards that are signed and returned will be voted FOR proposals described in this proxy statement for which no specific instructions are given.

### **How are withheld votes, abstentions and broker non-votes counted?**

Both abstentions and broker non-votes are counted as present for purposes of determining the existence of a quorum at the Annual Meeting. Shares voted WITHHELD as to a director nominee on Proposal 1 will count as votes against the indicated nominee.

Shares voted ABSTAIN on any of Proposals 2, 3 and 4 will have the same effect as votes cast AGAINST that proposal. Broker non-votes will not be included in vote totals and will not affect the outcome of the vote on the proposals.

### **Why did I receive more than one Proxy Statement?**

If you received more than one Proxy Statement, your shares are probably registered in different names or are in more than one account. Please vote each proxy card that you receive.

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### **What if I want to change my vote?**

You may revoke your vote on any proposal at any time before the Annual Meeting for any reason. To revoke your proxy before the meeting, write to Zix Corporation, Attention: Corporate Secretary, 2711 North Haskell Avenue, Suite 2200, LB 36, Dallas, Texas 75204-2960. You will need to include a copy of your earlier voted proxy and may be required to provide other information to facilitate the administrative steps actually required to properly revoke your prior proxy and properly record the revocation. You may also come to the Annual Meeting and change your vote in writing. You will need to bring a copy of your earlier voted proxy and may be required to provide other information to facilitate the administrative steps actually required to properly revoke your prior proxy and properly record the revocation.

### **Where will I find the voting results of the Annual Meeting?**

We will announce the preliminary voting results at the Annual Meeting and will publish the preliminary or final voting results in a Current Report on Form 8-K that we will file with the SEC within four business days after the Annual Meeting. If the voting results are not final when that Current Report is filed, we will publish the final voting results in a Current Report on Form 8-K that we will file with the SEC within four business days after the final voting results are determined. You may request a copy of that Current Report at [investor.zixcorp.com](http://investor.zixcorp.com) or by contacting our Investor Relations office at (214) 515-7357.

### **Where can I find additional information? Who can help answer my questions?**

You should carefully review the entire Proxy Statement, which contains important information regarding the proposals, before voting. The section titled WHERE YOU CAN FIND MORE INFORMATION describes additional sources from which to obtain this Proxy Statement, our public filings under the Securities Exchange Act of 1934 and other information about our Company. Additionally, a copy of this Proxy Statement is available on our Company's website at [investor.zixcorp.com](http://investor.zixcorp.com).

If you would like additional copies of this Proxy Statement or other documents that we have filed with the SEC that are incorporated by reference into this Proxy Statement, free of charge, or if you have questions about the proposals or the procedures for voting your shares, please contact: Zix Corporation, Attention: Corporate Secretary, 2711 North Haskell Avenue, Suite 2200, LB 36, Dallas, Texas 75204-2960, Telephone: (214) 370-2000.



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**ZIX CORPORATION**

2711 North Haskell Avenue

Suite 2200, LB 36

Dallas, Texas 75204-2960

**PROXY STATEMENT**

**Annual Meeting of Shareholders**

**June 6, 2012**

**Information Concerning Solicitation And Voting**

**General**

This Proxy Statement is furnished on behalf of the Board of Directors of Zix Corporation ( we, us, our or the Company ) to solicit proxies to be voted at the Annual Meeting of our Shareholders to be held on Wednesday, June 6, 2012, at 10:00 a.m. Central Time, and at any adjournment or postponement of the Annual Meeting for the purposes set forth herein and in the accompanying Notice of Annual Meeting of Shareholders.

Whether or not you personally attend, it is important that your shares be represented and voted at the Annual Meeting. Most shareholders have a choice of voting over the Internet, by using a toll-free telephone number, or by completing a proxy card and mailing it in the postage-paid envelope provided. Check your proxy card or the information forwarded by your bank, broker, or other shareholder of record to determine which voting options are available to you. Please be aware that if you vote over the Internet, you may incur costs such as telecommunication and Internet access charges for which you will be responsible. The Internet voting and telephone voting facilities for shareholders of record will be available until 11:59 p.m., local time, on June 5, 2012. This Proxy Statement and the accompanying proxy card were first mailed on or about April 27, 2012.

NO PERSON IS AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATIONS OTHER THAN THOSE CONTAINED IN THIS PROXY STATEMENT, AND, IF GIVEN OR MADE, THE INFORMATION OR REPRESENTATIONS MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED. THE DELIVERY OF THIS PROXY STATEMENT SHALL, UNDER NO CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN OUR AFFAIRS SINCE THE DATE OF THIS PROXY STATEMENT.

**Solicitation of Proxies**

This solicitation is being made on behalf of our Board of Directors. We will bear the expense of the preparation, printing and distribution of the enclosed proxy card, Notice of Annual Meeting of Shareholders and this Proxy Statement, and any additional material relating to the Annual Meeting that may be furnished to our shareholders by our Board related to the furnishing of this Proxy Statement. We have engaged Georgeson Inc. to assist in the solicitation of proxy materials from shareholders at a fee of approximately \$7,500 plus reimbursement of reasonable out-of-pocket expenses. Proxies may also be solicited without additional compensation by our officers or employees by telephone, fax, e-mail, or personal interview. We will reimburse banks and brokers who hold shares in their name or custody, or in the name of nominees for others, for their out-of-pocket expenses incurred in forwarding copies of the proxy materials to those persons for whom they hold those shares. To obtain the necessary representation of shareholders at the Annual Meeting, supplementary solicitations may be made by mail, telephone, fax, e-mail, or personal interview by our officers or employees, without additional compensation, or by selected securities dealers. We anticipate that the cost of those supplementary solicitations, if any, will not be material.

**Purpose of Annual Meeting**

The purpose of the Annual Meeting is to obtain approval for the proposals described in this Proxy Statement and to consider any other business that may properly come before the Annual Meeting, including any adjournment or postponement thereof. At the meeting, we will ask shareholders to consider and vote on the following proposals:

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Proposal 1: elect six members of our Board of Directors for a one-year term;

Proposal 2: ratify the appointment of Whitley Penn LLP as our independent registered public accountants for the fiscal year ending December 31, 2012;

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Proposal 3: approve, on an advisory basis, the compensation of our named executive officers; and

Proposal 4: approve the 2012 Incentive Plan.

### **Record Date and Shares Outstanding**

Only shareholders who owned shares of our common stock at the close of business on April 13, 2012, referred to in this Proxy Statement as the Record Date, are entitled to notice of, and to vote at, the Annual Meeting. As of the Record Date, 61,775,291 shares of our common stock were outstanding and entitled to vote at the Annual Meeting. Shareholders are entitled to one vote, in person or by proxy, for each share of common stock held in their name on the record date.

### **Quorum**

A majority of the outstanding shares of our common stock entitled to vote at the Annual Meeting must be represented, in person or by proxy, at the Annual Meeting to constitute a quorum to conduct business at the meeting. As of the Record Date, there were 61,775,291 shares outstanding and entitled to vote at the Annual Meeting, so we will require a quorum of at least 30,887,646 shares represented at the Annual Meeting in order to conduct business at the meeting.

### **Revocability of Proxies**

You may revoke your proxy at any time before it is exercised. Execution of the proxy will not affect your right to attend the Annual Meeting in person. Revocation may be made before the Annual Meeting by written revocation or through a duly executed proxy bearing a later date sent to Zix Corporation, Attention: Corporate Secretary, 2711 North Haskell Avenue, Suite 2200, LB 36, Dallas, Texas 75204-2960; or your proxy may be revoked personally at the Annual Meeting by written notice to the Secretary at the Annual Meeting before the voting of the proxy. Any revocation sent to the Company must include the shareholder's name and must be received before the Annual Meeting to be effective.

### **How Your Proxy Will Be Voted**

In the absence of specific instructions to the contrary, shares represented by properly executed proxies received by the Company, including unmarked signed proxies, will be voted FOR each of the proposals that will be considered at the Annual Meeting. In addition, if any other matters properly come before the Annual Meeting the persons named as proxy holders in the enclosed proxy card will have discretion as to how they will vote the shares they represent. Other than the proposals described in this Proxy Statement, we have not received notice of any matters that may properly be presented at the Annual Meeting.

### **Dissenters' Rights**

Under Texas law, shareholders are not entitled to dissenters' rights with respect to any of the proposals that will be considered at the Annual Meeting.

### **Tabulation of Votes**

Votes cast at the Annual Meeting will be tabulated by a representative of Broadridge Financial Solutions, Inc. as the independent inspector of election.

### **Vote Required to Approve Proposals**

#### ***Proposal 1***

On Proposal 1, shares may either be voted FOR an individual director nominee or voted WITHHELD as to an individual director nominee. If a quorum is represented at the Annual Meeting, the six nominees who receive the greatest number of FOR votes (also called a plurality of FOR votes) will be elected as directors. Brokers cannot cast discretionary votes in the election of directors, so you must instruct your broker how to vote your shares on Proposal 1. A vote WITHHELD as to any director effectively will be counted as a vote against the election of that



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director. In the election of directors, shareholders are not entitled to cumulate their votes or to vote for a greater number of persons than the number of nominees named in this Proxy Statement.

### ***Proposal 2***

On Proposal 2, shares may either be voted FOR the ratification of the appointment of Whitley Penn LLP as the Company's independent auditors for the fiscal year ending December 31, 2012, or voted AGAINST that ratification, or voted to ABSTAIN. If a quorum is represented at the Annual Meeting, the approval of Proposal 2 would require the FOR vote of the holders of a majority of the shares entitled to vote on the proposal and represented in person or by proxy at the Annual meeting. Because votes to ABSTAIN are counted as shares represented at the meeting, they will have the same effect as votes AGAINST Proposal 2.

### ***Proposal 3***

On Proposal 3, shares may either be voted FOR the approval, on an advisory basis, of the compensation of our named executive officers, or voted AGAINST that advisory approval, or voted to ABSTAIN. If a quorum is represented at the Annual Meeting, approval of Proposal 3 requires the FOR vote of the holders of a majority of the shares entitled to vote on the proposal and represented in person or by proxy at the Annual Meeting. Broker non-votes will not be included in vote totals and will not affect the outcome of the vote on this proposal. Because votes to ABSTAIN are counted as shares represented at the meeting, they will have the same effect as votes AGAINST Proposal 3.

### ***Proposal 4***

On Proposal 4, shares may either be voted FOR the approval of the 2012 Incentive Plan, or voted AGAINST the approval of that plan, or voted to ABSTAIN. If a quorum is represented at the Annual Meeting, the approval of Proposal 4 would require the FOR vote of the holders of a majority of the shares entitled to vote on the proposal and represented in person or by proxy at the Annual Meeting. Because votes to ABSTAIN are counted as shares represented at the meeting, they will have the same effect as votes AGAINST Proposal 4.

### ***Other Matters***

An affirmative vote of a majority of the shares represented at the Annual Meeting is generally required for action on any other matters that may properly come before the Annual Meeting.

### ***Effect of Broker Non-Votes***

If your shares are held in a brokerage account and you do not instruct your broker how to vote on a particular proposal, your brokerage firm could either:

Vote your shares on that proposal in the broker's discretion, if the rules permit; or

Leave your shares unvoted on that proposal.

A broker non-vote occurs when a broker or nominee holding shares for a beneficial owner does not vote on a particular proposal because the broker or nominee does not have the discretionary voting power with respect to that proposal and has not received instructions from the beneficial owner. Under applicable rules, brokers do not have discretionary authority to vote on Proposals 1, 3, or 4, but they do have the discretionary authority to vote on Proposal 2.

### **Shareholders' Proposals**

If you would like to submit a proposal to be included in the Proxy Statement for the 2013 Annual Meeting of Shareholders, the submission must be in writing and received by us no later than December 28, 2012. Submissions of shareholder proposals after that date will be considered untimely for inclusion in the Proxy Statement and form of proxy for our 2013 Annual Meeting. A shareholder proposal that does not qualify under SEC Rule 14a-8 for inclusion in our Proxy Statement must be received by the Corporate Secretary at the principal executive offices of the Company no earlier than February 6, 2013 and no later than March 8, 2013.

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All notices of proposals, whether or not to be included in our proxy materials, should be sent to our principal executive offices at Zix Corporation, Attention: Corporate Secretary, 2711 North Haskell Avenue, Suite 2200, LB 36, Dallas, Texas 75204-2960.

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**Reducing the Costs of Proxy Solicitation**

To reduce the expenses of delivering duplicate proxy materials, we take advantage of the SEC's householding rules that permit us to deliver only one set of proxy materials to shareholders who share an address, unless otherwise requested. If you share an address with another shareholder and have received only one set of proxy materials, you may request a separate copy of these materials at no cost to you by contacting Zix Corporation, Attention: Corporate Secretary, 2711 North Haskell Avenue, Suite 2200, LB 36, Dallas, Texas 75204-2960 or (214) 370-2000. For future Annual Meetings, you may request separate voting materials, or request that we send only one set of proxy materials to you if you are receiving multiple copies, by calling or writing to us at the phone number and address given above.

*Shareholders of Record:* If you vote on the Internet at [www.proxyvote.com](http://www.proxyvote.com), simply follow the prompts for enrolling in the electronic proxy delivery service.

*Beneficial Owners:* If you hold your shares in a brokerage account, you also may have the opportunity to receive copies of these documents electronically. Please check the information provided in the proxy materials mailed to you by your bank, broker or other holder of record regarding the availability of this service.

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**Proposals**

**PROPOSAL 1 ELECTION OF DIRECTORS**

Our shareholders will vote on the election of six members of our Board of Directors at the Annual Meeting. Each director will serve until the next Annual Meeting of Shareholders and until the director's successor is duly elected and qualified, unless earlier removed in accordance with our Bylaws.

The nominees for election to our Board are:

<b>Name</b>	<b>Principal Occupation</b>	<b>Director Since</b>
Taher A. Elgamal	Chief Executive Officer, IdentityMind, Inc.	July 2011
Robert C. Hausmann	Chief Financial Officer, TetraSun, Inc.	November 2005
James S. Marston	Private Investor	September 1991
Maribess L. Miller	Consultant	April 2010
Antonio R. Sanchez III	President, Sanchez Oil & Gas Corporation	May 2003
Richard D. Spurr	Chairman and Chief Executive Officer, Zix Corporation	May 2005

For biographical and other information regarding the nominees for Director, please see OTHER INFORMATION YOU NEED TO MAKE AN INFORMED DECISION Directors. For information on our directors' compensation, please see INFORMATION ON THE COMPENSATION OF DIRECTORS.

Each of the persons nominated for election to our Board of Directors has agreed to stand for election. Our Board of Directors has no reason to believe that any of the nominees will be unable or unwilling to serve if elected, and to the knowledge of the Board, each of the nominees intends to serve the entire term for which election is sought. Our Bylaws provide that the Board of Directors may reduce the number of positions on our Board of Directors. In addition, our Bylaws provide that the Board of Directors may fill any vacancy in the Board of Directors by the affirmative vote of a majority of the remaining Directors.

**OUR BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE**

**FOR PROPOSAL 1 AND FOR EACH DIRECTOR NOMINEE NAMED ABOVE.**



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**PROPOSAL 2 RATIFICATION OF APPOINTMENT OF ACCOUNTANTS**

The Audit Committee of the Board has recommended, and the Board has appointed, Whitley Penn LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2012. Services provided to the Company and its subsidiaries by Whitley Penn LLP in fiscal 2011 are described under INDEPENDENT PUBLIC ACCOUNTANTS.

We are asking our shareholders to ratify the appointment of Whitley Penn LLP as our independent registered public accounting firm for the 2012 fiscal year. Although ratification is not required by our Bylaws or otherwise, the Board is submitting the appointment of Whitley Penn LLP to our shareholders for ratification as a matter of good corporate practice.

Representatives of Whitley Penn LLP will be present at the Annual Meeting to respond to appropriate questions and to make those statements that they may desire.

Votes cast FOR Proposal 2 by a majority of the shares of our common stock represented at the Annual Meeting is required to approve Proposal 2. Shares voted to ABSTAIN as to Proposal 2 will be counted as represented at the meeting and will have the same effect as a vote against Proposal 2.

If our shareholders do not approve Proposal 2, the appointment of Whitley Penn LLP will be reconsidered by our Audit Committee and our Board. Even if Proposal 2 is approved, the Audit Committee in its discretion may select a different independent registered public accounting firm if it determines that a change would be in the best interests of the Company and our shareholders and otherwise complies with all regulations of the SEC regarding a change in public accounting firms.

**OUR BOARD OF DIRECTORS RECOMMENDS**

**THAT YOU VOTE FOR PROPOSAL 2.**

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**PROPOSAL 3 APPROVE, ON AN ADVISORY BASIS, THE COMPENSATION OF OUR NAMED EXECUTIVE OFFICERS**

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ( Dodd-Frank Act ), enables the Company's shareholders to vote to approve, on an advisory (nonbinding) basis, the compensation of the Company's named executive officers. The Company seeks your advisory vote and asks that you support the compensation of the named executive officers as disclosed in this proxy statement. Our Board of Directors intends to conduct an annual advisory vote on the compensation of the Company's named executive officers.

As described in detail under COMPENSATION DISCUSSION AND ANALYSIS, our compensation programs are designed to motivate our executives to create a successful company. We believe that our compensation program, with its balance of short-term incentives and long-term incentives (including equity awards that vest over multiple years) reward sustained performance that is aligned with long-term shareholder interests.

This proposal, commonly known as a say on pay proposal, gives the Company's shareholders the opportunity to express their views on the compensation of its named executive officers. This vote is not intended to address any specific item of compensation, but rather the overall compensation of the Company's named executive officers described in this proxy statement.

Accordingly, the Board invites you to review carefully the Compensation Discussion and Analysis beginning on page 32 and the tabular and other disclosures on compensation under Executive Compensation beginning on page 37, and cast a vote to approve the Company's executive compensation programs through the following resolution:

Resolved, that shareholders approve the compensation of the Company's named executive officers, as discussed and disclosed in the Compensation Discussion and Analysis, the executive compensation tables, and any narrative executive compensation disclosure contained in this proxy statement.

The say-on-pay vote is advisory, and therefore not binding on the Company, the Compensation Committee or the Board of Directors. The Board of Directors and Compensation Committee value the opinions of the Company's shareholders and to the extent there is any significant vote against the named executive officers compensation as disclosed in this proxy statement, the Board will consider the shareholders' concerns and the Compensation Committee will evaluate whether any actions are necessary to address those concerns, particularly in the event that there is a significant vote against the compensation of our named executive officers as disclosed in this proxy statement. Our Board intends to hold an annual advisory vote for shareholders to approve the compensation of our named executive officers.

**OUR BOARD OF DIRECTORS RECOMMENDS**

**THAT YOU VOTE FOR PROPOSAL 3.**

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**PROPOSAL 4 APPROVAL OF 2012 INCENTIVE PLAN**

On April 13, 2012, the Board of Directors adopted the 2012 Incentive Plan, subject to shareholder approval at the Annual Meeting. If approved by shareholders, the effective date of the 2012 Incentive Plan will be the date it was approved by the Board.

The 2012 Incentive Plan is intended to serve as the successor to the Company's 2006 Directors' Stock Option Plan, 2004 Stock Option Plan, and 2003 New Employee Stock Option Plan (the Existing Plans). As of March 31, 2012, there were approximately 7,293,835 shares of Common Stock subject to outstanding awards issued under the Existing Plans. Approximately 1,327,000 of these outstanding awards are options that have an exercise price that greatly exceeds the current trading price of the Company's common stock and are scheduled to expire in 2013 and 2014 (the Expiring Options). Approximately 536,313 shares of Common Stock remain reserved and available for future awards under the Existing Plans.

In April 2012, the Compensation Committee directed management to engage Board Advisory LLC, an independent compensation consultant, to assist the Company in determining the number of shares subject to the 2012 Incentive Plan. Among other things, Board Advisory reviewed the number of shares subject to the Company's outstanding awards under the Existing Plans (commonly referred to as option overhang), its prior rate of grant under the Existing Plans (commonly referred to as annual burn rate), and its prior grants to executive officers, and evaluated these amounts in light of the competitive practices of a group of companies in the Company's industry. This peer group was limited to companies having the same global industry classification standards code (GICS) as the Company and having between 0.5 and 2 times the Company's revenue and market cap. This peer group analysis indicated that the Company requires additional shares to enable it to make competitive awards and to more closely align executive pay with shareholder interests. The analysis showed that the number of shares awarded by the Company over the past three years is considerably lower than peer companies. Based on competitive practice, the Company expects to grant between 1 and 2% of outstanding shares on an annual basis. Accordingly, the requested shares are expected to last for approximately four years.

If approved by shareholders, 2,700,000 shares would be available for issuance under the 2012 Incentive Plan, plus a number of additional shares (not to exceed 1,327,000) underlying options outstanding under the Existing Plans that terminate or expire unexercised, or are cancelled, forfeited or lapse for any reason. This number of authorized shares is subject to proportionate adjustment in the event of stock splits and similar events.

If the shareholders approve the 2012 Incentive Plan, all future equity grants to the Company's employees, officers, directors and consultants will be made from the 2012 Incentive Plan, and the Company will not grant any additional awards to such persons under the Existing Plans. If the shareholders do not approve the 2012 Incentive Plan, the Company will continue granting awards under the Existing Plans.

A summary of the 2012 Incentive Plan is set forth below. This summary is qualified in its entirety by the full text of the 2012 Incentive Plan, which is attached to this Proxy Statement as *Appendix A*.

**Summary of the 2012 Incentive Plan**

**Promotion of Sound Corporate Governance Practices.** The 2012 Incentive Plan contains a number of provisions that the Company believes are consistent with the interests of the shareholders and sound corporate governance practices, including:

*No repricing of stock options or SARs.* The 2012 Incentive Plan prohibits the repricing of stock options or stock appreciation rights (SARs) without shareholder approval. This prohibition includes reducing the exercise price or base price after the date of grant, replacing, regranting or canceling a stock option or SAR for another award (including following a participant's voluntary surrender of

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underwater stock options or SARs), or repurchasing an option or SAR for value if the current fair market value of the shares subject to the award is lower than the exercise or base price of the award.

*No discounted stock options or SARs.* No stock options or SARs may be granted with an exercise price or base price that is less than the fair market value of the underlying stock on the date of grant.

*Minimum vesting requirements.* Subject to certain limited exceptions, full-value awards granted under the 2012 Incentive Plan (which are any awards other than options or SARs) will be either subject to a minimum vesting period of three years (which may include periodic vesting within such three-year period), or, if the vesting is based on performance criteria other than continued service, a minimum performance period of one year.

*No liberal share recycling.* Shares retained by or delivered to the Company to pay the exercise price of a stock option or to satisfy tax withholding taxes in connection with the exercise or settlement of an award count against the number of shares remaining available under the 2012 Incentive Plan.

*Fungible share pool.* The 2012 Incentive Plan utilizes a fungible share pool under which each regular stock option and SAR counts as one share against the share reserve and each full-value award counts as 1.5 shares against the share reserve.

*No award may be transferred for value.* The 2012 Incentive Plan prohibits the transfer of unexercised, unvested or restricted awards to independent third parties for value.

*Change in control treatment.* If awards granted under the 2012 Incentive Plan are assumed by the successor entity in a change of control of the Company, such awards will not automatically vest and pay out upon the change of control.

*Awards Subject to Clawback Policy.* Awards under the 2012 Incentive Plan will be subject to any compensation recoupment policy that the company may adopt from time to time.

**Key Data Relating to Outstanding Equity Awards and Shares Available**

The following table includes information regarding outstanding equity awards and shares available for future awards under the Existing Plans as of March 31, 2012 (and without giving effect to approval of the 2012 Incentive Plan under this Proposal):

	<b>Existing Plans (Aggregate)</b>
Total shares underlying outstanding stock options and SARs	7,293,835
Weighted-average exercise price of outstanding stock options and SARs	\$ 4.37
Weighted-average remaining contractual life of outstanding stock options and SARs	4.73 years
Total shares underlying outstanding unvested full-value awards	1,088,123
Total shares currently available for grant (1)	536,313

- (1) If our stockholders approve the 2012 Incentive Plan, all future equity awards will be made from the 2012 Incentive Plan, and we will not grant any additional awards under the Existing Plans. Furthermore, during the period from March 31, 2012, to the date of the Annual Meeting we will not grant any awards under the Existing Plans in an aggregate amount greater than 50,000 shares.

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**Purpose.** The purpose of the 2012 Incentive Plan is to promote the Company's success by linking the personal interests of the Company's employees, officers, directors and consultants to those of the shareholders, and by providing participants with an incentive for outstanding performance. The 2012 Incentive Plan is also intended

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to enhance the Company's ability to motivate, attract, and retain the services of employees, officers, directors and consultants upon whose judgment, interest, and special effort the successful conduct of the Company's operation is largely dependent.

**Administration.** The 2012 Incentive Plan will be administered by the Compensation Committee of the Board of Directors. The Compensation Committee will have the authority to grant awards; designate participants; determine the type or types of awards to be granted to each participant and the number, terms and conditions thereof; establish, adopt or revise any plan, program or policy for the grant of awards as it may deem necessary or advisable, including but not limited to short-term incentive programs; establish, adopt or revise any rules and regulations as it may deem advisable to administer the 2012 Incentive Plan; and make all other decisions and determinations that may be required under the 2012 Incentive Plan. The independent Director members of our Board of Directors may at any time administer the 2012 Incentive Plan.

**Eligibility.** The 2012 Incentive Plan permits the grant of incentive awards to employees, officers, directors and consultants of the Company and its affiliates as selected by the Compensation Committee. As of March 31, 2012, the number of eligible participants was approximately 132. The number of eligible participants may increase over time based upon future growth of the Company and its affiliates.

**Grants to Non-Employee Directors.** Grants of awards to non-employee directors under the 2012 Incentive Plan will be made only in accordance with the terms, conditions and parameters of a plan, program or policy for the compensation of non-employee directors as in effect from time to time. Accordingly, the Compensation Committee and Board may not make discretionary grants to non-employee directors under the 2012 Incentive Plan.

**Permissible Awards.** The 2012 Incentive Plan authorizes the granting of awards in any of the following forms:

options to purchase shares of the Company's common stock, which may be designated under the Code as nonstatutory stock options (which may be granted to all participants) or incentive stock options (which may be granted to officers and employees but not to non-employee directors or consultants);

stock appreciation rights (SARs), which give the holder the right to receive the difference (payable in cash or stock, as specified in the award agreement) between the fair market value per share of the common stock on the date of exercise over the base price of the award (which cannot be less than the fair market value of the underlying stock as of the grant date);

restricted stock, which is subject to restrictions on transferability and subject to forfeiture on terms set by the Compensation Committee;

restricted or deferred stock units, which represent the right to receive shares of common stock (or an equivalent value in cash or other property, as specified in the award agreement) in the future, based upon the attainment of stated vesting or performance criteria in the case of restricted stock units;

performance awards, which are awards payable in cash or stock upon the attainment of specified performance goals (any award that may be granted under the 2012 Incentive Plan may be granted in the form of a performance award);

dividend equivalents, which entitle the holder of a full-value award (such as restricted stock, stock units, or performance awards payable in common stock) to cash payments (or an equivalent value payable in stock or other property) equal to any dividends paid on the shares of stock underlying the award;

other stock-based awards in the discretion of the Compensation Committee, including unrestricted stock grants; and



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any other right or interest relating to stock or cash.

**Shares Available for Awards.** The aggregate number of shares of Common Stock that may be issued under the 2012 Incentive Plan is 2,700,000 shares, plus a number of additional shares (not to exceed 1,327,000) underlying options outstanding under the Existing Plans that thereafter terminate or expire unexercised, or are cancelled, forfeited or lapse for any reason. This number of authorized shares is subject to proportionate adjustment in the event of stock splits and similar events.

**Share Counting.** As noted above, the 2012 Incentive Plan utilizes a fungible share pool under which each stock option and SAR counts against the share reserve on a one-for-one basis, and each full-value award counts against the share reserve on a greater than one-for-one basis. Specifically, shares of common stock reserved and available for issuance pursuant to awards granted under the 2012 Plan shall be counted against the plan reserve as follows:

The full number of shares subject to a stock option shall count against the shares remaining available under the 2012 Incentive Plan, even if the exercise price of the stock option is satisfied in whole or in part through net-settlement or by delivering shares to the company.

The full number of shares originally subject to a SAR shall count against the shares remaining available under the 2012 Plan.

Full-value awards (which are any awards other than options or SARs) that are settled in stock shall count against the shares remaining available under the 2012 Incentive Plan as 1.5 shares for each share covered by such awards.

Shares withheld or repurchased from an award to satisfy tax withholding requirements shall count against the shares remaining available under the 2012 Incentive Plan, and shares delivered to satisfy tax withholding requirements shall not be added to the plan share reserve.

To the extent that an award is canceled, terminates, expires, is forfeited or lapses for any reason, including by reason of failure to achieve maximum performance goals, any unissued or forfeited shares will be added back to the plan share reserve and again be available for issuance under the plan.

Shares subject to awards settled in cash will be added back to the plan share reserve and will again be available for issuance under the plan.

The Committee may grant awards under the 2012 Plan in substitution for awards held by employees of another entity who become employees of the company as a result of a business combination, and such substitute awards will not count against the plan share reserve.

**Limitations on Individual Awards.** The maximum aggregate number of shares of common stock subject to stock-based awards that may be granted under the 2012 Incentive Plan in any 12-month period to any one participant is as follows:

Type of Award	Shares
Options	500,000
Stock Appreciation Rights	500,000
Performance Awards	500,000

The maximum aggregate amount awarded or credited with respect to cash-based awards under the 2012 Incentive Plan to any one participant in any 12-month period is \$5,000,000.





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**Minimum Vesting Requirements.** Except in the case of substitute awards (which are awards honored or assumed, or new rights substituted therefor, by the new employer following a change in control of the Company) and replacement awards (which are awards made to employees of companies acquired by the Company to replace incentive awards held by such employees prior to the acquisition), full-value awards granted under the 2012 Incentive Plan will either (i) be subject to a minimum vesting period of three years (which may include graduated vesting within such three-year period), or one year if the vesting is based on performance criteria other than continued service, or (ii) be granted solely in exchange for foregone cash compensation. Notwithstanding the foregoing, (i) the Committee may permit acceleration of vesting of such full-value awards in the event of the participant's death, disability or retirement, or the occurrence of a change in control, and (ii) the Committee may grant full-value awards covering 10% or fewer of the total number of shares authorized under the 2012 Incentive Plan without respect to these minimum vesting requirements.

**Performance Goals.** All options and SARs granted under the 2012 Incentive Plan are designed to be exempt from the \$1,000,000 deduction limit imposed by Code Section 162(m). The Compensation Committee may designate any other award granted under the 2012 Incentive Plan as a qualified performance-based award in order to make the award fully deductible without regard to the \$1,000,000 deduction limit imposed by Code Section 162(m). If an award is so designated, the Compensation Committee must establish objectively determinable performance goals for the award based on one or more of the following business criteria, which may be expressed in terms of Company-wide objectives or in terms of objectives that relate to the performance of an affiliate or a division, region, department or function within the Company or an affiliate: revenue (premium revenues, total revenue or other revenue measures), sales, new first year orders, profit (net profit, gross profit, operating profit, economic profit, profit margins or other corporate profit measures), earnings (EBIT, EBITDA, earnings per share, earnings after capital charge, or other corporate earnings measures), net income (before or after taxes, operating income or other income measures), cash (cash flow, cash generation or other cash measures), stock price or performance, total shareholder return (stock price appreciation plus reinvested dividends divided by beginning share price), economic value added return measures (including, but not limited to, return on assets, capital, equity, investments or sales, and cash flow return on assets, capital, equity, or sales), market share, improvements in capital structure, expenses (expense management, expense ratio, expense efficiency ratios or other expense measures), business expansion or consolidation (acquisitions and divestitures), internal rate of return or increase in net present value, productivity measures, cost reduction measures, strategic plan development and implementation, and working capital (including, but not limited to, targets relating to inventory and/or accounts receivable).

The Compensation Committee must establish such goals within the time period prescribed under applicable tax regulations, and the Compensation Committee may for any reason reduce (but not increase) any award, notwithstanding the achievement of a specified goal. The Compensation Committee may provide, at the time the performance goals are established, that any evaluation of performance will exclude or otherwise objectively adjust for any specified circumstance or event that occurs during a performance period, including by way of example but without limitation the following: asset write-downs or impairment charges, litigation or claim judgments or settlements, the effect of changes in tax laws, accounting principles or other laws or provisions affecting reported results, accruals for reorganization and restructuring programs, extraordinary nonrecurring items as described in then-current accounting principles, extraordinary nonrecurring items as described in management's discussion and analysis of financial condition and results of operations appearing in the Company's annual report to shareholders for the applicable year, acquisitions or divestitures and foreign exchange gains and losses.

**Treatment of Awards upon a Change of Control.** Unless otherwise provided in an award agreement or any special plan document governing an award:

(A) with respect to awards assumed by the surviving entity or otherwise equitably converted or substituted in connection with a change in control, if within one year after the effective date of the change in control, a participant's employment is terminated without Cause (as defined in the 2012 Incentive Plan) or the participant resigns for Good Reason (if the participant is party to an agreement, such as an employment agreement or award agreement, which contains a definition of "Good Reason"), then

all of that participant's outstanding options and SARs will become fully vested and exercisable;

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all time-based vesting restrictions on that participant's outstanding awards will lapse as of the date of termination; and

the payout opportunities attainable under all of that participant's outstanding performance-based awards will vest based on target or actual performance (depending on the time during the performance period in which the date of termination occurs) and the awards will pay out on a prorata basis, based on the time elapsed prior to the date of termination; and

(B) upon the occurrence of a change in control in which awards are not assumed by the surviving entity or otherwise equitably converted or substituted in connection with the change in control in a manner approved by the Compensation Committee or the board of directors:

all outstanding options and SARs will become fully vested and exercisable;

all time-based vesting restrictions on outstanding awards will lapse as of the date of termination; and

the payout opportunities attainable under all outstanding performance-based awards will vest based on target or actual performance (depending on the time during the performance period in which the change in control occurs) and the awards will pay out on a prorata basis, based on the time elapsed prior to the change in control.

**Discretionary Acceleration.** Regardless of whether a change in control has occurred, the Compensation Committee may in its sole discretion at any time determine that all or a portion of a participant's awards will become fully vested, subject to the minimum vesting requirements applicable to full-value awards discussed above. The Compensation Committee may discriminate among participants or among awards in exercising such discretion.

**Limitations on Transfer; Beneficiaries.** A participant generally may not assign or transfer an award other than by will or the laws of descent and distribution or, except in the case of an incentive stock option, pursuant to a domestic relations order that would satisfy the Code. The Compensation Committee may, however, permit other transfers (other than transfers for value) where it concludes that such transferability does not result in accelerated taxation, does not cause any option intended to be an incentive stock option to fail to qualify as such, and is otherwise appropriate and desirable, taking into account any factors deemed relevant, including without limitation, any state or federal tax or securities laws or regulations applicable to transferable awards. A participant may, in the manner determined by the Committee, designate a beneficiary to exercise the rights of the participant and to receive any distribution with respect to any award upon the participant's death.

**Adjustments.** In the event of a transaction between the Company and its shareholders that causes the per-share value of the common stock to change (including, without limitation, any stock dividend, stock split, spin-off, rights offering, or large nonrecurring cash dividend), the share authorization limits under the 2012 Incentive Plan will be adjusted proportionately, and the Compensation Committee must make such adjustments to the 2012 Incentive Plan and awards as it deems necessary, in its sole discretion, to prevent dilution or enlargement of rights immediately resulting from such transaction. In the event of a stock split, a stock dividend, or a combination or consolidation of the outstanding common stock into a lesser number of shares, the authorization limits under the 2012 Incentive Plan will automatically be adjusted proportionately, and the shares then subject to each award will automatically be adjusted proportionately without any change in the aggregate purchase price.

**Termination and Amendment.** The Board or the Compensation Committee may, at any time and from time to time, terminate or amend the 2012 Incentive Plan, but if an amendment would constitute a material amendment requiring shareholder approval under applicable listing requirements, laws, policies or regulations, then such amendment will be subject to shareholder approval. In addition, the Board or the Compensation Committee may condition any amendment on the approval of the shareholders for any other reason. No termination or amendment of the 2012 Incentive Plan may, without the written consent of the participant, reduce or diminish the value of an outstanding award.

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The Compensation Committee may amend or terminate outstanding awards. However, such amendments may require the consent of the participant and, unless approved by the shareholders, the exercise price of an outstanding option may not be reduced, directly or indirectly, and the original term of an option may not be extended.

**Prohibition on Repricing.** As indicated above under Termination and Amendment, outstanding stock options and SARs cannot be repriced, directly or indirectly, without shareholder approval. The exchange of an underwater option or SAR (i.e., an option or SAR having an exercise or base price in excess of the current market value of the underlying stock) for another award would be considered an indirect repricing and would, therefore, require shareholder approval.

### **Certain Federal Income Tax Effects**

The U.S. federal income tax discussion set forth below is intended for general information only and does not purport to be a complete analysis of all of the potential tax effects of the 2012 Incentive Plan. It is based upon laws, regulations, rulings and decisions now in effect, all of which are subject to change. State and local income tax consequences are not discussed, and may vary from locality to locality.

**Nonstatutory Stock Options.** There will be no federal income tax consequences to the optionee or to us upon the grant of a nonstatutory stock option under the 2012 Incentive Plan. When the optionee exercises a nonstatutory option, however, he or she will recognize ordinary income in an amount equal to the excess of the fair market value of the common stock received upon exercise of the option at the time of exercise over the exercise price, and we will be allowed a corresponding federal income tax deduction. Any gain that the optionee realizes when he or she later sells or disposes of the option shares will be short-term or long-term capital gain, depending on how long the shares were held.

**Incentive Stock Options.** There typically will be no federal income tax consequences to the optionee or to us upon the grant or exercise of an incentive stock option. If the optionee holds the acquired option shares for the required holding period of at least two years after the date the option was granted and one year after exercise, the difference between the exercise price and the amount realized upon sale or disposition of the option shares will be long-term capital gain or loss, and we will not be entitled to a federal income tax deduction. If the optionee disposes of the option shares in a sale, exchange, or other disqualifying disposition before the required holding period ends, he or she will recognize taxable ordinary income in an amount equal to the excess of the fair market value of the option shares at the time of exercise over the exercise price, and we will be allowed a federal income tax deduction equal to such amount. While the exercise of an incentive stock option does not result in current taxable income, the excess of the fair market value of the option shares at the time of exercise over the exercise price will be an item of adjustment for purposes of determining the optionee's alternative minimum taxable income.

**SARs.** A participant receiving a stock appreciation right under the 2012 Incentive Plan will not recognize income, and we will not be allowed a tax deduction, at the time the award is granted. When the participant exercises the stock appreciation right, the amount of cash and the fair market value of any shares of common stock received will be ordinary income to the participant and we will be allowed a corresponding federal income tax deduction at that time.

**Restricted Stock.** Unless a participant makes an election to accelerate recognition of the income to the date of grant as described below, a participant will not recognize income, and we will not be allowed a tax deduction, at the time a restricted stock award is granted, provided that the award is nontransferable and is subject to a substantial risk of forfeiture. When the restrictions lapse, the participant will recognize ordinary income equal to the fair market value of the common stock as of that date (less any amount he or she paid for the stock), and we will be allowed a corresponding federal income tax deduction at that time, subject to any applicable limitations under Code Section 162(m). If the participant files an election under Code Section 83(b) within 30 days after the date of grant of the restricted stock, he or she will recognize ordinary income as of the date of grant equal to the fair market value of the stock as of that date (less any amount paid for the stock), and we will be allowed a corresponding

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federal income tax deduction at that time, subject to any applicable limitations under Code Section 162(m). Any future appreciation in the stock will be taxable to the participant at capital gains rates. However, if the stock is later forfeited, the participant will not be able to recover the tax previously paid pursuant to the Code Section 83(b) election.

**Restricted or Deferred Stock Units.** A participant will not recognize income, and we will not be allowed a tax deduction, at the time a stock unit award is granted. When the participant receives or has the right to receive shares of common stock (or the equivalent value in cash or other property) in settlement of a stock unit award, a participant will recognize ordinary income equal to the fair market value of the common stock or other property as of that date (less any amount he or she paid for the stock or property), and we will be allowed a corresponding federal income tax deduction at that time, subject to any applicable limitations under Code Section 162(m).

**Performance Awards.** A participant will not recognize income, and the Company will not be allowed a tax deduction, at the time a performance award is granted (for example, when the performance goals are established). Upon receipt of cash, stock or other property in settlement of a performance award, the participant will recognize ordinary income equal to the cash, stock or other property received, and the Company will be allowed a corresponding federal income tax deduction at that time, subject to any applicable limitations under Code Section 162(m).

**Dividend Equivalents.** A participant will recognize ordinary income, and we will be allowed a tax deduction, at the time the dividend equivalents are paid or payable.

**Code Section 409A.** The 2012 Incentive Plan permits the grant of various types of incentive awards, which may or may not be exempt from Code Section 409A. If an award is subject to Section 409A, and if the requirements of Section 409A are not met, the taxable events as described above could apply earlier than described, and could result in the imposition of additional taxes and penalties. Restricted stock awards, and stock options and stock appreciation rights that comply with the terms of the 2012 Incentive Plan are generally exempt from the application of Code Section 409A. Stock units, other stock-based awards and cash-based awards that are granted in one year and payable in a later year generally are subject to Section 409A unless they are designed to satisfy the short-term deferral exemption from such law. If not exempt, such awards must be specially designed to meet the requirements of Section 409A in order to avoid early taxation and penalties.

**Tax Withholding.** The Corporation or any affiliate has the right to deduct or withhold, or require a participant to remit to the Corporation, an amount sufficient to satisfy federal, state, and local taxes (including employment taxes) required by law to be withheld with respect to any exercise, lapse of restriction or other taxable event arising as a result of the 2012 Incentive Plan.

### **Benefits to Named Executive Officers and Others**

As of the date of this proxy statement, no awards had been granted under the 2012 Incentive Plan. All awards under the 2012 Incentive Plan will be made at the discretion of the Compensation Committee. Therefore, it is not currently possible to determine the benefits or amounts that will be received by any individuals or groups pursuant to the 2012 Incentive Plan in the future.

### **Vote Required and Board of Directors Recommendation**

Votes cast FOR Proposal 4 by a majority of the shares of our common stock represented at the Annual Meeting and entitled to vote on the proposal is required to approve the 2012 Incentive Plan. Shares voted to ABSTAIN as to Proposal 4 will be counted as represented at the meeting and will have the same effect as a vote AGAINST Proposal 4. If you hold your shares in street name and you do not provide voting instructions to your bank or broker, it will have no impact on the outcome of Proposal 4, as broker non-votes are not entitled to vote on the matter.

**OUR BOARD OF DIRECTORS RECOMMENDS THAT YOU**

**VOTE FOR PROPOSAL 4.**

**Table of Contents****OTHER INFORMATION YOU NEED TO MAKE AN INFORMED DECISION****Directors**

The following table indicates the names of our director nominees and their ages and positions:

<b>Name</b>	<b>Age</b>	<b>Position</b>
Taher A. Elgamal <sup>(1)(2)</sup>	55	Independent Director
Robert C. Hausmann <sup>(1)(3)</sup>	49	Independent Director
James S. Marston <sup>(2)(3)</sup>	78	Independent Director
Maribess L. Miller <sup>(2)(3)</sup>	59	Independent Director
Antonio R. Sanchez III <sup>(1)</sup>	38	Independent Director
Richard D. Spurr	58	Chairman of the Board

(1) Member of the Nominating and Corporate Governance Committee

(2) Member of the Compensation Committee

(3) Member of the Audit Committee

**Taher A. Elgamal** was elected to ZixCorp's Board of Directors in July 2011. Dr. Elgamal is co-founder, CEO and director of IdentityMind, Inc. (online anti-fraud). He currently serves as a director of privately-held Vindicia, Inc. (online billing). Dr. Elgamal has also held executive roles at technology and security companies, including CSO of Axway, Inc. (business interaction networks) from 2008 to 2011, CTO of Tumbleweed Communications (secure email and file transfer) from 2006 to 2008, CTO of Securify, Inc. (network security) from 2001 to 2004, CEO and president of Securify, Inc. from 1998 to 2001 and chief scientist of Netscape Communications (internet) from 1995 to 1998. Dr. Elgamal is a recipient of the RSA Conference 2009 Lifetime Achievement Award, and he is recognized as the father of SSL, the Internet security standard Secure Sockets Layer. Dr. Elgamal was issued several patents in online security, payments and data compression. He received a bachelor's degree in electrical engineering from Cairo University, a master's degree in electrical engineering from Stanford University and a doctorate in electrical engineering from Stanford University.

Our Board of Directors selected Dr. Elgamal to serve as a director because of his expertise in cybersecurity and encryption technologies. In addition, his experience working with data security firms contributes to the Board's oversight of the Company's cybersecurity risks as well as its marketing strategy. His experience as an executive and director at public and private information technology companies adds to the Board's understanding of many matters facing the Company, including personnel management, business operations and corporate governance.

**Robert C. Hausmann** was elected to our Board of Directors in November 2005. He is the Chief Financial Officer of privately-held TetraSun, Inc. (solar cell development). Mr. Hausmann served as Vice President and Chief Financial Officer of Securify, Inc. (computer security monitoring) from September 2002 through June 2005. From September 1999 through September 2002, Mr. Hausmann served as Vice President and Chief Financial Officer of Resonate, Inc. (network traffic management) and helped manage that company's initial public offering. Previously, he served as Operations Partner and Chief Financial Officer of Mohr, Davidow Ventures, a Silicon Valley-based venture capital partnership. He is a Director of Business Services Group LLC, CAY Holding, Sam Cloud Barn L.P., and EasyIce, LLC. Mr. Hausmann holds a Master of Business Administration degree from Santa Clara University and a Bachelors of Arts degree in Finance and Accounting from Bethel University.

Our Board of Directors selected Mr. Hausmann to serve as a director because of his experience as Chief Financial Officer of four; and as Chief Financial Officer of one of Silicon Valley's premiere venture capital firms, which contributes to the Board's oversight of the Company's financial and accounting matters, including public company reporting and disclosure. His consulting work at public and private companies, principally in the information technology industry, brings to the Board valuable experience and perspective on a variety of matters facing the Company, including financial markets, operations, corporate governance, compliance and systems and process re-engineering.

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**James S. Marston** was elected to our Board in September 1991. From September 1987 through February 1998, Mr. Marston served as a Senior, or Executive, Vice President and the Chief Information Officer of APL Limited (intermodal shipping). Between 1986 and 1987, Mr. Marston served as President of AMR Technical Training Division, AMR Corporation (transportation). From 1982 until 1986, he was Vice President of Data Processing and Communications for American Airlines, Inc., where he was responsible for the Sabre reservations system and related technologies. He holds a Bachelor of Arts degree in Political Science from the University of Maryland, and a Master of Arts degree in Public Administration from the University of Oklahoma.

Our Board of Directors selected Mr. Marston to serve as a director because his 20 years of service on our Board contributes unique knowledge, history and perspective about the Company and its business, employees and customers. His tenure provides the Board with a deeper understanding of the issues, risks and opportunities before the Company. Mr. Marston's years operating the Sabre computer reservation system, then owned by American Airlines, Inc., contributes to the Board a wealth of experience and depth of understanding about issues facing large and complex information technology services businesses.

**Maribess L. Miller** was elected to our Board in April 2010. Ms. Miller was a member of the public accounting firm PricewaterhouseCoopers LLP from 1975 until 2009, including serving as the North Texas Market Managing Partner from 2001 until 2009; as Southwest Region Consumer, Industrial Products and Services Leader from 1998 until 2001; and as Managing Partner of that firm's U.S. Healthcare Audit Practice from 1995 to 1998. She was appointed in 2009 by Governor Rick Perry to the Texas State Board of Public Accountancy and serves on the rules committee and chairs the behavioral enforcement committee. Ms. Miller also serves on the TCU Neeley School of Business Board of Visitors, and was audit committee chair of the Dallas Symphony Association in 2009-10. She graduated cum laude with a Bachelors degree in Accounting from Texas Christian University. Ms. Miller is a Certified Public Accountant.

Our Board of Directors selected Ms. Miller to serve as a director because of her extensive experience in auditing and consulting with companies in various fields, including healthcare and technology companies, which allows her to contribute valuable perspective and insights about the Company's operations. In addition, Ms. Miller has special expertise in public company accounting and financial reporting. She brings to our Board and its Audit Committee invaluable technical understanding of public company accounting and internal controls over financial reporting.

**Antonio R. Sanchez III** was elected to our Board in May 2003. He has served since 2011 as chairman of the board, president and chief executive officer of Sanchez Energy Corporation, an oil and gas production company traded on the New York Stock Exchange. Since 2001, he has served as president of Sanchez Oil & Gas Corporation (oil and gas production) and as president of SEP Management I, LLC (oil and gas production). From 1999 through 2001, he worked in a variety of positions at Zix Corporation, including sales and marketing, product development and investor relations. From 1997 through 1999, he was an investment banker specializing in mergers and acquisitions with JP Morgan Securities Inc. (financial services). He received a Bachelor of Science degree in Business Administration from Georgetown University with a concentration on Accounting and Finance and a minor in Economics. He also holds a Master of Business Administration degree from Harvard University.

Our Board of Directors selected Mr. Sanchez to serve as a director because his experience in senior executive roles at a company with revenues significantly larger than those of the Company, and in an industry that is distinct from the Company's industry, brings to our Board a unique outsider's perspective. Mr. Sanchez's early career experience as an employee of the Company provides him with valuable historical knowledge and perspective about our business.

**Richard D. Spurr** was elected to our Board in May 2005 and elected Chairman of the Board in February 2006. He joined our Company in January 2004 as President and Chief Operating Officer and has served as Chief Executive Officer since March 2005. From March 2003 to November 2003, he served as Senior Vice President, Worldwide Sales, Marketing and Business Development for Securify, Inc. (information security). From 1997 to 2001 he served in several senior executive positions at Entrust, Inc. (information technology security) including VP of Sales, Marketing, Business Development and Professional Services, helping to take this technology company from an early stage to and beyond the initial public offering. From 1991 to 1996, he served in several senior executive positions at SEER Technologies, Inc. (information technology) and from 1974 to 1990, he worked for IBM Corporation (information technology) where, as Regional Manager, he was responsible for over 1,000

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employees, and as Group Director in Tokyo, where he managed a \$1.2 billion Asia Pacific business. Mr. Spurr earned a Bachelor of Arts degree from the University of Notre Dame.

Our Board of Directors selected Mr. Spurr to serve as a director because as the Company's Chief Executive Officer his direct, day-to-day knowledge of and interaction with all aspects of our business, including shareholders, employees and customers is unique among the directors and provides our Board with important insights into our Company's business. In addition, he brings over 30 years of experience in building and managing sales, marketing, business development and service operations in global information technology businesses, which is unique among the members of our Board.



**Table of Contents****Executive Officers**

The following table indicates the names of our Executive Officers and their ages and positions. Officers serve at the discretion of our Board of Directors.

<b>Name</b>	<b>Age</b>	<b>Position</b>
Richard D. Spurr	58	Chief Executive Officer, President and Chief Operating Officer
James F. Brashear	54	Vice President, General Counsel and Corporate Secretary
Michael W. English	55	Vice President and Chief Financial Officer
Russell J. Morgan	52	Vice President, Client Services
David J. Robertson	53	Vice President, Engineering

**Richard D. Spurr** was elected to our Board in May 2005 and elected Chairman of the Board in February 2006. He joined our Company in January 2004 as President and Chief Operating Officer and has served as Chief Executive Officer since March 2005. From March 2003 to November 2003, he served as Senior Vice President, Worldwide Sales, Marketing and Business Development for Securify, Inc. (information security). From 1997 to 2001 he served in several senior executive positions at Entrust, Inc. (information technology security) including VP of Sales, Marketing, Business Development and Professional Services, helping to take this technology company from an early stage to and beyond the initial public offering. From 1991 to 1996, he served in several senior executive positions at SEER Technologies, Inc. (information technology) and from 1974 to 1990, he worked for IBM Corporation (information technology) where, as Regional Manager, he was responsible for over 1,000 employees, and as Group Director in Tokyo, where he managed a \$1.2 billion Asia Pacific business. Mr. Spurr earned a Bachelor of Arts degree from the University of Notre Dame.

**James F. Brashear** has served as Vice President, General Counsel and Corporate Secretary since February 2010. From September 2007 until joining our Company, Mr. Brashear was a partner at the law firm Haynes and Boone, LLP. From July 1996 until August 2007, he served in various executive capacities at Sabre Holdings Corporation (travel commerce) including Senior Vice President, Deputy General Counsel, Corporate Secretary and Chief Governance Officer. He was previously an attorney at AMR Corporation's subsidiary American Airlines, Inc. (air transportation), and at the law firms Skadden, Arps, Slate, Meagher & Flom and O Melveny & Myers. Mr. Brashear received a Juris Doctorate degree, magna cum laude, from the University of San Diego School of Law and a Bachelor of Arts degree from the University of California at San Diego. He is a member of the Bar of the United States Supreme Court, the California Bar Association and the State Bar of Texas. He served from 2004 to 2011 as a national director of The Society of Corporate Secretaries and Governance Professionals.

**Michael W. English** has served as our Chief Financial Officer (CFO) since July 2011. Since joining the Company in June 2007, he has served in many roles, including Controller and Treasurer. Mr. English is a certified public accountant and has more than 30 years of experience in finance and accounting. Before joining the Company, Mr. English was Vice President of Finance for Advance Fibre Communications (telecommunications) from March 2004 through June 2005, and Vice President of Finance for Marconi, PLC (telecommunications) from June 1999 to February 2004. Previously, he served as Division Controller for the Access Division of RELTEC Corporation, Division Controller at Rockwell Automation and Division Controller at Reliance Electric Company. Mr. English earned a Masters degree in accountancy from DePaul University and a Bachelor of Arts degree in English from John Carroll University. In July 2009, Mr. English was discharged from personal debts pursuant to a voluntary petition filed in April 2009 under federal bankruptcy laws.

**Russell J. Morgan** has served as our Vice President, Client Services since September 2002. From February 1997 until August 2002, he worked at Entrust, Inc. (information technology security) where he held a variety of senior management positions, including director, professional services and senior director, Entrust.net. At Entrust, he founded the professional services organization and then managed the business and technical operations for the Entrust.net business unit. Previously, he held several management positions at Lockheed Martin (aerospace), where he specialized in secure messaging and military command and control systems. Mr. Morgan is a professional engineer with over 30 years experience in managing, delivering and supporting complex customer-focused

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technology solutions. Mr. Morgan holds a Bachelor of Engineering degree from Concordia University, Montreal, Quebec, Canada.

*David J. Robertson* has served as our Vice President, Engineering since March 2002. Mr. Robertson has over 30 years of experience in the internet and telecommunications industries, with specific expertise in hosted network architecture, electronic security, communication protocols, software systems and wireless infrastructure. From 1981 through 2000, he was employed by Nortel Networks (telecommunications), where he held technology Vice President positions in the Wireless, Carrier and Enterprise Divisions. From 2001 to 2002, he participated in creating technology startup companies with STARTech Early Ventures (venture capital). He has been a participant in several industry standards-setting groups and serves with the City of Richardson Chamber of Commerce. He holds a Bachelor of Science degree in Electrical Engineering from the University of Waterloo, Canada, and a Master's degree in Engineering from Carleton University, Canada.

**Table of Contents****SECURITY OWNERSHIP OF DIRECTORS, MANAGEMENT AND CERTAIN****BENEFICIAL OWNERS**

The following table sets forth as of March 31, 2012 (unless otherwise indicated) the shares of our common stock that were beneficially owned by each director, by each executive officer, by all of our directors and executive officers as a group, and by all persons known by us to beneficially own more than 5% of our outstanding common stock. We do not have any equity or security ownership requirements or guidelines for our directors or executive officers.

Beneficial Owner <sup>(2)</sup>	Amount and Nature of Beneficial Ownership <sup>(1)</sup>	
	Number of Common Stock Shares Beneficially Owned	Percentage of Total Common Stock Shares Outstanding <sup>(3)</sup>
Taher A. Elgamal <sup>(4)</sup>	18,750	*
Robert C. Hausmann <sup>(5)</sup>	166,748	0.3%
James S. Marston <sup>(6)</sup>	358,056	0.6%
Maribess L. Miller <sup>(7)</sup>	28,165	*
Antonio R. Sanchez III <sup>(8)</sup>	697,836	1.1%
Richard D. Spurr <sup>(9)</sup>	2,547,212	3.9%
James F. Brashear <sup>(10)</sup>	92,498	0.1%
Michael W. English <sup>(11)</sup>	17,129	*
Russell J. Morgan <sup>(12)</sup>	389,677	0.6%
David J. Robertson <sup>(13)</sup>	538,642	0.9%
BlackRock Inc. <sup>(14)</sup>	3,732,230	6.0%
Rockall Emerging Markets Master Fund Ltd. <sup>(15)</sup>	6,289,256	10.1%
<b>TOTAL</b>	<b>14,876,199</b>	<b>23.9%</b>
All directors and executive officers as a group (10 persons)	4,854,713	7.3%

\* Denotes ownership of less than 1%.

- (1) Reported in accordance with the beneficial ownership rules of the SEC. Unless otherwise noted, each shareholder listed in the table has both sole voting and sole investment power over the common stock shown as beneficially owned, subject to community property laws where applicable.
- (2) Unless otherwise noted, the address for each beneficial owner is c/o Zix Corporation, 2711 North Haskell Avenue, Suite 2200, LB 36, Dallas, Texas 75204-2960.
- (3) Percentages are based on the total number of shares of our common stock outstanding at March 31, 2012, which was 62,146,323 shares. Shares of our common stock that were not outstanding but could be acquired upon exercise of an option or other convertible security within 60 days of March 31, 2012 are deemed outstanding for the purpose of computing the percentage of outstanding shares beneficially owned by a particular person. However, those shares are not deemed to be outstanding for the purpose of computing the percentage of outstanding shares beneficially owned by any other person.
- (4) Includes shares that Dr. Elgamal has the right to acquire under outstanding stock options that are currently exercisable or that become exercisable within 60 days of March 31, 2012.
- (5) Includes shares that Mr. Hausmann has the right to acquire under outstanding stock options that are currently exercisable or that become exercisable within 60 days of March 31, 2012.
- (6) Includes shares that Mr. Marston has the right to acquire under outstanding stock options that are currently exercisable or that become exercisable within 60 days of March 31, 2012.
- (7) Includes shares that Ms. Miller has the right to acquire under outstanding stock options that are currently exercisable or that become exercisable within 60 days of March 31, 2012.
- (8) Includes purchased shares and shares that Mr. Sanchez has the right to acquire under outstanding stock options that are currently exercisable or that become exercisable within 60 days of March 31, 2012.
- (9)

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Includes purchased shares and 2,456,665 shares that Mr. Spurr has the right to acquire under outstanding stock options that are currently exercisable or that become exercisable within 60 days of March 31, 2012.

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- (10) Includes purchased shares and 82,498 shares that Mr. Brashear has the right to acquire under outstanding stock options that are currently exercisable or that become exercisable within 60 days of March 31, 2012.
- (11) Includes purchased shares and 17,129 shares that Mr. English has the right to acquire under outstanding stock options that are currently exercisable or that become exercisable within 60 days of March 31, 2012.
- (12) Includes purchased shares and 387,177 shares that Mr. Morgan has the right to acquire under outstanding stock options that are currently exercisable or that become exercisable within 60 days of March 31, 2012.
- (13) Includes purchased shares and 513,748 shares that Mr. Robertson has the right to acquire under outstanding stock options that are currently exercisable or that become exercisable within 60 days of March 31, 2012.
- (14) As reported in Schedule 13G filed on February 9, 2012, Blackrock, Inc., 40 East 52nd Street New York, New York 10022, has sole voting and dispositive power to 3,732,230 shares.
- (15) As reported in Amendment No. 2 to Schedule 13G filed on February 13, 2012 by Rockall Emerging Markets Master Fund Limited, 570 Lexington Ave, New York, New York 10022 ( Rockall ) and certain affiliated entities. According to the Schedule 13G, Rockall has sole voting and dispositive power to 3,736,845 shares, and Meldrum Asset Management, LLC ( Meldrum ), as investment manager of Rockall, has sole voting and dispositive power to the same 3,736,846 shares. Con Egan, Conor O Driscoll and Fulvio Dobrich are the principals of Meldrum. Mr. Egan, both as principal of Meldrum and in his individual capacity, beneficially owns 4,338,846 shares, of which he has sole voting and dispositive power to 602,000 and shared voting and dispositive power to 3,736,846. Mr. O Driscoll, both as principal of Meldrum and in his individual capacity, beneficially owns 4,126,036 shares, of which he has sole voting and dispositive power to 389,190 shares and shared voting and dispositive power to 3,736,846 shares. Mr. Dobrich, both as principal of Meldrum and in his individual capacity, beneficially owns 5,298,066, of which he has sole voting and dispositive power to 1,561,220 shares and shared voting dispositive power to 3,736,846 shares.

**Section 16(a) Beneficial Ownership Reporting Compliance**

Section 16(a) of the Exchange Act requires our directors and executive officers, and certain persons who own more than ten percent of a registered class of our equity securities, to file with the SEC initial reports of ownership and reports of changes in ownership of our common stock and other securities. Directors, executive officers, and greater than ten percent shareholders are required by the regulations of the SEC to furnish us with copies of all Section 16(a) forms they file. To our knowledge, based solely on a review of the copies of those reports furnished to us and written representations that no other reports were required during 2011, our directors and executive officers complied with all Section 16(a) filing requirements.

**Corporate Governance**

**Board of Directors**

Our business is managed under the direction of our Board of Directors. Our Board currently consists of six members. The names of our Board members, their professional experience and attributes are described above under the caption OTHER INFORMATION YOU NEED TO MAKE AN INFORMED DECISION Directors.

**Corporate Governance**

Our principle corporate governance documents are available on our website at [www.zixcorp.com/company/corporate-governance](http://www.zixcorp.com/company/corporate-governance). We are in compliance with corporate governance requirements, including those of the Sarbanes-Oxley Act of 2002 and the NASDAQ Marketplace Rules. We will continue to monitor our policies and procedures to ensure compliance with developing standards in the corporate governance area. Our Board has also designated our Corporate Secretary as the Company s Chief Governance Officer and looks to this officer to keep the Board informed of corporate governance matters.

**Director Independence**

Our Board has determined that all of our Board members other than Richard D. Spurr are independent as defined in the listing requirements of The NASDAQ Stock Market. The NASDAQ independence definition includes a series of objective tests, that the subject director is not an employee of the Company and has not engaged in various types of business dealings with the Company. In addition, as further required by the NASDAQ Marketplace

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Rules, our Board has made a subjective determination as to each independent director that no relationships exist which, in the opinion of our Board, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. In determining whether Mr. Sanchez qualified as independent, our Board considered the fact that quite some time ago Mr. Sanchez served as an employee of the Company.

### **Board Leadership Structure**

The Board believes that the independent oversight of management is an important function of an effective Board of Directors. The independent members of our Board have determined that the most effective Board leadership structure for our Company at the present time is for the Chief Executive Officer to also serve as Chairman of the Board. The independent Board members believe that because the Chief Executive Officer is ultimately responsible for the day-to-day operation of the Company and for executing our strategy, and because the performance of the Company is an integral part of Board deliberations, the Chief Executive Officer is the director best qualified to act as Chairman of the Board. Richard D. Spurr currently serves as both our Chairman of the Board and Chief Executive Officer. The Board has not designated a lead independent director because of the relatively small number of Directors and because the independent directors already take a significant and sufficient leadership role in the functions of the Board. The Board retains the authority to modify this structure.

### **Risk Oversight by the Board**

Our management is responsible for assessing and managing the various risks our Company faces. Our Board is responsible for overseeing management in this effort, including the Company's management of cybersecurity risks. In exercising its oversight responsibilities, our Board has allocated some areas of focus to its standing committees. Specifically, our Audit Committee has oversight responsibility for financial and compliance risks, such as accounting, finance, internal controls, tax and other compliance matters, in addition to overseeing compliance with our Code of Conduct and Code of Ethics. Our Nominating and Corporate Governance Committee oversees succession management and compliance with our corporate governance principles. Our Compensation Committee is responsible for overseeing and monitoring our executive compensation programs and monitoring and assessing the interplay between those programs and risks in our business.

Throughout the year, our Chief Executive Officer, Chief Financial Officer and General Counsel and other officers review and discuss various risks with the Board and its committees. Our Board has also designated our General Counsel as the Company's Chief Compliance Officer and looks to this officer to keep the Board apprised of material developments with respect to the compliance-related risks that the Company faces, as well as the Company's efforts to manage those risks.

### **Political Activities and Contributions**

The Company provides to policymakers, directly and by participating in business and industry associations, information and opinions on matters related to its business. The Company's activity in this respect is principally to offer comments on legislative or regulatory initiatives dealing with privacy or cyber security. The Company has no intention to directly use shareholder funds for advocacy in elections for any public office or to contribute shareholder funds to any third party for that purpose.

### **Attendance at Board Meetings and Annual Meeting**

Our Board meets during the year to monitor our performance, review significant developments and act on matters requiring Board approval. Our Board met on ten occasions during 2011. Each of the current directors attended at least 75% of the aggregate of all meetings of our Board and its committees held in 2011 during periods in which that director served on the Board and those committees. Directors are encouraged to attend our Annual Meeting of Shareholders. Five of our directors attended our 2011 Annual Meeting of Shareholders.

### **Committees of the Board of Directors**

Our Board has three standing committees: Audit Committee, Compensation Committee, and Nominating and Corporate Governance Committee. These committees devote attention to specific subjects and to assist our Board in discharging its business and risk oversight and governance responsibilities. Each committee's charter is available on our website at [www.zixcorp.com/company/corporate-governance](http://www.zixcorp.com/company/corporate-governance).

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### **Nominating and Corporate Governance Committee**

Our Nominating and Corporate Governance Committee comprises Robert C. Hausmann (chair), Taher A. Elgamal and Antonio R. Sanchez III. Our Board has determined that each member of the Nominating and Corporate Governance Committee qualifies as independent in accordance with the NASDAQ Marketplace Rules. Under its charter, the committee's principal responsibilities include: establishing the criteria for nominating new directors, identifying suitable individuals under those criteria who are qualified to serve as directors; recommending to the Board nominees for election as directors; developing and recommending to the Board corporate governance principles or practices that the Committee believes should be adopted or implemented by the Company, the Board or its committees. The Nominating and Corporate Governance Committee presents qualified director candidate(s) to our Board as appropriate. There is no third party that we currently pay to assist in identifying or evaluating potential director nominees. The Nominating and Corporate Governance Committee met on five occasions during 2011.

### ***Shareholder Nomination of Director Candidates***

The Nominating and Corporate Governance Committee has a policy with respect to the consideration of director candidates recommended by shareholders. The Nominating and Corporate Governance Committee will consider director nominations suggested by shareholders, in accordance with the Committee's bylaws and the Director Nomination Process that is available on our website at [www.zixcorp.com/company/corporate-governance](http://www.zixcorp.com/company/corporate-governance).

A shareholder desiring to nominate a person for election to our Board must send a written notice to our principal executive offices at Zix Corporation, Attention: Corporate Secretary, 2711 North Haskell Avenue, Suite 2200, LB 36, Dallas, Texas 75204-2960. Shareholder nominations for the 2013 annual meeting must be received no earlier than February 6, 2013, and not later than March 8, 2013. The written notice must contain the information required by section 1.12 of our bylaws, including all information required to be disclosed in solicitations of proxies for election of directors and as otherwise required pursuant to Regulation 14A under the Securities Exchange Act of 1934. The final selection of director nominees is within the sole discretion of our Board.

### ***Diversity of Directors***

The Board of Directors and the Nominating and Corporate Governance Committee believe that the Board should include directors with diversity of education, experience, skills, qualities, backgrounds and other attributes. The Board does not follow any ratio or formula to determine the appropriate mix of directors, but instead uses its judgment to identify nominees whose education, experience, skills, qualities, backgrounds and other attributes, taken as a whole, will contribute to the diversity of the Board.

### ***Director Qualification Criteria***

The criteria considered by the Nominating and Corporate Governance Committee and the Board of Directors in evaluating director candidates include characteristics such as the following:

Integrity

The candidate's ability to objectively analyze complex business problems and develop creative solutions.

The candidate's business and financial sophistication.

The candidate's availability and ability to participate in Board activities and fulfill the responsibilities of a director, including attendance at, and active participation in, meetings of the Board and its committees.

The candidate's ability to work well with the other directors and senior management of the Company.

The candidate's ability to meet the independence criteria that have been adopted by the Board. Candidates who will serve on our Audit Committee must have the following additional characteristics:

The candidate must meet additional independence requirements in accordance with applicable rules and regulations.

The candidate must have the ability to read and understand fundamental financial statements, including a company's balance sheet, statement of operations and statement of cash flows.



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At least one member of the Audit Committee must meet the requirements of an audit committee financial expert under SEC rules and regulations.

Other factors considered in candidates may include, but are not limited to, the following:

The extent to which the candidate possesses pertinent technological, political, business, financial or social/cultural expertise and experience.

The extent of the candidate's commitment to increasing shareholder value.

The candidate's achievement in education, career and community.

The candidate's past or current service on boards of directors of public or private companies, charitable organizations and community organizations.

The extent of the candidate's familiarity with issues affecting the Company's business and industry.

The candidate's expected contribution to the Board's desired balance and diversity.

The Nominating and Corporate Governance Committee will evaluate a nominated candidate and, after consideration taking account of the Director Qualification Criteria described above, will determine whether or not to proceed with the candidate. These procedures have not been materially modified since our disclosure of these procedures in our proxy statement in connection with our 2011 Annual Meeting of Shareholders. These procedures do not create a contract between our Company, on the one hand, and a Company shareholder(s) or a candidate recommended by a shareholder(s), on the other hand. We reserve the right to change these procedures at any time, consistent with the requirements of applicable law, rules and regulations, and the discretion of our Board. There are no material differences in the procedures for evaluating new director nominees based on whether they are recommended by a security holder in or by our Board.

### **Audit Committee**

Our Audit Committee is comprised of Maribess L. Miller (chair), Robert C. Hausmann and James S. Marston. Our Board determined that all three members of the Audit Committee satisfy the independence and other requirements for audit committee membership required by the NASDAQ Marketplace Rules and the SEC, and that each has sufficient knowledge in reading and understanding our financial statements to serve on the Audit Committee. Our Board determined that Ms. Miller qualifies as an audit committee financial expert under SEC rules. Our Board determined that each of the other directors on the Audit Committee may also qualify as an audit committee financial expert under SEC rules, but our Board did not formally designate them as such.

Our Audit Committee oversees our financial reporting process, related controls and audit functions on behalf of our Board, pursuant to a written charter adopted by our Board that is available on our website at [www.zixcorp.com/company/corporate-governance](http://www.zixcorp.com/company/corporate-governance). The Audit Committee met on nine occasions during 2011.

### **Compensation Committee**

Our Compensation Committee comprises James S. Marston (chair), Taher A. Elgamal and Maribess L. Miller. Our Board has determined that each member of the Compensation Committee qualifies as independent in accordance with the NASDAQ Marketplace Rules. Our Board determines the compensation payable to our executives and directors and has established the Compensation Committee to assist it in compensation decisions. The Compensation Committee met on five occasions during 2011.

The Compensation Committee operates under a written charter that is available on our website at [www.zixcorp.com/company/corporate-governance](http://www.zixcorp.com/company/corporate-governance). Under its charter, the Compensation Committee's primary responsibilities are to:

establish and review the Company's overall management compensation philosophy and policies;

directly review and approve corporate goals and objectives relevant to the compensation of the Company's CEO and other executive officers, including annual and long-term performance goals and objectives;

evaluate the performance of the Company's CEO and other executive officers in light of those goals and objectives; determine and approve the compensation of the CEO and other executive officers based on that evaluation, including incentive-based cash compensation and equity-based compensation;

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review and authorize any employment, compensation, benefit or severance agreement with any executive officer (and any amendments or modifications thereto);

administer and oversee any equity-based or other compensation plan or program as to which the Board has delegated such responsibility to the Committee; and

review and make recommendations to the Board with respect to the Company's overall director compensation philosophy and policies.

In 2011, the independent directors on our Board of Directors, based on the recommendation of the Compensation Committee, made all significant final compensation decisions regarding our named executive officers including those pertaining to the base salary, variable compensation and stock option grants. The Committee did not use the services of a compensation consultant during 2011.

### ***Policies, Procedures, and Practices***

Our processes and procedures for the consideration and determination of executive and director compensation are as follows:

Our Compensation Committee requests recommendations from the CEO with respect to the elements of compensation to be considered by the Compensation Committee and recommended by it to the independent directors on our Board for the members of management that are direct reports to the CEO;

Our Compensation Committee consults with and meets with the CEO as required to discuss his recommendations, meets in executive session, or discusses among themselves, as appropriate, in order to formulate a recommendation to the independent directors on our Board;

Our Compensation Committee then makes a recommendation to the independent directors on our Board;

The independent directors on our Board consult and meet with the CEO and the members of the Compensation Committee as required to discuss the latter's recommendation, meet in executive session, or discuss among themselves, as appropriate, to reach a decision; and

The independent directors' decision is communicated to the CEO.

As required by NASDAQ Marketplace rules, the CEO does not participate in discussions or decisions regarding his own compensation.

For the consideration and determination of director compensation, our Board typically refers the matter to the Compensation Committee in order for it to review the matter and make a recommendation to the entire Board.

### ***Compensation Committee Interlocks and Insider Participation***

During 2011, the Compensation Committee was composed entirely of independent directors. Throughout 2011, none of the members of the Compensation Committee is or was an officer or employee of our Company or any of our subsidiaries and none had any relationship requiring disclosure under Item 404 of the SEC's Regulation S-K. We have no executive officers who serve as a member of a Board of Directors or compensation committee of any other entity that has one or more executive officers serving as a member of our Board or Compensation Committee.



**Table of Contents****Communications with Directors**

Shareholders interested in communicating with our Board of Directors may do so by writing to our executive offices at Zix Corporation, Attention: Corporate Secretary, 2711 North Haskell Avenue, Suite 2200, LB 36, Dallas, Texas 75204-2960. Our Corporate Secretary will review all shareholder communications. Those that appear to contain subject matter reasonably related to matters within the purview of our Board will be forwarded to the entire Board or the individual Board member to whom the communication is addressed.

**Code of Ethics**

We have a Code of Conduct and Code of Ethics, which applies to all of our employees, officers and directors, including our Chief Executive Officer and senior financial officials. It was substantially revised in December 2011 and is available on our website at [www.zixcorp.com/company/corporate-governance](http://www.zixcorp.com/company/corporate-governance). The Code of Conduct and Code of Ethics is a reaffirmation that we expect all directors and employees to uphold our standards of ethical behavior and compliance with the law and to avoid conflicts of interest between the Company and their personal and professional affairs. It establishes procedures for the confidential reporting of suspected violations of the Code of Conduct and Code of Ethics. It also sets forth procedures to receive, retain, and treat complaints received regarding accounting, internal accounting controls, auditing or compliance matters and to allow for the confidential and anonymous submission by employees of concerns regarding questionable accounting, auditing or compliance matters. Our Code of Conduct and Code of Ethics also prohibits conflicts between the interest of our directors or officers and our Company or its shareholders. Any waiver of our Code of Conduct and Code of Ethics must be approved by the Board of Directors, or a committee of the Board of Directors, as applicable, and in compliance with applicable law. Any waiver of our Code of Conduct and Code of Ethics will be publicly disclosed as required by applicable law, including by posting the waiver on our website at [www.zixcorp.com/company/corporate-governance](http://www.zixcorp.com/company/corporate-governance).

**Independent Registered Public Accountants****General**

Whitley Penn LLP has been appointed by the Audit Committee as our independent registered public accounting firm for fiscal year 2012. Also, Whitley Penn LLP was selected by the Audit Committee as our independent registered public accounting firm the previous six consecutive fiscal years. Whitley Penn's service in that role in each of those years was ratified by our shareholders.

A representative of Whitley Penn LLP is expected to be present at the 2012 Annual Meeting; and will have the opportunity to make a statement and to respond to appropriate questions.

**Fees Paid to Independent Public Accountants**

Following is a summary of Whitley Penn's professional fees billed to us for the years ended December 31, 2010 and December 31, 2011, respectively:

	<b>2010</b>	<b>2011</b>
Audit Fees	228,570 <sup>(1)</sup>	257,400 <sup>(1)</sup>
Audit-Related Fees	17,540 <sup>(2)</sup>	18,053 <sup>(2)</sup>
Tax Fees	0	0
All Other Fees	0	0
<b>Total Fees</b>	<b>\$ 246,110</b>	<b>\$ 275,453</b>

- (1) Audit fees consist of the annual audits of our consolidated financial statements included in our Annual Report on Form 10-K, the quarterly review of our consolidated financial statements included in our Quarterly Reports on Form 10-Q, as well as accounting advisory services related to financial accounting matters, and other services related to filings made with the SEC.
- (2) Audit-related fees consist of required audits of our employee benefit plan.



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**Audit Committee Pre-Approval Policies and Procedures**

Our Audit Committee is required to pre-approve the audit and non-audit services to be performed by Whitley Penn LLP in order to assure that the provision of services does not impair the auditor's independence. Annually, Whitley Penn LLP presents to our Audit Committee the services that are expected to be performed by the independent auditor over the next 12 months.

Our Audit Committee reviews and, as it deems appropriate, pre-approves those services. The services and estimated fees are to be presented to our Audit Committee for consideration in the following categories: Audit, Audit-Related, Tax and All Other (each as defined in Schedule 14A under the Securities Exchange Act of 1934). For each service listed in those categories, our Audit Committee receives detailed documentation indicating the specific services to be provided. The term of any pre-approval is 12 months from the date of pre-approval, unless our Audit Committee specifically provides for a different period. Our Audit Committee reviews, on at least a semi-annual basis, the services provided by Whitley Penn LLP and the fees incurred for those services. Our Audit Committee may also revise the list of pre-approved services and related fees from time-to-time, based on subsequent determinations. All of the services expected to be provided by Whitley Penn LLP in 2012 have been pre-approved by our Audit Committee.

**REPORT OF THE AUDIT COMMITTEE OF THE BOARD OF DIRECTORS**

The Audit Committee oversees, pursuant to its charter adopted by the Board of Directors, the Company's internal controls over financial reporting. The Audit Committee also has the sole authority and responsibility to select, evaluate, compensate and replace our independent registered public accountants. The Company's independent registered public accounting firm is responsible for auditing the financial statements. The activities of the Audit Committee are in no way designed to supersede or alter those traditional responsibilities.

Management has the primary responsibility for our financial statements and our reporting process, including our systems of internal controls. In fulfilling its oversight responsibilities, the Audit Committee reviewed with management for inclusion in our 2011 Annual Report on Form 10-K, the audited consolidated financial statements of the Company, including a discussion of the quality, not just the acceptability, of the accounting principles, the reasonableness of significant judgments, and the clarity of disclosures in the consolidated financial statements.

The Audit Committee has reviewed and discussed with management and the independent accounting firm, as appropriate, the audited financial statements and management's report on internal control over financial reporting and the independent accounting firm's related opinions. The Audit Committee has discussed with the independent registered public accounting firm, Whitley Penn LLP, the required communications specified by auditing standards together with guidelines established by the SEC and the Sarbanes-Oxley Act.

The Audit Committee has received the written disclosures and the letter from the independent registered public accounting firm required by the applicable requirements of the Public Company Accounting Oversight Board (including the matters required to be discussed by the statement on Auditing Standards No. 61, as amended, as adopted by the Public Company Accounting Oversight Board in Rule 3200T), regarding the independent registered public accounting firm's communications with the Audit committee concerning independence, and has discussed with Whitley Penn LLP the firm's independence.

Based on the review and discussions referred to above, the Committee recommended to the Board of Directors that the audited financial statements be included in the Company's Annual Report on Form 10-K for 2011 filing with the SEC.

April 27, 2012

Respectfully submitted by the Audit Committee,

Maribess L. Miller, Chair  
Robert C. Hausmann  
James S. Marston

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*This Report will not be deemed to be incorporated by reference in any filing by the Company under the Securities Act of 1933 or the Securities Exchange Act of 1934, except to the extent that the Company specifically incorporates this Report by reference.*



**Table of Contents****INFORMATION ON THE COMPENSATION OF DIRECTORS****Director Compensation Table**

The following table sets forth the cash and non-cash compensation paid to our continuing non-employee directors in calendar year 2011:

**Director Compensation**

Name	Fees Earned		Total
	or Paid in Cash <sup>(1)</sup>	Option Awards <sup>(2)(3)</sup>	
Taher A. Elgamal	\$ 42,804	\$ 58,503	\$ 101,307
Robert C. Hausmann	\$ 93,000 <sup>(4)</sup>	*	\$ 93,000
James S. Marston	\$ 94,000	*	\$ 94,000
Maribess L. Miller	\$ 87,391	*	\$ 87,391
Antonio R. Sanchez III	\$ 90,000	*	\$ 90,000

- (1) See the discussion below for an explanation of the cash compensation paid to our directors.
- (2) The stated amount is the aggregate grant date fair value, computed in accordance with the requirements of FASB ASC Topic 718. The assumptions underlying the computation of the fair market value of these options are set forth in Footnote 4, Stock Options and Stock-based Employee Compensation to our Audited Financial Statements included in our 2011 Annual Report on Form 10-K.
- (3) As of December 31, 2011, Dr. Elgamal held options to acquire 25,000 shares of our common stock, of which 12,500 were vested as of March 31, 2012. As of December 31, 2011, Mr. Hausmann held options to acquire 179,500 shares of our common stock, of which 163,331 were vested as of March 31, 2012. As of December 31, 2011, Mr. Marston held options to acquire 369,724 shares of our common stock, of which 354,389 were vested as of March 31, 2012. As of December 31, 2011, Ms. Miller held options to acquire 30,000 shares of common stock, of which 27,748 were vested as of March 31, 2012. As of December 31, 2011, Mr. Sanchez held options to acquire 301,838 shares of our common stock, of which 287,336 were vested as of March 31, 2012.
- (4) Fees earned in cash by Mr. Hausmann are paid to Business Services Group, LLC.

**Summary Explanation of Director Compensation**

The Board of Directors implemented a cash compensation program:

A quarterly retainer for Board service, paid \$15,000 as to each of the first two quarters of 2011, and paid \$22,000 as to each quarter thereafter;

A \$2,000 retainer, payable each quarter, for service on each committee of the Board; and

An additional \$500 retainer, payable each quarter, for service as a Chair of a committee of the Board.

We also reimburse our directors for expenses they incur while attending our Board or committee meetings.

Pursuant to the Zix Corporation 2006 Directors Stock Option Plan ( 2006 Directors Plan ), on the first business day in January of each year, each non-employee director that has served on the Board for at least six months as of the grant date may be granted nonqualified options to purchase a number of shares of our common stock equal to the greater of (i) one-half of one percent of the number of our outstanding common stock shares (measured as of the immediately preceding December 31) or (ii) 200,000 shares of our common stock, in each case divided by the greater of (A) five or (B) the number of non-employee directors that have served on our Board for at least six months as of the date of grant; provided that, the number of shares of our common stock covered by any option grant cannot exceed 40,000 shares. The 2006 Directors Plan provides that (i) the options vest quarterly and pro-rata over three years from the grant date; (ii) the exercise price of the options is 100% of the fair market value of our common stock on the date of grant; and (iii) the options cannot be exercised after the tenth anniversary of the date of grant.



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Each of our non-employee directors waived the options they otherwise would have received for Board and committee service in 2011 and 2012 under the 2006 Directors Plan. As a new non-employee director in 2011, Dr. Elgamal was granted nonqualified options to purchase 25,000 shares of our common stock on the day that he was first appointed to the Board.

If our shareholders approve Proposal 4, the 2012 Incentive Plan, any future options or other equity compensation provided to our directors could be issued under the 2012 Incentive Plan rather than under the 2006 Directors Plan. Please *see* SUMMARY OF THE 2012 INCENTIVE PLAN-Grants to Non-Employee Directors at page 10 of this proxy statement.

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**COMPENSATION DISCUSSION AND ANALYSIS**

**Executive Summary**

**Our Business**

The Company is a leader in providing email encryption services. The *ZixCorp*<sup>®</sup> Email Encryption Service enables the use of secure email for sensitive information. It is currently used primarily in the healthcare, financial services, insurance and government sectors. More than 1,400 hospitals and over 1,700 financial institutions use our *ZixCorp* Email Encryption Service, including some of the most influential companies and government organizations. Our *ZixCorp* Email Encryption Service is enhanced by *ZixDirectory*<sup>®</sup>, which includes approximately 30 million members. *ZixDirectory* allows for encrypted emails to be sent seamlessly whenever possible, across the largest email encryption community in the world.

**2011 Financial Performance**

In 2011, we delivered GAAP Net Income of \$22,554,000 compared to net income of \$41,213,000 in 2010. The net income in 2011 included a decrease in the Company's deferred tax asset valuation allowance resulting in a tax benefit of \$11,800,000. The decrease in the deferred tax valuation allowance in 2010 resulted in a \$35,300,000 tax benefit. We also delivered 2011 revenue of \$38.1 million, growth of 15.4% year-over-year. Cash flow from operations for the full year ended December 31, 2011, was \$13.2 million, an increase of \$6.0 million, year-over-year. Cash, cash equivalents and commercial paper investments at 2011 year-end was \$20.7 million, despite \$21.0 million spent on share repurchases during 2011. This \$20.7 million is a decrease of \$3.9 million compared to the ending cash balance for 2010. We also remained disciplined on costs, delivering \$0.34 of GAAP diluted earnings per share.

**Executive Compensation Overview**

A significant portion of the compensation of our named executive officers was directly affected in 2011 by our financial results and stock price, both in the amount of cash compensation earned and the value of outstanding long-term equity awards.

For 2011, compensation designed for our executive officers included:

Base salary

Short-term cash performance awards based, in part, upon achieving objective targets

Long-term equity in the form of stock option grants

The same group health and welfare benefit programs and tax-qualified retirement plans that are available to all of our employees. If our shareholders approve Proposal 4, the 2012 Incentive Plan, the Company would be able to provide additional forms of long-term equity awards and performance-based compensation to our executive officers and other employees. Please see SUMMARY OF THE 2012 INCENTIVE PLAN - Permissible Awards at page 10 of this proxy statement.

**General**

The independent, non-employee directors on our Board, with the assistance of the Compensation Committee, administer the cash and non-cash compensation programs applicable to our executive officers.

The independent directors on our Board also make all decisions about executive officer compensation, with advice from the Compensation Committee and after discussion with our Chief Executive Officer as to his subordinates. Consistent with NASDAQ requirements, our Chief Executive Officer's compensation is determined solely by the independent directors, and the Chief Executive Officer does not participate in those

discussions or decisions. The independent directors have often refined compensation recommendations made by the Chief Executive Officer or the Compensation Committee.

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During 2011, our executive officers were Richard D. Spurr, James F. Brashear, Michael W. English, Russell J. Morgan, and David J. Robertson (collectively, named executive officers, or NEOs). The compensation paid in 2011 to our NEOs, as set forth below in the Summary Compensation Table, primarily consisted of base salary, stock options and an annual variable compensation award. Executives also received partial match contributions to the Company-sponsored 401(k) plan (which we offer on a non-discriminatory basis to all 401(k) plan participants) and Company-funded life insurance benefits (which we offer on a non-discriminatory basis to all full-time employees). We have no non-qualified deferred compensation arrangements, defined benefit retirement plans or meaningful executive perquisites.

### **Compensation Philosophy and Objectives**

Our Board of Directors believes that an effective executive compensation program is one that, among other things, accomplishes the following goals:

Attracts and retains executives with the experience, skills, and knowledge that our Company seeks and requires;

Attracts and retains executives committed to achieving our goals;

Rewards the achievement of specific, objective performance metrics established by our Board; and

Motivates management to increase long-term shareholder value.

Our Board and Compensation Committee seek to implement and maintain a compensation plan for our executive officers that is fair, reasonable, and competitive, and that attracts and retains talented and qualified personnel. Our Board believes that equity awards supplement the cash base salary and motivate the recipient to work to achieve long term value for our shareholders. Our Board also believes that equity awards, variable compensation awards, and termination benefit agreements are crucial to recruiting (and retaining) the services of qualified and talented personnel.

### **Risk Considerations**

The Board and Compensation Committee reviewed with management the design and operation of our compensation programs for all employees, including executive officers, for the purpose of determining whether such programs might encourage inappropriate risk-taking that could have a material adverse effect on the Company. After conducting its evaluation, the Compensation Committee concluded that the Company's compensation programs do not encourage employees to take risks that are reasonably likely to have a material adverse effect on the Company.

### **Role of Executive Officers in Compensation Decisions**

Our Board, the Compensation Committee and our management each play a role in our compensation process. The Compensation Committee reviews and makes recommendations to our Board regarding our executive compensation practices, after which the Board makes the final determinations. The CEO does not participate in discussions or decisions about his own compensation. The matrix below sets forth, in general, our current practices regarding the authority level for determining certain compensation related matters. As shown, our Board delegates to our management the authority to make certain compensation related decisions on behalf of the Board.

### **Approval Authority for Certain Compensation Related Matters**

<b>Employee</b>	<b>Salary</b>	<b>Variable Compensation</b>	<b>Stock Option Grants</b>
Chief Executive Officer	Independent Directors	Independent Directors	Independent Directors
Other NEOs	Board	Board	Board
Other CEO direct reports	CEO <sup>(1)</sup>	Board/CEO <sup>(1) (2)</sup>	Board

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Rank & file employees

CEO/Management<sup>(1)</sup>

CEO/Management<sup>(1)</sup>

CEO<sup>(3)</sup>

- (1) The salary and variable compensation decisions of the CEO and management are subject to the constraints of our annual budget, as approved by our Board.

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- (2) In addition to any variable compensation that is subject to attaining performance metrics established by our Board, our CEO may establish sales objectives or management by objective ( MBO ) objectives for certain individuals who are not executive officers.
- (3) All individual stock option grants in excess of 40,000 shares or any Company-wide stock option grant program and certain other option grants remain subject to the approval of our Board. Our Board typically approves an annual pool of stock options that is available for grant by the CEO during our annual stock option review and grant cycle.

**Executive Officer Base Salaries and Compensation Comparisons**

Our executive officers' salaries are, in general, established by (a) reference to each executive's position with our Company and (b) a subjective assessment of the cost to us of hiring executives with comparable experience and skills. We believe this approach offers our executives, including our named executive officers, a reasonable base salary as subjectively determined by our Board following a recommendation by our CEO. Differences in the amount of compensation awarded to each of the executive officers relate primarily to the experience, responsibilities and performance of each executive officer, as well as to a subjective assessment of compensation paid by similar companies for comparable positions.

None of our executive officers received any increases in base salary compensation from 2005 through 2010. In July of 2011 Mr. Robertson's base salary was increased to \$230,000 USD while Mr. Morgan's base salary was increased to \$230,000 CAD. Mr. English's base salary was increased to \$175,000 in August 2011 when he was promoted to Chief Financial Officer. Mr. Spurr's base salary was increased in January 2012 to \$330,000.

***Executive Officer Variable Compensation; Bonus***

Historically, the Company's executive officers, other than executives whose primary function is sales, were eligible to receive variable compensation under annual management variable compensation programs that were approved by our Board ( VCP ). We believe that variable compensation, based on performance and achievement, is an important component of an executive's overall compensation package and helps to attract and retain executives with the skills, experience, and knowledge we seek. Furthermore, we believe a variable compensation element motivates the recipient to achieve financial and business objectives established by our Board and enables the recipient to share in the success of our business endeavors.

Due primarily to economic pressures facing the general economy, we did not implement a variable compensation program for 2009. In 2010 the Board studied the underlying assumptions behind various performance metrics but did not set formal goals for variable compensation. At year end, however, the Board did consider those metrics and overachievement of the Company's financial goals to award a cash bonus as shown in the Summary Compensation Table. For 2011 and for 2012, our Board approved VCPs with metrics based on four objective performance measures.

revenue

new first year orders

non-GAAP adjusted earnings before interest, taxes, depreciation and amortization (Adjusted EBITDA)

non-GAAP adjusted earnings per share (Adjusted EPS).

The 2011 VCP established award levels at 80 percent, 100 percent and 120 percent of the target for each of the four objective metrics. The 2011 VCP also included a discretionary bonus component. Each metric and the discretionary bonus component was given a 20% weighting. The 2012 VCP establishes award levels at 100 percent, 110 percent and 120 percent of the target for each of the four objective metrics. Each metric was given a 25% weighting. The 2012 VCP does not include a discretionary bonus component.



**Table of Contents****Variable Compensation for Named Executive Officers**

Performance Metric	Weighting	Minimum Achievement	Target Achievement	Maximum Achievement	2011 Actual Achievement
Payout%		80%	100%	120%	
Revenue	20%	\$39.50MM	\$39.80MM	\$41.00MM	\$38.10MM
New First Year Orders	20%	\$10.60MM	\$10.90MM	\$11.30MM	\$7.10MM
Adjusted EBITDA*	20%	\$11.92MM	\$12.24MM	\$12.70MM	\$12.67MM
Adjusted EPS*	20%	\$0.15	\$0.16	\$0.17	\$0.16
Board Discretion	20%				

The performance metrics shown above were used in the manner described below to establish the variable compensation paid for calendar year 2011.

- The Adjusted EBITDA and Adjusted EPS metrics were achieved at the 100% Target level, resulting in 20% payout for each.
- Based on overall Company performance the Board approved 100% of the discretionary component, resulting in 20% payout.
- No payout was made with respect to the Revenue and New First Year Order metrics.
- The aggregate variable compensation paid to our CEO and the other named executive officers was, therefore, 60% of the total variable compensation potentially payable to them.

\* Adjusted EBITDA and Adjusted EPS targets are based on detail budget information and are calculated by applying the same methodology used to determine the actual Adjusted EBITDA and Adjusted EPS reported quarterly in our earnings release. For a detailed description of how the Company uses non-GAAP metrics and arrived at Adjusted EBITDA and Adjusted EPS for the full year 2011, see our fourth quarter earnings release and Form 8-K dated February 21, 2012.

The table below sets forth for the years indicated the variable compensation amounts potentially payable to our named executive officers under the VCP (and similar predecessor plans) and the amounts actually paid.

Name	Year(1)	Amount Potentially Payable	Amount Actually Paid <sup>(2)</sup>	Percentage
Richard D. Spurr	2011	\$ 200,000	\$ 120,000	60.0%
	2010			
	2009			
James F. Brashear	2011	\$ 75,000	\$ 45,000	60.0%
	2010			
	2009			
Michael W. English	2011	\$ 35,000	\$ 21,000	60.0%
	2010			
	2009			
David J. Robertson	2011	\$ 75,000	\$ 45,000	60.0%
	2010			
	2009			
Russell J. Morgan	2011	\$ 75,000	\$ 45,000	60.0%

2010  
2009

(1) There was no variable compensation program set by the Compensation Committee or Board for 2009 and 2010.

(2) Payment for the 2011 VCP was made in February 2012.

The target amount of variable compensation potentially payable to our executives who are exclusively or primarily sales executives was determined by Mr. Spurr. The target amount varies from year-to-year and is based on our specific sales goals (quota) for the year and quarter, as applicable, for the executive in question. The actual variable compensation paid to those executive is exclusively based on the achievement of the targeted sales goals. None of our NEOs participated in sales goals compensation programs.

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### **Equity-based Awards**

#### ***General***

We historically have awarded stock options to our executives as a means of retaining and motivating them over the longer-term (and to attract potential executives to accept employment with us). If our shareholders approve Proposal 4, the 2012 Incentive Plan, the Company would be able to provide additional forms of equity-based compensation to our executive officers and other employees. Please see SUMMARY OF THE 2012 INCENTIVE PLAN – Permissible Awards at page 10 of this proxy statement.

We have historically offered an equity compensation element for the following reasons:

Equity-based awards motivate the option recipient to work to achieve the financial and business metrics that our Board establishes from time-to-time because it enables the option recipient to share in the success of our Company's business as, if and when that success is reflected in our stock price.

Equity-based awards are crucial to recruiting and retaining the services of qualified and talented personnel (i.e., the option recipient).

We have no non-qualified deferred compensation arrangements and no defined benefit pension plans; accordingly, our Board believes that equity-based awards are the primary means by which our executives anticipate accumulating value for retirement. Stock option awards, to the extent made, are awarded to our executive officers based on the following factors:

The importance of the individual's role to our Company;

The individual's experience, skills and/or knowledge in fulfilling that role;

The value of option grants in employee retention and motivation for future performance;

An assessment of peer companies' equity-based compensation for similarly-situated executives; and

Achieving parity among our executive officers.

#### ***Policies and Practices***

The Board generally considers and makes equity-based compensation grants to each of our executive officers on an annual basis. The Board generally grants equity awards in the first quarter of each year, following the public announcement of the Company's financial performance for the prior calendar year.

All stock options granted by the Company after 2009 have an exercise price equal to the market price of our common stock on the day of the grant. Before 2010, the Company granted some stock options with exercise prices higher than the market price of our common stock on the day of the grant. The Company expects that any stock options granted in the future would have an exercise price equal to the market price of our common stock on the day of the grant.

#### **Impact of Accounting and Tax Treatments of Compensation**

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The tax and accounting treatment of the salary compensation, variable compensation, or stock options paid or awarded to our executives generally is not a factor in determining the magnitude of compensation payable to our executives or the relative mix of these elements in their compensation packages.

We understand that compensation in excess of \$1,000,000 per year realized by any of our five most highly compensated executive officers is not deductible by us for federal income tax purposes unless the compensation arrangement complies with the requirements of Section 162(m) of the Internal Revenue Code of 1986, as amended. The independent directors retain authority under the VCP to adjust award levels in their discretion. We anticipate that none of our five most highly compensated executive officers would have annual compensation exceeding \$1,000,000, including any awards under the VCP. Thus, we do not expect our executive compensation programs to result in any disallowed compensation deduction in the ordinary course. Options granted to executives comply with the requirements of 162(m), other than the options granted to Mr. Spurr in connection with his hire in 2004, which were not granted under a shareholder-approved plan.

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**Equity Ownership Guidelines**

We do not currently have stock ownership or equity award retention guidelines for our directors or executive officers.

**Compensation Committee Report**

The Compensation Committee has reviewed and discussed with management the foregoing Compensation Discussion and Analysis. Based on this review and discussion, the Compensation Committee has recommended to our Board that the Compensation Discussion and Analysis be included in our proxy statement for the 2012 Annual Meeting of Shareholders (and incorporated by reference into our 2011 Annual Report on Form 10-K).

April 27, 2012

Respectfully submitted by the Compensation Committee,

James S. Marston (Chair)

Taher A. Elgamal

Maribess L. Miller

**2011 EXECUTIVE COMPENSATION**

The following narrative, tables and footnotes describe the total compensation earned during fiscal years 2011, 2010 and 2009 by our named executive officers.

**Table of Contents****Summary Compensation Table**

Name and Principal Position	Year	Salary	Bonus <sup>(1)</sup>	Option Awards <sup>(2)</sup>	Non-Equity		Total
					Incentive Plan Compensation <sup>(3)</sup>	All Other Compensation <sup>(4)</sup>	
<b>Richard D. Spurr</b> Chairman, Chief Executive Officer and President	2011	\$ 300,000		\$ 250,920	\$ 120,000	\$ 8,156	\$ 679,076
	2010	\$ 300,000	\$ 200,000			\$ 8,344	\$ 508,344
	2009	\$ 300,000				\$ 5,391	\$ 305,391
<b>James F. Brashear*</b> Vice President, General Counsel and Secretary	2011	\$ 225,000		\$ 75,276	\$ 45,000	\$ 4,380	\$ 349,656
	2010	\$ 196,875	\$ 50,000	\$ 124,910		\$ 3,238	\$ 375,023
<b>Michael W. English**</b> Vice President and Chief Financial Officer	2011	\$ 162,691		\$ 75,276	\$ 21,000	\$ 1,445	\$ 260,412
	2010						
	2009						
<b>Russell J. Morgan<sup>(5)</sup></b> Vice President, Client Services	2011	\$ 227,700		\$ 87,822	\$ 45,000	\$ 9,266	\$ 369,788
	2010	\$ 213,532	\$ 75,000	\$ 79,846		\$ 7,075	\$ 375,452
	2009	\$ 193,664				\$ 8,314	\$ 201,978
<b>David J. Robertson</b> Vice President, Engineering	2011	\$ 215,000		\$ 100,368	\$ 45,000	\$ 6,465	\$ 366,833
	2010	\$ 200,000	\$ 75,000	\$ 112,912		\$ 7,132	\$ 395,044
	2009	\$ 200,000				\$ 6,476	\$ 206,476

\* Mr. Brashear was hired in February 2010.

\*\* Mr. English was promoted to Vice President and Chief Financial Officer in August 2011.

- (1) The stated amounts were paid at the Board's discretion based on the overall performance of the business.
- (2) The stated amount is the aggregate grant date fair value of stock option grants awarded. These amounts were computed in accordance with the requirements of FASB ASC Topic 718. The assumptions underlying the computation of the fair market value of these options (and the corresponding compensation expense during calendar years 2009, 2010 and 2011) are set forth in Footnote 4, "Stock Options and Stock-based Employee Compensation" to our Audited Financial Statements included in our 2011 Annual Report on Form 10-K.
- (3) The stated amounts were paid based on the achievement of the predetermined performance objectives approved by our Board of Directors.
- (4) Includes 401(k) Company contribution and life insurance premiums paid by the Company for the benefit of the named person.
- (5) Actual compensation was paid in Canadian dollars and has been translated to U.S. dollars using the 2011, 2010, and 2009 average daily exchange rates, respectively, of 1.012, .9706, and .88029 U.S. dollar per Canadian dollar.

**Table of Contents****Grants of Plan-Based Awards**

The following table presents equity awards and cash awards granted in 2011.

Name	Grant Date	Award Type	Estimated Future Payouts Under Non-Equity Incentive Plan Awards		All Other Awards: Number of Securities Underlying Options (#)	Exercise or Base Price of Option (\$/Sh)	Grant Date Fair Value of Stock and Option Awards (2)
			Target (1)	Maximum			
Richard D. Spurr	07/28/11	Stock Option			100,000	\$ 3.86	\$ 250,920
		Cash Incentive	\$ 200,000	\$ 240,000			
James F. Brashear	07/28/11	Stock Option			30,000	\$ 3.86	\$ 75,276
		Cash Incentive	\$ 75,000	\$ 90,000			
Michael W. English	07/28/11	Stock Option			30,000	\$ 3.86	\$ 75,276
		Cash Incentive	\$ 35,000	\$ 42,000			
Russell J. Morgan	07/28/11	Stock Option			35,000	\$ 3.86	\$ 87,822
		Cash Incentive	\$ 75,000	\$ 90,000			
David J. Robertson	07/28/11	Stock Option			40,000	\$ 3.86	\$ 100,368
		Cash Incentive	\$ 75,000	\$ 90,000			

- (1) The targeted and maximum amounts were established by the Board pursuant to our 2011 VCP. The VCP provided that the amounts actually to be paid would be based in part on the achievement of pre-determined performance objectives stated in the VCP and partly on Board discretion. The amounts actually paid to each of the named executive officers for calendar year 2011 (representing approximately 60% of the targeted amounts) are reflected in the column entitled *Non-Equity Incentive Plan Compensation* in the *Summary Compensation Table* above. See *Compensation Discussion and Analysis Executive Officer Variable Compensation* above for more information pertaining to the performance metrics that establish the variable compensation amounts to be paid to our named executive officers under the Plan.
- (2) The stated amount is the aggregate fair market value of the option grant on the grant date computed in accordance with the requirements of FASB ASC Topic 718. The assumptions underlying the computation of the fair market value are set forth in Footnote 4, *Stock Options and Stock-based Employee Compensation* to our audited financial statements included in our 2011 Annual Report on Form 10-K.

**Table of Contents****Outstanding Equity Awards at 2011 Fiscal Year-End**

The following table sets forth information pertaining to unexercised stock options granted to the named executive officers as of December 31, 2011.

Name	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable <sup>(1)</sup>	Option Awards		
			Option Exercise Price	Option Grant Date	Option Expiration Date
			Richard D. Spurr	650,000	
	350,000		\$ 6.00	11/17/04	11/16/14
	350,000		\$ 3.78	03/23/05	03/22/15
	350,000		\$ 4.00	03/02/06	03/01/16
	273,334		\$ 1.50	12/18/06	12/17/16
	400,000		\$ 4.87	12/20/07	12/19/17
	41,666		\$ 1.11	12/23/08	12/22/18
	8,333	91,667	\$ 3.86	07/28/11	07/27/21
James F. Brashear	58,333	41,667	\$ 1.82	02/08/10	02/07/20
	2,499	27,501	\$ 3.86	07/28/11	07/27/21
Michael W. English	9,000		\$ 4.87	12/20/07	12/19/17
	630		\$ 1.11	12/23/08	12/22/18
	2,499	27,501	\$ 3.86	07/28/11	07/27/21
Russell J. Morgan	40,000		\$ 3.60	09/03/02	09/02/12
	10,000		\$ 4.38	01/22/03	01/21/13
	100,000		\$ 5.00	09/08/04	09/07/14
	80,000		\$ 3.00	02/22/06	02/21/16
	40,000		\$ 1.50	12/18/06	12/17/16
	50,000		\$ 4.87	12/20/07	12/19/17
	16,000		\$ 1.11	12/23/08	12/22/18
	33,000	23,572	\$ 2.05	02/18/10	02/17/20
	2,916	32,084	\$ 3.86	07/28/11	07/27/21
David J. Robertson	125,000		\$ 5.25	03/20/02	03/19/12
	50,000		\$ 4.38	01/22/03	01/21/13
	100,000		\$ 5.00	09/08/04	09/07/14
	100,000		\$ 3.00	02/22/06	02/21/16
	100,000		\$ 1.50	12/18/06	12/17/16
	75,000		\$ 4.87	12/20/07	12/19/17
	18,750		\$ 1.11	12/23/08	12/22/18
	46,666	33,334	\$ 2.05	02/18/10	02/17/20
	3,333	36,667	\$ 3.86	07/28/11	07/27/21

(1) These options vest quarterly on a pro-rata basis through the third anniversary of the grant date.



**Table of Contents****Option Exercises and Stock Vested**

One of the named executive officers exercised stock options in 2011.

Name	Option Awards	
	Number of Shares Acquired on Exercise	Value Realized on Exercise
Richard D. Spurr		\$
James F. Brashear		\$
Michael W. English	2,940	\$ 5,082
Russell J. Morgan		\$
David J. Robertson		\$

**Pension Benefits**

We have no Company-sponsored plans that provide for specified retirement payments and benefits, or payments and benefits that will be provided primarily following retirement, to any Company employees.

**Nonqualified Deferred Compensation**

We have no Company-sponsored plans that provide for the payment of nonqualified deferred compensation to any Company employees.

**Separation Payments and Change of Control Payments*****General***

We have agreements with certain of our executive officers and other key executives which provide for payments to those executives if their employment is terminated under specified circumstances. The Board believes that these executive termination benefit agreements ( ETBAs ) encourage employee retention and were crucial to retention of senior executives in recent years. The Board also believes the benefits provided to executives under ETBAs provide legal consideration supporting the enforceability of confidentiality, non-competition and non-solicitation obligations undertaken by our executives. These ETBAs, and the benefits potentially payable in certain scenarios, are summarized in the text and table below. Shareholders should refer to the full text of the agreements, which are on file with the SEC, for a complete description of these arrangements.

***Termination Without Cause***

Our ETBAs provide for the payment of a number of months base salary if the executive's employment is terminated other than for cause, as defined in the agreement. For Mr. Spurr, the termination payments equal 12 months base salary. For the other named executive officers with ETBAs, the termination payments generally equal 6 months base salary. Payments are made over the number of months specified in the agreements, and are conditioned upon the executive providing the Company a release of liability.

***Resignation for a Change of Control Good Reason***

In some cases, the ETBAs provide for the termination payments to be made to the affected executive upon a resignation for a change of control good reason or for a good reason, as defined in the agreements. The ETBAs do not permit any executive to resign voluntarily and receive severance payments, unless the resignation was for a reason permitted by the agreement. Permitted reasons include, for example, a material diminution in the employee's authority, duties or responsibilities, a material diminution in the executive's base salary or a material change in the geographic location at which the employee must perform services. Severance payments are further conditioned upon the executive providing adequate notice to the Company affording it an opportunity to remedy the situation giving rise to the permitted reason.



**Table of Contents****Accelerated Vesting of Options**

Upon termination related to a change in control or upon an executive's termination without cause, all of that executive's unvested stock options will immediately vest. The Board believes these option acceleration provisions encourage employee retention and in the case of a pending change in control transaction motivate the employee to exert efforts to see that a change in control transaction is consummated.

**CEO COBRA Payment**

The Company will pay the cost of COBRA continuation of health benefits for twelve months for Mr. Spurr upon a termination without cause, or upon a resignation for a change of control good reason or for a good reason, as stated in the agreements.

**CEO Disability Payment**

If Mr. Spurr incurs a disability that renders him unable to perform his job responsibilities (and he separates from employment), the Company will pay him an amount equal to eight months' base salary using his highest monthly base salary during the term of his employment.

**Potential Payments**

The table below summarizes the value of potential payments and benefits that our named executive officers would receive if they had terminated employment on December 31, 2011 under the circumstances shown, or if a change in control of the Company had occurred on December 31, 2011. The table excludes (1) amounts that would be paid in the normal course of continued employment, such as accrued but unpaid salary and earned annual bonus for 2011, and (2) vested account balances in our 401(k) Plan that are generally available to all of our employees. Actual amounts to be paid can only be determined at the time of such executive's termination of service.

**Potential Payments Upon Termination or Change in Control**

Name	Benefit	Termination	Resignation	Change in	Voluntary Termination	Death	Disability
		Without Cause	for Good Reason	Control Good Reason			
Richard D. Spurr	Severance Pay <sup>(1)</sup>	\$ 330,000	\$ 330,000	\$ 330,000			\$ 200,000
	Stock Option Vesting						
	Acceleration <sup>(2)</sup>						
James F. Brashear	Health Care Benefits						
	Continuation	\$ 6,665	\$ 6,665	\$ 6,665			
	Severance Pay <sup>(1)</sup>	\$ 112,500		\$ 112,500			
Michael W. English	Stock Option Vesting						
	Acceleration <sup>(2)</sup>						
	Severance Pay <sup>(1)</sup>	\$ 87,500		\$ 87,500			
Russell J. Morgan	Stock Option Vesting						
	Acceleration <sup>(2)</sup>						
	Severance Pay <sup>(1)</sup>	\$ 113,850					
David J. Robertson	Stock Option Vesting						
	Acceleration <sup>(2)</sup>						
	Severance Pay <sup>(1)</sup>	\$ 115,000	\$ 115,000	\$ 115,000			

Acceleration <sup>(2)</sup>

- (1) Severance would be paid over 12 months to Mr. Spurr, 9 months to Mr. Brashear, and 6 months for the other executive officers.
- (2) Value determined based upon the difference between our stock price on December 31, 2011 of \$2.82 and the exercise price of unvested options, if positive, multiplied by the number of options that would become vested upon the termination of employment and/or change in control.

**Table of Contents****Equity Compensation Plan Information**

The following table provides information about our equity compensation arrangements that have been approved by our shareholders, as well as equity compensation arrangements that have not been approved by our shareholders, as of December 31, 2011:

Plan Category	Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants and Rights	Weighted-Average Exercise Price of Outstanding Options, Warrants and Rights	Number of
			Securities Remaining Available for Future Issuance Under Equity Compensation Plans (Excluding Securities Reflected in Column (a))
Equity compensation plans approved by shareholders	6,124,110	\$ 3.79	816,195
Equity compensation plans not approved by shareholders	1,023,340	\$ 8.63	178,094
Total	7,147,450	\$ 4.48	994,289

A description of the material terms of our equity arrangements that have not been approved by our shareholders follows:

***Richard D. Spurr, Chairman and Chief Executive Officer***

In February 2004, as part of his employment package, Mr. Spurr received options to acquire 650,000 shares of our common stock at an exercise price of \$10.80 per share. These options became fully vested in January 2007. As of December 31, 2011, all 650,000 options remained unexercised.

***Other Non-Shareholder-Approved Executive Stock Option Agreements***

In 2001 and 2002, options to purchase 450,000 shares of our common stock were granted to key Company executives. The options have an exercise price of \$5.25 and became fully vested in March 2005. As of December 31, 2011, option grants covering 125,000 shares were outstanding.

***Other Non-Shareholder-Approved Stock Option Agreements With Employees***

As of December 31, 2011, option grants to employees were outstanding covering 130,440 and 117,900 shares under our 2001 Employee Stock Option Plan and 2003 New Employee Stock Option Plan, respectively. The terms of these stock option plans and plan arrangements are substantially the same as the provisions of our 2004 Stock Option Plan. These options have exercise prices ranging from \$1.22 to \$11.00. The exercise price of all of these options was the fair market value of our common stock or greater on the date of grant, and the vesting periods ranged from immediately vested to vesting pro-rata over three years.

***Non-Shareholder-Approved Stock Option Agreements With Third Parties***

From time-to-time, we may grant stock options to advisory board members, consultants, contractors, and other third parties for services provided to our Company. At December 31, 2011, no options were outstanding under non-shareholder approved arrangements to non-employees.

**Certain Relationships and Related Transactions**

There have been no transactions since January 1, 2011, between the Company and any related person required to be reported under SEC Regulation S-K, Item 404(a). Todd R. Spurr, the son our Chairman and CEO, is employed as an Account Executive in our encrypted email business sales department. Todd Spurr's employment with us pre-dates his father's employment with us. Todd Spurr's compensation is comprised of a base salary and commissions and is commensurate with other similarly-situated employees.

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Our Audit Committee Charter provides that the Audit Committee reviews and addresses conflicts of interest of directors and officers. Unless otherwise approved by another independent body of the Board of Directors in accordance with NASDAQ Marketplace Rule 5630, the Audit Committee reviews, discusses with management and, if deemed advisable, the Company's independent auditor, and determines whether to approve any transactions or courses of dealing with related parties. Transactions or courses of dealing with related parties includes all transactions required to be disclosed under Item 404 of Regulation S-K.

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Our Board of Directors Procedures and Corporate Governance Overview provides that if there is a proposed transaction between the Company and a related person that is required to be publicly reported under Item 404(a) of SEC Regulation S-K, the following procedures apply:

the transaction is reviewed by disinterested director, and the affirmative vote of a majority of the disinterested directors is required to approve the transaction;

the director that is or has a relationship with the related person in the transaction is permitted to provide information relating to the transaction in question, either verbally or in writing;

the disinterested directors are afforded an opportunity to meet and discuss the transaction in question in executive session (*i.e.*, without the presence of the related person director); and

the director that is the related person in the transaction abstains from voting on the matter.

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**OTHER MATTERS**

We know of no other matters that will be presented for consideration at the Annual Meeting. If any other matters properly come before the Annual Meeting, it is the intention of the persons named as proxy holders in the accompanying proxy card and voting instructions to vote the shares in their discretion. Discretionary authority with respect to other matters is granted by signing and returning the enclosed proxy card or by otherwise providing voting instructions.

**WHERE YOU CAN FIND MORE INFORMATION**

You may read and copy any reports, statements or other information that we file with the SEC directly from the SEC. You may either:

Read and copy any materials we have filed with the SEC at the SEC's Public Reference Room maintained at 100 F Street, N.E., Washington, D.C. 20549; or

Visit the SEC's website at [www.sec.gov](http://www.sec.gov), which contains reports, proxy and information statements, and other information regarding us and other issuers that file electronically with the SEC.

You may obtain more information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330.

You should rely only on the information contained (or incorporated by reference) in this Proxy Statement. We have not authorized anyone to provide you with information that is different from what is contained in this Proxy Statement. This Proxy Statement is dated April 27, 2012. You should not assume that the information contained in this Proxy Statement is accurate as of any date other than that date (or as of an earlier date if so indicated in this Proxy Statement).

Our 2011 Annual Report to shareholders, including our Annual Report on Form 10-K for the year ended December 31, 2011 (excluding exhibits), is being mailed together with this Proxy Statement and is available on our website at [investor.zixcorp.com](http://investor.zixcorp.com) in accordance with the SEC's notice and access regulations. The Annual Report does not constitute any part of the proxy solicitation material.

**Please date, sign and return the proxy card at your earliest convenience in the enclosed envelope. No postage is required for mailing in the United States. We would appreciate the prompt return of your proxy card, as it will save the expense of further mailings.**

Dallas, Texas  
April 27, 2012

By Order of the Board of Directors,

/s/ James F. Brashear  
James F. Brashear  
*Vice President, General Counsel & Corporate Secretary*



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**Appendix A**

ZIX CORPORATION  
2012 INCENTIVE PLAN

A-1

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ZIX CORPORATION  
2012 INCENTIVE PLAN

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ZIX CORPORATION

2012 INCENTIVE PLAN

ARTICLE 1

PURPOSE

1.1. **GENERAL.** The purpose of the Zix Corporation 2012 Incentive Plan (the Plan ) is to promote the success, and enhance the value, of Zix Corporation (the Company ), by linking the personal interests of employees, officers, directors and consultants of the Company or any Affiliate (as defined below) to those of Company stockholders and by providing such persons with an incentive for outstanding performance. The Plan is further intended to provide flexibility to the Company in its ability to motivate, attract, and retain the services of employees, officers, directors and consultants upon whose judgment, interest, and special effort the successful conduct of the Company's operation is largely dependent. Accordingly, the Plan permits the grant of incentive awards from time to time to selected employees, officers, directors and consultants of the Company and its Affiliates.

ARTICLE 2

DEFINITIONS

2.1. **DEFINITIONS.** When a word or phrase appears in this Plan with the initial letter capitalized, and the word or phrase does not commence a sentence, the word or phrase shall generally be given the meaning ascribed to it in this Section or in Section 1.1 unless a clearly different meaning is required by the context. The following words and phrases shall have the following meanings:

- (a) Affiliate means (i) any Subsidiary or Parent, or (ii) an entity that directly or through one or more intermediaries controls, is controlled by or is under common control with, the Company, as determined by the Committee.
- (b) Award means an award of Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, Deferred Stock Units, Performance Awards, Dividend Equivalents, Other Stock-Based Awards, or any other right or interest relating to Stock or cash, granted to a Participant under the Plan.
- (c) Award Certificate means a written document, in such form as the Committee prescribes from time to time, setting forth the terms and conditions of an Award. Award Certificates may be in the form of individual award agreements or certificates or a program document describing the terms and provisions of an Award or series of Awards under the Plan. The Committee may provide for the use of electronic, internet or other non-paper Award Certificates, and the use of electronic, internet or other non-paper means for the acceptance thereof and actions thereunder by a Participant.
- (d) Beneficial Owner shall have the meaning given such term in Rule 13d-3 of the General Rules and Regulations under the 1934 Act.
- (e) Board means the Board of Directors of the Company.

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- (f) Cause as a reason for a Participant's termination of employment shall have the meaning assigned such term in the employment, severance or similar agreement, if any, between such Participant and the Company or an Affiliate, provided, however, that if there is no such employment, severance or similar agreement in which such term is defined, and unless otherwise defined in the applicable Award Certificate, Cause shall mean any of the following acts by the Participant, as determined by the Committee: (i) continued neglect in the performance of duties assigned to the Participant (other than for a reason beyond the control of the Participant) or repeated unauthorized absences by the Participant during scheduled work hours; (ii) material breach by the Participant of any published Company code of conduct or code of ethics, (iii) egregious and willful misconduct, including dishonesty, fraud or continued intentional violation of Company or Affiliate policies and procedures which is reasonably determined to be detrimental to the Company or an Affiliate; (iv) final conviction of a felonious crime; or (v) repeated material failure to meet reasonable performance criteria as established by the Company or an Affiliate and communicated to the Participant. With respect to a Participant's termination of directorship, Cause shall mean any of the following acts by the Participant, as determined by the Committee, unless a contrary definition is contained in the applicable Award Certificate: (i) egregious and willful misconduct, (ii) final conviction of a felonious crime, or (iii) any act or failure to act that constitutes cause for removal of a director under applicable Texas law. The determination of the Committee as to the existence of Cause shall be conclusive on the Participant and the Company.
- (g) Change in Control means and includes the occurrence of any one of the following events but shall specifically exclude a Public Offering:
- (i) during any consecutive 12-month period, individuals who, at the beginning of such period, constitute the Board of Directors of the Company (the Incumbent Directors) cease for any reason to constitute at least a majority of such Board, provided that any person becoming a director after the beginning of such 12-month period and whose election or nomination for election was approved by a vote of at least a majority of the Incumbent Directors then on the Board shall be an Incumbent Director; provided, however, that no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to the election or removal of directors ( Election Contest ) or other actual or threatened solicitation of proxies or consents by or on behalf of any Person other than the Board ( Proxy Contest ), including by reason of any agreement intended to avoid or settle any Election Contest or Proxy Contest, shall be deemed an Incumbent Director; or
- (ii) any Person becomes a Beneficial Owner, directly or indirectly, of either (A) 30% or more of the then-outstanding shares of common stock of the Company ( Company Common Stock ) or (B) securities of the Company representing 25% or more of the combined voting power of the Company's then outstanding securities eligible to vote for the election of directors (the Company Voting Securities ); provided, however, that for purposes of this subsection (ii), the following acquisitions of Company Common Stock or Company Voting Securities shall not constitute a Change in Control: (x) an acquisition directly from the Company, (w) an acquisition by the Company or a Subsidiary, (y) an acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any Subsidiary, or (z) an acquisition pursuant to a Non-Qualifying Transaction (as defined in subsection (iii) below); or maintained by the Company or any Subsidiary, or (z) an acquisition pursuant to a Non-Qualifying Transaction (as defined in subsection (iii) below); or

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(iii) the consummation of a reorganization, merger, consolidation, statutory share exchange or similar form of corporate transaction involving the Company or a Subsidiary (a Reorganization ), or the sale or other disposition of all or substantially all of the Company's assets (a Sale ) or the acquisition of assets or stock of another corporation or other entity (an Acquisition ), unless immediately following such Reorganization, Sale or Acquisition: (A) all or substantially all of the individuals and entities who were the Beneficial Owners, respectively, of the outstanding Company Common Stock and outstanding Company Voting Securities immediately prior to such Reorganization, Sale or Acquisition beneficially own, directly or indirectly, more than 50% of, respectively, the then outstanding shares of common stock and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the entity resulting from such Reorganization, Sale or Acquisition (including, without limitation, an entity which as a result of such transaction owns the Company or all or substantially all of the Company's assets or stock either directly or through one or more subsidiaries, the Surviving Entity ) in substantially the same proportions as their ownership, immediately prior to such Reorganization, Sale or Acquisition, of the outstanding Company Common Stock and the outstanding Company Voting Securities, as the case may be, and (B) no Person (other than (x) the Company or any Subsidiary, (y) the Surviving Entity or its ultimate parent entity, or (z) any employee benefit plan (or related trust) sponsored or maintained by any of the foregoing) is the Beneficial Owner, directly or indirectly, of 30% or more of the total common stock or 30% or more of the total voting power of the outstanding voting securities eligible to elect directors of the Surviving Entity, and (C) at least a majority of the members of the board of directors of the Surviving Entity were Incumbent Directors at the time of the Board's approval of the execution of the initial agreement providing for such Reorganization, Sale or Acquisition (any Reorganization, Sale or Acquisition which satisfies all of the criteria specified in (A), (B) and (C) above shall be deemed to be a Non-Qualifying Transaction ).

- (h) Code means the Internal Revenue Code of 1986, as amended from time to time. For purposes of this Plan, references to sections of the Code shall be deemed to include references to any applicable regulations thereunder and any successor or similar provision.
- (i) Committee means the committee of the Board described in Article 4.
- (j) Company means Zix Corporation, a Texas corporation, or any successor corporation.
- (k) Continuous Service means the absence of any interruption or termination of service as an employee, officer, director or consultant of the Company or any Affiliate, as applicable; provided, however, that for purposes of an Incentive Stock Option Continuous Service means the absence of any interruption or termination of service as an employee of the Company or any Parent or Subsidiary, as applicable, pursuant to applicable tax regulations. Continuous Service shall not be considered interrupted in the following cases: (i) a

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Participant transfers employment between the Company and an Affiliate or between Affiliates, or (ii) in the discretion of the Committee as specified at or prior to such occurrence, in the case of a spin-off, sale or disposition of the Participant's employer from the Company or any Affiliate, (iii) a Participant transfers from being an employee of the Company or an Affiliate to being a director of the Company or of an Affiliate, or vice versa, (iv) in the discretion of the Committee as specified at or prior to such occurrence, a Participant transfers from being an employee of the Company or an Affiliate to being a consultant to the Company or of an Affiliate, or vice versa, or (v) any leave of absence authorized in writing by the Company prior to its commencement; provided, however, that for purposes of Incentive Stock Options, no such leave may exceed 90 days, unless reemployment upon expiration of such leave is guaranteed by statute or contract. If reemployment upon expiration of a leave of absence approved by the Company is not so guaranteed, on the 91st day of such leave any Incentive Stock Option held by the Participant shall cease to be treated as an Incentive Stock Option and shall be treated for tax purposes as a Nonstatutory Stock Option. Whether military, government or other service or other leave of absence shall constitute a termination of Continuous Service shall be determined in each case by the Committee at its discretion, and any determination by the Committee shall be final and conclusive; provided, however, that for purposes of any Award that is subject to Code Section 409A, the determination of a leave of absence must comply with the requirements of a bona fide leave of absence as provided in Treas. Reg. Section 1.409A-1(h).

- (l) Covered Employee means a covered employee as defined in Code Section 162(m)(3).
- (m) Deferred Stock Unit means a right granted to a Participant under Article 9 to receive Shares (or the equivalent value in cash or other property if the Committee so provides) at a future time as determined by the Committee, or as determined by the Participant within guidelines established by the Committee in the case of voluntary deferral elections.
- (n) Dividend Equivalent means a right granted to a Participant under Article 12.
- (o) Effective Date has the meaning assigned such term in Section 3.1.
- (p) Eligible Participant means an employee, officer, director or consultant of the Company or any Affiliate. Persons providing services as contractual employees of the Company or any Affiliate through a management, staffing, employee leasing or other similar contractual arrangement shall be Eligible Participants.
- (q) Exchange means any national securities exchange on which the Stock may from time to time be listed or traded.
- (r) Fair Market Value, on any date, means (i) if the Stock is listed on a securities exchange, the closing sales price on the principal such exchange on such date or, in the absence of reported sales on such date, the closing sales price on the immediately preceding date on which sales were reported, or (ii) if the Stock is not listed on a securities exchange, the mean between the bid and offered prices as quoted by the applicable interdealer quotation system for such date, provided

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that if the Stock is not quoted on an interdealer quotation system or it is determined that the fair market value is not properly reflected by such quotations, Fair Market Value will be determined by such other method as the Committee determines in good faith to be reasonable and in compliance with Code Section 409A.

- (s) Full-Value Award means an Award other than in the form of an Option or SAR, and which is settled by the issuance of Stock (or at the discretion of the Committee, settled in cash valued by reference to Stock value).
- (t) Good Reason (or a similar term denoting constructive termination) has the meaning, if any, assigned such term in the employment, consulting, severance or similar agreement, if any, between a Participant and the Company or an Affiliate; provided, however, that if there is no such employment, consulting, severance or similar agreement in which such term is defined, Good Reason shall have the meaning, if any, given such term in the applicable Award Certificate. If not defined in either such document, the term Good Reason as used herein shall not apply to a particular Award.
- (u) Grant Date of an Award means the first date on which all necessary corporate action has been taken to approve the grant of the Award as provided in the Plan, or such later date as is determined and specified as part of that authorization process. Notice of the grant shall be provided to the grantee within a reasonable time after the Grant Date.
- (v) Incentive Stock Option means an Option that is intended to be an incentive stock option and meets the requirements of Section 422 of the Code or any successor provision thereto.
- (w) Independent Directors means those members of the Board of Directors who qualify at any given time as (a) an independent director under the applicable rules of each Exchange on which the Shares are listed, (b) a non-employee director under Rule 16b-3 of the 1934 Act, and (c) an outside director under Section 162(m) of the Code.
- (x) Non-Employee Director means a director of the Company who is not a common law employee of the Company or an Affiliate.
- (y) Nonstatutory Stock Option means an Option that is not an Incentive Stock Option.
- (z) Option means a right granted to a Participant under Article 7 of the Plan to purchase Stock at a specified price during specified time periods. An Option may be either an Incentive Stock Option or a Nonstatutory Stock Option.
- (aa) Other Stock-Based Award means a right, granted to a Participant under Article 13, that relates to or is valued by reference to Stock or other Awards relating to Stock.



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- (bb) Parent means a corporation, limited liability company, partnership or other entity which owns or beneficially owns a majority of the outstanding voting stock or voting power of the Company. Notwithstanding the above, with respect to an Incentive Stock Option, Parent shall have the meaning set forth in Section 424(e) of the Code.
- (cc) Participant means an Eligible Participant who has been granted an Award under the Plan; provided that in the case of the death of a Participant, the term Participant refers to a beneficiary designated pursuant to Section 14.4 or the legal guardian or other legal representative acting in a fiduciary capacity on behalf of the Participant under applicable state law and court supervision.
- (dd) Performance Award means any award granted under the Plan pursuant to Article 10.
- (ee) Person means any individual, entity or group, within the meaning of Section 3(a)(9) of the 1934 Act and as used in Section 13(d)(3) or 14(d)(2) of the 1934 Act.
- (ff) Plan means the Zix Corporation 2012 Incentive Plan, as amended from time to time.
- (gg) Qualified Performance-Based Award means an Award that is either (i) intended to qualify for the Section 162(m) Exemption and is made subject to performance goals based on Qualified Business Criteria as set forth in Section 11.2, or (ii) an Option or SAR having an exercise price equal to or greater than the Fair Market Value of the underlying Stock as of the Grant Date.
- (hh) Qualified Business Criteria means one or more of the Business Criteria listed in Section 11.2 upon which performance goals for certain Qualified Performance-Based Awards may be established by the Committee.
- (ii) Restricted Stock means Stock granted to a Participant under Article 9 that is subject to certain restrictions and to risk of forfeiture.
- (jj) Restricted Stock Unit means the right granted to a Participant under Article 9 to receive shares of Stock (or the equivalent value in cash or other property if the Committee so provides) in the future, which right is subject to certain restrictions and to risk of forfeiture.
- (kk) Section 162(m) Exemption means the exemption from the limitation on deductibility imposed by Section 162(m) of the Code that is set forth in Section 162(m)(4)(C) of the Code or any successor provision thereto.
- (ll) Shares means shares of the Company's Stock. If there has been an adjustment or substitution pursuant to Article 15, the term Shares shall also include any shares of stock or other securities that are substituted for Shares or into which Shares are adjusted pursuant to Article 15.

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- (mm) Stock means the \$0.01 par value common stock of the Company and such other securities of the Company as may be substituted for Stock pursuant to Article 15.
- (nn) Stock Appreciation Right or SAR means a right granted to a Participant under Article 8 to receive a payment equal to the difference between the Fair Market Value of a Share as of the date of exercise of the SAR over the base price of the SAR, all as determined pursuant to Article 8.
- (oo) Subsidiary means any corporation, limited liability company, partnership or other entity, domestic or foreign, of which a majority of the outstanding voting stock or voting power is beneficially owned directly or indirectly by the Company. Notwithstanding the above, with respect to an Incentive Stock Option, Subsidiary shall have the meaning set forth in Section 424(f) of the Code.
- (pp) 1933 Act means the Securities Act of 1933, as amended from time to time.
- (qq) 1934 Act means the Securities Exchange Act of 1934, as amended from time to time.

ARTICLE 3

EFFECTIVE TERM OF PLAN

3.1. EFFECTIVE DATE. Subject to the approval of the Plan by the Company's stockholders within 12 months after the Plan's adoption by the Board, the Plan will become effective on the date that it is adopted by the Board (the Effective Date).

3.2. TERMINATION OF PLAN. Unless earlier terminated as provided herein, the Plan shall continue in effect until the date of the 2022 shareholders' meeting or, if the stockholders approve an amendment to the Plan that increases the number of Shares subject to the Plan, the tenth anniversary of the date of such approval. The termination of the Plan on such date shall not affect the validity of any Award outstanding on the date of termination, which shall continue to be governed by the applicable terms and conditions of the Plan. Notwithstanding the foregoing, no Incentive Stock Options may be granted more than ten (10) years after the Effective Date.

ARTICLE 4

ADMINISTRATION

4.1. COMMITTEE. The Plan shall be administered by a Committee appointed by the Board (which Committee shall consist of at least two directors) or, at the discretion of the Board from time to time, the Plan may be administered by the Board. It is intended that at least two of the directors appointed to serve on the Committee shall be Independent Directors and that any such members of the Committee who do not so qualify shall abstain from participating in any decision to make or administer Awards that are made to Eligible Participants who at the time of consideration for such Award (i) are persons subject to the short-swing profit rules of Section 16 of the 1934 Act, or (ii) are reasonably anticipated to become Covered Employees during the term of the Award. However, the mere fact that a Committee member shall fail to qualify as an Independent Director or shall fail to abstain from such action shall not invalidate any Award made by the Committee which Award is otherwise validly made under the Plan. The members of the Committee shall be appointed by, and may be changed at any time and from time to time in

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the discretion of, the Board. Unless and until changed by the Board, the Compensation Committee of the Board is designated as the Committee to administer the Plan. The Board may reserve to itself any or all of the authority and responsibility of the Committee under the Plan or may act as administrator of the Plan for any and all purposes. To the extent the Board has reserved any authority and responsibility or during any time that the Board is acting as administrator of the Plan, it shall have all the powers and protections of the Committee hereunder, and any reference herein to the Committee (other than in this Section 4.1) shall include the Board. To the extent any action of the Board under the Plan conflicts with actions taken by the Committee, the actions of the Board shall control.

4.2. **ACTION AND INTERPRETATIONS BY THE COMMITTEE.** For purposes of administering the Plan, the Committee may from time to time adopt rules, regulations, guidelines and procedures for carrying out the provisions and purposes of the Plan and make such other determinations, not inconsistent with the Plan, as the Committee may deem appropriate. The Committee may correct any defect, supply any omission or reconcile any inconsistency in the Plan or in any Award in the manner and to the extent it deems necessary to carry out the intent of the Plan. The Committee's interpretation of the Plan, any Awards granted under the Plan, any Award Certificate and all decisions and determinations by the Committee with respect to the Plan are final, binding, and conclusive on all parties. Each member of the Committee is entitled to, in good faith, rely or act upon any report or other information furnished to that member by any officer or other employee of the Company or any Affiliate, the Company's or an Affiliate's independent certified public accountants, Company counsel or any executive compensation consultant or other professional retained by the Company or the Committee to assist in the administration of the Plan. No member of the Committee will be liable for any good faith determination, act or omission in connection with the Plan or any Award.

4.3. **AUTHORITY OF COMMITTEE.** Except as provided in Section 4.1 hereof, the Committee has the exclusive power, authority and discretion to:

- (a) grant Awards;
- (b) designate Participants;
- (c) determine the type or types of Awards to be granted to each Participant;
- (d) determine the number of Awards to be granted and the number of Shares or dollar amount to which an Award will relate;
- (e) determine the terms and conditions of any Award granted under the Plan;
- (f) prescribe the form of each Award Certificate, which need not be identical for each Participant;
- (g) decide all other matters that must be determined in connection with an Award;
- (h) establish, adopt or revise any plan, program or policy for the grant of Awards as it may deem necessary or advisable, including but not limited to short-term incentive programs, and any special plan documents;
- (i) establish, adopt or revise any rules, regulations, guidelines or procedures as it may deem necessary or advisable to administer the Plan;

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- (j) make all other decisions and determinations that may be required under the Plan or as the Committee deems necessary or advisable to administer the Plan;
- (k) amend the Plan or any Award Certificate as provided herein; and
- (l) adopt such modifications, procedures, and subplans as may be necessary or desirable to comply with provisions of the laws of the United States or any non-U.S. jurisdictions in which the Company or any Affiliate may operate, in order to assure the viability of the benefits of Awards granted to participants located in the United States or such other jurisdictions and to further the objectives of the Plan.

Notwithstanding the foregoing, grants of Awards to Non-Employee Directors hereunder shall be made only in accordance with the terms, conditions and parameters of a plan, program or policy for the compensation of Non-Employee Directors as in effect from time to time, and the Committee may not make discretionary grants hereunder to Non-Employee Directors.

4.4. **DELEGATION.**

- (a) **Administrative Duties.** The Committee may delegate to one or more of its members or to one or more officers of the Company or an Affiliate or to one or more agents or advisors such administrative duties or powers as it may deem advisable, and the Committee or any individuals to whom it has delegated duties or powers as aforesaid may employ one or more individuals to render advice with respect to any responsibility the Committee or such individuals may have under this Plan.
- (b) **Special Committee.** The Board may, by resolution, expressly delegate to a special committee, consisting of one or more directors who may but need not be officers of the Company, the authority, within specified parameters as to the number and terms of Awards, to (i) designate officers and/or employees of the Company or any of its Affiliates to be recipients of Awards under the Plan, and (ii) to determine the number of such Awards to be received by any such Participants; provided, however, that such delegation of duties and responsibilities to an officer of the Company may not be made with respect to the grant of Awards to eligible participants (a) who are subject to Section 16(a) of the 1934 Act at the Grant Date, or (b) who as of the Grant Date are reasonably anticipated to be become Covered Employees during the term of the Award. The acts of such delegates shall be treated hereunder as acts of the Board and such delegates shall report regularly to the Board and the Compensation Committee regarding the delegated duties and responsibilities and any Awards so granted.

ARTICLE 5

SHARES SUBJECT TO THE PLAN

5.1. **NUMBER OF SHARES.** Subject to adjustment as provided in Sections 5.2 and Section 15.1, the aggregate number of Shares reserved and available for issuance pursuant to Awards granted under the Plan, all of which may be issued pursuant to Incentive Stock Options, shall be 2,700,000, plus a number of additional Shares (not to exceed 1,327,000) underlying

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awards outstanding as of the Effective Date under the Company's 2006 Directors' Stock Option Plan, 2004 Stock Option Plan, or 2003 New Employee Stock Plan (the "Prior Plans") that thereafter terminate or expire unexercised, or are cancelled, forfeited or lapse for any reason. From and after the Effective Date, no further awards shall be granted under the Prior Plans, and the Prior Plans shall remain in effect only so long as awards granted thereunder shall remain outstanding.

5.2. **SHARE COUNTING.** Shares covered by an Award shall be subtracted from the Plan share reserve as of the Grant Date, but shall be added back to the Plan share reserve or otherwise treated in accordance with subsections (b) through (i) of this Section 5.2.

- (a) Awards of Options and Stock Appreciation Rights shall count against the number of Shares remaining available for issuance pursuant to Awards granted under the Plan as one Share for each Share covered by such Awards, and Full Value Awards shall count against the number of Shares remaining available for issuance pursuant to Awards granted under the Plan as 1.5 Shares for each Share covered by such Awards.
- (b) The full number of Shares subject to the Option shall count against the number of Shares remaining available for issuance pursuant to Awards granted under the Plan, even if the exercise price of an Option is satisfied through net-settlement or by delivering Shares to the Company (by either actual delivery or attestation).
- (c) Upon exercise of Stock Appreciation Rights that are settled in Shares, the full number of Stock Appreciation Rights (rather than the net number of Shares actually delivered upon exercise) shall count against the number of Shares remaining available for issuance pursuant to Awards granted under the Plan.
- (d) Shares withheld from an Award to satisfy tax withholding requirements shall count against the number of Shares remaining available for issuance pursuant to Awards granted under the Plan, and Shares delivered by a participant to satisfy tax withholding requirements shall not be added to the Plan share reserve.
- (e) To the extent that an Award is canceled, terminates, expires, is forfeited or lapses for any reason, any unissued or forfeited Shares subject to the Award will be added back to the Plan share reserve and again be available for issuance pursuant to Awards granted under the Plan.
- (f) Shares subject to Awards settled in cash will be added back to the Plan share reserve and again be available for issuance pursuant to Awards granted under the Plan.
- (g) To the extent that the full number of Shares subject to a Full Value Award is not issued for any reason, including by reason of failure to achieve maximum performance goals, the unissued Shares originally subject to the Award will be added back to the Plan share reserve and again be available for issuance pursuant to Awards granted under the Plan.
- (h) Substitute Awards granted pursuant to Section 14.9 of the Plan shall not count against the Shares otherwise available for issuance under the Plan under Section 5.1.

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- (i) Subject to applicable Exchange requirements, shares available under a stockholder-approved plan of a company acquired by the Company (as appropriately adjusted to Shares to reflect the transaction) may be issued under the Plan pursuant to Awards granted to individuals who were not employees of the Company or its Affiliates immediately before such transaction and will not count against the maximum share limitation specified in Section 5.1.

5.3. STOCK DISTRIBUTED. Any Stock distributed pursuant to an Award may consist, in whole or in part, of authorized and unissued Stock, treasury Stock or Stock purchased on the open market.

5.4. LIMITATION ON AWARDS. Notwithstanding any provision in the Plan to the contrary (but subject to adjustment as provided in Article 15):

- (a) Options. The maximum number of Shares subject to Options granted under the Plan in any 12-month period to any one Participant shall be 500,000.
- (b) SARs. The maximum number of Shares subject to Stock Appreciation Rights granted under the Plan in any 12-month period to any one Participant shall be 500,000.
- (c) Performance Awards. With respect to any one 12-month period (i) the maximum amount that may be paid to any one Participant for Performance Awards payable in cash or property other than Shares shall be \$5,000,000, and (ii) the maximum number of Shares that may be paid to any one Participant for Performance Awards payable in Stock shall be 500,000Shares. For purposes of applying these limits in the case of multi-year performance periods, the amount of cash or property or number of Shares deemed paid with respect to any one 12-month period is the total amount payable or Shares earned for the performance period divided by the number of 12-month periods in the performance period.

5.5. MINIMUM VESTING REQUIREMENTS. Except in the case of substitute Awards granted pursuant to Section 14.9, Full-Value Awards granted under the Plan to an Eligible Participant shall either (i) be subject to a minimum vesting period of three years (which may include graduated vesting within such three-year period), or one year if the vesting is based on performance criteria other than continued service, or (ii) be granted solely in exchange for foregone cash compensation. Notwithstanding the foregoing, (i) the Committee may permit and authorize acceleration of vesting of such Full-Value Awards in the event of the Participant's death, disability, or retirement, or the occurrence of a Change in Control (subject to the requirements of Article 11 in the case of Qualified Performance-Based Awards), and (ii) the Committee may grant Full-Value Awards without the above-described minimum vesting requirements, or may permit and authorize acceleration of vesting of Full-Value Awards otherwise subject to the above-described minimum vesting requirements, with respect to Awards covering 10% or fewer of the total number of Shares authorized under the Plan.

ARTICLE 6

ELIGIBILITY

6.1. GENERAL. Awards may be granted only to Eligible Participants. Incentive Stock Options may be granted only to Eligible Participants who are employees of the Company

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or a Parent or Subsidiary as defined in Section 424(e) and (f) of the Code. Eligible Participants who are service providers to an Affiliate may be granted Options or SARs under this Plan only if the Affiliate qualifies as an eligible issuer of service recipient stock within the meaning of §1.409A-1(b)(5)(iii)(E) of the final regulations under Code Section 409A.

ARTICLE 7

STOCK OPTIONS

7.1. GENERAL. The Committee is authorized to grant Options to Participants on the following terms and conditions:

- (a) Exercise Price. The exercise price per Share under an Option shall be determined by the Committee, provided that the exercise price for any Option (other than an Option issued as a substitute Award pursuant to Section 14.9) shall not be less than the Fair Market Value as of the Grant Date.
- (b) Prohibition on Repricing. Except as otherwise provided in Section 15.1, the exercise price of an Option may not be reduced, directly or indirectly by cancellation and regrant or otherwise, without the prior approval of the stockholders of the Company. In addition, the Company may not, without the prior approval of shareholders of the Company, repurchase an Option for value from a Participant if the current Fair Market Value of the Shares underlying the Option is lower than the exercise price per share of the Option.
- (c) Time and Conditions of Exercise. The Committee shall determine the time or times at which an Option may be exercised in whole or in part, subject to Section 7.1(e), and may include in the Award Certificate a provision that an Option that is otherwise exercisable and has an exercise price that is less than the Fair Market Value of the Stock on the last day of its term will be automatically exercised on such final date of the term by means of a net exercise, thus entitling the optionee to Shares equal to the intrinsic value of the Option on such exercise date, less the number of Shares required for tax withholding. The Committee shall also determine the performance or other conditions, if any, that must be satisfied before all or part of an Option may be exercised or vested.
- (d) Payment. The Committee shall determine the methods by which the exercise price of an Option may be paid, the form of payment, and the methods by which Shares shall be delivered or deemed to be delivered to Participants. As determined by the Committee at or after the Grant Date, payment of the exercise price of an Option may be made, in whole or in part, in the form of (i) cash or cash equivalents, (ii) delivery (by either actual delivery or attestation) of previously-acquired Shares based on the Fair Market Value of the Shares on the date the Option is exercised, (iii) withholding of Shares from the Option based on the Fair Market Value of the Shares on the date the Option is exercised, (iv) broker-assisted market sales, or (iv) any other cashless exercise arrangement.
- (e) Exercise Term. Except for Nonstatutory Options granted to Participants outside the United States, no Option granted under the Plan shall be exercisable for more than ten years from the Grant Date.

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(f) **No Deferral Feature.** No Option shall provide for any feature for the deferral of compensation other than the deferral of recognition of income until the exercise or disposition of the Option.

(g) **No Dividend Equivalents.** No Option shall provide for Dividend Equivalents.

7.2. **INCENTIVE STOCK OPTIONS.** The terms of any Incentive Stock Options granted under the Plan must comply with the requirements of Section 422 of the Code. Without limiting the foregoing, any Incentive Stock Option granted to a Participant who at the Grant Date owns more than 10% of the voting power of all classes of shares of the Company must have an exercise price per Share of not less than 110% of the Fair Market Value per Share on the Grant Date and an Option term of not more than five years. If all of the requirements of Section 422 of the Code (including the above) are not met, the Option shall automatically become a Nonstatutory Stock Option.

ARTICLE 8

STOCK APPRECIATION RIGHTS

8.1. **GRANT OF STOCK APPRECIATION RIGHTS.** The Committee is authorized to grant Stock Appreciation Rights to Participants on the following terms and conditions:

- (a) **Right to Payment.** Upon the exercise of a SAR, the Participant has the right to receive, for each Share with respect to which the SAR is being exercised, the excess, if any, of:
- (1) The Fair Market Value of one Share on the date of exercise; over
  - (2) The base price of the SAR as determined by the Committee and set forth in the Award Certificate, which shall not be less than the Fair Market Value of one Share on the Grant Date.
- (b) **Prohibition on Repricing.** Except as otherwise provided in Section 15.1, the base price of a SAR may not be reduced, directly or indirectly by cancellation and regrant or otherwise, without the prior approval of the stockholders of the Company. In addition, the Company may not, without the prior approval of shareholders of the Company, repurchase a SAR for value from a Participant if the current Fair Market Value of the Shares underlying the SAR is lower than the base price per share of the SAR.
- (c) **Time and Conditions of Exercise.** The Committee shall determine the time or times at which a SAR may be exercised in whole or in part, and may include in the Award Certificate a provision that a SAR that is otherwise exercisable and has a base price that is less than the Fair Market Value of the Stock on the last day of its term will be automatically exercised on such final date of the term, thus entitling the holder to cash or Shares equal to the intrinsic value of the SAR on such exercise date, less the cash or number of Shares required for tax withholding. Except for SARs granted to Participants outside the United States, no SAR shall be exercisable for more than ten years from the Grant Date.



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- (d) No Deferral Feature. No SAR shall provide for any feature for the deferral of compensation other than the deferral of recognition of income until the exercise or disposition of the SAR.
- (e) No Dividend Equivalents. No SAR shall provide for Dividend Equivalents.
- (f) Other Terms. All SARs shall be evidenced by an Award Certificate. Subject to the limitations of this Article 8, the terms, methods of exercise, methods of settlement, form of consideration payable in settlement (e.g., cash, Shares or other property), and any other terms and conditions of the SAR shall be determined by the Committee at the time of the grant and shall be reflected in the Award Certificate.

ARTICLE 9

RESTRICTED STOCK AND STOCK UNITS

9.1. GRANT OF RESTRICTED STOCK AND STOCK UNITS. The Committee is authorized to make Awards of Restricted Stock, Restricted Stock Units or Deferred Stock Units to Participants in such amounts and subject to such terms and conditions as may be selected by the Committee. An Award of Restricted Stock, Restricted Stock Units or Deferred Stock Units shall be evidenced by an Award Certificate setting forth the terms, conditions, and restrictions applicable to the Award.

9.2. ISSUANCE AND RESTRICTIONS. Restricted Stock, Restricted Stock Units or Deferred Stock Units shall be subject to such restrictions on transferability and other restrictions as the Committee may impose (including, for example, limitations on the right to vote Restricted Stock or the right to receive dividends on the Restricted Stock). These restrictions may lapse separately or in combination at such times, under such circumstances, in such installments, upon the satisfaction of performance goals or otherwise, as the Committee determines at the time of the grant of the Award or thereafter. Except as otherwise provided in an Award Certificate or any special Plan document governing an Award, a Participant shall have none of the rights of a stockholder with respect to Restricted Stock Units or Deferred Stock Units until such time as Shares of Stock are paid in settlement of such Awards.

9.3. DIVIDENDS ON RESTRICTED STOCK. In the case of Restricted Stock, the Committee may provide that ordinary cash dividends declared on the Shares before they are vested (i) will be forfeited, (ii) will be deemed to have been reinvested in additional Shares or otherwise reinvested (subject to Share availability under Section 5.1 hereof), or (iii) in the case of Restricted Stock that is not subject to performance-based vesting, will be paid or distributed to the Participant as accrued (in which case, such dividends must be paid or distributed no later than the 15th day of the 3rd month following the later of (A) the calendar year in which the corresponding dividends were paid to stockholders, or (B) the first calendar year in which the Participant's right to such dividends is no longer subject to a substantial risk of forfeiture).

9.4. FORFEITURE. Subject to the terms of the Award Certificate and except as otherwise determined by the Committee at the time of the grant of the Award or thereafter, upon termination of Continuous Service during the applicable restriction period or upon failure to satisfy a performance goal during the applicable restriction period, Restricted Stock or Restricted Stock Units that are at that time subject to restrictions shall be forfeited.

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9.5. **DELIVERY OF RESTRICTED STOCK.** Shares of Restricted Stock shall be delivered to the Participant at the Grant Date either by book-entry registration or by delivering to the Participant, or a custodian or escrow agent (including, without limitation, the Company or one or more of its employees) designated by the Committee, a stock certificate or certificates registered in the name of the Participant. If physical certificates representing shares of Restricted Stock are registered in the name of the Participant, such certificates must bear an appropriate legend referring to the terms, conditions, and restrictions applicable to such Restricted Stock.

ARTICLE 10

PERFORMANCE AWARDS

10.1. **GRANT OF PERFORMANCE AWARDS.** The Committee is authorized to grant any Award under this Plan, including cash-based Awards, with performance-based vesting criteria, on such terms and conditions as may be selected by the Committee. Any such Awards with performance-based vesting criteria are referred to herein as Performance Awards. The Committee shall have the complete discretion to determine the number of Performance Awards granted to each Participant, subject to Section 5.4, and to designate the provisions of such Performance Awards as provided in Section 4.3. All Performance Awards shall be evidenced by an Award Certificate or a written program established by the Committee, pursuant to which Performance Awards are awarded under the Plan under uniform terms, conditions and restrictions set forth in such written program.

10.2. **PERFORMANCE GOALS.** The Committee may establish performance goals for Performance Awards which may be based on any criteria selected by the Committee. Such performance goals may be described in terms of Company-wide objectives or in terms of objectives that relate to the performance of the Participant, an Affiliate or a division, region, department or function within the Company or an Affiliate. If the Committee determines that a change in the business, operations, corporate structure or capital structure of the Company or the manner in which the Company or an Affiliate conducts its business, or other events or circumstances render performance goals to be unsuitable, the Committee may modify such performance goals in whole or in part, as the Committee deems appropriate. If a Participant is promoted, demoted or transferred to a different business unit or function during a performance period, the Committee may determine that the performance goals or performance period are no longer appropriate and may (i) adjust, change or eliminate the performance goals or the applicable performance period as it deems appropriate to make such goals and period comparable to the initial goals and period, or (ii) make a cash payment to the participant in an amount determined by the Committee. The foregoing two sentences shall not apply with respect to a Performance Award that is intended to be a Qualified Performance-Based Award if the recipient of such award (a) was a Covered Employee on the date of the modification, adjustment, change or elimination of the performance goals or performance period, or (b) in the reasonable judgment of the Committee, may be a Covered Employee on the date the Performance Award is expected to be paid.

ARTICLE 11

QUALIFIED PERFORMANCE-BASED AWARDS

11.1. **OPTIONS AND STOCK APPRECIATION RIGHTS.** The provisions of the Plan are intended to ensure that all Options and Stock Appreciation Rights granted hereunder to any Covered Employee shall qualify for the Section 162(m) Exemption.

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11.2. OTHER AWARDS. When granting any other Award, the Committee may designate such Award as a Qualified Performance-Based Award, based upon a determination that the recipient is or may be a Covered Employee with respect to such Award, and the Committee wishes such Award to qualify for the Section 162(m) Exemption. If an Award is so designated, the Committee shall establish performance goals for such Award within the time period prescribed by Section 162(m) of the Code based on one or more of the following Qualified Business Criteria, which may be expressed in terms of Company-wide objectives or in terms of objectives that relate to the performance of an Affiliate or a division, region, department or function within the Company or an Affiliate:

Revenue (premium revenue, total revenue or other revenue measures)

Sales

New first year orders

Profit (net profit, gross profit, operating profit, economic profit, profit margins or other corporate profit measures)

Earnings (EBIT, EBITDA, earnings per share, earnings after capital charge or other corporate earnings measures)

Net income (before or after taxes, operating income or other income measures)

Cash (cash flow, cash generation or other cash measures)

Stock price or performance

Total stockholder return (stock price appreciation plus reinvested dividends divided by beginning share price)

Economic value added return measures (including, but not limited to, return on assets, capital, equity, investments or sales, and cash flow return on assets, capital, equity, or sales);

Market share

Improvements in capital structure

Expenses (expense management, expense ratio, expense efficiency ratios or other expense measures)

Business expansion or consolidation (acquisitions and divestitures)

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Internal rate of return or increase in net present value

Productivity measures

Cost reduction measures

Strategic plan development and implementation

Working capital (including, but not limited to, targets relating to inventory and/or accounts receivable)

Stock price or performance

Performance goals with respect to the foregoing Qualified Business Criteria may be specified in absolute terms, in percentages, or in terms of growth from period to period or growth rates over time, as well as measured relative to the performance of a group of comparator companies, or a published or special index, or a stock market index, that the Committee deems appropriate. Any member of a comparator group or an index that ceases to exist during a measurement period shall be disregarded for the entire measurement period. Performance Goals need not be based upon an increase or positive result under a business criterion and could include, for example, the maintenance of the status quo or the limitation of economic losses (measured, in each case, by reference to a specific business criterion).

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11.3. **PERFORMANCE GOALS.** Each Qualified Performance-Based Award (other than a market-priced Option or SAR) shall be earned, vested and payable (as applicable) only upon the achievement of performance goals established by the Committee based upon one or more of the Qualified Business Criteria, together with the satisfaction of any other conditions, such as continued employment, as the Committee may determine to be appropriate; provided, however, that the Committee may provide, either in connection with the grant thereof or by amendment thereafter, that achievement of such performance goals will be waived, in whole or in part, upon (i) the termination of employment of a Participant by reason of death or disability, or (ii) the occurrence of a Change in Control. Performance periods established by the Committee for any such Qualified Performance-Based Award may be as short as three months and may be any longer period. In addition, the Committee has the right, in connection with the grant of a Qualified Performance-Based Award, to exercise negative discretion to determine that the portion of such Award actually earned, vested and/or payable (as applicable) shall be less than the portion that would be earned, vested and/or payable based solely upon application of the applicable performance goals.

11.4. **INCLUSIONS AND EXCLUSIONS FROM PERFORMANCE CRITERIA.** The Committee may provide in any Qualified Performance-Based Award, at the time the performance goals are established, that any evaluation of performance shall exclude or otherwise objectively adjust for any specified circumstance or event that occurs during a performance period, including by way of example but without limitation the following: (a) asset write-downs or impairment charges; (b) litigation or claim judgments or settlements; (c) the effect of changes in tax laws, accounting principles or other laws or provisions affecting reported results; (d) accruals for reorganization and restructuring programs; (e) extraordinary nonrecurring items as described in then-current accounting principles; (f) extraordinary nonrecurring items as described in management's discussion and analysis of financial condition and results of operations appearing in the Company's annual report to stockholders for the applicable year; (g) acquisitions or divestitures; and (h) foreign exchange gains and losses. To the extent such inclusions or exclusions affect Awards to Covered Employees, they shall be prescribed in a form that meets the requirements of Code Section 162(m) for deductibility.

11.5. **CERTIFICATION OF PERFORMANCE GOALS.** Any payment of a Qualified Performance-Based Award granted with performance goals pursuant to Section 11.3 above shall be conditioned on the written certification of the Committee in each case that the performance goals and any other material conditions were satisfied. Except as specifically provided in Section 11.3, no Qualified Performance-Based Award held by a Covered Employee or by an employee who in the reasonable judgment of the Committee may be a Covered Employee on the date of payment, may be amended, nor may the Committee exercise any discretionary authority it may otherwise have under the Plan with respect to a Qualified Performance-Based Award under the Plan, in any manner to waive the achievement of the applicable performance goal based on Qualified Business Criteria or to increase the amount payable pursuant thereto or the value thereof, or otherwise in a manner that would cause the Qualified Performance-Based Award to cease to qualify for the Section 162(m) Exemption.

11.6. **AWARD LIMITS.** Section 5.4 sets forth, with respect to any one 12-month period, (i) the maximum number of time-vesting Options or SARs that may be granted to any one Participant, (ii) the maximum amount that may be paid to any one Participant for Performance Awards payable in cash or property other than Shares, and (iii) the maximum number of Shares that may be paid to any one Participant for Performance Awards payable in Stock.

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ARTICLE 12

DIVIDEND EQUIVALENTS

12.1. **GRANT OF DIVIDEND EQUIVALENTS.** The Committee is authorized to grant Dividend Equivalents with respect to Full-Value Awards granted hereunder, subject to such terms and conditions as may be selected by the Committee. Dividend Equivalents shall entitle the Participant to receive payments equal to ordinary cash dividends or distributions with respect to all or a portion of the number of Shares subject to a Full-Value Award, as determined by the Committee. The Committee may provide that Dividend Equivalents (i) will be deemed to have been reinvested in additional Shares or otherwise reinvested, or (ii) except in the case of Performance Awards, will be paid or distributed to the Participant as accrued (in which case, such Dividend Equivalents must be paid or distributed no later than the 15th day of the 3rd month following the later of (A) the calendar year in which the corresponding dividends were paid to stockholders, or (B) the first calendar year in which the Participant's right to such Dividend Equivalents is no longer subject to a substantial risk of forfeiture). Unless otherwise provided by the Committee, Dividend Equivalents accruing on unvested Full-Value Awards shall, as provided in the Award Certificate, either (i) be reinvested in the form of additional Shares, which shall be subject to the same vesting provisions as provided for the host Award, or (ii) be credited by the Company to an account for the Participant and accumulated without interest until the date upon which the host Award becomes vested, and any Dividend Equivalents accrued with respect to forfeited Awards will be reconveyed to the Company without further consideration or any act or action by the Participant.

ARTICLE 13

STOCK OR OTHER STOCK-BASED AWARDS

13.1. **GRANT OF STOCK OR OTHER STOCK-BASED AWARDS.** The Committee is authorized, subject to limitations under applicable law, to grant to Participants such other Awards that are payable in, valued in whole or in part by reference to, or otherwise based on or related to Shares, as deemed by the Committee to be consistent with the purposes of the Plan, including without limitation (but subject to Section 5.5) Shares awarded purely as a bonus and not subject to any restrictions or conditions, convertible or exchangeable debt securities, other rights convertible or exchangeable into Shares, and Awards valued by reference to book value of Shares or the value of securities of or the performance of specified Parents or Subsidiaries. The Committee shall determine the terms and conditions of such Awards.

ARTICLE 14

PROVISIONS APPLICABLE TO AWARDS

14.1. **AWARD CERTIFICATES.** Each Award shall be evidenced by an Award Certificate. Each Award Certificate shall include such provisions, not inconsistent with the Plan, as may be specified by the Committee.

14.2. **FORM OF PAYMENT FOR AWARDS.** At the discretion of the Committee, payment of Awards may be made in cash, Stock, a combination of cash and Stock, or any other form of property as the Committee shall determine. In addition, payment of Awards may include such terms, conditions, restrictions and/or limitations, if any, as the Committee deems appropriate, including, in the case of Awards paid in the form of Stock, restrictions on transfer and forfeiture provisions. Further, payment of Awards may be made in the form of a lump sum, or in installments, as determined by the Committee.

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14.3. **LIMITS ON TRANSFER.** No right or interest of a Participant in any unexercised or restricted Award may be pledged, encumbered, or hypothecated to or in favor of any party other than the Company or an Affiliate, or shall be subject to any lien, obligation, or liability of such Participant to any other party other than the Company or an Affiliate. No unexercised or restricted Award shall be assignable or transferable by a Participant other than by will or the laws of descent and distribution or, except in the case of an Incentive Stock Option, pursuant to a domestic relations order that would satisfy Section 414(p)(1)(A) of the Code if such Section applied to an Award under the Plan; provided, however, that the Committee may (but need not) permit other transfers (other than transfers for value) where the Committee concludes that such transferability (i) does not result in accelerated taxation, (ii) does not cause any Option intended to be an Incentive Stock Option to fail to be described in Code Section 422(b), and (iii) is otherwise appropriate and desirable, taking into account any factors deemed relevant, including without limitation, state or federal tax or securities laws applicable to transferable Awards.

14.4. **BENEFICIARIES.** Notwithstanding Section 14.3, a Participant may, in the manner determined by the Committee, designate a beneficiary to exercise the rights of the Participant and to receive any distribution with respect to any Award upon the Participant's death. A beneficiary, legal guardian, legal representative, or other person claiming any rights under the Plan is subject to all terms and conditions of the Plan and any Award Certificate applicable to the Participant, except to the extent the Plan and Award Certificate otherwise provide, and to any additional restrictions deemed necessary or appropriate by the Committee. If no beneficiary has been designated or survives the Participant, any payment due to the Participant shall be made to the Participant's estate. Subject to the foregoing, a beneficiary designation may be changed or revoked by a Participant, in the manner provided by the Company, at any time provided the change or revocation is filed with the Committee.

14.5. **STOCK TRADING RESTRICTIONS.** All Stock issuable under the Plan is subject to any stop-transfer orders and other restrictions as the Committee deems necessary or advisable to comply with federal or state securities laws, rules and regulations and the rules of any national securities exchange or automated quotation system on which the Stock is listed, quoted, or traded. The Committee may place legends on any Stock certificate or issue instructions to the transfer agent to reference restrictions applicable to the Stock.

14.6. **EFFECT OF A CHANGE IN CONTROL.** The provisions of this Section 14.6 shall apply in the case of a Change in Control, unless otherwise provided in the Award Certificate or any special Plan document or separate agreement with a Participant governing an Award.

- (a) **Awards Assumed or Substituted by Surviving Entity.** With respect to Awards assumed by the Surviving Entity or otherwise equitably converted or substituted in connection with a Change in Control: if within one year after the effective date of the Change in Control, a Participant's employment is terminated without Cause or the Participant resigns for Good Reason, then (i) all of that Participant's outstanding Options or SARs shall become fully exercisable, (ii) all time-based vesting restrictions on the his or her outstanding Awards shall lapse, and (iii) the payout level under all of that Participant's performance-based Awards that were outstanding immediately prior to effective time of the Change in Control shall be determined and deemed to have been earned as of the date of termination based upon (A) an assumed achievement of all relevant performance goals at the target level if the date of termination occurs during the first half of the applicable performance period, or (B) the greater of (1) the assumed achievement of all relevant performance goals at the target level, and (2) the actual level of

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achievement of all relevant performance goals against target (measured as of the end of the calendar quarter immediately preceding the date of termination), if the date of termination occurs during the second half of the applicable performance period, and, in either such case, there shall be a prorata payout to such Participant within sixty (60) days following the date of termination of employment (unless a later date is required by Section 17.3 hereof), based upon the length of time within the performance period that has elapsed prior to the date of termination of employment. With regard to each Award, a Participant shall not be considered to have resigned for Good Reason unless either (i) the Award Certificate includes such provision or (ii) the Participant is party to an employment, severance or similar agreement with the Company or an Affiliate that includes provisions in which the Participant is permitted to resign for Good Reason. Any Options or SARs shall thereafter continue or lapse in accordance with the other provisions of the Plan and the Award Certificate. To the extent that this provision causes Incentive Stock Options to exceed the dollar limitation set forth in Code Section 422(d), the excess Options shall be deemed to be Nonstatutory Stock Options.

- (b) Awards not Assumed or Substituted by Surviving Entity. Upon the occurrence of a Change in Control, and except with respect to any Awards assumed by the Surviving Entity or otherwise equitably converted or substituted in connection with the Change in Control in a manner approved by the Committee or the Board: (i) outstanding Options or SARs shall become fully exercisable, (ii) time-based vesting restrictions on outstanding Awards shall lapse, and (iii) the payout level under outstanding performance-based Awards shall be determined and deemed to have been earned as of the effective date of the Change in Control based upon (A) an assumed achievement of all relevant performance goals at the target level if the Change in Control occurs during the first half of the applicable performance period, or (B) the greater of (1) the assumed achievement of all relevant performance goals at the target level and (2) the actual level of achievement of all relevant performance goals against target (measured as of the date of the Change in Control, if the Change in Control occurs during the second half of the applicable performance period), and, in either such case, there shall be a prorata payout to Participants within sixty (60) days following the Change in Control (unless a later date is required by Section 17.3 hereof), based upon the length of time within the performance period that has elapsed prior to the Change in Control. Any Options or SARs shall thereafter continue or lapse in accordance with the other provisions of the Plan and the Award Certificate. To the extent that this provision causes Incentive Stock Options to exceed the dollar limitation set forth in Code Section 422(d), the excess Options shall be deemed to be Nonstatutory Stock Options.

14.7. ACCELERATION FOR OTHER REASONS. Regardless of whether an event has occurred as described in Section 14.6 above, and subject to Section 5.5 as to Full-Value Awards and Article 11 as to Qualified Performance-Based Awards, the Committee may in its sole discretion at any time determine that, upon the termination of service of a Participant for any reason, or the occurrence of a Change in Control, all or a portion of such Participant's Options or SARs shall become fully or partially exercisable, that all or a part of the restrictions on all or a portion of the Participant's outstanding Awards shall lapse, and/or that any performance-based criteria with respect to any Awards held by that Participant shall be deemed to be wholly or partially satisfied, in each case, as of such date as the Committee may, in its sole discretion,



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declare. The Committee may discriminate among Participants and among Awards granted to a Participant in exercising its discretion pursuant to this Section 14.7.

14.8. **FORFEITURE EVENTS**. Awards under the Plan shall be subject to any compensation recoupment policy that the Committee may adopt from time to time that is applicable by its terms to the Participant. In addition, the Committee may specify in an Award Certificate that the Participant's rights, payments and benefits with respect to an Award shall be subject to reduction, cancellation, forfeiture or recoupment upon the occurrence of certain specified events, in addition to any otherwise applicable vesting or performance conditions of an Award. Such events may include, but shall not be limited to, (i) termination of employment for cause, (ii) violation of material Company or Affiliate policies, (iii) breach of noncompetition, confidentiality or other restrictive covenants that may apply to the Participant, (iv) other conduct by the Participant that is detrimental to the business or reputation of the Company or any Affiliate, or (v) a later determination that the vesting of, or amount realized from, a Performance Award was based on materially inaccurate financial statements or any other materially inaccurate performance metric criteria, whether or not the Participant caused or contributed to such material inaccuracy.

14.9. **SUBSTITUTE AWARDS**. The Committee may grant Awards under the Plan in substitution for stock and stock-based awards held by employees of another entity who become employees of the Company or an Affiliate as a result of a merger or consolidation of the former employing entity with the Company or an Affiliate or the acquisition by the Company or an Affiliate of property or stock of the former employing corporation. The Committee may direct that the substitute awards be granted on such terms and conditions as the Committee considers appropriate in the circumstances.

ARTICLE 15

CHANGES IN CAPITAL STRUCTURE

15.1. **MANDATORY ADJUSTMENTS**. In the event of a nonreciprocal transaction between the Company and its stockholders that causes the per-share value of the Stock to change (including, without limitation, any stock dividend, stock split, spin-off, rights offering, or large nonrecurring cash dividend), the authorization limits under Section 5.1 and 5.4 shall be adjusted proportionately, and the Committee shall make such adjustments to the Plan and Awards as it deems necessary, in its sole discretion, to prevent dilution or enlargement of rights immediately resulting from such transaction. Action by the Committee may include: (i) adjustment of the number and kind of shares that may be delivered under the Plan; (ii) adjustment of the number and kind of shares subject to outstanding Awards; (iii) adjustment of the exercise price of outstanding Awards or the measure to be used to determine the amount of the benefit payable on an Award; and (iv) any other adjustments that the Committee determines to be equitable. Notwithstanding the foregoing, the Committee shall not make any adjustments to outstanding Options or SARs that would constitute a modification or substitution of the stock right under Treas. Reg. Sections 1.409A-1(b)(5)(v) that would be treated as the grant of a new stock right or change in the form of payment for purposes of Code Section 409A. Without limiting the foregoing, in the event of a subdivision of the outstanding Stock (stock-split), a declaration of a dividend payable in Shares, or a combination or consolidation of the outstanding Stock into a lesser number of Shares, the authorization limits under Section 5.1 and 5.4 shall automatically be adjusted proportionately, and the Shares then subject to each Award shall automatically, without the necessity for any additional action by the Committee, be adjusted proportionately without any change in the aggregate purchase price therefor.

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15.2 **DISCRETIONARY ADJUSTMENTS**. Upon the occurrence or in anticipation of any corporate event or transaction involving the Company (including, without limitation, any merger, reorganization, recapitalization, combination or exchange of shares, or any transaction described in Section 15.1), the Committee may, in its sole discretion, provide (i) that Awards will be settled in cash rather than Stock, (ii) that Awards will become immediately vested and non-forfeitable and exercisable (in whole or in part) and will expire after a designated period of time to the extent not then exercised, (iii) that Awards will be assumed by another party to a transaction or otherwise be equitably converted or substituted in connection with such transaction, (iv) that outstanding Awards may be settled by payment in cash or cash equivalents equal to the excess of the Fair Market Value of the underlying Stock, as of a specified date associated with the transaction, over the exercise or base price of the Award, (v) that performance targets and performance periods for Performance Awards will be modified, consistent with Code Section 162(m) where applicable, or (vi) any combination of the foregoing. The Committee's determination need not be uniform and may be different for different Participants whether or not such Participants are similarly situated.

15.3 **GENERAL**. Any discretionary adjustments made pursuant to this Article 15 shall be subject to the provisions of Section 16.2. To the extent that any adjustments made pursuant to this Article 15 cause Incentive Stock Options to cease to qualify as Incentive Stock Options, such Options shall be deemed to be Nonstatutory Stock Options.

ARTICLE 16

AMENDMENT, MODIFICATION AND TERMINATION

16.1. **AMENDMENT, MODIFICATION AND TERMINATION**. The Board or the Committee may, at any time and from time to time, amend, modify or terminate the Plan without stockholder approval; **provided, however**, that if an amendment to the Plan would, in the reasonable opinion of the Board or the Committee, either (i) materially increase the number of Shares available under the Plan, (ii) expand the types of awards under the Plan, (iii) materially expand the class of participants eligible to participate in the Plan, (iv) materially extend the term of the Plan, or (v) otherwise constitute a material change requiring stockholder approval under applicable laws, policies or regulations or the applicable listing or other requirements of an Exchange, then such amendment shall be subject to stockholder approval; and **provided, further**, that the Board or Committee may condition any other amendment or modification on the approval of stockholders of the Company for any reason, including by reason of such approval being necessary or deemed advisable (i) to comply with the listing or other requirements of an Exchange, or (ii) to satisfy any other tax, securities or other applicable laws, policies or regulations.

16.2. **AWARDS PREVIOUSLY GRANTED**. At any time and from time to time, the Committee may amend, modify or terminate any outstanding Award without approval of the Participant; **provided, however**:

- (a) Subject to the terms of the applicable Award Certificate, such amendment, modification or termination shall not, without the Participant's consent, reduce or diminish the value of such Award determined as if the Award had been exercised, vested, cashed in or otherwise settled on the date of such amendment or termination (with the per-share value of an Option or SAR for this purpose being calculated as the excess, if any, of the Fair Market Value as of the date of such amendment or termination over the exercise or base price of such Award);

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- (b) The original term of an Option or SAR may not be extended without the prior approval of the stockholders of the Company;
- (c) Except as otherwise provided in Section 15.1, the exercise price of an Option or base price of a SAR may not be reduced, directly or indirectly, without the prior approval of the stockholders of the Company; and
- (d) No termination, amendment, or modification of the Plan shall adversely affect any Award previously granted under the Plan, without the written consent of the Participant affected thereby. An outstanding Award shall not be deemed to be adversely affected by a Plan amendment if such amendment would not reduce or diminish the value of such Award determined as if the Award had been exercised, vested, cashed in or otherwise settled on the date of such amendment (with the per-share value of an Option or SAR for this purpose being calculated as the excess, if any, of the Fair Market Value as of the date of such amendment over the exercise or base price of such Award).

16.3. **COMPLIANCE AMENDMENTS.** Notwithstanding anything in the Plan or in any Award Certificate to the contrary, the Board may amend the Plan or an Award Certificate, to take effect retroactively or otherwise, as deemed necessary or advisable for the purpose of conforming the Plan or Award Certificate to any present or future law relating to plans of this or similar nature (including, but not limited to, Section 409A of the Code), and to the administrative regulations and rulings promulgated thereunder. By accepting an Award under this Plan, a Participant agrees to any amendment made pursuant to this Section 16.3 to any Award granted under the Plan without further consideration or action.

ARTICLE 17

GENERAL PROVISIONS

17.1. **RIGHTS OF PARTICIPANTS.**

- (a) No Participant or any Eligible Participant shall have any claim to be granted any Award under the Plan. Neither the Company, its Affiliates nor the Committee is obligated to treat Participants or Eligible Participants uniformly, and determinations made under the Plan may be made by the Committee selectively among Eligible Participants who receive, or are eligible to receive, Awards (whether or not such Eligible Participants are similarly situated).
- (b) Nothing in the Plan, any Award Certificate or any other document or statement made with respect to the Plan, shall interfere with or limit in any way the right of the Company or any Affiliate to terminate any Participant's employment or status as an officer, or any Participant's service as a director or consultant, at any time, nor confer upon any Participant any right to continue as an employee, officer, director or consultant of the Company or any Affiliate, whether for the duration of a Participant's Award or otherwise.
- (c) Neither an Award nor any benefits arising under this Plan shall constitute an employment contract with the Company or any Affiliate and, accordingly, subject to Article 16, this Plan and the benefits hereunder may be terminated at any time in the sole and exclusive discretion of the Committee without giving rise to any liability on the part of the Company or any of its Affiliates.

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- (d) No Award gives a Participant any of the rights of a stockholder of the Company unless and until Shares are in fact issued to such person in connection with such Award.

17.2. WITHHOLDING. The Company or any Affiliate shall have the authority and the right to deduct or withhold, or require a Participant to remit to the Company or such Affiliate, an amount sufficient to satisfy federal, state, and local taxes (including the Participant's FICA obligation) required by law to be withheld with respect to any exercise, lapse of restriction or other taxable event arising as a result of the Plan. The obligations of the Company under the Plan will be conditioned on such payment or arrangements and the Company or such Affiliate will, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to the Participant. Unless otherwise determined by the Committee at the time the Award is granted or thereafter, any such withholding requirement may be satisfied, in whole or in part, by withholding from the Award Shares having a Fair Market Value on the date of withholding equal to the minimum amount (and not any greater amount) required to be withheld for tax purposes, all in accordance with such procedures as the Committee establishes. All such elections shall be subject to any restrictions or limitations that the Committee, in its sole discretion, deems appropriate.

17.3. SPECIAL PROVISIONS RELATED TO SECTION 409A OF THE CODE.

- (a) General. It is intended that the payments and benefits provided under the Plan and any Award shall either be exempt from the application of, or comply with, the requirements of Section 409A of the Code. The Plan and all Award Certificates shall be construed in a manner that effects such intent. Nevertheless, the tax treatment of the benefits provided under the Plan or any Award is not warranted or guaranteed. Neither the Company, its Affiliates nor their respective directors, officers, employees or advisers (other than in his or her capacity as a Participant) shall be held liable for any taxes, interest, penalties or other monetary amounts owed by any Participant or other taxpayer as a result of the Plan or any Award.
- (b) Definitional Restrictions. Notwithstanding anything in the Plan or in any Award Certificate to the contrary, to the extent that any amount or benefit that would constitute non-exempt deferred compensation for purposes of Section 409A of the Code ( Non-Exempt Deferred Compensation ) would otherwise be payable or distributable, or a different form of payment (e.g., lump sum or installment) of such Non-Exempt Deferred Compensation would be effected, under the Plan or any Award Certificate by reason of the occurrence of a Change in Control, or the Participant's disability or separation from service, such Non-Exempt Deferred Compensation will not be payable or distributable to the Participant, and/or such different form of payment will not be effected, by reason of such circumstance unless the circumstances giving rise to such Change in Control, disability or separation from service meet any description or definition of change in control event, disability or separation from service, as the case may be, in Section 409A of the Code and applicable regulations (without giving effect to any elective provisions that may be available under such definition). This provision does not prohibit the vesting of any Award upon a Change in Control, disability or separation from service, however defined. If this provision prevents the payment or distribution of any amount or benefit, or the application of a different

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form of payment of any amount or benefit, such payment or distribution shall be made at the time and in the form that would have applied absent the Change in Control, disability or separation from service as applicable.

- (c) Allocation among Possible Exemptions. If any one or more Awards granted under the Plan to a Participant could qualify for any separation pay exemption described in Treas. Reg. Section 1.409A-1(b)(9), but such Awards in the aggregate exceed the dollar limit permitted for the separation pay exemptions, the Company (acting through the Committee or the Head of Human Resources) shall determine which Awards or portions thereof will be subject to such exemptions.
  
- (d) Six-Month Delay in Certain Circumstances. Notwithstanding anything in the Plan or in any Award Certificate to the contrary, if any amount or benefit that would constitute Non-Exempt Deferred Compensation would otherwise be payable or distributable under this Plan or any Award Certificate by reason of a Participant's separation from service during a period in which the Participant is a Specified Employee (as defined below), then, subject to any permissible acceleration of payment by the Committee under Treas. Reg. Section 1.409A-3(j)(4)(ii) (domestic relations order), (j)(4)(iii) (conflicts of interest), or (j)(4)(vi) (payment of employment taxes):
  - (i) the amount of such Non-Exempt Deferred Compensation that would otherwise be payable during the six-month period immediately following the Participant's separation from service will be accumulated through and paid or provided on the first day of the seventh month following the Participant's separation from service (or, if the Participant dies during such period, within 30 days after the Participant's death) (in either case, the Required Delay Period); and
  - (ii) the normal payment or distribution schedule for any remaining payments or distributions will resume at the end of the Required Delay Period.

For purposes of this Plan, the term Specified Employee has the meaning given such term in Code Section 409A and the final regulations thereunder; provided, however, that, as permitted in such final regulations, the Company's Specified Employees and its application of the six-month delay rule of Code Section 409A(a)(2)(B)(i) shall be determined in accordance with rules adopted by the Board or any committee of the Board, which shall be applied consistently with respect to all nonqualified deferred compensation arrangements of the Company, including this Plan.

- (e) Installment Payments. If, pursuant to an Award, a Participant is entitled to a series of installment payments, such Participant's right to the series of installment payments shall be treated as a right to a series of separate payments and not to a single payment. For purposes of the preceding sentence, the term "series of installment payments" has the meaning provided in Treas. Reg. Section 1.409A-2(b)(2)(iii) (or any successor thereto).
  
- (f) Timing of Release of Claims. Whenever an Award conditions a payment or benefit on the Participant's execution and non-revocation of a release of claims, such release must be executed and all revocation periods shall have expired

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within sixty (60) days after the date of termination of the Participant's employment; failing which such payment or benefit shall be forfeited. If such payment or benefit is exempt from Section 409A of the Code, the Company may elect to make or commence payment at any time during such 60-day period. If such payment or benefit constitutes Non-Exempt Deferred Compensation, then, subject to subsection (c) above, (i) if such 60-day period begins and ends in a single calendar year, the Company may make or commence payment at any time during such period at its discretion, and (ii) if such 60-day period begins in one calendar year and ends in the next calendar year, the payment shall be made or commence during the second such calendar year (or any later date specified for such payment under the applicable Award), even if such signing and non-revocation of the release occur during the first such calendar year included within such 60-day period. In other words, a Participant is not permitted to influence the calendar year of payment based on the timing of signing the release.

- (g) Permitted Acceleration. The Company shall have the sole authority to make any accelerated distribution permissible under Treas. Reg. Section 1.409A-3(j)(4) to Participants of deferred amounts, provided that such distribution(s) meets the requirements of Treas. Reg. Section 1.409A-3(j)(4).

17.4. UNFUNDED STATUS OF AWARDS. The Plan is intended to be an unfunded plan for incentive and deferred compensation. With respect to any payments not yet made to a Participant pursuant to an Award, nothing contained in the Plan or any Award Certificate shall give the Participant any rights that are greater than those of a general creditor of the Company or any Affiliate. In its sole discretion, the Committee may authorize the creation of grantor trusts or other arrangements to meet the obligations created under the Plan to deliver Shares or payments in lieu of Shares or with respect to Awards. This Plan is not intended to be subject to ERISA.

17.5. RELATIONSHIP TO OTHER BENEFITS. No payment under the Plan shall be taken into account in determining any benefits under any pension, retirement, savings, profit sharing, group insurance, welfare or benefit plan of the Company or any Affiliate unless provided otherwise in such other plan. Nothing contained in the Plan will prevent the Company from adopting other or additional compensation arrangements, subject to stockholder approval if such approval is required; and such arrangements may be either generally applicable or applicable only in specific cases.

17.6. EXPENSES. The expenses of administering the Plan shall be borne by the Company and its Affiliates.

17.7. TITLES AND HEADINGS. The titles and headings of the Sections in the Plan are for convenience of reference only, and in the event of any conflict, the text of the Plan, rather than such titles or headings, shall control.

17.8. GENDER AND NUMBER. Except where otherwise indicated by the context, any masculine term used herein also shall include the feminine; the plural shall include the singular and the singular shall include the plural.

17.9. FRACTIONAL SHARES. No fractional Shares shall be issued and the Committee shall determine, in its discretion, whether cash shall be given in lieu of fractional Shares or whether such fractional Shares shall be eliminated by rounding up or down.

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17.10. GOVERNMENT AND OTHER REGULATIONS.

- (a) Notwithstanding any other provision of the Plan, no Participant who acquires Shares pursuant to the Plan may, during any period of time that such Participant is an affiliate of the Company (within the meaning of the rules and regulations of the Securities and Exchange Commission under the 1933 Act), sell such Shares, unless such offer and sale is made (i) pursuant to an effective registration statement under the 1933 Act, which is current and includes the Shares to be sold, or (ii) pursuant to an appropriate exemption from the registration requirement of the 1933 Act, such as that set forth in Rule 144 promulgated under the 1933 Act.
  
- (b) Notwithstanding any other provision of the Plan, if at any time the Committee shall determine that the registration, listing or qualification of the Shares covered by an Award upon any Exchange or under any foreign, federal, state or local law or practice, or the consent or approval of any governmental regulatory body, is necessary or desirable as a condition of, or in connection with, the granting of such Award or the purchase or receipt of Shares thereunder, no Shares may be purchased, delivered or received pursuant to such Award unless and until such registration, listing, qualification, consent or approval shall have been effected or obtained free of any condition not acceptable to the Committee. Any Participant receiving or purchasing Shares pursuant to an Award shall make such representations and agreements and furnish such information as the Committee may request to assure compliance with the foregoing or any other applicable legal requirements. The Company shall not be required to issue or deliver any certificate or certificates for Shares under the Plan prior to the Committee's determination that all related requirements have been fulfilled. The Company shall in no event be obligated to register any securities pursuant to the 1933 Act or applicable state or foreign law or to take any other action in order to cause the issuance and delivery of such certificates to comply with any such law, regulation or requirement.

17.11. GOVERNING LAW. To the extent not governed by federal law, the Plan and all Award Certificates shall be construed in accordance with and governed by the laws of the State of Texas.

17.12. SEVERABILITY. In the event that any provision of this Plan is found to be invalid or otherwise unenforceable under any applicable law, such invalidity or unenforceability will not be construed as rendering any other provisions contained herein as invalid or unenforceable, and all such other provisions will be given full force and effect to the same extent as though the invalid or unenforceable provision was not contained herein.

17.13. NO LIMITATIONS ON RIGHTS OF COMPANY. The grant of any Award shall not in any way affect the right or power of the Company to make adjustments, reclassification or changes in its capital or business structure or to merge, consolidate, dissolve, liquidate, sell or transfer all or any part of its business or assets. The Plan shall not restrict the authority of the Company, for proper corporate purposes, to draft or assume awards, other than under the Plan, to or with respect to any person. If the Committee so directs, the Company may issue or transfer Shares to an Affiliate, for such lawful consideration as the Committee may specify, upon the condition or understanding that the Affiliate will transfer such Shares to a

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Participant in accordance with the terms of an Award granted to such Participant and specified by the Committee pursuant to the provisions of the Plan.

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The foregoing is hereby acknowledged as being the Zix Corporation 2012 Incentive Plan as adopted by the Board on \_\_\_\_\_, 2012 and by the stockholders on \_\_\_\_\_, 2012.

ZIX CORPORATION

By:

Its:

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**ZIX CORPORATION**  
**2711 N. HASKELL AVENUE**  
**SUITE 2200, LB36**  
**DALLAS, TX 75204-2960**

**VOTE BY INTERNET - [www.proxyvote.com](http://www.proxyvote.com)**

Use the Internet to transmit your voting instructions and for electronic delivery of information up until 11:59 P.M. Eastern Time the day before the cut-off date or meeting date. Have your proxy card in hand when you access the web site and follow the instructions to obtain your records and to create an electronic voting instruction form.

**ELECTRONIC DELIVERY OF FUTURE PROXY MATERIALS**

If you would like to reduce the costs incurred by our company in mailing proxy materials, you can consent to receiving all future proxy statements, proxy cards and annual reports electronically via e-mail or the Internet. To sign up for electronic delivery, please follow the instructions above to vote using the Internet and, when prompted, indicate that you agree to receive or access proxy materials electronically in future years.

**VOTE BY PHONE - 1-800-690-6903**

Use any touch-tone telephone to transmit your voting instructions up until 11:59 P.M. Eastern Time the day before the cut-off date or meeting date. Have your proxy card in hand when you call and then follow the instructions.

**VOTE BY MAIL**

Mark, sign and date your proxy card and return it in the postage-paid envelope we have provided or return it to Vote Processing, c/o Broadridge, 51 Mercedes Way, Edgewood, NY 11717.

TO VOTE, MARK BLOCKS BELOW IN BLUE OR BLACK INK AS FOLLOWS:

KEEP THIS PORTION FOR YOUR RECORDS

DETACH AND RETURN THIS PORTION ONLY

**THIS PROXY CARD IS VALID ONLY WHEN SIGNED AND DATED.**

	<b>For</b>	<b>Withhold</b>	<b>For All</b>
<b>The Board of Directors recommends you vote FOR the following:</b>	<b>All</b>	<b>All</b>	<b>Except</b>
<b>1. Election of Directors Nominees</b>	..	..	..

To withhold authority to vote for any individual nominee(s), mark **For All Except** and write the number(s) of the nominee(s) on the line below.

**Edgar Filing: ZIX CORP - Form DEF 14A**

Taher A. Elgamal      02   Robert C. Hausmann      03   James S. Marston      04   Maribess L. Miller      05   Antonio R. Sanchez III  
 06   Richard D. Spurr

**The Board of Directors recommends you vote FOR proposals 2, 3 and 4.**

	<b>For</b>	<b>Against</b>	<b>Abstain</b>
<b>2</b> Ratification of Appointment of Whitley Penn LLP as Independent Registered Public Accountants.	..	..	..
<b>3</b> Advisory vote to approve executive compensation.	..	..	..
<b>4</b> Approve the 2012 Incentive Plan.	..	..	..

**NOTE:** Such other business as may properly come before the meeting or any adjournment or postponement thereof.

For address change/comments, mark here.      ..  
 (see reverse for instructions)      **Yes**   **No**

Please indicate if you plan to attend this meeting      ..      ..

Please sign exactly as your name(s) appear(s) hereon. When signing as attorney, executor, administrator, or other fiduciary, please give full title as such. Joint owners should each sign personally. All holders must sign. If a corporation or partnership, please sign in full corporate or partnership name, by authorized officer.

Signature [PLEASE SIGN WITHIN BOX]

Date

Signature (Joint Owners)

Date

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**Important Notice Regarding the Availability of Proxy Materials for the Annual Meeting:** The Notice & Proxy Statement, Annual Report is/are available at [www.proxyvote.com](http://www.proxyvote.com).

**ZIX CORPORATION**

**Annual Meeting of Shareholders**

**June 6, 2012 10:00 AM**

**This proxy is solicited by the Board of Directors**

The shareholder(s) hereby appoint(s) James F. Brashear and Michael W. English, or either of them, as proxies, each with the power to appoint his/her substitute, and hereby authorizes each of them to represent and to vote, as designated on the reverse side of this ballot and in his/her discretion as to such other business as may properly come before the above stated meeting, all of the shares of Common stock of ZIX CORPORATION that the shareholder(s) is/are entitled to vote at the above-stated annual meeting, or any adjournment or postponement thereof.

**This proxy, when properly executed, will be voted in the manner directed herein. If no such direction is made, this proxy will be voted in accordance with the Board of Directors' recommendations.**

**Address change/comments:**

(If you noted any Address Changes and/or Comments above, please mark corresponding box on the reverse side.)

**Continued and to be signed on reverse side**

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