

OI S.A.
Form 6-K
February 19, 2013
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 6-K

Report of Foreign Private Issuer

Pursuant to Rule 13a-16 or
15d-16 of the Securities Exchange Act of 1934

For the month of December 2012

Commission File Number: 1-15256

OI S.A.

(Exact Name as Specified in its Charter)

N/A

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(Translation of registrant's name into English)

Rua General Polidoro, No. 99, 5th floor/part Botafogo

22280-001 Rio de Janeiro, RJ

Federative Republic of Brazil

(Address of principal executive offices)

(Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F.)

Form 20-F: **Form 40-F:**

(Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(1)):

Yes: **No:**

(Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(7)):

Yes: **No:**

(Indicate by check mark whether the registrant by furnishing the information contained in this Form, the Registrant is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934.)

Yes: **No:**

If **Yes** is marked, indicate below the file number assigned to the registrant in connection with Rule 12g3-2(b):

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Portuguese

Date: Tuesday, February 19, 2013
10:30 a.m. (RJ) 08:30 a.m. (NY)
Access: Phone: (5511) 3127-4971

Code: Oi

Replay: (55 11) 3127-4999

Available until 02/26/2013

Code: 72412185

Webcast: [Click here](#)

English

Date: Tuesday, February 19, 2013
12:00 p.m. (RJ) 10:00 a.m. (NY)
Access: Phone: 1-877-317-6776(U.S.)
1-412-317-6776 (Brazil / other countries)

Code: Oi

Replay: 1-877-344-7529 (U.S.)

1-412-317-0088 (Brazil / other countries)

Available until 02/26/2013

Code: 10024145

Webcast: [Click here](#)

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Rio de Janeiro, February 18, 2013: Oi S.A. discloses today its results for the 4th quarter and year of 2012. This report includes consolidated financial and operating data for Oi S.A. and its direct and indirect subsidiaries as of December 31, 2012. In compliance with CVM instructions, the data is presented in accordance with the international financial reporting standards (IFRS).

Following approval of the corporate restructuring on February 27, 2012, the shareholders of Tele Norte Leste Participações S.A. (TNL), Coari Participações S.A. (Coari) and Telemar Norte Leste S.A. (TMAR) became shareholders of Oi S.A.; TNL's and Coari's shares were extinct and TMAR became a wholly-owned subsidiary of Oi S.A. Therefore, the earnings presented herein correspond to Oi S.A. (the remaining company and new name of Brasil Telecom S.A.) for the period ended December 31, 2012. However, in order to provide a clearer understanding of the Company's performance, we have prepared pro forma consolidated earnings for the fourth quarter and fiscal year of 2011, which are equivalent to physical figures, revenue, costs and expenses (EBITDA), debt, investments and cash flow of TNL, as if the mergers had taken place on January 1, 2011.

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Successful execution of the Company's strategy drives growth trend in annual net revenue

4Q12

For the second consecutive quarter, the Company posted a year-over-year increase in net revenue, rising to R\$7.4 billion, mainly driven by: (i) the continuing expansion in the mobile customer base, with focus on the postpaid segment, (ii) resumed year-over-year growth in Residential revenue; and (iii) continued growth in revenue from the Business/Corporate segment.

Operational EBITDA of R\$2.3 billion, up 3.5% quarter-on-quarter, with an additional R\$200 million approximately in net result from non-current items (tower sales and etc.).

Revenue Generating Units (RGUs) increased 1.5% sequentially and 6.7% over 4Q11, totaling 74.3 million:

Residential: sequential expansion, as a result of the Company's focus on the convergence of services, which offset industry-wide attrition trends in wireline and leveraged growth of broadband and pay TV.

Personal Mobility: continued improvement in customer mix, with growing participation of high-end customers.

Business / Corporate: sequential growth across all business lines.

2012

Net revenue totaled R\$28.1 billion in 2012, up R\$235 million from a year earlier and reversing the downward trend of recent years. This performance was driven by the significant increase in Personal Mobility revenue, together with slower attrition in the Residential segment.

EBITDA of R\$8.8 billion, up 0.4% as compared to 2011. EBITDA margin closed the year at 31.3%, little changed from the 31.4% margin in 2011. Of this, R\$8.6 billion were generated by core businesses and the remaining roughly R\$200 million by non-core operations.

Investments in 2012 totaled R\$6.6 billion, with the focus on wireline and mobile infrastructure expansion, as well as 4G license acquisition.

Consolidated Results

	4Q12	3Q12	4Q11	QoQ	YoY	2012	2011	YoY
Oi S.A. Pro-Forma								
Revenue Generating Unit ('000)	74,339	73,265	69,693	1.5%	6.7%	74,339	69,693	6.7%
Residential	18,337	18,189	17,810	0.8%	3.0%	18,337	17,810	3.0%

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Personal Mobility	46,305	45,568	43,264	1.6%	7.0%	46,305	43,264	7.0%
Business / Corporate	8,971	8,782	7,848	2.2%	14.3%	8,971	7,848	14.3%
Public Telephones	727	726	771	0.1%	-5.7%	727	771	-5.7%
Net Revenue (R\$ million)	7,390	7,041	6,958	5.0%	6.2%	28,142	27,907	0.8%
Residential	2,589	2,490	2,536	4.0%	2.1%	9,974	10,501	-5.0%
Personal Mobility	2,463	2,305	2,150	6.9%	14.6%	9,102	8,190	11.1%
Business / Corporate	2,195	2,134	2,112	2.9%	3.9%	8,510	8,470	0.5%
VAS and Others	143	112	159	27.7%	-10.1%	556	746	-25.5%
EBITDA (R\$ million)	2,463	2,186	1,838	12.7%	34.0%	8,801	8,766	0.4%
EBITDA Margin (%)	33.3%	31.0%	26.4%	2.3 p.p.	6.9 p.p.	31.3%	31.4%	-0.1 p.p.
Net Earnings (R\$ million)	113	315	-765	-64.1%	-114.8%	837	1,006	-16.8%
Net Debt (R\$ million)	25,063	24,483	15,627	2.4%	60.4%	25,063	15,627	60.4%
Available Cash (R\$ million)	7,808	6,905	14,092	13.1%	-44.6%	7,808	14,092	-44.6%
CAPEX (R\$ million)	2,106	2,007	2,132	4.9%	-1.2%	6,564	3,090	112.4%

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Executive Summary 2012

Fourth quarter and full year 2012 results were in line with expectations and reflected the Company's ability to execute effectively across its key business segments.

Revenue Generating Units (RGUs), a key measure of Oi's operating strength, showed consistent growth throughout the year and increased both sequentially and year-over-year in the fourth quarter. As a result, the total revenue in the fourth quarter increased 6.2% compared with a year earlier, and was 5.0% greater than in the third quarter. Importantly, this performance reflects broad customer demand for Oi's comprehensive service offerings in each of its end markets, as well as improvements in the Company's operational performance.

In the Residential segment, the success of Oi's bundled offerings, featuring triple-play and quadruple-play, led to year-over-year and sequential net revenue growth of 2.1% and 4.0%, respectively. Growth in postpaid plans drove the strong performance of Personal Mobility business unit, where revenues increased 14.6% from the fourth quarter of 2011 and were 6.9% above prior quarter levels. It is worth noting that, in the fourth quarter, Oi was the only mobile operator to gain significant market share in the postpaid market, demonstrating the appeal of its products and the strength of its brand. In the Business/Corporate segment, the Company achieved solid revenue growth of 3.9% year-on-year and 2.9% sequentially, largely due to the success of its wireline, mobile and broadband service offerings to both large corporations and Small and Medium Enterprises (SMEs).

The strong performance seen in the fourth quarter contributed to the solid results that Oi achieved for full year 2012. Total net revenue reached R\$28.1 billion, while EBITDA was R\$8.8 billion. The Company's EBITDA margin was 31% for the year, reflecting the steady improvement that took place in 2012.

Looking ahead to 2013, the Company sees attractive opportunities to grow and consolidate market share, while ensuring the highest quality of service to its customers. Oi plans to continue to roll-out targeted marketing campaigns, upgrade its networks and enhance its offerings to serve the needs of its residential, mobile and business/corporate customers. At the same time, the Company will work to achieve further operational efficiencies that will lead to greater operating leverage.

Oi recognizes its commitment to all of its stakeholders to achieve sustainable growth through providing high quality services and pursuing innovation and best practices. These elements will continue to define Oi's strategy in 2013 and beyond.

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Residential RGUs: At the end of 2012, Oi had 19.1 million Residential RGUs, consisting of 12.5 million wirelines, 5.1 million broadband access points and 757 thousand pay TV clients, as well as 727 thousand public phones. Given the reduction in the attrition on the number of wirelines and the increase in broadband and pay TV, the Company registered a 3% variation comparing to the guidance.

Personal Mobility RGUs: Oi had 46.3 million RGUs at the end of 4Q12, comprising 39.8 million prepaid clients and 6.5 million in the postpaid segment. These figures came in around 500,000 higher than guidance, a result of higher channel capillarity, simplifying offerings, creating regional sales forces and subsidizing handsets for clients. Although this last initiative was important to attract new clients, the strong contribution from the other strategies meant there was no need to push for handset subsidies.

Metric	Guidance	2012 Result	Change
Revenue Generating Unit (RGU) - Million	74.9	74.3	-0.8%
Residential RGUs*	19.8	19.1	-3.5%
Personal Mobility RGUs	45.8	46.3	1.1%
Business / Corporate RGUs	9.3	9.0	-3.2%
Net Revenue R\$ Billion	28.9	28.1	-2.8%
Service Revenue	27.4	27.5	0.4%
Product Revenue	1.5	0.6	-60.0%
EBITDA R\$ Billion	8.75	8.8	0.6%
Investments (CAPEX) R\$ Billion	6.0	6.6	10.0%
Net Debt R\$ Billion	24.9	25.1	0.8%

* Includes Public Telephones

Business / Corporate RGUs: At the end of 4Q12, Oi had 9 million RGUs in this segment, an increase of almost 15% from a year earlier. The initiatives implemented in this segment helped this figure to vary 3% in relation to guidance.

Net Revenue: The R\$28.9 billion guidance for net revenues in 2012 comprised R\$27.4 billion from services and R\$1.5 billion from handsets. In services, Oi's revenue was more than R\$100 million over the guidance. In relation to handsets, the result was R\$ 900 million below the Company's budget. Nevertheless, it is important to note that this is positive news both from a market and financial standpoint, since Oi's unique, high-quality services have helped it to attract clients and the need to increase handset subsidies has decreased, thanks to the successful simplification of offerings, the creation of regional sales forces and the greater capillarity of sales channels.

EBITDA: The Company's EBITDA for 2012 was broadly in line with the guidance, due to the growth in revenues and successful cost management. This result was also impacted by non-core operations.

Capex: Investments totaled R\$6.6 billion in 2012, over guidance mainly due to 4G license acquisition. This attests Company's commitment to invest in increasing capillarity and network capacity, as well as improving service quality.

Net Debt: As of December 31, 2012, Oi's net debt was approximately R\$25 billion, in line with the guidance.

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According to Oi S.A.'s Policies of Disclosing Minutes and Material Facts and the Trading of the Companies Shares, which provides for the disclosure of Future Performance Projections (Guidance), and according to the best practices in corporate governance, the Company today publishes its operational and financial guidance for the fiscal year 2013. This forecast is based upon reasonable assumptions, subject to several factors, many of which are not and will not be under the Company's control:

Metrics	2013
Revenue Generating Unit (RGU) - Million	Range from 75.0 to 76.5
Net Service Revenue R\$ Billion	Range from 28.0 to 29.0
EBITDA R\$ Billion	Range from 9.0 to 9.8
Investments (CAPEX) R\$ Billion	6.0
Net Debt / EBITDA	Less or equal to 3x

These parameters were based upon the premises below:

Foreign Exchange Rate: average USD of R\$2.02 in 2013

Selic benchmark interest rate: average rate of 7.42% in 2013

The Company also stresses its commitment to maintaining its shareholder remuneration policy. The Board of Directors will propose the dividend payment of R\$1 billion at the General Shareholders' Meeting, corresponding to the results for fiscal year 2012, in addition to the amounts already paid in August 2012.

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Table of Contents**Net Revenue:**

Net revenue resumes year-over-year growth, demonstrating successful business strategy

Table 1 Breakdown of Net Revenue

R\$ million	4Q12	3Q12	Quarter 4Q11	QoQ	YoY	2012	Year 2011	YoY	2012	%	2011
Residential	2,589	2,490	2,536	4.0%	2.1%	9,974	10,501	-5.0%	35.4%		37.6%
Personal Mobility	2,463	2,305	2,150	6.9%	14.6%	9,102	8,190	11.1%	32.3%		29.3%
Services	1,680	1,562	1,508	7.6%	11.4%	6,276	5,757	9.0%	22.3%		20.6%
Network Usage	587	608	628	-3.5%	-6.5%	2,337	2,398	-2.5%	8.3%		8.6%
Sales of handsets, sim cards and others	195	135	15	44.4%	1200.0%	489	36	1258.3%	1.7%		0.1%
Business / Corporate	2,195	2,134	2,112	2.9%	3.9%	8,510	8,470	0.5%	30.2%		30.3%
Other Services	143	112	159	27.7%	-10.1%	556	746	-25.5%	2.0%		2.7%
Public Phone	27	7	43	285.7%	-37.2%	79	194	-59.3%	0.3%		0.7%
Other	116	105	117	10.5%	-0.9%	476	552	-13.8%	1.7%		2.0%
Total Net Revenue	7,390	7,041	6,958	5.0%	6.2%	28,142	27,907	0.8%	100.0%		100.0%

Note: Results for 4Q11, FY12 and FY11 are proforma

In 4Q12, net revenue totaled R\$7.4 billion, up R\$349 million compared to 3Q12, and up R\$432 million year-over-year. This is a result of the positive response to the Company's triple-play and quadruple-play offerings—wireline, mobile, and pay TV services combined—and to its basic and advanced voice, data and IT services. Oirecorded quarterly growth in revenue for the third consecutive quarter in 4Q12, and posted two consecutive quarters of year-on-year revenue growth for the first time since 2Q10.

Net revenue totaled R\$28.1 billion for the year, up by R\$235 million when compared to 2011, reversing the downward trend of recent years. The 11.1% rise in revenue from the Personal Mobility segment, together with slower attrition in the Residential segment, were the key drivers of this performance.

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Table of Contents**Residential**

	4Q12	3Q12	4Q11	QoQ	YoY	2012	2011	YoY
Residential								
Net Revenue (R\$ Million)	2,589	2,490	2,536	4.0%	2.1%	9,974	10,539	-5.4%
Revenue Generating Units (RGU) (000)	18,337	18,189	17,810	0.8%	3.0%	18,337	17,810	3.0%
Fixed Line in Service	12,478	12,610	13,046	-1.0%	-4.4%	12,478	13,046	-4.4%
Fixed Broadband	5,102	4,975	4,412	2.6%	15.6%	5,102	4,412	15.6%
Pay TV	757	604	351	25.3%	115.7%	757	351	115.7%
ARPU Residential (R\$)	69.2	65.8	64.8	5.2%	6.8%	69.2	65	6.2%

Note: Results for 4Q11, FY12 and FY11 are proforma

Resumed annual revenue growth in 4Q12 highlights succesful focus on convergence

Revenue from the Residential segment totaled R\$2.6 billion in 4Q12, an increase of 4.0% quarter-over-quarter and of 2.1% compared to 4Q11, the first quarter of year-on-year revenue growth since 1Q11. This result is primarily due to the positive contribution of revenue from broadband and pay TV products, coupled with the significant wireline churn reduction. In order to bolster the loyalty of wireline customers, the Company has developed a comprehensive portfolio of offerings that led to residential ARPU of R\$69.2 in 4Q12, 5.2% above 3Q12 levels.

In 2012, net revenue from the Residential segment amounted to R\$10.0 billion, a decrease of 5.0% compared to 2011. It is worth noting that Oi posted sequential net revenue growth in three quarters of 2012, and that the annual decline was significantly smaller than the 12% decline seen in 2011 as compared to 2010, thus confirming the downward trend reversal in the residential revenue.

Annual result reaffirms residential RGU growth trend

Oi closed the year with 18,337 thousand RGUs in the Residential segment, an increase of 3.0% year-over-year, primarily driven by the consistent expansion of the broadband network (16%), rapid growth in pay TV (+116%) and a strong decline in wireline churn. This performance is a result of initiatives aimed at: (i) reducing churn through client retention (convergence, portfolio repositioning, and customer loyalty); and (ii) leveraging sales of residential products with a strong focus on channel expansion, advertising campaigns and investments in upgrading broadband speeds.

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Highlights of 2012 included the expansion of the pay TV base which more than doubled in the period, making Oi third in market share by economic group, continuous growth in the broadband market, and the introduction of IPTV and fiber products.

The main points impacting 4Q12 results were the following:

New services, loyalty, investments and expanded channels support annual broadband growth above 15%

Oi ended 4Q12 with 5,102 thousand broadband customers in the Residential segment, representing 127 thousand new customers in the quarter (+2.6%), and 690 thousand new customers in the year (+15.6%). This growth is in line with the Company's strategy of increasing the number of products per home. The number of homes subscribing to Oi services that already have broadband increased 6.7 p.p., reaching 40.4% of the base by the end of 2012.

This result was primarily due to (i) investments in network expansion and quality, with a consequent upgrade in base speeds; (ii) repositioning of the **Oi Velox** product and offerings in certain markets; (iii) channel expansion, both for door-to-door sales and store sales; and (iv) customer loyalty initiatives such as plans that offer a monthly discount if the client stays with the plan for twelve months.

During the year, the customer loyalty base practically doubled, from nearly 30% of the overall customer base to 60% by the end of 4Q12. This increase is due to both the addition of new customers in the loyalty programs, and to the migration of existing customers. The purpose of this initiative is to reduce churn and so maintain high levels of growth.

One of the results of this strategy was that in 2012, Oi recorded high rates of annual growth in the residential broadband segment higher than 15% in each quarter showing consistently strong performance.

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Continued increase of average speed reflects investments in the network and upgrade initiatives

Throughout 2012, Oi invested in expanding broadband availability with higher speeds for residential customers and strengthened its upgrade and base protection initiatives.

The percentage of customers with speeds of 5 Mb or more recorded a sequential evolution during the year, even after the overall residential broadband customer base increased significantly. In 4Q12, this customer base grew 2 p.p., totaling 31% of the total base. Of customers with speeds of 5 Mb or more, 45% have speeds above 10 Mb.

Repositioning of Oi TV with new channels, Pay Per View packages and HD content brings significant growth in pay TV subscriptions

The expansion of the Pay TV segment is one of the elements of the Company's strategy, and its purpose is to increase the number of products per home, thus enabling a higher customer retention and loyalty capacity and a sustainable growth of residential ARPU. The Pay TV segment recorded another quarter of strong growth, adding 153 thousand customers in the quarter (+25.3%) and 406 thousand in the year (+115.7%) to 757 thousand customers, steadily growing in 2012. Homes with subscriptions to Oi products that already have pay TV also saw major improvement, up 3.3 p.p. to 6.0% at the close of 2012.

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Oi also maintained the attractive positioning of its special offers. One promotion that stood out in the period was the introduction of the most comprehensive entry package in the market, for R\$39.90. This product was advertised together with **Oi Velox**, and the bundle of the two products will be offered at a promotional rate of R\$69.80 until February 2013.

In addition to speeding up the growth of **Oi TV Mais HD**'s customer base, another positive result was the increase in profitability of pay TV packages. In 4Q12, the share of packages with movie channels (Telecine and HBO) in overall sales went up by nearly 70% compared to the previous quarter. This shows the success both in increasing Oi TV RGUs and the strategy of increasing profitability among the existing customer base by upselling.

With the accelerated growth of the operation, Oi has already become the third largest player in pay TV net additions, posting an incremental market share of 18.4% in 4Q12. Excluding São Paulo, where Oi does not offer this service, this percentage would be 25.4%. These results confirm the success of Oi's strategy: offering HD channels starting with entry packages, at competitive rates, combined with broadband, mobile, and wireline products.

Convergence and retention initiatives reduce wireline attrition by almost 50%

Oi's initiatives in the residential segment in 2012 were driven by the convergence strategy. In addition to bundling pay TV and broadband with the wireline product, reducing its churn, Oi has repositioned its portfolio to focus on service packages with unlimited calls. This strategy makes wirelines more attractive for new customers, and, at the same time, promotes the loyalty of existing customers.

Oi closed 4Q12 with 12,478 thousand Residential wireline customers, down 1.0% compared to 3Q12 and 4.4% year-over-year. This result represents a significant deceleration in the year-over-year decrease in RGUs for this product. In 2012, net disconnections totaled 568 thousand, compared to 1,115 thousand in 2011, a decrease of nearly 50%. For comparison purposes, in 4Q11, this reduction was of 1.7% compared to previous quarter, and of 7.9% in the year.

This result was primarily due to: (i) the repositioning of the portfolio (convergence and flat-fee subscriptions); (ii) the increased reach of the door-to-door channel; and (iii) more advertising campaigns during the year.

The portfolio's highlight in 2012 was the **Oi Fixo Ilimitado + Pré Ilimitado** (Unlimited Wireline + Unlimited Prepaid) plan, introduced in March 2012, which addresses consumer preferences for using wireline and mobile telephones at their own convenience. This plan greatly contributed to sales during the year, with strong promotion campaigns, resulting in an increase in the share of unlimited plans in Oi's plan mix. It is worth noting that a customer with a convergent portfolio has on average a 20% lower churn than a fixed line client (1P).

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The *Oi Fixo Ilimitado + Pré Ilimitado* plan will be sold for R\$29.90 per month until February 2013. The plan includes unlimited local calls to other Oi wirelines, and local calls to Oi mobile numbers (VC1) at a wireline-to-wireline rate. On the mobile side, customers get unlimited bonus for local calls to any Oi mobile or wireline.

As part of the expansion of its convergent *Voz Total* portfolio, Oi introduced an unprecedented plan in Rio de Janeiro State in November, similar to the *Fixo Ilimitado + Pré Ilimitado*, but including free local calls from public telephones (TUP) to Oi wirelines at R\$29.90 per month until February 2013. After launching this service, TUP traffic more than doubled. Additionally, the product creates loyalty among prepaid customers and expands the concept of community by promoting wireline-to-mobile convergence.

Launch of innovative Fiber-to-the-home (FTTH) product

In keeping with Oi's track record of innovation in introducing products and business models, the Company has been investing to take fiber optic lines to its customers' homes, providing access to several services such as super-high speed internet connection and IPTV (pay TV via internet protocol).

IPTV and ultra-broadband plans of up to 200 Mbps were introduced in December 2012. IPTV is a cutting-edge solution that offers greater channel surfing speeds and allows customers to record any video to watch later in any room of the house, going back in time and watching a show that has already aired, sharing content on social networks, among other features. Oi's IPTV customers will also have access to programs on TV, on tablets and smartphones, and will be able to connect up to five stations with basic channels for free. This service is currently available in certain neighborhoods in Rio de Janeiro.

The initial offer is an entry package with three products (3P), including TV Mais HD (90 channels), 100 Mbps internet, and the *Oi Fixo* wireline plan, for R\$199.80. The top offer in this portfolio is a package including TV Mega HD (121 channels), 200 Mbps internet, and the *Oi Fixo* wireline plan, for R\$239.90.

Consistent ARPU expansion reflects successful execution of convergent residential product strategy

Thanks to continued emphasis on growing the base of homes with more than one product (1P), Oi ended 4Q12 with more than 1P in 53% of its total residential customer base, representing 6,744 thousand out of 12,629

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Thousand homes. Compared to 4Q11, this figure was up 6.8 p.p. This increase is due to the Company's commitment to leverage convergence through broadband (fixed and mobile) and pay TV services, segments for which the new Equal campaign with a convergent concept (**Oi Internet Total + Oi TV HD**) brought increased demand for 3P packages, addressing the market coming from other players (winback).

Residential ARPU

Residential ARPU is calculated by dividing the segment's total revenue by the average number of homes served by Oi. This revenue comes from wireline services, fixed broadband and pay TV.

In line with the Company's strategy for the Residential segment, which aims at leveraging ARPU through bundling residential services, ARPU totaled R\$69.2 in 4Q12, an increase of 5.2% compared to 3Q12 and 6.8% year-over-year. This trend can be seen in the increased share of homes with more than one product, driven by: (i) increased pay TV sales; (ii) maintenance of the expansion in fixed broadband services; (iii) reduced disconnection levels in the wireline base; and (iv) aggressive upselling strategy of Oi products in the household.

Strengthening sales channels supported implementation of the business plan

Sales channels, an important element of Oi's strategy, have improved and expanded throughout the year, both in Company-owned stores (187 units in Dec/12 versus 60 in Dec/11) and door-to-door sales (around 6,700 by the end of 2012 versus around 4,100 in 2011). This has resulted in increased sales of wireline, broadband and TV plans, as well as of bundled services. Also, the beginning of sales of residential products at the Company's stores (owned and franchised) contributed to the positive results in 2012.

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	4Q12	3Q12	4Q11	QoQ	YoY	2012	2011	YoY
Personal Mobility								
Net Revenue (R\$ Million)	2,463	2,305	2,150	6.9%	14.6%	9,102	8,189	11.1%
Services	1,680	1,562	1,508	7.6%	11.4%	6,276	5,755	9.1%
Network Usage	587	608	628	-3.5%	-6.5%	2,337	2,398	-2.5%
Sales of handsets, sim cards and others	195	135	15	44.4%	1200.0%	489	36	1258.3%
Revenue Generating Units (RGU) (000)	46,305	45,568	43,264	1.6%	7.0%	46,305	43,264	7.0%
Pre-Paid Plans	39,832	39,483	37,978	0.9%	4.9%	39,832	37,978	4.9%
Post-Paid Plans	6,472	6,085	5,285	6.4%	22.5%	6,472	5,285	22.5%

Note: (1) Results for 4Q11, FY12 and FY11 are proforma

(2) Postpaid plans include: High value postpaid plans; *Oi Controle*; convergent mobile terminals (*Oi Conta Total* and *Oi Internet Total*), and 3G (mini-modem).

Focus on high-end customers improves profile and drives revenue growth

During the year, Oi executed a number of commercial and operational initiatives related to its strategy focused on the high-end segment and increased penetration of data services and value added services (VAS) in its customer base. The successful execution of this strategy resulted in a year of strong growth in the postpaid segment, reflected in the improvement in the revenue profile (lower dependence on revenue from prepaid and interconnection services, and higher contribution from postpaid, data services and VAS). Below are the major components of revenue:

In the 4Q12, net revenue from Personal Mobility totaled R\$2.5 billion, up R\$158 million (+6.9%) compared to 3Q12, and up R\$313 million (+14.6%) year-over-year.

Revenue from services amounted to R\$1.7 billion in 4Q12, up 7.6% compared to 3Q12 and 11.4% year-over-year. This result was primarily driven by: (i) higher revenue from subscriptions due to the growth in the postpaid customer base; (ii) higher revenue from traffic in the prepaid customer base; and (iii) higher revenue from data and SMS services.

Net revenue from the sales of handsets reached R\$195 million, an increase of R\$60 million compared to 3Q12 and of R\$180 million compared to 4Q11. The quarterly comparison reflects the seasonal effect of year-end sales, while the annual comparison reflects the beginning of handset sales in 2012.

As a result from all the movements mentioned above, revenue from Personal Mobility amounted to R\$9.1 billion in 2012, up 11.1% year-over-year.

Consistent, profitable growth in customer base in 2012

Oi closed 4Q12 with a gross addition of 6.5 million users in Personal Mobility, an increase of 8.9% compared to 3Q12. Disconnections reached 5.7 million users in the quarter, resulting in the net addition of 737 thousand users in the period, of which 387 thousand are postpaid customers. With that result, Oi closed the year with 46,305

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thousand RGUs in the Personal Mobility segment, an increase of 7.0% year-over-year, driven by a strong expansion in the postpaid segment, which gained 22.5% in the period. Net additions in Personal Mobility reached 3,041 thousand in 2012, with 1,187 thousand postpaid and 1,854 thousand prepaid customers.

Postpaid

With net addition of 387 thousand postpaid customers, Oi ended 4Q12 with 6,472 thousand customers in the segment, representing 14.0% of the Personal Mobility portfolio (compared with 12.2% in 4Q11). A total of 1,187 thousand postpaid customers were added in 2012, more than three times the number of postpaid customers added in 2011. This result was driven by a significant increase in gross additions (due to the remodeling of the offers and increased channel reach), and a reduction in churn (due to proactive approach in choosing the best plans for the customers based on analysis of the consumer's profile and loyalty).

The simplified postpaid plans launched in 2012 allowed for better communication by the sales force as well as improved customer understanding of the product. The key plans in this portfolio are: (i) **Oi Conta**, including unlimited local calls (to Oi numbers and wirelines of any carrier), mobile internet, SMS messages, and Oi WiFi; and (ii) **Oi Smartphone**, including the services above and the discount for postpaid customers to purchase handsets.

For customers looking for a bundled telecommunications services solution, Oi offers the **Oi Conta Total (OCT)** plans, which include wireline, mobile, and broadband services, and the option to buy additional services like **Oi TV**, **Oi Velox 3G** and unlimited SMS messages, unlimited long-distance calls and unlimited mobile internet. In 4Q12, even with significant gross additions in the postpaid segment, OCT accounted for more than 40% of sales, becoming a key product for Oi to leverage its convergence advantage in the market.

Postpaid grows more than 20% in 2012

The high-value postpaid and OCT plans continued to record strong growth in the quarter, with an increase in net additions for the second consecutive quarter. It is important to note that nearly 100% of the postpaid plans sold are loyalty plans. In 1Q12, that figure was 20%.

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Note: Postpaid high value and OCT include plans from *Oi Conta* 60, *Oi Smartphone* 60, *Oi Familia* 300, *OCT Light* and *OCT Light Smartphone*.

Prepaid

The Prepaid base totaled 39,832 thousand customers by the end of 4Q12, practically unchanged from 3Q12. The gross recharge volume continues to grow consistently in line with the customer base, the result of a growth strategy that focuses on profitability.

Consistent, profitable growth of customer base confirms success in executing the strategy

The most significant offer in 4Q12 was the daily bonus. The service offers the same value of or twice as much as the recharge amount (depending on the region) as bonus every day, making the communication more transparent and positioning itself more attractively in the prepaid market. Clients can use the bonus to make local or long-distance calls to Oi mobile or Oi wireline numbers, and to send SMS messages to any carrier.

Prepaid customer data consumption, both mobile and SMS, saw a major increase in 4Q12. The average number of SMS messages sent by users increased nearly 30% year-over-year. This increase reflects the following factors: (i) the strategy of offering SMS as a bonus for prepaid plans; and (ii) the strong increase in the sale of SMS and mobile data packages to supplement the offer to both prepaid and postpaid customers.

Other important drivers of growth in the prepaid segment were the stronger presence in Brazilian retail stores (large retail chains), and the increased coverage of points-of-sale that sell recharges and SIM cards, translating into greater convenience for the customer.

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In order to expand the share of data services in the Personal Mobility segment, in November Oi launched a prepaid mobile internet plan for use on tablets and computers. There are four plans available (daily, weekly, and monthly, with two different data usage limits), and by acquiring the 500 Mb package, customers also have free access to the Oi WiFi network. The strategy behind this offer is to position Oi with a product targeting casual mobile internet users who do not want to pay a postpaid monthly subscription fee.

Sales channels and 3G coverage

Opening and expanding Company-owned stores which is part of the initiative to strengthen Oi's presence in the high-end segment were key to: (i) providing first-class customer care to high-end customers, increasing the Company's footprint in the market; (ii) sustaining the Company's return to the handset market; and (iii) serving as a model for operational management, commissioning policy and standardization of franchised stores. Oi ended 2012 with 187 Company-owned stores, more than three times the number recorded in December 2011.

Another strategic initiative for the high-end segment is the expansion of the 3G coverage. Focusing on the growth of the postpaid segment and on an increased penetration for data services and VAS in its base, Oi closed the year with a presence in 692 municipalities, covering 73% of Brazil's urban population, an increase of more than 420 municipalities and 30 million people in the year. This allowed for significant growth in revenue from mobile data and VAS services, which in 2012 reached 14.9% of service revenue, up 4.1 p.p. over 2011.

Overall Mobile Base

Postpaid market share growth best in industry in 2012

At the end of 2012, the mobile customers base (Personal Mobility + Business/Corporate) reached 49,259 thousand users, out of which 46,305 thousand were Personal Mobility users and 2,955 thousand were Business/Corporate users. Gross additions totaled 6.8 million users, and total net additions reached 861 thousand users in the fourth quarter of 2012.

Oi's strong growth in the postpaid segment seen throughout 2012 was maintained in the fourth quarter. The company has continued to focus on growing in the high-end market by seeking the fair-share in the postpaid segment, sustained by increased channel reach, simpler plans, handset discounts, and more advertising campaigns. In 4Q12, Oi was the carrier with the largest market share gain in the postpaid market, recording growth of 2.8 percentage points. Oi closed December 2012 with a 16.3% postpaid mix, significant growth compared to 12.5% by the end of 2011.

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Source: Anatel

Source: Anatel

Mobile ARPU

Mobile ARPU considers the total revenue from the mobile division (Personal Mobility + Business/Corporate) as if it was a separate company, which means it includes the revenue from the traffic between the mobile and wireline divisions (intercompany). Following the same logic, revenue from mobile long-distance calls (SMP) in the STFC license (fixed voice concession) is not included in that calculation. The amount is then divided by the average base to calculate the mobile ARPU.

The mobile ARPU totaled R\$21.5 in 4Q12, down 3.2% compared to the previous quarter. The sequential variation is explained by OI's successful challenges of mobile interconnection rates in the previous quarter.

Business / Corporate

	4Q12	3Q12	4Q11	QoQ	YoY	2012	2011	YoY
Business / Corporate								
Net Revenue (R\$ Million)	2,195	2,134	2,112	2.9%	3.9%	8,510	8,470	0.5%
Revenue Generating Units (RGU) ('000)	8,971	8,782	7,848	2.2%	14.3%	8,971	7,848	14.3%
Fixed Line in Service	5,422	5,371	5,083	0.9%	6.7%	5,422	5,083	6.7%
Fixed Broadband	594	581	523	2.2%	13.6%	594	523	13.6%
Mobile	2,955	2,830	2,242	4.4%	31.8%	2,955	2,242	31.8%

Note: Results for 4Q11, FY12 and FY11 are proforma

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Repositioning of the Business/Corporate segment leverages customer base

Net revenues in the Business/Corporate segment were R\$2.2 billion, an increase of 2.9% over 3Q12 and of 3.9% compared to 4Q11 levels. The performance for the quarter resulted from increased revenues from subscriptions and advanced voice services (digital trunking) in wireline, as well as growth in the postpaid base and greater revenues from mobile data, data communications and IT services.

Revenue totaled R\$8.5 billion for the year, up R\$40 million compared to 2011. That result is due mainly to the increase in revenue from data services in both the mobile and wireline segments, which offset the decrease in wireline traffic.

Regarding its operating performance, Oi ended 4Q12 with 8,971 thousand RGUs, an increase of 2.2% compared to 3Q12. The highlights were Business broadband, advanced voice, postpaid and mobile internet in both segments. Compared to 4Q11, the increase reached 14.3%, with growth in all lines.

Business

The highlights in Oi's Business segment, which serves SMEs, in 4Q12 were the following: (i) growth in the wireline base (voice and data); (ii) higher profitability and lower churn in the mobile voice segment; and (iii) increased penetration of the mobile internet product.

The initiatives for the quarter in the wireline segment focused on reducing churn and increasing the profitability of the base. RGUs continued to grow, increasing 1.5% in 4Q12 compared to the previous quarter and 6.5% compared to 4Q11, consolidating the reversal of the decrease in the base seen until 2011. On the broadband front, the RGU uptrend was maintained, with total units rising 2.5% in the quarter and 17.2% in the year.

In the wireline data market, continued improvements in the sale and delivery processes, in addition to investments in network facilities and equipment, sustained the growth in sales and reduced the cancellation of circuits. The IP service grew 6.4% in the quarter and 38% in the year. This was the fourth consecutive quarter with a strong increase in new connections of data circuits, impacted by investments in the formation of a dedicated sales force and training programs.

It is important to mention the development of partnerships with large hardware suppliers and technology integrators, which provides a greater presence with synergic, high value solutions on offer to clients.

In the mobile market, Oi's customer base grew more than 70% in mobile internet, while the mobile voice customer base expanded almost 20% in the period. Several initiatives to increase profitability were carried out, such as adjusting the sales policy, credit filters and offers.

At the end of 4Q12, Oi introduced **Oi Smart Cloud** in the Business segment, a cloud computing product already offered to the Corporate market. This reinforces the Company's strategy of being increasingly present throughout its customers' IT and telecom services chain.

Corporate

In the Corporate segment, which targets large corporations, Oi continued with its strategy of supporting customers on leveraging their revenues and rationalize their costs through the innovative use of technology.

Operating highlights in 4Q12 were in postpaid (16.4% growth in the quarter and 69.7% in the year) and digital wireline trunks (7.1% growth in the quarter and 40.0% in the year). In addition, the development of other services like VPN networking and IP internet access positively contributed to this segment's performance.

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One important development was the IT and telecom service agreement executed with *Arena Castelão* (host of the FIFA Confederations Cup and of World Cup in Fortaleza, Ceará State). Oi is bringing the best technology available in the market to *Arena Castelão*, including telecom (local networks and telephone systems) and local infrastructure implementation and management (CCTV, digital signage and access control, among others). With this, Oi is the first carrier to offer this type of service in soccer stadiums in Brazil.

Another highlight is the beginning of the implementation of the *PE Conectado* project to the Pernambuco State government, a world-class benchmark of services convergence in a single platform, which is unprecedented in the public sector. This project provides for expanded data services (internet capacity and dedicated drops), telephone (wireline, mobile and toll-free), and complementary services (urban and building video monitoring, among others).

In December, Oi was recognized by Frost & Sullivan as offering the most innovative IT and Communications product portfolio among Brazilian carriers. The highlights of that portfolio are **Oi Smart Cloud** and **Oi Gestão**, introduced in 1Q12 and 2Q12, respectively.

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Table of Contents**Operating Costs and Expenses**

Efficient cost and expense management ensures below-inflation increases in expenditure

Table 2 Breakdown of Operating Costs and Expenses

Item R\$ million	4Q12	3Q12	4Q11	QoQ	YoY	2012	2011	YoY
Operating Expenses								
Interconnection	1,125	1,059	1,157	6.2%	-2.8%	4,414	4,651	-5.1%
Personnel	536	483	537	11.0%	-0.2%	2,016	1,884	7.0%
Materials	46	51	65	-9.8%	-29.2%	156	191	-18.3%
Handset Costs/Other (COGS)	207	121	84	71.1%	146.4%	542	232	133.6%
Third-Party Services	2,202	2,161	2,048	1.9%	7.5%	8,236	7,607	8.3%
Marketing	108	108	161	0.0%	-32.9%	475	559	-15.0%
Rent and Insurance	437	477	443	-8.4%	-1.4%	1,813	1,658	9.3%
Provision for Bad Debts	157	75	163	109.3%	-3.7%	595	826	-28.0%
Other Operating Expenses (Revenue), Net	109	320	462	-65.9%	-76.4%	1,092	1,532	-28.7%
TOTAL	4,927	4,855	5,120	1.5%	-3.8%	19,340	19,141	1.0%

Note: Results for 4Q11, FY12 and FY11 are proforma.

Operating costs and expenses totaled R\$4.9 billion in 4Q12 and R\$19.3 billion in 2012.

Interconnection

Interconnection costs amounted to R\$1.1 billion in 4Q12, up 6.2% over 3Q12 but down 2.8% over the previous year. This quarterly increase is due to lower interconnection costs in 3Q12, due to gains from challenges to mobile interconnection rates in that period. The year-over-year decline is related to the reduction in the mobile termination rate (MTR). In 2012, costs totaled R\$4.4 billion, 5.1% less than in 2011, mainly related to the fall in the MTR.

Personnel

Personnel expenses were R\$536 million in 4Q12, 11.0% higher than in 3Q12 and stable year-over-year. The quarter-over-quarter rise is due to the addition of staff members mainly related to Company-owned stores and new hires at Oi's external network maintenance company.

In 2012, personnel expenses totaled R\$2.0 billion, growing 7.0% over 2011, driven by the increase in Company-owned commercial channels (stores and door-to-door), the creation of the regional offices and increased staff at Oi's external network maintenance company.

SMP Handset Costs and Others (COGS)

SMP handset costs and others (COGS) amounted to R\$207 million in 4Q12, up R\$86 million over 3Q12 and R\$123 million over the same quarter of the previous year. The sequential increase was due to the high seasonal sales volume in 4Q12, particularly during Christmas, while the year-over-year rise was due to Oi's return to the handset market, in line with its strategy of focusing on high-end customers.

SMP handset costs and COGS closed the year at R\$542 million, up R\$310 million over 2011, primarily due to the resumption of handset sales in 2012.

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Third Party Services

In 4Q12, third party service costs were R\$2.2 billion, growing 1.9% and 7.5% quarter-over-quarter and year-over-year, respectively. These results were chiefly driven by: (i) better sales and higher commission expenses; (ii) greater logistics expenses related to handset sales; and (iii) increased content (channels) cost for pay TV. Compared to the previous year, there was also an increase in consulting expenses.

In 2012, expenses with third party services totaled R\$8.2 billion, an increase of 8.3% over 2011. This is mainly due to higher spending on facility upkeep, commission and selling expenses, and increased content hired for pay TV.

Provisions for Bad Debt

The provisions for bad debt increased R\$82 million quarter-over-quarter and R\$7 million year-over-year to R\$157 million in 4Q12. In 3Q12, there was an effort concentrated on the Business/Corporate markets to anticipating changes in municipal governments after the elections, which significantly reduced expenses in that period. Bad Debt represented 2.1% of net revenues in 4Q12 (1.1% in 3Q12 and 2.3% in 4Q11).

In 2012, provisions for bad debt reached R\$595 million, a 28.0% reduction as compared to 2011, chiefly due to more efficient collection methods, especially in the Business/Corporate segment.

Other Operating Expenses (Revenue)

Other Net Operating Expenses totaled R\$109 million in 4Q12. This expense line was positively influenced by the sale of the subsidiary that owned approximately 1,200 mobile, non-reversible towers. The total amount involved in the transaction, and already received by the Company, was R\$516 million. The result seen in the P&L is the proceeds of the sale deducted of its book value and of taxes. This operation is in line with Oi's strategy in monetizing non-strategic assets, generating resources to be invested on the Company's core businesses.

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Table of Contents**Other Items****EBITDA**

EBITDA remains stable in 2012 with the positive impact of consistent revenue growth and efficient cost and expenses management

Table 3 EBITDA and EBITDA Margin

	4Q12	3Q12	4Q11	QoQ	YoY	2012	2011	YoY
Oi S.A. Pro-Forma								
EBITDA (R\$ Mn)	2,463	2,186	1,838	12.7%	34.0%	8,801	8,766	0.4%
EBITDA Margin (%)	33.3%	31.0%	26.4%	2.3 p.p.	6.9 p.p.	31.3%	31.4%	-0.1 p.p.
	4Q12	3Q12	4Q11	QoQ	YoY	2012	2011	YoY
Oi S.A. Consolidated								
EBITDA (R\$ Mn)	2,463	2,186	524	12.7%	370.0%	7,916	2,612	203.1%
EBITDA Margin (%)	33.3%	31.0%	23.4%	2.3 p.p.	9.9 p.p.	31.5%	28.2%	3.3 p.p.

EBITDA closed 4Q12 at R\$2.5 billion, growing 12.7% over 3Q12, with EBITDA margin up 2.3 p.p. in the quarter. This performance was mainly due to the increase in net revenue from the Personal Mobility, Business/Corporate and Residential segments as a result of the ongoing improvement in service levels throughout Oi's operations and the promotion of new convergence offers, aimed at customer loyalty and sustainable revenue growth. In 2012, Oi's pro forma EBITDA totaled R\$8.8 billion, stable over 2011, even taking the non-core results into account.

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Table of Contents**Financial Income & Debt****Table 4 Financial Income (Oi S.A. Consolidated)**

R\$ Million	4Q12	3Q12	4Q11	2012	2011
Oi S.A. Consolidated					
Net Interest (on fin. investments and loans and financing)	-461	-457	-39	-1,551	-65
Net FX result (on fin. investments and loans and financing)	-112	-128	-9	-484	-49
Other Financial Income / Expenses	-161	31	11	-180	42
Net Financial Income (Expenses)	-734	-554	-36	-2,216	-72

Note: 4Q11 and FY11 figures refer to the financial income of former BrT, which maintained cash reserves at the time as it was not consolidated with the remainder of the group.

Oi S.A.'s consolidated net financial income for 4Q12 amounted to a loss of R\$734 million. The increase in the Other Financial Expenses line in relation to 3Q12 was mainly due to higher tax (PIS/COFINS) costs, caused by Tele Norte Celular Participações (TNCP) payment of interests on its own capital. Interests and FX financial results fell in the 4Q12, with the positive impact of the Brazilian Central Bank's policy on reducing interest rates (Selic).

Debt & Liquidity

The Company's consolidated gross debt closed 2012 at R\$ 32.9 billion, a 4.7% sequential increase. Net consolidated debt was R\$ 25.1 billion in the quarter, up 2.4% over 3Q12.

Fundraising to finance the Company's investment plans included disbursements by Export Credit Agencies (ECAs) such as the Swedish Export Credit Agency (EKN) and the Finnish Export Credit Agency (Finnvera), in addition to financing from the Brazilian National Development Bank (BNDES). Amortizations over the period included (i) amortization and service to BNDES; (ii) scheduled interest payments on the 5th and 8th Debentures Issues of Oi S.A.; and (iii) Bank Credit Notes/Banco do Brasil.

Compared to total proforma debt in December 2011, the Company's consolidated gross debt increased 10.6%, primarily due to fundraising operations (i) 5.75% Bond (US\$1.5 billion); and (ii) debentures indexed ber 2007 he served as CEO and director of ActivIdentity (formerly ActivCard), a provider of identity assurance and strong authentication solutions, where he earlier served as Senior Vice President Sales, Marketing, Professional Services and Product Management. Prior to this, Mr. Hart was the founder and CEO of Protocom Development Systems Inc., an identity management software security business that was acquired by ActivCard in 2005. In 2003, Mr. Hart was recognized by Deloitte & Touche for his software export achievements. In 2002, he was recognized by Ernst & Young as the Australian Young Entrepreneur of the Year and was a member of the judging panel in 2005, 2006 and 2007.

Brian Nelson, 55 Chief Financial Officer and Corporate Secretary

Brian Nelson became our Chief Financial Officer in December 2013. He has more than 20 years of practical experience in accounting and finance, ranging from executive finance positions with both emerging and established technology companies in Silicon Valley to providing audit assurance and transaction-related services to public and private companies. Prior his appointment, Mr. Nelson provided consulting services to the Company from February 2012 to December 2013, and served as CFO of our idOnDemand subsidiary both prior to and following its acquisition by the Company in May 2011. From 2005 to 2010, he served as vice president of finance and CFO of Kleer Corporation, a wireless audio company. Mr. Nelson's previous positions also include vice president of finance for Silicon Access Networks and for PlanetRx, corporate controller for LinkExchange (acquired by Microsoft) and various other technology start-ups, and he also was an audit manager with KPMG

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LLP in Silicon Valley. Since 2008, he has served as a Professor of Practice in the MBA program in the Leavey School of Business at Santa Clara University in Santa Clara, California. Mr. Nelson received his bachelor of science degree in accounting from San Jose State University, studied in the MBA program at Santa Clara University, and holds a CPA license in the State of California.

Lawrence W. Midland, 72 President and Director

Lawrence W. Midland has served as President of the Company since September 2013 and as a director of the Company since May 2009. He has more than 30 years' experience in the physical access control industry and a record of success as a security supplier to the U.S. Government, international, commercial and industrial markets. Previously he served as Senior Vice President of the Company and as Chairman of our Hirsch subsidiary from January 2012 to September 2013 and as an Executive Vice President of the

Company and as President of the Hirsch subsidiary from May 2009 to December 2011, following the completion of the merger of the Company and Hirsch Electronics Corporation. Prior to the merger, Mr. Midland was President of Hirsch Electronics, which he helped found in August 1981, and for which he served as a director. Mr. Midland became President and Chairman of the Board of Hirsch in March 1986 and held those positions continuously until the completion of the merger. Mr. Midland previously served as president of several companies, including Retirement Inns of America, Pension Properties Trust, a California REIT, and Pension Administrative Services. Previously Mr. Midland also held various sales positions in investment related activities following his employment as a field engineer with Shell Oil Company. He holds a B.S. degree in Physics (With Distinction) from the University of Oklahoma and an M.B.A. degree from Pepperdine University.

Dr. Manfred Mueller, 44 Chief Operating Officer *Dr. Manfred Mueller* was named chief operating officer (COO) of the Company in September 2013 and has served as an Executive Vice President of the Company since January 2010. He has held diverse roles at the Company including sales, marketing, product management, business development and investor relations which provide deep understanding of our technology, markets, customers, stakeholders and operations. Dr. Mueller joined the Company in August 2000 as Director of Strategic Business Development and subsequently has held a variety of roles in strategic business development, marketing and sales. Most recently, Dr. Mueller served as CEO of the SCM Microsystems business from January 2010 to November 2011, as Managing Director of the Company's ID Infrastructure division (formerly the SCM Microsystems business) from November 2011 to April 2012, and as COO, Identification Products from April 2012 to September 2013. Prior to joining the Company, from August 1998 to July 2000, Dr. Mueller was Product Manager and Business Development Manager at BetaResearch GmbH, the digital TV technology development division of the Kirch Group. Dr. Mueller holds a master's degree and a Ph.D. in Chemistry from Regensburg University in Germany and an M.B.A. from the Edinburgh Business School of Heriot Watt University in Edinburgh, Scotland.

To our knowledge, there are no family relationships between any of our executive officers and any other of our executive officers or directors.

EXECUTIVE COMPENSATION

COMPENSATION DISCUSSION AND ANALYSIS

This Compensation Discussion and Analysis describes the material elements of compensation awarded to, earned by or paid to the principal executive and principal financial officers of the Company, the three other most highly compensated individuals who were serving as executive officers during 2013 or as of the last day of the fiscal year ending December 31, 2013, as well as our former principal executive and principal financial officers. These individuals are listed in the *Summary Compensation Table* below and referred to in this Proxy Statement as the Named Executive Officers.

Our executive compensation program bases a significant portion of the compensation of our executives, including the Named Executive Officers, on their ability to achieve annual operational objectives that advance the Company's long-term business goals and that are designed to create sustainable long-term stockholder value. The Company's performance-based compensation elements are guided by the Compensation Committee's long-term objectives of maintaining market competitiveness and aligning the interests of our executives with the interests of our stockholders. In addition, the Compensation Committee considers the results of the prior-year's stockholder advisory vote on our executive compensation as part of its compensation setting process. It believes these voting results provide useful feedback regarding whether stockholders agree that the Compensation Committee is achieving its goal of designing an executive compensation program that promotes the best interests of the Company and its stockholders by providing its executives with the appropriate compensation and meaningful incentives. As part of its 2013 compensation setting process, the Compensation Committee reviewed the results of the 2012 stockholder advisory vote, for which 97.6% of the votes cast were voted in favor of our executive compensation.

Key Business Developments During 2013

During the first eight months of 2013, we pursued a strategy to develop and sell a comprehensive range of secure identification (Secure ID) solutions for multiple markets around the world. In particular, we focused on reinforcing our position in established Secure ID markets, such as logical access, physical access and contactless ticketing, and on building a strong position in emerging markets, such as cloud-based credential management, cashless and mobile payment and near field communication (NFC). We delivered these solutions through various business entities operated under a group structure.

In September 2013, Ayman Ashour resigned from his position as Chief Executive Officer, and our Board of Directors appointed Jason Hart, formerly the CEO of our idOnDemand subsidiary, as our Chief Executive Officer. Lawrence W. Midland was appointed as President and Manfred Mueller was appointed as Chief Operating Officer, and no other individuals were appointed as executive officers of the Company. Brian Nelson, previously Chief Financial Officer of our idOnDemand business, and most recently a consultant to the Company, was appointed as our Chief Financial Officer in December 2013.

Following Mr. Hart's appointment, we undertook a strategic review of our business and initiated a series of actions to simplify our business structure and focus. We realigned our organizational structure to operate as a single, unified company rather than as a group of individual businesses, and signaled this change to stakeholders with a new corporate identity featuring the word mark and logo Identiv. Additionally, we reorganized our operational functions to enable centralized management of key activities on a global basis and streamline our operations. Further, we divested certain businesses that were determined to be non-core to our ongoing strategy in order to focus our resources and investments on higher-growth and more profitable opportunities in the security technology market.

Our current strategy aims to drive revenue growth by focusing our resources and activities to deliver trust solutions to customers globally. Our trust solutions leverage core expertise from our existing product portfolio

with a focus on cloud and mobile technologies, as well as our significant experience addressing customers' security challenges across multiple markets, including the U.S. Government, transportation, healthcare, education, banking, critical infrastructure, foreign governments and others.

Impact on 2013 Executive Compensation

The mixture of established and new business opportunities available to us as a security technology company influences our compensation practices. We seek to attract and retain executives with significant experience in security, RFID, and cloud technologies and markets while also motivating them to be innovative and entrepreneurial in their approach to advancing our business.

We Pay for Performance

The compensation program implemented by the Compensation Committee in 2013 demonstrates our continued commitment to pay-for-performance, with a substantial portion of each Named Executive Officer's compensation being at-risk and subject to important performance measures aligned with long-term stockholder value. Compensation for our Named Executive Officers has been designed to reward high performance through short- and long-term incentives. In Fiscal 2013:

A significant portion of the compensation of each Named Executive Officer was at-risk, being comprised of the opportunity to earn a performance-based cash bonus and the opportunity to receive an at-the-money stock option award and stock bonus award subject to our achievement of pre-established performance objectives.

The Compensation Committee established performance-based award criteria based on our annual corporate performance, including the attainment of specific objectives for growth in sales, growth in Adjusted EBITDA (defined as earnings before interest, taxes, depreciation and amortization, equity-based compensation, and certain other adjustments) and growth in volume-weighted share price performance. The specific corporate performance goals that were established for 2013 are discussed in detail below under

Fiscal 2013 Incentive Compensation to our Named Executive Officers

Consistent with our commitment to becoming sustainably profitable, none of these performance-based awards would be earned by our Named Executive Officers unless we achieved positive Adjusted EBITDA

Our financial results in Fiscal 2013 reflected mixed sales strength across our three main product areas, very little change in our gross profit margin and a modest reduction in base operating expenses. Taken together, these results did not allow us to attain our goals for growth in sales or Adjusted EBITDA.

Sales of our RFID and NFC products for emerging contactless applications grew more than 50% and sales of smart card readers for secure PC and network access grew 10%. These increases were offset by a 29% decrease in sales of our physical access control solutions as a result of budget delays and deferrals due to the U.S. Government budget sequester and government shutdown. Excluding discontinued operations of non-core businesses that were divested, total sales from continuing operations were \$75.6 million in 2013, up 4% compared with \$72.4 million in 2012.

Gross profit margin in 2013 was 44.5% compared with 44.2% in 2012.

Our base operating expenses (research and development, sales and marketing, and general and administrative expenses) decreased 4% in 2013 compared with 2012.

We did not achieve profitability on an Adjusted EBITDA basis.

Because we did not achieve the minimum performance objectives established by the Compensation Committee, our Named Executive Officers did not earn any portion of their performance-based cash bonus, stock option or stock bonus award opportunities.

Executive Compensation Program Objectives and Overview

Our current executive compensation program is intended to achieve three fundamental objectives:

attract, retain and motivate qualified executives;

reward executives based on the Company's performance; and

align executives' interests with the interests of our stockholders.

To achieve these objectives, we attempt to:

offer compensation packages that are competitive in the markets and countries where we operate and that provide an attractive base of salary and benefits;

maintain a substantial portion of total compensation at risk, with payment of that portion tied to achievement of specific financial, organizational or other performance goals; and

provide both short-term and long-term performance incentives through a combination of potential cash and equity-based awards.

As described in more detail below, the material elements of our current executive compensation program for Named Executive Officers include fixed base salary, performance-based compensation opportunities consisting of a mix of a cash bonus, shares of Common Stock and stock options, as well various benefits and perquisites. Our executive compensation program strives to set annual salaries that are competitive but low relative to potential performance-based bonus awards, as we believe that this provides incentive for the achievement of corporate objectives. We believe that each element of our executive compensation program helps us to achieve one or more of our compensation objectives. For example, linking bonus payments to corporate performance-based criteria rewards executives based on the Company's performance. In addition, providing our executives with the opportunity to earn equity-based bonus awards aligns their interests with the long-term interests of our stockholders, as this subjects a significant portion of their total compensation to fluctuations in the market price of Common Stock and reinforces the incentive to manage the Company's business as owners.

Current Executive Compensation Program Elements

Base Salary. Base salary provides fixed compensation based on competitive local market practice and is intended to acknowledge and reward core competence of our executives relative to their skills, experience and contributions to the Company. Base salaries for executives are generally reviewed annually, and more frequently when there are any changes in responsibilities or market conditions.

Following the voluntary salary reductions taken in 2012 by each of our Named Executive Officers, in 2013 all salary levels were restored to their pre-reduction levels, but the Compensation Committee did not increase the salary levels of any of the Company's current or former Named Executive Officers, except for Brian Nelson.

In December 2013, we entered into an executive employment agreement with Brian Nelson, under which Mr. Nelson was named Chief Financial Officer. Mr. Nelson's annual base salary was set at \$295,000, effective December 20, 2013. Mr. Nelson's executive employment agreement is further described below in *Employment Agreements; Termination / Change in Control Arrangements*.

Performance-based Compensation. In April 2013, our Board of Directors adopted specific performance objectives for 2013 based upon the business performance criteria authorized by our 2011 Plan. In general, under the 2011 Plan the Compensation Committee may grant to our executives and other key employees the opportunity to earn certain cash-based and equity-based awards upon the achievement of performance goals whose attainment is measured at the end of a specified performance period of 12 months or longer. Such equity awards may include shares of Common Stock, nonqualified stock options, stock appreciation rights, restricted stock, restricted stock units, and performance share awards. The specific performance goals established for 2013 are discussed below under *Fiscal 2013 Incentive Compensation to our Named Executive*

Officers.

The 2011 Plan is designed to address the objectives of our compensation program by providing executives with the opportunity to earn substantial at-risk compensation, based on the Company's performance. We believe this helps us attract, retain and motivate qualified executives and emphasizes corporate performance as the basis for rewarding our executives. Through the Compensation Committee's use of a combination of performance-based cash bonuses and equity award opportunities granted under the 2011 Plan, we are able to provide both short-term and long-term incentives to remain with the Company and to work towards corporate performance goals on an ongoing basis.

Because the requisite corporate performance goals for 2013 were not achieved, as discussed below, no performance-based annual bonuses or equity awards were earned by our Named Executive Officers for 2013.

Other Equity Awards. In January 2013, the Compensation Committee granted an option for 250,000 shares to Mr. Ashour. At the date of grant, the option had a four-year vesting period, with 25% of the shares subject to the option vesting after one year and the remaining shares vesting 1/36th per month for the following three years. Under Mr. Ashour's amended employment agreement, discussed below under *Employment Agreements; Termination / Change in Control Arrangements*, vesting for the remainder of the option was accelerated upon Mr. Ashour's resignation from the Company on September 1, 2013, such that the option will be fully vested by August 31, 2015, and remain exercisable until August 31, 2017. The option grant was the result of a review of CEO compensation, which was planned after the Company entered into an amended employment agreement with Mr. Ashour on September 1, 2013. In light of the historical performance and the then current challenges of the Company, the Committee did not change any salary components, but deemed the grant of options appropriate in order to incentivize Mr. Ashour.

Special Performance Bonuses. The Compensation Committee, in its sole discretion, may determine that an executive officer is entitled to a one-time bonus or equity award in recognition of special services to the Company or achievements of individual performance targets or goals for the executive officer. No special performance bonuses were awarded in 2013.

Benefits and Perquisites. We provide all our employees with standard benefits for health and life insurance. On behalf of our executive officers in Europe, we make payments to government-mandated pension programs, to government-managed or private health insurance programs, and in some cases for unemployment insurance, as mandated under the employment laws of various European countries, including Germany, Switzerland and the United Kingdom. Additionally, we provide certain of our Named Executive Officers with either a company car or a comparable car allowance. For certain executives who are required to travel frequently to our facility in Ismaning, Germany, we also provide an allowance for local apartment rental. Payments made to or on behalf of our Named Executive Officers in 2013 are included in the *Summary Compensation Table* below.

Severance Benefits. As disclosed in the description of the individual employment agreements under *Employment Agreements; Termination / Change in Control Arrangements* below, our executive officers are entitled to continued salary payments ranging from three months to two years following termination by the Company without cause. The level of payment is negotiated on an individual basis and takes into account any requirements under local law as well as the executive's position within the Company. With the exception of Messrs. Ashour and Tassone, all of these employment agreements provide for payments or acceleration of equity awards in the event of a change in control of the Company.

Executive Employment Agreements. We have entered into employment agreements with each of our Named Executive Officers that provide for certain severance benefits. In most instances, notice of termination is required to be given by either the Company or the executive, and we are required to continue to compensate the executive for salary and eligible bonus amounts during this period. The length of the notice period is stated in the executive's employment contract. In lieu of *continuing* the employment relationship during the notice period, our employment agreements provide that we can immediately terminate the executive's employment and pay compensation for the notice period. Alternatively, we can require that the executive continue to work during the

notice period. Additionally, under labor practices applicable to our European employees, terminated employees also may be eligible to continue to receive health and unemployment insurance coverage, pension contributions, car leasing expenses or car allowance, or other benefits provided during their employment, for the duration of the notice period. Further, our Named Executive Officers, if terminated, may also be entitled to receive annual bonus payments, the amount of which would be pro-rated accordingly and based on a variety of factors, including the employee's length of service and perceived contributions to past or future company performance, as well as other factors. Actual bonus payments for which individual executives may become eligible are determined at or following termination, and cannot be projected.

Fiscal 2013 Incentive Compensation to our Named Executive Officers

The Compensation Committee approved specific performance goals for the payment of performance-based cash and equity incentive awards in 2013 and determined the potential award opportunities that could be earned by each of our Named Executive Officers. Specific performance targets under these performance goals reflected our operational goals for 2013. Award opportunities were based on the achievement of base performance (Base Bonus) criteria and peak performance (Peak Bonus) criteria. Each set of criteria was assigned a certain percentage value of the total potential Base Bonus or Peak Bonus. The potential Base Bonus and Peak Bonus amounts for each Named Executive Officer were determined by multiplying the sum of the percentage values of the Base Bonus and Peak Bonus by the executive's annual base salary.

Base Bonus. Each Named Executive Officer was eligible to earn a Base Bonus of up to 100% of his annual base salary, subject to achievement of the following performance goals:

10% to 20% growth in net sales over a base sales figure of \$94.6 million (the Growth in Sales Performance Target), with an award range of 2.5% to 25% of annual base salary;

Adjusted EBITDA (earnings before income taxes, depreciation and amortization, equity-based compensation expense and one-time expenses) of \$2.0 million to \$4.0 million (the Growth in Adjusted EBITDA Performance Target), with an award range of 2.5% to 25% of annual base salary; and

0% to 10% growth in the volume-weighted average value of the Company's share price in 2013 compared with 2012 (the Growth in Volume Weighted Average of Share Price Performance Target), with an award range of 5% to 50% of annual base salary.

No Base Bonus awards were to be earned unless we achieved at least \$2.0 million positive Adjusted EBITDA in 2013.

To the extent that Base Bonus performance targets were met, earned Base Bonus awards were to be paid in a combination of cash and shares of Common Stock. In addition, to the extent that the Base Bonus was earned in 2013, each Named Executive Officer would also be entitled to receive an option to acquire shares of Common Stock equal in number to 20% of the executive's annual base salary (measured in U.S. Dollars) divided by the fair market value of a share of our Common Stock determined on the date of grant.

Peak Bonus. Each Named Executive Officer also was eligible to earn a Peak Bonus of up to 100% of his annual base salary. Peak Bonuses would be earned if the Company achieved:

Adjusted EBITDA of \$4.0 million to \$5.0 million, with an award range of 0% to 50% of annual base salary; and

30% growth in total capitalization (calculated by comparing the Company's market capitalization, defined as outstanding shares times volume-weighted average share price) as of December 31, 2013, against a base market capitalization of \$90 million, with an award range of 0% to 50% of annual base salary.

Achievement of Base and Peak Performance Targets in 2013. The Company's 2013 financial performance failed to achieve the minimum threshold levels of performance required for our Named Executive Officers to earn either the Base Bonus or Peak Bonus, and accordingly such bonuses were not paid following the end of Fiscal 2013.

COMPENSATION COMMITTEE REPORT

The Compensation Committee has reviewed and discussed with management of the Company the Compensation Discussion and Analysis contained in this Proxy Statement on Schedule 14A. Based on the Compensation Committee's review of and the discussions with management with respect to the Compensation Discussion and Analysis, the Compensation Committee recommended to the Board of the Directors of the Company that the Compensation Discussion and Analysis be included for filing with the SEC in this Proxy Statement on Schedule 14A for the fiscal year ended December 31, 2013, and the Board of Directors has approved such inclusion.

Compensation Committee

Saad Alazem, Chairman

Phil Libin

Daniel Wenzel

SUMMARY OF EXECUTIVE COMPENSATION IN 2013

Summary Compensation Table

The following table sets forth certain information with respect to the compensation of our current Chief Executive Officer, Chief Financial Officer and our two current executive officers, as well as our former Chief Executive Officer, former Chief Financial Officer and another former executive officer who served during 2013 (the Named Executive Officers), based on total compensation earned during fiscal years 2013, 2012 and 2011, for their services with us in all capacities during those fiscal years.

Name and Principal Position	Year	Salary	Option		All Other Compensation	Total
			Stock Awards (15)	Awards (16)(17)		
Jason Hart Chief Executive Officer and Director	2013	\$ 250,000(1)			\$ 56(20)	\$ 250,056
	2012	\$ 205,833(2)		\$ 94,781		\$ 300,614
	2011	\$ 126,667(3)			\$ 800(21)	\$ 127,467
Brian Nelson Chief Financial Officer and Secretary	2013	\$ 9,077(4)		\$ 178,750(18)		\$ 187,827
	2012					
	2011					
Lawrence W. Midland President	2013	\$ 120,000			\$ 4,545(22)	\$ 124,545
	2012	\$ 68,000(5)		\$ 62,160	\$ 4,831(22)	\$ 134,991
	2011	\$ 210,000			\$ 4,462(22)	\$ 214,462
Dr. Manfred Mueller Executive Vice President and COO, Identification Products (32)	2013	\$ 264,486(6)			\$ 38,290(23)	\$ 302,776
	2012	\$ 211,148(7)		\$ 94,551	\$ 37,893(24)	\$ 343,592
	2011	\$ 208,662(8)			\$ 41,686(25)	\$ 250,348
Ayman S. Ashour Former Chief Executive Officer and Chairman of the Board (32)	2013	\$ 214,066(9)		\$ 20,029(19)	\$ 788,691(26)	\$ 1,022,786
	2012	\$ 224,774(10)		\$ 134,044	\$ 53,456(27)	\$ 412,274
	2011	\$ 328,477(11)			\$ 74,088(28)	\$ 402,565
Joseph Tassone Executive Vice President Global Engineering and Former Executive Officer	2013	\$ 225,000			\$ 10,038(29)	\$ 245,038
	2012	\$ 176,667(12)		\$ 86,149	\$ 9,888(29)	\$ 272,704
	2011	\$ 200,000			\$ 11,128(29)	\$ 211,238
David Wear Vice President, Special Projects and Former Chief Financial Officer and Secretary (32)	2013	\$ 312,278(13)			\$ 135,286(30)	\$ 447,564
	2012	\$ 95,068(14)		\$ 127,791	\$ 5,356(31)	\$ 228,215
	2011					

Salary

- (1) Reflects an annual salary for Mr. Hart of \$250,000 in 2013. Mr. Hart became our Chief Executive Officer on September 3, 2013.
- (2) Reflects an annual salary for Mr. Hart of \$190,000 from January 1 – March 31, 2012, an annual salary of \$250,000 beginning April 1, 2012, and a 20% voluntary reduction in salary for the period June 1 – December 31, 2012.
- (3) Reflects an annual salary for Mr. Hart of \$190,000 beginning May 2, 2011, the date on which Mr. Hart joined the Company.
- (4) Reflects an annual salary for Mr. Nelson of \$295,000 beginning December 20, 2013, the date on which Mr. Nelson joined the Company as our Chief Financial Officer.

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- (5) Reflects an annual salary for Mr. Midland of \$120,000 in 2012 with a 60% voluntary reduction in salary for the period from June 1, 2012 until December 31, 2012.

- (6) Reflects an annual salary for Dr. Mueller of EUR 200,000 in 2013.
- (7) Reflects an annual salary for Dr. Mueller of EUR 150,000 from January 1, 2013 to March 31, 2012, an annual salary of EUR 200,000 beginning April 1, 2012, and a 20% voluntary reduction in salary for the period June 1 – December 31, 2012.
- (8) Reflects an annual salary for Dr. Mueller of EUR 150,000 in 2011.
- (9) Reflects an annual salary for Mr. Ashour of CHF 300,000 from January 1, 2013 to September 3, 2013, the date of Mr. Ashour's resignation as Chief Executive Officer.
- (10) Reflects an annual salary for Mr. Ashour of CHF 300,000 in 2012 and a 50% voluntary reduction in salary for the period from June 1, 2012 until December 31, 2012.
- (11) Reflects an annual salary for Mr. Ashour of CHF 300,000 in 2011.
- (12) Reflects an annual salary for Mr. Tassone of \$200,000 in 2012 and a 20% voluntary reduction in salary for the period from June 1, 2012 until December 31, 2012.
- (13) Reflects an annual salary for Mr. Wear of GBP 200,000 in 2013.
- (14) Reflects an annual salary for Mr. Wear of GBP 200,000 beginning May 3, 2012, the date on which Mr. Wear joined the Company, and a 16.27% voluntary salary reduction for the period from June 1, 2012 until December 31, 2012.

Stock Awards

- (15) The performance-based stock award opportunities granted in 2013 were determined not to be probable of being earned. Accordingly, the grant date fair values of such awards calculated in accordance FASB ASC Topic 718 are not included in this table. Had the highest level of performance applicable to the performance-based stock award opportunities granted in 2013 been achieved, the grant date fair values of such awards determined in accordance FASB ASC Topic 718 would have been: Mr. Hart, \$250,000; Mr. Nelson, \$9,077; Mr. Midland, \$120,000, Dr. Mueller, \$264,486, Mr. Ashour, \$214,071; Mr. Tassone, \$225,000; and Mr. Wear, \$312,278.

Option Awards

- (16) The amounts in this column represent the aggregate grant date fair value of options calculated in accordance with FASB ASC Topic 718. The assumptions used in calculating the grant date fair value of stock option awards are set forth in Note 5 to the Consolidated Financial Statements appearing in our Annual Report on Form 10-K filed with the SEC for the period ended December 31, 2013, which is incorporated by reference into this proxy statement. These option awards due not include the potential options, that could have been earned under 2013 Bonus plan.
- (17) The performance-based stock option award opportunities granted in 2013 were determined not to be probable of being earned. Accordingly, the grant date fair values of such awards calculated in accordance FASB ASC Topic 718 are not included in this table. Had the highest level of performance applicable to the performance-based stock option award opportunities granted in 2013 been achieved, the grant date fair values of such awards determined in accordance FASB ASC Topic 718 would have been: Mr. Hart, \$50,000; Mr. Nelson, \$1,815; Mr. Midland, \$24,000, Dr. Mueller, \$52,897, Mr. Ashour, \$4,814; Mr. Tassone, \$45,000; and Mr. Wear, \$62,456.
- (18) Reflects initial option to purchase 500,000 shares of Common Stock granted to Mr. Nelson on December 20, 2013.
- (19) Reflects option to purchase 250,000 shares of Common Stock granted to Mr. Ashour on January 13, 2013.

Non-Equity Incentive Plan Compensation

All Other Compensation

- (20) Reflects payments made on behalf of Mr. Hart in 2013 for life insurance.
- (21) Reflects payments made on behalf of Mr. Hart in 2011 for health insurance.

- (22) Reflects payments made on Mr. Midland's behalf for health insurance.
- (23) Reflects payments of EUR 28,930 made on Dr. Mueller's behalf in 2013 for pension (EUR 6,577), employee saving contributions (EUR 319), health insurance (EUR 2,350), unemployment insurance (EUR 1,044), and car leasing and insurance expenses (EUR 18,639).
- (24) Reflects payments of EUR 29,479 made on Dr. Mueller's behalf in 2012 for pension and employee saving contributions, health and unemployment insurance, and car leasing and insurance expenses.
- (25) Reflects payments of EUR 30,008 made on Dr. Mueller's behalf in 2011 for pension and employee saving contributions, health and unemployment insurance, and car leasing and insurance expenses.
- (26) Reflects the accrual for a termination payment of CHF 692,053 (or approximately \$743,633) following Mr. Ashour's resignation from the Company in September 2013. Also reflects payments totaling CHF 42,134 (or approximately \$45,028) made to Mr. Ashour or on his behalf in 2013 for, social security insurance (CHF 25,935), apartment rental (CHF 7,080) and car leasing and insurance expenses (CHF 9,118).
- (27) Reflects payments totaling CHF 50,167 made to Mr. Ashour or on his behalf in 2012 for social security insurance, pension, apartment rental and car leasing and insurance expenses.
- (28) Reflects payments totaling CHF 65,854 made to Mr. Ashour or on his behalf in 2011 for social security insurance, pension and apartment rental.
- (29) Reflects payments made on behalf of Mr. Tassone for health insurance (\$10,038).
- (30) Reflects payments totaling GBP 86,364 made to Mr. Wear or on his behalf in 2013 for pension (GBP 20,004), social insurance (GBP 34,800) and health insurance (GBP 3,000), car allowance (GBP 12,000) and apartment rental expenses (GBP 16,560).
- (31) Reflects payments totaling GBP 3,340 made to Mr. Wear or on his behalf in 2012 for apartment rental expenses.

Exchange Rate

- (32) Some of our Named Executive Officers are paid in local currency other than the U.S. Dollar. Dr. Mueller is paid in Euros (EUR), Mr. Ashour is paid in Swiss Francs (CHF) and Mr. Wear is paid in British Pounds (GBP). Due to fluctuations in exchange rates during the year, amounts in U.S. Dollars varied from month to month. Amounts shown in dollars under *Salary* and *All Other Compensation* above were derived using the average exchange rates for the quarter in which such amounts were earned and paid. Average exchange rates for the periods shown in the table above are as follows:

	2013	2012	2011
First Quarter	EUR 0.755 per US Dollar CHF 0.922 per US Dollar GBP 0.630 per US Dollar	EUR 0.765 per US Dollar CHF 0.930 per US Dollar	EUR 0.748 per US Dollar CHF 0.962 per US Dollar
Second Quarter	EUR 0.769 per US Dollar CHF 0.945 per US Dollar GBP 0.657 per US Dollar	EUR 0.765 per US Dollar CHF 0.921 per US Dollar GBP 0.628 per US Dollar	EUR 0.702 per US Dollar CHF 0.899 per US Dollar
Third Quarter	EUR 0.759 per US Dollar CHF 0.937 per US Dollar GBP 0.651 per US Dollar	EUR 0.806 per US Dollar CHF 0.968 per US Dollar GBP 0.641 per US Dollar	EUR 0.698 per US Dollar CHF 0.816 per US Dollar
Fourth Quarter	EUR 0.742 per US Dollar CHF 0.915 per US Dollar GBP 0.626 per US Dollar	EUR 0.777 per US Dollar CHF 0.938 per US Dollar GBP 0.624 per US Dollar	EUR 0.730 per US Dollar CHF 0.890 per US Dollar

Grant of Plan-Based Awards in Fiscal 2013

The following table sets forth certain information with respect to the grant of plan-based awards in 2013 to our Named Executive Officers.

Name	Grant Date	Grant Type	Estimated Future Payouts Under Non-Equity Incentive Plan Awards(1)(2)			Estimated Future Payouts Under Equity Incentive Plan Awards (3)		All Other Option Awards; Number of Securities Underlying Options (#)	Exercise or Base Price of Option Awards (Per/Share)	Grant Date Fair Value of Stock and Option Awards (6)(7)
			Threshold	Target	Maximum	Threshold	Target			
Jason Hart	4/25/2013	Stock Award								
	4/25/2013	Stock Options								
	4/25/2013	Cash	\$ 3,125	\$ 125,000	\$ 250,000					
Brian Nelson	4/25/2013	Stock Award								
	4/25/2013	Stock Options								
	4/25/2013	Cash	\$ 113	\$ 4,539	\$ 9,077					
	12/20/2013	Stock Options					500,000(4)	\$ 0.52	\$ 178,750	
Lawrence W. Midland	4/25/2013	Stock Award								
	4/25/2013	Stock Options								
	4/25/2013	Cash	\$ 1,500	\$ 60,000	\$ 120,000					
Dr. Manfred Mueller	4/25/2013	Stock Award								
	4/25/2013	Stock Options								
	4/25/2013	Cash	\$ 3,306	\$ 132,243	\$ 264,486					
Ayman S. Ashour	1/14/2013	Stock Options					250,000(5)	\$ 1.34	\$ 20,029	
	4/25/2013	Stock Award								
	4/25/2013	Stock Options								
	4/25/2013	Cash	\$ 2,676	\$ 107,036	\$ 214,071					
Joseph Tassone	4/25/2013	Stock Award								
	4/25/2013	Stock Options								
	4/25/2013	Cash	\$ 2,813	\$ 112,500	\$ 225,000					
David Wear	4/25/2013	Stock Award								
	4/25/2013	Stock Options								
	4/25/2013	Cash	\$ 3,903	\$ 156,139	\$ 312,278					

- (1) Refers to the potential performance-based cash bonus award payouts for 2013 performance, as further discussed in *Compensation Discussion and Analysis*. Threshold amounts represent 1.25% of each Named Executive Officer's annual base salary; Target amounts represent 50% of each Named Executive Officer's annual base salary; and Maximum amounts represent 200% of each Named Executive Officer's annual base salary. In the case of Mr. Nelson, the annual base salary represents less than one month, as he joined the Company on December 20, 2013. As the applicable performance targets were not achieved, no performance-based cash bonus awards were earned by our Named Executive Officers for 2013 performance.
- (2) For Messrs. Mueller, Ashour and Wear, amounts shown in dollars are converted from the respective local currencies in which these executives are paid, and were derived using average quarterly exchange rates for 2013, as described in Footnote 34 of the *Summary Compensation Table*, above.

- (3) As further discussed in *Compensation Discussion and Analysis*, the Compensation Committee granted performance-based stock award and stock option award opportunities to the Named Executive Officers in 2013. The numbers of shares subject to the performance-based stock awards, had they been earned, would have been determined by reference to each Named Executive Officer's annual base salary and the volume-weighted average share price (VWAP) over the 30 calendar days prior to the announcement of the annual results. For earned stock awards, the number of shares determined at Threshold would be determined by 1.25% of each Named Executive Officer's annual base salary; at Target would be determined by 50% of each Named Executive Officer's annual base salary; and at Maximum would be determined by 100% of each Named Executive Officer's annual base salary. The number of shares subject to the performance-based option awards, had they been earned, would have been computed by dividing a dollar amount equal to 20% of each Named Executive Officer's annual base salary by the fair market value of a share of Company Common Stock determined on the grant date, which shall occur within 30 days of filing the annual report on form 10-K. As the applicable performance targets were not achieved, no performance-based stock awards or performance-based stock option awards were earned by our Named Executive Officers for 2013 performance.
- (4) Reflects initial stock option awarded upon joining the Company. The exercise price of the option is equal to the closing price of our Common Stock on the NASDAQ Stock Market on the date of grant. The option vests on a four-year schedule with 25% vesting one year from the date of grant and the remainder vesting 1/36th per month over three years. Further details are provided in *Compensation Discussion and Analysis*.
- (5) The exercise price of the option is equal to the closing price of the Common Stock on the NASDAQ Stock Market on the date of grant. 25% of the option vests on each year on the anniversary of the grant. Upon Mr. Ashour's resignation from the Company in September 2013, vesting for the remainder of the option is accelerated so that the option will be fully vested as on August 31, 2015 (this is his termination date) and remain exercisable until August 31, 2017. Further details are provided in *Compensation Discussion and Analysis*.
- (6) The grant date fair value of the awards was calculated in accordance with FASB ASC Topic 718, as disclosed in footnote 17 of the Summary Compensation Table.
- (7) The performance-based stock award and stock option award opportunities granted in 2013 were determined not to be probably of being earned. Accordingly, the grant date fair values of such awards calculated in accordance FASB ASC Topic 718 are not included in this table.

Outstanding Equity Awards at Fiscal Year-End

The following table sets forth certain information with respect to the outstanding equity awards held by our Named Executive Officers as of December 31, 2013.

Name	Date of Grant (1)	Option Awards			
		Number of Securities Underlying Unexercised Options Exercisable	Number of Securities Underlying Unexercised Options Unexercisable (2)	Option Exercise Price	Option Expiration Date
Jason Hart	6/01/2012	58,333		\$ 1.20	6/1/2022
	12/09/2012	12,500	37,500	\$ 1.44	12/9/2022
Brian Nelson.	12/20/2013		500,000	\$ 0.52	12/20/2023
Lawrence W. Midland	4/30/2009	40,000		\$ 2.37	4/30/2019
	2/28/2011	46,000		\$ 2.63	2/28/2021
	6/01/2012	84,000		\$ 1.20	6/01/2022
Dr. Manfred Mueller	9/16/2004	6,000		\$ 2.78	9/16/2014
	9/16/2004	5,000		\$ 2.78	9/16/2014
	7/27/2005	6,000		\$ 3.08	7/27/2015
	2/02/2006	5,000		\$ 3.23	2/02/2016
	7/05/2006	6,200		\$ 3.03	7/05/2016
	9/28/2006	20,000		\$ 3.41	9/28/2016
	2/14/2007	20,000		\$ 4.02	2/14/2017
	3/23/2007	6,500		\$ 4.34	3/23/2017
	4/22/2008	20,500		\$ 3.12	4/22/2018
	4/28/2009	8,000		\$ 2.42	4/28/2019
	2/28/2011	43,067		\$ 2.63	2/28/2021
	6/01/2012	58,021		\$ 1.20	6/01/2022
	12/09/2012	12,500	37,500	\$ 1.44	12/09/2022
Joseph Tassone	02/28/2011	33,600		\$ 2.63	2/28/2021
	6/01/2012	46,667		\$ 1.20	6/01/2022
	12/09/2012	12,500	37,500	\$ 1.44	12/09/2022
Ayman S. Ashour	1/04/2010	10,000		\$ 2.26	1/04/2020
	2/28/2011	57,534		\$ 2.63	2/28/2021
	6/01/2012	181,141		\$ 1.20	6/01/2022
	1/14/2013	250,000		\$ 1.34	8/31/2017
David Wear	5/03/2012	9,896	15,104	\$ 1.86	5/03/2022
	6/01/2012	58,333		\$ 1.20	06/01/2022
	12/09/2012	12,500	37,500	\$ 1.44	12/09/2022

- (1) Because the required level of achievement of 2013 performance goals necessary for our Named Executive Officers to earn the performance-based stock award and performance-based option award opportunities granted to them on April 25, 2013 were not attained, such awards opportunities were not earned and accordingly the related stock and stock option awards were not issued and outstanding as of December 31, 2013.

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- (2) Unless otherwise noted in footnotes to this table, options vest 25% after one year, then in equal monthly installments over 36 months.

Option Exercises and Stock Vested

None of our Named Executive Officers exercised options, and no stock awards vested, in 2013.

Employment Agreements; Termination / Change in Control Arrangements

We have entered into employment agreements with each of our Named Executive Officers. Below is a description of the material terms of each agreement, including severance provisions. Only one of the Named Executive Officers is of retirement age and none of their respective agreements contain provisions for additional payments upon retirement. We do not offer our executive officers severance benefits in the case of death or disability or termination for cause.

Following any termination, each of the agreements described below requires the Named Executive Officer to keep as secret all confidential information related to the Company, including, but not limited to, operational and business secrets.

Employment Agreement with Jason Hart

On April 1, 2012, we entered into an executive employment agreement with Jason Hart which replaced the prior employment agreement between Mr. Hart and idOnDemand, Inc. (idOD), a wholly-owned subsidiary of the Company, dated May 2, 2011. Under the terms of the April 1, 2012 agreement, Mr. Hart assumed the additional role of Executive Vice President, Identity Management & Cloud Solutions of the Company. Mr. Hart received an annual base salary of \$250,000 and was eligible to participate in the Company's bonus program for core management executive officers and in the Company's benefit programs, as in effect from time to time. The initial term of the agreement was two years, and could be extended for such additional period as may be agreed in writing by the Company and Mr. Hart at any time prior to the expiration of the initial term. The Company or Mr. Hart could not terminate the agreement at any time without cause upon one year's prior written notice. From the time of such notice to the end of the one-year notice period, Mr. Hart would continue to receive his then-current fixed salary, the pro rata amount of any bonus payments and all benefits to which he was entitled. The Company could terminate the Agreement for cause at any time without notice and without any payment in lieu of notice. In June 2012, Mr. Hart's employment agreement was amended to reflect a voluntary 20% salary reduction from June 1 through December 31, 2012.

On March 13, 2014, we entered into an executive employment agreement with Mr. Hart under which Mr. Hart will serve as our Chief Executive Officer and member of our Board of Directors. Under the terms of the agreement, Mr. Hart will receive an annual base salary of \$350,000 and is eligible to receive inducement grants of 500,000 Restricted Stock Units and options to purchase 3,000,000 shares of our Common Stock which were granted to him pursuant to individual agreements not subject to the 2011 Plan. He is also eligible to participate in the Company's bonus program for core management executives and will have the use of a company car. The initial term of Mr. Hart's agreement is three years, beginning January 1, 2014, and the agreement may be extended for an additional three-year period at the expiration of the initial term. The Company or Mr. Hart may terminate the agreement at any time without cause upon 12 months' prior written notice. In the event that the Company terminates the agreement without cause, Mr. Hart will continue to receive monthly salary payments until the earlier of either the expiry of 24 months from the date of such termination or the then-current term of the agreement. He will also continue to receive benefits under the Company's employee benefits plans and programs, including applicable bonus payments and the use of a company car, until expiry of the then-current term of the agreement. In the event that Mr. Hart terminates the agreement with or without cause, he will continue to receive his base salary and the pro rata amount of any applicable bonus payments and will be entitled to a continuation of all benefits during the 12-month notice period. If Mr. Hart is terminated or other conditions of his employment are materially changed following a change of control of the Company, as defined in the agreement, he will be entitled to receive a severance payment equal to 200% of his then-current annual base salary payable in a lump sum, accelerated vesting of all unvested stock options and restricted stock units so that they become fully vested and exercisable, and reimbursement for health care coverage for a period of time as defined in the agreement.

Employment Agreement with Brian Nelson

On December 20, 2013, we entered into an executive employment agreement with Brian Nelson, under which Mr. Nelson serves as Executive Vice President, Chief Financial Officer and Company Secretary. Under the terms of the agreement, Mr. Nelson will receive an annual base salary of \$295,000 and is eligible to receive options to purchase 500,000 shares of our Common Stock. He is also eligible to participate in the Company's bonus program for core management executives and will have the use of a company car. The initial term of the agreement is 36 months, and may be extended by mutual consent at any time prior to the expiration of the initial term. The Company or Mr. Nelson may terminate the agreement at any time without cause upon 12 months' prior written notice. From the time of such notice to the end of the 12-month notice period, Mr. Nelson would continue to receive his then-current fixed salary and any bonus payments. If Mr. Nelson is terminated or other conditions of his employment are materially changed following a change of control of the Company, as defined in the agreement, he will be entitled to receive a severance payment equal to 200% of his then-current annual base salary payable in a lump sum, accelerated vesting of all unvested stock options and restricted stock units so that they become fully vested and exercisable, and reimbursement for health care coverage for a period of time as defined in the agreement.

Employment Agreement with Lawrence W. Midland

On December 21, 2011, we entered into an amended and restated executive employment agreement with Mr. Midland, under which Mr. Midland's role changed from Executive Vice President to Senior Vice President of the Company effective January 1, 2012, and he remained a member of our Board of Directors. Under the agreement, Mr. Midland's annual base salary was reduced to \$120,000, based upon approximately 60 hours of work per month. The initial term of the agreement was two years, and may be extended by mutual agreement at any time prior to the expiration of the initial term. The Company or Mr. Midland could terminate the agreement at any time without cause upon six months' written notice.

On March 18, 2014, we entered into an executive employment agreement with Mr. Midland under which Mr. Midland will serve as our President, replacing the amended and restated executive employment agreement between Mr. Midland and the Company dated December 21, 2011. Under the terms of the new agreement, Mr. Midland will receive an annual base salary of \$200,000 and will be eligible to receive an annual bonus payment of \$100,000, based upon the achievement of criteria as determined by the Chief Executive Officer and approved by the Compensation Committee. Additionally, Mr. Midland is eligible to receive 100,000 Restricted Stock Units and options to purchase 400,000 shares of the Company's Common Stock. The initial term of Mr. Midland's agreement is three years, beginning January 1, 2014, and may be extended by mutual consent at any time prior to its expiration. The Company or Mr. Midland may terminate the agreement at any time without cause upon 12 months' prior written notice. During the 12-month notice period, Mr. Midland would continue to receive monthly salary payments and benefits under the Company's employee benefits plans and programs, and any applicable bonus payments. If Mr. Midland is terminated or other conditions of his employment are materially changed following a change of control of the Company, as defined in the agreement, he will be entitled to receive a severance payment equal to 200% of his then-current annual base salary payable in a lump sum, accelerated vesting of all unvested stock options and restricted stock units so that they become fully vested and exercisable, and reimbursement for health care coverage for a period of time as defined in the agreement.

Employment Agreement with Dr. Manfred Mueller

On February 16, 2012, we entered into an amended and restated executive employment agreement with Dr. Manfred Mueller, under which Dr. Mueller's role changed from Executive Vice-President and Managing Director of Identive's ID Infrastructure division to Executive Vice President & Chief Operating Officer, Identification Products, effective April 1, 2012. In connection with the change in position, Dr. Mueller was paid an annual base salary of EUR 200,000 and continued to be eligible to participate in the Company's bonus program for core management executive officers and in the Company's benefit programs, as in effect from time to time. The Company waived any obligation of Dr. Mueller to repay the break-up fee previously paid to him in

connection with a Termination Agreement and Release, dated April 1, 2010, arising out of the merger of Bluehill ID AG and SCM Microsystems, Inc. The initial term of the amended agreement was 36 months, and may be extended for an additional term of 24 months by mutual agreement at any time prior to the expiration of the initial term. The Company or Dr. Mueller could terminate the amended agreement at any time without cause upon 12 months' prior written notice. From the time of such notice to the end of the 12-month notice period, Dr. Mueller would continue to receive his then-current fixed salary and any bonus payments. The Company could terminate the amended agreement for cause at any time without notice and without any payment in lieu of notice. In June 2012, his employment agreement was amended to reflect a voluntary 20% salary reduction from June 1 through December 31, 2012.

On March 18, 2014, we entered into a second amendment to its amended and restatement executive employment agreement with Manfred Mueller, dated February 16, 2012. This second amendment changed Dr. Mueller's position to Chief Operating Officer, with responsibility for the Company's sales in the Europe/Middle East and Asia/Pacific regions. It also replaced Dr. Mueller's eligibility for bonus compensation with payment of commissions equal to 50% of his annual base salary, based on achievement of planned target revenues and paid on a quarterly basis. Additionally, Dr. Mueller is eligible to receive 140,000 Restricted Stock Units and options to purchase 560,000 shares of the Common Stock. The term of Dr. Mueller's amended agreement is three years, beginning January 1, 2014, and may be extended by mutual consent at any time prior to its expiration. If Dr. Mueller is terminated or other conditions of his employment are materially changed following a change of control of the Company, as defined in the agreement, he will be entitled to receive a severance payment equal to 200% of his then-current annual base salary payable in a lump sum and accelerated vesting of all unvested stock options and restricted stock units so that they become fully vested and exercisable. All other terms and conditions of Dr. Mueller's amended and restated executive employment agreement dated February 16, 2012 and amended May 31, 2012 remain in full force and effect.

Employment Agreement with Ayman S. Ashour

On December 1, 2009, Bluehill ID, through its wholly-owned subsidiary Bluehill ID Services AG, entered into an employment agreement with Ayman S. Ashour, under which Mr. Ashour served as Bluehill ID's Chief Executive Officer and President of its board of directors. Mr. Ashour became Executive Chairman of the Board of the Company on January 4, 2010 following our acquisition of Bluehill ID and the Company assumed his employment agreement with Bluehill ID. Mr. Ashour was appointed Chief Executive Officer and Chairman of the Board on March 1, 2010. In June 2012, his employment agreement was amended to reflect a voluntary 50% salary reduction from June 1 through December 31, 2012. On September 1, 2013, through our Identive Services AG subsidiary, we entered into a third amendment to the employment agreement with Ayman Ashour, under which Mr. Ashour agreed to resign his position as Chief Executive Officer of the Company effective as of September 3, 2013, as well as all other executive positions held by him with the Company and/or any of its subsidiaries and remain on the Board as non-executive Chairman. In accordance with the terms of his employment agreement, Mr. Ashour is entitled to receive his current base salary, benefits and perquisites for a period of 24 months, ending August 31, 2015. Any stock options granted to Mr. Ashour prior to or as of the termination date, which remained unvested as of such date, thereupon became fully vested; all options will expire two years after the termination date.

Employment Agreement with Joseph Tassone

On February 22, 2010, we entered into an employment agreement with Joseph Tassone, who became our Executive Vice President for Technology and Product Management on January 19, 2010 following our acquisition of Bluehill ID. Under the agreement, Mr. Tassone was paid an annual base salary of \$168,000 and he was eligible to participate in the Company's bonus program for executive officers. The agreement may be terminated by the Company at any time without cause with six months' prior written notice, during which notice period Mr. Tassone is entitled to receive his monthly fixed salary and any bonus payments. Additionally, following any termination, Mr. Tassone is subject to a three-year non-solicitation provision. In February 2011,

Mr. Tassone's annual base salary was increased to \$200,000. In June 2012, his employment agreement was amended to reflect a voluntary 20% salary reduction from June 1 through December 31, 2012, as discussed above in *Compensation Discussion & Analysis*. In January 2013, Mr. Tassone's annual base salary was increased to \$225,000. In September 2013, Mr. Tassone's role was changed to Executive Vice President, Global Engineering and he ceased to be an executive officer of the Company.

Employment Agreement with David Wear

On May 3, 2012, we entered into an executive employment agreement with David Wear, under which Mr. Wear served as Executive Vice President, Finance and under which he additionally assumed the role of Chief Financial Officer and Secretary effective June 15, 2012. The initial term of the amended agreement was 36 months. Mr. Wear's annual base salary was GBP 200,000, he was granted an option to purchase 25,000 shares of Common Stock and he was eligible to participate in the Company's bonus program for executive officers. The Company or Mr. Wear could terminate the agreement at any time without cause upon 12-months' prior written notice. From the time of such notice to the end of the 12-month notice period, Mr. Wear would continue to receive his then-current fixed salary and any bonus payments. The Company may terminate the Agreement for cause at any time without notice and without any payment in lieu of notice. If the Company (or its successor) were to terminate Mr. Wear without cause within 12 months following a Change of Control, as defined in the agreement, and Mr. Wear executes a general release which is not revoked on or before 60 days following the date of termination, then: (i) Mr. Wear will be entitled to receive a severance payment equal to 200 percent of his then-current fixed salary on the 60th day following the date of termination; and (ii) all equity awards granted prior to the Change of Control which would have become vested and exercisable within 18 months following the date of termination shall accelerate and become vested and exercisable as of the 60th day following the date of termination. In June 2012, his employment agreement was amended to reflect a voluntary 16.8% salary reduction from June 1 through December 31, 2012, as discussed above in *Compensation Discussion & Analysis*.

On December 20, 2013, we entered into an amendment to the executive employment with David Wear, under which Mr. Wear resigned his position as Chief Financial Officer and Secretary and was appointed Vice President Special Projects with immediate effect. The amended agreement will expire February 28, 2015, and either party has the right to terminate the agreement earlier at any time. Until the expiration of the amended agreement, Mr. Wear will continue to receive his base salary, any applicable bonus payments and benefits including pension contribution, medical insurance and car allowance, and options previously granted will continue to vest. All other terms of Mr. Wear's original employment agreement remain unchanged.

Potential Payments upon Termination or Change in Control

The information below describes the estimated value of certain compensation and benefits that would potentially have become payable under contractual arrangements with our Named Executive Officers assuming a termination of employment or change in control of the Company had occurred on December 31, 2013, based upon the Named Executive Officers' compensation and service levels as of such date and, where applicable, the \$0.58 closing price of our common stock on December 31, 2013. The information presented represents estimates of incremental amounts that would become payable had a triggering event occurred on December 31, 2013 and does not include amounts that were earned and payable as of that date regardless of the occurrence of a triggering event. Because Mr. Ashour's employment with the Company actually terminated on September 3, 2013, the information presented for him reflects the actual compensation and benefits to which he became entitled as a result of termination. The actual amounts to be paid and the value of any accelerated vesting of stock options, restricted stock or restricted stock units can be determined only at the time of a triggering event, and are dependent upon the facts and circumstances then applicable.

If Mr. Hart had been terminated by the Company as of December 31, 2013 for any reason other than for cause (as defined in his employment agreement), he would have become entitled to \$250,000, representing 12 months' salary or continued payment thereof in lieu of notice. Under his employment agreement, Mr. Hart

would have been entitled to a pro rata portion of any bonus that would otherwise have been earned by him during the 12-month notice period. Mr. Hart would not have been entitled to any compensation or benefits resulting from a change in control occurring on December 31, 2013.

If Mr. Nelson had been terminated by the Company as of December 31, 2013 for any reason other than for cause (as defined in his employment agreement), he would have become entitled to (i) \$295,000, representing 12 months' salary or continued payment thereof in lieu of notice. Under his employment agreement, Mr. Nelson would have been entitled to a pro rata portion of any bonus that would otherwise have been earned by him during the 12-month notice period. Had Mr. Nelson's employment terminated as of December 31, 2013 following a change in control of the Company as a result of involuntary termination without cause or his resignation following a material change in his employment conditions, he would have become entitled to (i) a severance payment of \$590,000 payable in a lump sum, representing 200% of his then current annual salary, (ii) reimbursement of health care coverage for a period of twelve months and having a value of approximately \$30,000, and (iii) accelerated vesting of options for 500,000 shares having an intrinsic value of approximately \$290,000. Mr. Nelson's entitlement to such benefits would be conditioned upon his execution and non-revocation of a general release in a form determined by the Company.

If Mr. Midland had been terminated by the Company as of December 31, 2013 for any reason other than for cause (as defined in his employment agreement), he would have become entitled to (i) \$60,000, representing six months' salary or continued payment thereof in lieu of notice and (ii) \$2,250, representing the value of health care coverage for the notice period. Under his employment agreement, Mr. Midland would have been entitled to a pro rata portion of any bonus that would otherwise have been earned by him during the six-month notice period. Mr. Midland's entitlement to such benefits would be conditioned upon his execution and non-revocation of a general release of claims. Mr. Midland would not have been entitled to any compensation or benefits resulting from a change in control occurring on December 31, 2013.

If Dr. Mueller had been terminated by the Company as of December 31, 2013 for any reason other than for cause (as defined in his employment agreement), he would have become entitled to approximately \$269,542, representing 12 months' salary (based on the average exchange rate for December 2013 of one Euro being equal to 0.742 U.S. Dollars) or continued payment thereof in lieu of notice, and a pro rata portion of any bonus that would otherwise have been earned by him during the 12-month notice period. Dr. Mueller would not have been entitled to any compensation or benefits resulting from a change in control occurring on December 31, 2013.

If Mr. Tassone had been terminated by the Company as of December 31, 2013 for any reason other than for cause (as defined in his employment agreement), he would have become entitled to \$112,500, representing six months' salary or continued payment thereof in lieu of notice. Under his employment agreement, Mr. Tassone would have been entitled to a pro rata portion of any bonus that would otherwise have been earned by him during the six-month notice period. Mr. Tassone's entitlement to such benefits would be conditioned upon his compliance with a three-year non-solicitation provision contained in his employment agreement. Mr. Tassone would not have been entitled to any compensation or benefits resulting from a change in control occurring on December 31, 2013.

If Mr. Wear had been terminated by the Company as of December 31, 2013 for any reason other than for cause (as defined in his employment agreement), he would have become entitled to (i) approximately \$321,027, representing 12 months' salary (based on the average exchange rate for December 2013 of one British Pound being equal to 0.623 U.S. Dollars) or continued payment thereof in lieu of notice. Under his employment agreement, Mr. Wear would have been entitled to a pro rata portion of any bonus that would otherwise have been earned by him during the 12-month notice period. Had Mr. Wear's employment terminated as of December 31, 2013 following a change in control of the Company occurring within the preceding 12 months as a result of involuntary termination without cause, he would have become entitled to a severance payment of approximately \$642,054 payable in a lump sum, representing 200% of his then current annual salary. The vesting of Mr. Wear's options would accelerate, but as of December 31, 2013, the option price was greater than the closing stock price.

Mr. Wear's entitlement to such benefits would be conditioned upon his execution and non-revocation of a general release in a form determined by the Company.

Mr. Ashour and the Company entered into a third amendment to the employment agreement on September 1, 2013, under which Mr. Ashour agreed to resign his position as Chief Executive Officer of the Company with effect from September 3, 2013. In accordance with the terms of his employment agreement, Mr. Ashour will receive his base salary of CHF 300,000, or approximately \$337,079, based on the average exchange rate for December 2013 of one CHF being equal to 0.89 U.S. Dollars, for a period of 24 months, for a total of approximately \$674,158. In addition, Mr. Ashour will be entitled to continue to receive benefits consisting of social security insurance, apartment rental, and car leasing and insurance expenses and having a value of approximately \$90,000 for a period of 24 months, ending August 31, 2015. The vesting of Mr. Ashour's options was accelerated, but as of December 31, 2013, the option price was greater than the closing stock price.

EQUITY COMPENSATION PLAN INFORMATION

The following table summarizes information as of December 31, 2013 about our Common Stock that may be issued upon the exercise of options and rights granted to employees, consultants or members of our Board of Directors under all of our existing equity compensation plans, including our 1997 Stock Plan, Director Plan, 2000 Nonstatutory Stock Option Plan (the Nonstatutory Plan), 2007 Stock Option Plan, the 2010 Bonus and Incentive Plan (the 2010 Plan), the 2011 Employee Stock Purchase Plan and the 2011 Plan. Each of the 1997 Stock Plan, Director Plan, Nonstatutory Plan and 2010 Plan have expired and no additional awards will be granted under such plans.

Plan Category	(a) Number of securities to be issued upon exercise of outstanding options, warrants and rights	(b) Weighted-average exercise price of outstanding options, warrants and rights	(c) Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by stockholders (1)	5,266,247	\$ 1.42	9,801,847(3)
Equity compensation plans not approved by security holders (2)	199,292	\$ 3.23	
Total	5,465,539	\$ 1.49	9,801,847

- (1) Equity plans approved by stockholders consist of the 2007 Stock Option Plan, the 1997 Stock Plan, the Director Plan, the 2010 Plan, the 2011 Plan, and the 2011 Employee Stock Purchase Plan.
- (2) Equity plans not approved by stockholders consist solely of the Nonstatutory Plan. The Nonstatutory Plan, which expired in 2010, provided for option grants to generally vest over four years with a term of ten years.
- (3) Includes 3,009, 646 shares that remain available for issuance under the 2011 Employee Stock Purchase Plan as of December 31, 2013.

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Related Party Transaction Policy

The Company has implemented a policy covering Related Party Transaction Policies and Procedures (the Policy). Among its other duties and responsibilities, the Audit Committee of the Board of Directors reviews and monitors all related party transactions. Under the Policy, our Board of Directors is required to review and approve the material terms of all Interested Transactions involving a related party (including directors, director nominees, executive officers, greater-than-5% beneficial owners, and their respective immediate family members), subject to certain exceptions. An Interested Transaction is any transaction, arrangement or relationship or series of similar transactions, arrangements or relationships (including any indebtedness or guarantee of indebtedness) in which (1) the aggregate amount involved will or may be expected to exceed \$100,000 per year or \$30,000 in any quarter, (2) the Company is a participant and (3) any related party has or will have a direct or indirect interest (other than solely as a result of being a director or a less than 10 percent beneficial owner of another entity). In determining whether to approve or ratify an Interested Transaction, our Board of Directors is required to take into account, among other factors it deems appropriate, whether the Interested Transaction is on terms no less favorable than terms generally available to an unaffiliated third-party under the same or similar circumstances and the extent of the related person's interest in the transaction.

Exceptions to the Policy include Interested Transactions for which standing pre-approval has been authorized, such as the hiring of executive officers and the payment of compensation to directors, where such compensation is required to be disclosed in our annual, quarterly or current filings; transactions involving competitive bids; and regulated transactions, such as for the rendering of regulated services, for example with a public utility. At least annually, a summary of new transactions covered by the standing pre-approvals described above is provided to the Audit Committee for its review.

To ensure the Policy is being followed, the Company requires each of its non-employee directors and each of its executive officers to provide and update information about related party relationships and related party transactions on a quarterly and annual basis. This information is reviewed by our corporate accounting personnel, which also reviews its sales and purchasing transactions on an ongoing basis to identify any transactions with known related parties.

Our Related Party Transaction Policy is in writing and has been communicated by management to our employees.

Related Party Transactions

Hirsch / Secure Keyboards Settlement Agreement. As previously disclosed, on April 8, 2009, we entered into a settlement agreement (the 2009 Settlement Agreement) with Secure Keyboards, Ltd. (Secure Keyboards), Secure Networks, Ltd. (Secure Networks), each of the respective general partners of Secure Keyboards and Secure Networks, which included Mr. Midland, currently one of our directors and a Senior Vice President of the Company, and Hirsch Electronics Corporation (the predecessor to Hirsch Electronics LLC, a wholly owned subsidiary of Identive). Mr. Midland holds a 29.93% interest in Secure Keyboards, and a 6.59% interest in Secure Networks. Under the settlement agreement, the parties resolved the disputes that had arisen between them relating to the merger between Hirsch and Identive, and a previous settlement agreement entered into among Hirsch, Secure Keyboards and Secure Networks. The settlement agreement provides that Hirsch make an annual payment to Secure Keyboards and Secure Networks of \$986,000 for 2009, and subsequent installment payments to be made in future periods through 2020. Identive has provided a limited guarantee of Hirsch's payment obligations. Hirsch's payment obligations under the settlement agreement will continue until December 31, 2020, unless Hirsch earlier elects to satisfy its obligations by making a lump-sum payment to Secure Keyboards. Hirsch paid approximately \$1.1 million under the settlement agreement in 2013. If Hirsch does not elect to earlier repay its obligations to Secure Keyboards, the aggregate amount of payments to be made under the settlement agreement from 2014 through 2020 is approximately \$9.3 million.

OTHER MATTERS

We do not intend to bring any matters before the Annual Meeting other than those set forth herein, and our management has no present knowledge that any other matters will or may be brought before the Annual Meeting by others. However, if any other matters properly come before the Annual Meeting, it is the intention of the persons named in the enclosed proxy to vote the shares they represent as our Board of Directors may recommend.

By Order of the Board of Directors of

Identive Group, Inc.

Brian Nelson

Secretary

Fremont, California

April 28, 2014

Annex A

CERTIFICATE OF AMENDMENT

TO THE FOURTH AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF IDENTIVE GROUP, INC.

Identive Group, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify as follows:

FIRST: The name of the corporation is Identive Group, Inc. The original certificate of incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on December 13, 1996, amended and restated on December 20, 1996, amended and restated March 10, 1997, amended and restated April 9, 1997, amended and restated October 10, 1997, amended on November 9, 2009, amended on June 16, 2010, and amended on June 6, 2011 (the "Certificate of Incorporation").

SECOND: Article I of the Corporation's Certificate of Incorporation is amended to read in its entirety as follows:

The name of this corporation is Identiv, Inc. (hereinafter sometimes referred to as the "Corporation").

THIRD: Article IV of the Corporation's Certificate of Incorporation is amended to read in its entirety as follows:

The Corporation is authorized to issue two classes of shares, designated Preferred Stock and Common Stock. The total number of shares which the Corporation shall have authority to issue is 155,000,000 of which 145,000,000 shares shall be Common Stock at \$0.001 par value per share and 10,000,000 shares shall be Preferred Stock at \$0.001 par value per share.

Immediately upon the filing of this Certificate of Amendment with the Secretary of State of the State of Delaware, every [ten][nine][eight][seven][six][five][four][three] shares of the Corporation's Common Stock issued and outstanding immediately prior to such filing (the "Old Common Stock") shall be combined, reclassified and changed into one share of the Corporation's Common Stock (the "New Common Stock"). The combination and conversion of the outstanding shares of Old Common Stock shall be referred to as the "Reverse Stock Split".

The Reverse Stock Split shall occur automatically and without any further action on the part of the Corporation or the holders thereof and whether or not certificates representing the holders' shares prior to the Reverse Stock Split are surrendered for cancellation.

No fractional interest in a share of New Common Stock shall be deliverable upon the Reverse Stock Split. All shares of Old Common Stock (including fractions thereof) held by a holder immediately prior to the Reverse Stock Split shall be aggregated for purposes of determining whether the Reverse Stock Split would result in the issuance of a fractional share. Any fractional share resulting from such aggregation of Old Common Stock upon the Reverse Stock Split shall be converted into the right to receive a cash payment in an amount equal to the fraction to which such holder would otherwise be entitled multiplied by the closing price of a share of Common Stock on the NASDAQ Capital Market immediately prior to the effective time. The Corporation shall not be obligated to issue certificates evidencing the shares of New Common Stock outstanding as a result of the Reverse Stock Split unless and until the certificates evidencing the shares held by a holder prior to the Reverse Stock Split are either delivered to the Corporation or its transfer agent, or the holder notifies the Corporation or its transfer agent that such certificates have

been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection

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with such certificates. Each stock certificate that, immediately prior to the effective time of the Reverse Stock Split, represented shares of Old Common Stock shall, from and after the effective time of the Reverse Stock Split, automatically and without the necessity of presenting the same for exchange, represent that number of whole shares of New Common Stock into which the shares of Old Common Stock represented by such certificate shall have been reclassified (as well as the right to receive cash in lieu of any fractional shares of New Common Stock as set forth above), provided, however, that each holder of record of a certificate that represented shares of Old Common Stock shall receive, upon surrender of such certificate, a new certificate representing the number of whole shares of New Common Stock into which the shares of Old Common Stock represented by such certificate shall have been reclassified, as well as any cash in lieu of fractional shares of New Common Stock to which such holder may be entitled as set forth above.

Shares of Preferred Stock authorized by this Certificate of Incorporation may be issued from time to time in one or more series. For any wholly unissued series of Preferred Stock, the Board of Directors of the Corporation (the Board of Directors) is authorized to fix or alter the rights, preferences, privileges and restrictions granted to or imposed upon wholly unissued series of Preferred Stock, and the number of shares constituting any such series and the designation thereof, or any of them.

For any series of Preferred Stock having issued and outstanding shares, the Board of Directors is also authorized to decrease the number of shares of any series of Preferred Stock prior or subsequent to the issuance of that series, but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status of undesignated Preferred Stock.

FOURTH: The foregoing amendment to the Certificate of Incorporation has been duly approved by the Board of Directors in accordance with the provisions of Sections 141 and 242 of the General Corporation Law.

FIFTH: The foregoing amendment to the Certificate of Incorporation has been duly approved by the stockholders in accordance with the provisions of Sections 211 and 242 of the General Corporation Law.

IN WITNESS WHEREOF, the undersigned has made and signed this Certificate of Amendment this __ day of May, 2014 and affirms the statements contained herein as true under penalty of perjury.

/s/ Jason Hart
Name: Jason Hart
Title: Chief Executive Officer

Annex B

IDENTIVE GROUP, INC.
2011 INCENTIVE COMPENSATION PLAN
(AS AMENDED THROUGH APRIL 25, 2014)

IDENTIVE GROUP, INC.

2011 INCENTIVE COMPENSATION PLAN

(AS AMENDED THROUGH APRIL 25, 2014)

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IDENTIVE GROUP, INC.
2011 INCENTIVE COMPENSATION PLAN
(AS AMENDED THROUGH APRIL 25, 2014)

1. **Purpose.** The purpose of this 2011 INCENTIVE COMPENSATION PLAN (the *Plan*) is to assist Identive Group, Inc., a Delaware corporation (the *Company*) and its Related Entities (as hereinafter defined) in attracting, motivating, retaining and rewarding high-quality executives and other employees, officers, directors, consultants and other persons who provide services to the Company or its Related Entities by enabling such persons to acquire or increase a proprietary interest in the Company in order to strengthen the mutuality of interests between such persons and the Company's stockholders, and providing such persons with annual and long term performance incentives to expend their maximum efforts in the creation of stockholder value.

2. **Definitions.** For purposes of the Plan, the following terms shall be defined as set forth below, in addition to such terms defined in Section 1 hereof and elsewhere herein.

(a) **2007 Plan** means the Company's 2007 Stock Option Plan, as amended.

(b) **2010 Plan** means the Company's 2010 Bonus and Incentive Plan, as amended.

(c) **Award** means any Option, Stock Appreciation Right, Restricted Stock Award, Restricted Stock Unit Award, Share granted as a bonus or in lieu of another Award, Dividend Equivalent, Other Stock-Based Award or Performance Award, together with any other right or interest, granted to a Participant under the Plan.

(d) **Award Agreement** means any written agreement, contract or other instrument or document evidencing any Award granted by the Committee hereunder.

(e) **Beneficiary** means the person, persons, trust or trusts that have been designated by a Participant in his or her most recent written beneficiary designation filed with the Committee to receive the benefits specified under the Plan upon such Participant's death or to which Awards or other rights are transferred if and to the extent permitted under Section 10(b) hereof. If, upon a Participant's death, there is no designated Beneficiary or surviving designated Beneficiary, then the term Beneficiary means the person, persons, trust or trusts entitled by will or the laws of descent and distribution to receive such benefits.

(f) **Beneficial Owner and Beneficial Ownership** shall have the meaning ascribed to such term in Rule 13d-3 under the Exchange Act and any successor to such Rule.

(g) **Board** means the Company's Board of Directors.

(h) **Cause** shall, with respect to any Participant, have the meaning specified in the Award Agreement. In the absence of any definition in the Award Agreement, *Cause* shall have the equivalent meaning or the same meaning as *cause* or *for cause* set forth in any employment, consulting, or other agreement for the performance of services between the Participant and the Company or a Related Entity or, in the absence of any such agreement or any such definition in such agreement, such term shall mean (i) the failure by the Participant to perform, in a reasonable manner, his or her duties as assigned by the Company or a Related Entity, (ii) any violation or breach by the Participant of his or her employment, consulting or other similar agreement with the Company or a Related Entity, if any, (iii) any violation or breach by the Participant of any non-competition, non-solicitation, non-disclosure and/or other similar agreement with the Company or a Related Entity, (iv) any act by the Participant of dishonesty or bad faith with respect to the Company or a Related Entity, (v) use of alcohol, drugs or other similar substances in a manner

that adversely affects the Participant's work performance, or (vi) the commission by the Participant of any act, misdemeanor, or crime reflecting unfavorably upon the Participant or the Company or any Related Entity. The good faith determination by the Committee of whether the Participant's Continuous Service was terminated by the Company for Cause shall be final and binding for all purposes hereunder.

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- (i) **Change in Control** means a Change in Control as defined in Section 9(b) of the Plan.
- (j) **Code** means the Internal Revenue Code of 1986, as amended from time to time, including regulations thereunder and successor provisions and regulations thereto.
- (k) **Committee** means a committee designated by the Board to administer the Plan; provided, however, that if the Board fails to designate a committee or if there are no longer any members on the committee so designated by the Board, or for any other reason determined by the Board, then the Board shall serve as the Committee. While it is intended that the Committee shall consist of at least two directors, each of whom shall be (i) a non-employee director within the meaning of Rule 16b-3 (or any successor rule) under the Exchange Act, unless administration of the Plan by non-employee directors is not then required in order for exemptions under Rule 16b-3 to apply to transactions under the Plan, (ii) an outside director within the meaning of Section 162(m) of the Code, and (iii) Independent, the failure of the Committee to be so comprised shall not invalidate any Award that otherwise satisfies the terms of the Plan.
- (l) **Consultant** means any Person (other than an Employee or a Director, solely with respect to rendering services in such Person's capacity as a director) who is engaged by the Company or any Related Entity to render consulting or advisory services to the Company or such Related Entity.
- (m) **Continuous Service** means the uninterrupted provision of services to the Company or any Related Entity in any capacity of Employee, Director, Consultant or other service provider. Continuous Service shall not be considered to be interrupted in the case of (i) any approved leave of absence, (ii) transfers among the Company, any Related Entities, or any successor entities, in any capacity of Employee, Director, Consultant or other service provider, or (iii) any change in status as long as the individual remains in the service of the Company or a Related Entity in any capacity of Employee, Director, Consultant or other service provider (except as otherwise provided in the Award Agreement). An approved leave of absence shall include sick leave, military leave, or any other authorized personal leave.
- (n) **Covered Employee** means the Person who, as of the end of the taxable year, either is the principal executive officer of the Company or is serving as the acting principal executive officer of the Company, and each other Person whose compensation is required to be disclosed in the Company's filings with the Securities and Exchange Commission by reason of that person being among the three highest compensated officers of the Company as of the end of a taxable year, or such other person as shall be considered a covered employee for purposes of Section 162(m) of the Code.
- (o) **Director** means a member of the Board or the board of directors of any Related Entity.
- (p) **Disability** means a permanent and total disability (within the meaning of Section 22(e) of the Code), as determined by a medical doctor satisfactory to the Committee.
- (q) **Dividend Equivalent** means a right, granted to a Participant under Section 6(g) hereof, to receive cash, Shares, other Awards or other property equal in value to dividends paid with respect to a specified number of Shares, or other periodic payments.
- (r) **Effective Date** means the effective date of the Plan, which shall be April 7, 2011.
- (s) **Eligible Person** means each officer, Director, Employee, Consultant and other person who provides services to the Company or any Related Entity. The foregoing notwithstanding, only Employees of the Company, or any parent corporation or subsidiary corporation of the Company (as those terms are defined in Sections 424(e) and (f) of the Code, respectively), shall be Eligible Persons for purposes of receiving any Incentive Stock Options. An Employee on

leave of absence may, in the discretion of the Committee, be considered as still in the employ of the Company or a Related Entity for purposes of eligibility for participation in the Plan.

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- (t) **Employee** means any person, including an officer or Director, who is an employee of the Company or any Related Entity. The payment of a director's fee by the Company or a Related Entity shall not be sufficient to constitute employment by the Company.
- (u) **Exchange Act** means the Securities Exchange Act of 1934, as amended from time to time, including rules thereunder and successor provisions and rules thereto.
- (v) **Fair Market Value** means the fair market value of Shares, Awards or other property as determined by the Committee, or under procedures established by the Committee. Unless otherwise determined by the Committee, the Fair Market Value of a Share as of any given date shall be the closing sale price per Share reported on a consolidated basis for stock listed on the principal stock exchange or market on which Shares are traded on the date as of which such value is being determined (or as of such later measurement date as determined by the Committee on the date the Award is authorized by the Committee), or, if there is no sale on that date, then on the last previous day on which a sale was reported.
- (w) **Good Reason** shall, with respect to any Participant, have the meaning specified in the Award Agreement. In the absence of any definition in the Award Agreement, Good Reason shall have the equivalent meaning or the same meaning as good reason or for good reason set forth in any employment, consulting or other agreement for the performance of services between the Participant and the Company or a Related Entity or, in the absence of any such agreement or any such definition in such agreement, such term shall mean (i) the assignment to the Participant of any duties inconsistent in any material respect with the Participant's duties or responsibilities as assigned by the Company or a Related Entity, or any other action by the Company or a Related Entity which results in a material diminution in such duties or responsibilities, excluding for this purpose an action which is remedied by the Company or a Related Entity promptly after receipt of notice thereof given by the Participant; (ii) any material failure by the Company or a Related Entity to comply with its obligations to the Participant as agreed upon, other than a failure which is remedied by the Company or a Related Entity promptly after receipt of notice thereof given by the Participant; or (iii) the Company's or Related Entity's requiring the Participant to be based at any office or location outside of fifty miles from the location of employment or service as of the date of Award, except for travel reasonably required in the performance of the Participant's responsibilities.
- (x) **Incentive Stock Option** means any Option intended to be designated as an incentive stock option within the meaning of Section 422 of the Code or any successor provision thereto.
- (y) **Independent**, when referring to either the Board or members of the Committee, shall have the same meaning as used in the rules of the Listing Market.
- (z) **Incumbent Board** means the Incumbent Board as defined in Section 9(b)(ii) hereof.
- (aa) **Listing Market** means the NASDAQ Stock Market or any other national securities exchange on which any securities of the Company are listed for trading or, if not so listed, any automated dealer quotation system on which the securities are quoted.
- (bb) **Option** means a right granted to a Participant under Section 6(b) hereof, to purchase Shares or other Awards at a specified price during specified time periods.
- (cc) **Optionee** means a person to whom an Option is granted under this Plan or any person who succeeds to the rights of such person under this Plan.
- (dd) **Other Stock-Based Awards** means Awards granted to a Participant under Section 6(i) hereof.

(ee) ***Participant*** means a person who has been granted an Award under the Plan which remains outstanding, including a person who is no longer an Eligible Person.

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- (ff) **Performance Award** means any Award of Performance Shares or Performance Units granted pursuant to Section 6(h) hereof.
- (gg) **Performance Period** means that period established by the Committee at the time any Performance Award is granted or at any time thereafter during which any performance goals specified by the Committee with respect to such Award are to be measured.
- (hh) **Performance Share** means any grant pursuant to Section 6(h) hereof of a unit valued by reference to a designated number of Shares, which value may be paid to the Participant by delivery of such property as the Committee shall determine, including cash, Shares, other property, or any combination thereof, upon achievement of such performance goals during the Performance Period as the Committee shall establish at the time of such grant or thereafter.
- (ii) **Performance Unit** means any grant pursuant to Section 6(h) hereof of a unit valued by reference to a designated amount of property (including cash) other than Shares, which value may be paid to the Participant by delivery of such property as the Committee shall determine, including cash, Shares, other property, or any combination thereof, upon achievement of such performance goals during the Performance Period as the Committee shall establish at the time of such grant or thereafter.
- (jj) **Person** shall have the meaning ascribed to such term in Section 3(a)(9) of the Exchange Act and used in Sections 13(d) and 14(d) thereof, and shall include a group as defined in Section 13(d) thereof.
- (kk) **Related Entity** means any Subsidiary, and any business, corporation, partnership, limited liability company or other entity designated by the Board, in which the Company or a Subsidiary holds a substantial ownership interest, directly or indirectly.
- (ll) **Restricted Stock** means any Share issued with the restriction that the holder may not sell, transfer, pledge or assign such Share and with such risks of forfeiture and other restrictions as the Committee, in its sole discretion, may impose (including any restriction on the right to vote such Share and the right to receive any dividends), which restrictions may lapse separately or in combination at such time or times, in installments or otherwise, as the Committee may deem appropriate.
- (mm) **Restricted Stock Award** means an Award granted to a Participant under Section 6(d) hereof.
- (nn) **Restricted Stock Unit** means a right to receive Shares, including Restricted Stock, cash measured based upon the value of Shares or a combination thereof, at the end of a specified deferral period.
- (oo) **Restricted Stock Unit Award** means an Award of Restricted Stock Unit granted to a Participant under Section 6(e) hereof.
- (pp) **Restriction Period** means the period of time specified by the Committee that Restricted Stock Awards shall be subject to such restrictions on transferability, risk of forfeiture and other restrictions, if any, as the Committee may impose.
- (qq) **Rule 16b-3** means Rule 16b-3, as from time to time in effect and applicable to the Plan and Participants, promulgated by the Securities and Exchange Commission under Section 16 of the Exchange Act.
- (rr) **Shares** means the shares of common stock of the Company, par value \$0.001 per share, and such other securities as may be substituted (or resubstituted) for Shares pursuant to Section 10(c) hereof.

(ss) ***Stock Appreciation Right*** means a right granted to a Participant under Section 6(c) hereof.

(tt) ***Subsidiary*** means any corporation or other entity in which the Company has a direct or indirect ownership interest of 50% or more of the total combined voting power of the then outstanding securities or

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interests of such corporation or other entity entitled to vote generally in the election of directors or in which the Company has the right to receive 50% or more of the distribution of profits or 50% or more of the assets on liquidation or dissolution.

(uu) **Substitute Awards** means Awards granted or Shares issued by the Company in assumption of, or in substitution or exchange for, Awards previously granted, or the right or obligation to make future Awards, by a company (i) acquired by the Company or any Related Entity, (ii) which becomes a Related Entity after the date hereof, or (iii) with which the Company or any Related Entity combines.

3. Administration.

(a) **Authority of the Committee.** The Plan shall be administered by the Committee, except to the extent (and subject to the limitations imposed by Section 3(b) hereof) the Board elects to administer the Plan, in which case the Plan shall be administered by only those members of the Board who are Independent members of the Board, in which case references herein to the Committee shall be deemed to include references to the Independent members of the Board. The Committee shall have full and final authority, subject to and consistent with the provisions of the Plan, to select Eligible Persons to become Participants, grant Awards, determine the type, number and other terms and conditions of, and all other matters relating to, Awards, prescribe Award Agreements (which need not be identical for each Participant) and rules and regulations for the administration of the Plan, construe and interpret the Plan and Award Agreements and correct defects, supply omissions or reconcile inconsistencies therein, and to make all other decisions and determinations as the Committee may deem necessary or advisable for the administration of the Plan. In exercising any discretion granted to the Committee under the Plan or pursuant to any Award, the Committee shall not be required to follow past practices, act in a manner consistent with past practices, or treat any Eligible Person or Participant in a manner consistent with the treatment of any other Eligible Persons or Participants.

(b) **Manner of Exercise of Committee Authority.** The Committee, and not the Board, shall exercise sole and exclusive discretion (i) on any matter relating to a Participant then subject to Section 16 of the Exchange Act with respect to the Company to the extent necessary in order that transactions by such Participant shall be exempt under Rule 16b-3 under the Exchange Act, (ii) with respect to any Award that is intended to qualify as performance-based compensation under Section 162(m), to the extent necessary in order for such Award to so qualify; and (iii) with respect to any Award to an Independent Director. Any action of the Committee shall be final, conclusive and binding on all persons, including the Company, its Related Entities, Eligible Persons, Participants, Beneficiaries, transferees under Section 10(b) hereof or other persons claiming rights from or through a Participant, and stockholders. The express grant of any specific power to the Committee, and the taking of any action by the Committee, shall not be construed as limiting any power or authority of the Committee. The Committee may delegate to officers or managers of the Company or any Related Entity, or committees thereof, the authority, subject to such terms and limitations as the Committee shall determine, to perform such functions, including administrative functions as the Committee may determine to the extent that such delegation will not result in the loss of an exemption under Rule 16b-3(d)(1) for Awards granted to Participants subject to Section 16 of the Exchange Act in respect of the Company and will not cause Awards intended to qualify as performance-based compensation under Code Section 162(m) to fail to so qualify. The Committee may appoint agents to assist it in administering the Plan.

(c) **Limitation of Liability.** The Committee and the Board, and each member thereof, shall be entitled to, in good faith, rely or act upon any report or other information furnished to him or her by any officer or Employee, the Company's independent auditors, Consultants or any other agents assisting in the administration of the Plan. Members of the Committee and the Board, and any officer or Employee acting at the direction or on behalf of the Committee or the Board, shall not be personally liable for any action or determination taken or made in good faith with respect to the Plan, and shall, to the extent permitted by law, be fully indemnified and protected by the Company with respect to any such action or determination.

4. *Shares Subject to Plan.*

(a) ***Limitation on Overall Number of Shares Available for Delivery Under Plan.*** Subject to adjustment as provided in Section 10(c) hereof, the total number of Shares reserved and available for delivery under the Plan shall be 18,599,561, consisting of an initial fixed authorization of 4,000,000 Shares, plus the 2,106,603 Shares and 2,492,958 Shares that remained available for delivery under the 2007 Plan and the 2010 Plan, respectively, on June 6, 2011 (the ***Initial Stockholder Approval Date***), plus an additional 10,000,000 Shares authorized for issuance under the Plan at the Company's 2014 Annual Meeting of Stockholders. Any Shares delivered under the Plan may consist, in whole or in part, of authorized and unissued shares or treasury shares.

(b) ***Application of Limitation to Grants of Awards.*** No Award may be granted if the number of Shares to be delivered in connection with such an Award exceeds the number of Shares remaining available for delivery under the Plan, minus the number of Shares deliverable in settlement of or relating to then outstanding Awards. The Committee may adopt reasonable counting procedures to ensure appropriate counting, avoid double counting (as, for example, in the case of tandem or substitute awards) and make adjustments if the number of Shares actually delivered differs from the number of Shares previously counted in connection with an Award.

(c) ***Availability of Shares Not Delivered under Awards and Adjustments to Limits.***

(i) If any Awards are forfeited, expire or otherwise terminate without issuance of such Shares, or any Award is settled for cash or otherwise does not result in the issuance of all or a portion of the Shares subject to such Award, the Shares to which those Awards were subject, shall, to the extent of such forfeiture, expiration, termination, cash settlement or non-issuance, again be available for delivery with respect to Awards under the Plan, subject to Section 4(c)(iv) below.

(ii) In the event that any Option or other Award granted hereunder is exercised through the tendering of Shares (either actually or by attestation) or by the withholding of Shares by the Company, or withholding tax liabilities arising from such option or other award are satisfied by the tendering of Shares (either actually or by attestation) or by the withholding of Shares by the Company, then only the number of Shares issued net of the Shares tendered or withheld shall be counted for purposes of determining the maximum number of Shares available for grant under the Plan.

(iii) Substitute Awards shall not reduce the Shares authorized for delivery under the Plan or authorized for delivery to a Participant in any period. Additionally, in the event that a company acquired by the Company or any Related Entity or with which the Company or any Related Entity combines has shares available under a pre-existing plan approved by its stockholders, the shares available for delivery pursuant to the terms of such pre-existing plan (as adjusted, to the extent appropriate, using the exchange ratio or other adjustment or valuation ratio or formula used in such acquisition or combination to determine the consideration payable to the holders of common stock of the entities party to such acquisition or combination) may be used for Awards under the Plan and shall not reduce the Shares authorized for delivery under the Plan; if and to the extent that the use of such Shares would not require approval of the Company's stockholders under the rules of the Listing Market.

(iv) Any Share that again becomes available for delivery pursuant to this Section 4(c) shall be added back as one (1) Share.

(v) Notwithstanding anything in this Section 4(c) to the contrary but subject to adjustment as provided in Section 10(c) hereof, the maximum aggregate number of Shares that may be delivered under the Plan as a result of the exercise of the Incentive Stock Options shall be 18,599,561 Shares.

(d) ***Awards Under the 2007 Plan and the 2010 Plan.*** This Plan will serve as the successor to the 2007 Plan. Awards granted under the 2007 Plan prior to the Initial Stockholder Approval Date shall continue to be governed by the terms of the 2007 Plan; however, no further awards shall be made under the 2007 Plan after the

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Initial Stockholder Approval Date. For the avoidance of doubt, securities issuable in connection with awards granted under the 2010 Plan after the Initial Stockholder Approval Date shall be issued in accordance with and governed by the terms of the 2011 Plan.

5. Eligibility; Per-Person Award Limitations. Awards may be granted under the Plan only to Eligible Persons. Subject to adjustment as provided in Section 10(c), in any fiscal year of the Company during any part of which the Plan is in effect, no Participant may be granted (i) Options or Stock Appreciation Rights with respect to more than 1,500,000 Shares or (ii) Restricted Stock, Restricted Stock Units, Performance Shares and/or Other Stock-Based Awards with respect to more than 1,500,000 Shares. In addition, the maximum dollar value payable to any one Participant with respect to Performance Units is (x) \$3,000,000 with respect to any 12 month Performance Period (pro-rated for any Performance Period that is less than 12 months based upon the ratio of the number of days in the Performance Period as compared to 365), and (y) with respect to any Performance Period that is more than 12 months, \$3,000,000 multiplied by the number of full 12 month periods that are in the Performance Period.

6. Specific Terms of Awards.

(a) **General.** Awards may be granted on the terms and conditions set forth in this Section 6. In addition, the Committee may impose on any Award or the exercise thereof, at the date of grant or thereafter (subject to Section 10(e)), such additional terms and conditions, not inconsistent with the provisions of the Plan, as the Committee shall determine, including terms requiring forfeiture of Awards in the event of termination of the Participant's Continuous Service and terms permitting a Participant to make elections relating to his or her Award. Except as otherwise expressly provided herein, the Committee shall retain full power and discretion to accelerate, waive or modify, at any time, any term or condition of an Award that is not mandatory under the Plan. Except in cases in which the Committee is authorized to require other forms of consideration under the Plan, or to the extent other forms of consideration must be paid to satisfy the requirements of Delaware law, no consideration other than services may be required for the grant (as opposed to the exercise) of any Award.

(b) **Options.** The Committee is authorized to grant Options to any Eligible Person on the following terms and conditions:

(i) **Exercise Price.** Other than in connection with Substitute Awards, the exercise price per Share purchasable under an Option shall be determined by the Committee, provided that such exercise price shall not, in the case of Incentive Stock Options, be less than 100% of the Fair Market Value of a Share on the date of grant of the Option and shall not, in any event, be less than the par value of a Share on the date of grant of the Option. If an Employee owns or is deemed to own (by reason of the attribution rules applicable under Section 424(d) of the Code) more than 10% of the combined voting power of all classes of stock of the Company (or any parent corporation or subsidiary corporation of the Company, as those terms are defined in Sections 424(e) and (f) of the Code, respectively) and an Incentive Stock Option is granted to such Employee, the exercise price of such Incentive Stock Option (to the extent required by the Code at the time of grant) shall be no less than 110% of the Fair Market Value of a Share on the date such Incentive Stock Option is granted.

(ii) **Time and Method of Exercise.** The Committee shall determine the time or times at which or the circumstances under which an Option may be exercised in whole or in part (including based on achievement of performance goals and/or future service requirements), the time or times at which Options shall cease to be or become exercisable following termination of Continuous Service or upon other conditions, the methods by which the exercise price may be paid or deemed to be paid (including in the discretion of the Committee a cashless exercise procedure), the form of such payment, including, without limitation, cash, Shares (including without limitation the withholding of Shares otherwise deliverable pursuant to the Award), other Awards or awards granted under other plans of the Company or a Related Entity, or other property (including notes or other contractual obligations of Participants to make payment on a deferred basis provided that such deferred payments are not in violation of Section 13(k) of the Exchange Act, or

any rule or regulation adopted thereunder or any other applicable law), and the methods by or forms in which Shares will be delivered or deemed to be delivered to Participants.

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(iii) **Incentive Stock Options.** The terms of any Incentive Stock Option granted under the Plan shall comply in all respects with the provisions of Section 422 of the Code. Anything in the Plan to the contrary notwithstanding, no term of the Plan relating to Incentive Stock Options (including any Stock Appreciation Right issued in tandem therewith) shall be interpreted, amended or altered, nor shall any discretion or authority granted under the Plan be exercised, so as to disqualify either the Plan or any Incentive Stock Option under Section 422 of the Code, unless the Participant has first requested, or consents to, the change that will result in such disqualification. Thus, if and to the extent required to comply with Section 422 of the Code, Options granted as Incentive Stock Options shall be subject to the following special terms and conditions:

(A) the Option shall not be exercisable for more than ten years after the date such Incentive Stock Option is granted; provided, however, that if a Participant owns or is deemed to own (by reason of the attribution rules of Section 424(d) of the Code) more than 10% of the combined voting power of all classes of stock of the Company (or any parent corporation or subsidiary corporation of the Company, as those terms are defined in Sections 424(e) and (f) of the Code, respectively) and the Incentive Stock Option is granted to such Participant, the term of the Incentive Stock Option shall be (to the extent required by the Code at the time of the grant) for no more than five years from the date of grant; and

(B) The aggregate Fair Market Value (determined as of the date the Incentive Stock Option is granted) of the Shares with respect to which Incentive Stock Options granted under the Plan and all other option plans of the Company (and any parent corporation or subsidiary corporation of the Company, as those terms are defined in Sections 424(e) and (f) of the Code, respectively) that become exercisable for the first time by the Participant during any calendar year shall not (to the extent required by the Code at the time of the grant) exceed \$100,000.

(iv) **Non-Discretionary Options for Certain Directors.** In addition to any other Options that any Director who is not an Employee may be granted on a discretionary basis under the Plan, each Director who is not an Employee shall be automatically granted without the necessity of action by the Board or the Committee, Options subject to the following terms and conditions:

(A) **Initial Grant.** On the date that a Director who is not an Employee commences service on the Board, an initial grant of Options that are not intended to be designated as Incentive Stock Options (Non-Qualified Stock Options), shall automatically be made to that Director who is not an Employee (the Initial Grant). The number of Shares subject to this Initial Grant and other terms governing this Initial Grant shall be as determined by the Board in its sole discretion. If the Board does not establish the number of Shares subject to the Initial Grant for a given newly-elected Director who is not an Employee prior to the date of grant for such Initial Grant, then the number shall be ten thousand (10,000) Shares. If at the time a Director who is also an Employee or does not otherwise qualify as an outside director within the meaning of Section 162(m) of the Code (an Outside Director), commences service on the Board, such Director shall be entitled to an Initial Grant at such time as such Director subsequently is no longer an Employee or qualifies as an Outside Director and if such Director remains a Director.

(B) **Annual Grant.** An annual grant of Non-Qualified Stock Options (the Annual Grant) shall automatically be made to each Director who (i) is re-elected to the Board or who otherwise continues as a Director, (ii) qualifies as an Outside Director on the relevant grant date and (iii) has served as a Director for at least six months. The number of Shares subject to this Annual Grant and other terms governing this Annual Grant shall be as determined by the Board in its sole discretion. If the Board does not establish the number of Shares subject to the Annual Grant, then the number shall be five thousand (5,000) Shares. The date and time of grant of an Annual Grant is the date of the annual meeting of the Company's stockholders and the time shall be immediately upon the adjournment of the annual meeting of the Company's stockholders.

(C) **Vesting.** Non-Qualified Stock Options received by the Participant as an Initial Grant or an Annual Grant (collectively the Director Non-Discretionary Options) shall vest and become exercisable in

twelve (12) equal monthly installments on each monthly anniversary of the grant date, such that the Award is fully vested after one year of Continuous Service on the Board from the grant date.

(D) Termination of Continuous Service as a Director. In the event a Participant's Continuous Service as a Director terminates for any reason other than death, the Participant may exercise his or her Director Non-Discretionary Options to the extent that the Participant was entitled to exercise such Director Non-Discretionary Options as of the date of termination of the Participant's Continuous Service as a Director, but only within ninety (90) calendar days following the date of such termination of the Participant's Continuous Service as a Director (and in no event later than the expiration of the term of such Director Non-Discretionary Options as set forth in the applicable Award Agreement(s)). This period may be adjusted by the Board in its discretion, provided that the affected Participant shall be recused from such decision of the Board. If Participant's Continuous Service as a Director terminates due to death, the Participant's estate, a person who acquired the right to exercise the Director Non-Discretionary Options by bequest or inheritance, or a person designated to exercise the Director Non-Discretionary Options upon the Participant's death pursuant to Section 10(b) of the Plan must exercise the Director Non-Discretionary Options to the extent that the Participant was entitled to exercise such Director Non-Discretionary Options as of the date of termination of the Participant's Continuous Service as a Director, but only within twelve (12) months following the date of such termination of the Participant's Continuous Service as a Director (and in no event later than the expiration of the term of such Director Non-Discretionary Options as set forth in the applicable Award Agreement(s)). This period may be adjusted by the Board in its discretion. If, after termination of the Participant's Continuous Service as a Director, the Director Non-Discretionary Options are not exercised within ninety (90) calendar days or twelve months, as applicable, following the date of such termination of the Participant's Continuous Service as a Director, the Director Non-Discretionary Options shall terminate.

(c) Stock Appreciation Rights. The Committee may grant Stock Appreciation Rights to any Eligible Person in conjunction with all or part of any Option granted under the Plan or at any subsequent time during the term of such Option (a Tandem Stock Appreciation Right), or without regard to any Option (a Freestanding Stock Appreciation Right), in each case upon such terms and conditions as the Committee may establish in its sole discretion, not inconsistent with the provisions of the Plan, including the following:

(i) Right to Payment. A Stock Appreciation Right shall confer on the Participant to whom it is granted a right to receive, upon exercise thereof, the excess of (A) the Fair Market Value of one Share on the date of exercise over (B) the grant price of the Stock Appreciation Right as determined by the Committee. The grant price of a Stock Appreciation Right shall not be less than 100% of the Fair Market Value of a Share on the date of grant, in the case of a Freestanding Stock Appreciation Right, or less than the associated Option exercise price, in the case of a Tandem Stock Appreciation Right.

(ii) Other Terms. The Committee shall determine at the date of grant or thereafter, the time or times at which and the circumstances under which a Stock Appreciation Right may be exercised in whole or in part (including based on achievement of performance goals and/or future service requirements), the time or times at which Stock Appreciation Rights shall cease to be or become exercisable following termination of Continuous Service or upon other conditions, the method of exercise, method of settlement, form of consideration payable in settlement, method by or forms in which Shares will be delivered or deemed to be delivered to Participants, whether or not a Stock Appreciation Right shall be in tandem or in combination with any other Award, and any other terms and conditions of any Stock Appreciation Right.

(iii) Tandem Stock Appreciation Rights. Any Tandem Stock Appreciation Right may be granted at the same time as the related Option is granted or, for Options that are not Incentive Stock Options, at any time thereafter before exercise or expiration of such Option. Any Tandem Stock Appreciation Right related to an Option may be exercised only when the related Option would be exercisable and the Fair Market Value of the Shares subject to the related Option exceeds the exercise price at which Shares can be acquired pursuant to the Option. In addition, if a Tandem

Stock Appreciation Right exists with respect to less than the full number of

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Shares covered by a related Option, then an exercise or termination of such Option shall not reduce the number of Shares to which the Tandem Stock Appreciation Right applies until the number of Shares then exercisable under such Option equals the number of Shares to which the Tandem Stock Appreciation Right applies. Any Option related to a Tandem Stock Appreciation Right shall no longer be exercisable to the extent the Tandem Stock Appreciation Right has been exercised, and any Tandem Stock Appreciation Right shall no longer be exercisable to the extent the related Option has been exercised.

(d) **Restricted Stock Awards.** The Committee is authorized to grant Restricted Stock Awards to any Eligible Person on the following terms and conditions:

(i) **Grant and Restrictions.** Restricted Stock Awards shall be subject to such restrictions on transferability, risk of forfeiture and other restrictions, if any, as the Committee may impose, or as otherwise provided in this Plan during the Restriction Period. The terms of any Restricted Stock Award granted under the Plan shall be set forth in a written Award Agreement which shall contain provisions determined by the Committee and not inconsistent with the Plan. The restrictions may lapse separately or in combination at such times, under such circumstances (including based on achievement of performance goals and/or future service requirements), in such installments or otherwise, as the Committee may determine at the date of grant or thereafter. Except to the extent restricted under the terms of the Plan and any Award Agreement relating to a Restricted Stock Award, a Participant granted Restricted Stock shall have all of the rights of a stockholder, including the right to vote the Restricted Stock and the right to receive dividends thereon (subject to any mandatory reinvestment or other requirement imposed by the Committee). During the period that the Restriction Stock Award is subject to a risk of forfeiture, subject to Section 10(b) below and except as otherwise provided in the Award Agreement, the Restricted Stock may not be sold, transferred, pledged, hypothecated, margined or otherwise encumbered by the Participant.

(ii) **Forfeiture.** Except as otherwise determined by the Committee, upon termination of a Participant's Continuous Service during the applicable Restriction Period, the Participant's Restricted Stock that is at that time subject to a risk of forfeiture that has not lapsed or otherwise been satisfied shall be forfeited and reacquired by the Company; provided that the Committee may provide, by rule or regulation or in any Award Agreement, or may determine in any individual case, that forfeiture conditions relating to Restricted Stock Awards shall be waived in whole or in part in the event of terminations resulting from specified causes, and the Committee may in other cases waive in whole or in part the forfeiture of Restricted Stock.

(iii) **Certificates for Stock.** Restricted Stock granted under the Plan may be evidenced in such manner as the Committee shall determine. If certificates representing Restricted Stock are registered in the name of the Participant, the Committee may require that such certificates bear an appropriate legend referring to the terms, conditions and restrictions applicable to such Restricted Stock, that the Company retain physical possession of the certificates, and that the Participant deliver a stock power to the Company, endorsed in blank, relating to the Restricted Stock.

(iv) **Dividends and Splits.** As a condition to the grant of a Restricted Stock Award, the Committee may require or permit a Participant to elect that any cash dividends paid on a Share of Restricted Stock be automatically reinvested in additional Shares of Restricted Stock or applied to the purchase of additional Awards under the Plan. Unless otherwise determined by the Committee, Shares distributed in connection with a stock split or stock dividend, and other property distributed as a dividend, shall be subject to restrictions and a risk of forfeiture to the same extent as the Restricted Stock with respect to which such Shares or other property have been distributed.

(e) **Restricted Stock Unit Award.** The Committee is authorized to grant Restricted Stock Unit Awards to any Eligible Person on the following terms and conditions:

(i) **Award and Restrictions.** Satisfaction of a Restricted Stock Unit Award shall occur upon expiration of the deferral period specified for such Restricted Stock Unit Award by the Committee (or, if

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permitted by the Committee, as elected by the Participant). In addition, a Restricted Stock Unit Award shall be subject to such restrictions (which may include a risk of forfeiture) as the Committee may impose, if any, which restrictions may lapse at the expiration of the deferral period or at earlier specified times (including based on achievement of performance goals and/or future service requirements), separately or in combination, in installments or otherwise, as the Committee may determine. A Restricted Stock Unit Award may be satisfied by delivery of Shares, cash equal to the Fair Market Value of the specified number of Shares covered by the Restricted Stock Unit, or a combination thereof, as determined by the Committee at the date of grant or thereafter. Prior to satisfaction of a Restricted Stock Unit Award, a Restricted Stock Unit Award carries no voting or dividend or other rights associated with Share ownership.

(ii) **Forfeiture.** Except as otherwise determined by the Committee, upon termination of a Participant's Continuous Service during the applicable deferral period or portion thereof to which forfeiture conditions apply (as provided in the Award Agreement evidencing the Restricted Stock Unit Award), the Participant's Restricted Stock Unit Award that is at that time subject to a risk of forfeiture that has not lapsed or otherwise been satisfied shall be forfeited; provided that the Committee may provide, by rule or regulation or in any Award Agreement, or may determine in any individual case, that forfeiture conditions relating to a Restricted Stock Unit Award shall be waived in whole or in part in the event of terminations resulting from specified causes, and the Committee may in other cases waive in whole or in part the forfeiture of any Restricted Stock Unit Award.

(iii) **Dividend Equivalents.** Unless otherwise determined by the Committee at the date of grant, any Dividend Equivalents that are granted with respect to any Restricted Stock Unit Award shall be either (A) paid with respect to such Restricted Stock Unit Award at the dividend payment date in cash or in Shares of unrestricted stock having a Fair Market Value equal to the amount of such dividends, or (B) deferred with respect to such Restricted Stock Unit Award and the amount or value thereof automatically deemed reinvested in additional Restricted Stock Units, other Awards or other investment vehicles, as the Committee shall determine or permit the Participant to elect. The applicable Award Agreement shall specify whether any Dividend Equivalents shall be paid at the dividend payment date, deferred or deferred at the election of the Participant. If the Participant may elect to defer the Dividend Equivalents, such election shall be made within 30 days after the grant date of the Restricted Stock Unit Award, but in no event later than 12 months before the first date on which any portion of such Restricted Stock Unit Award vests (or at such other times prescribed by the Committee as shall not result in a violation of Section 409A of the Code).

(f) **Bonus Stock and Awards in Lieu of Obligations.** The Committee is authorized to grant Shares to any Eligible Persons as a bonus, or to grant Shares or other Awards in lieu of obligations to pay cash or deliver other property under the Plan or under other plans or compensatory arrangements, including, without limitation, annual Director fees payable to a Director that has elected to receive some or all of such annual Director fees payable to him or her in the form of Shares; provided that, in the case of Eligible Persons subject to Section 16 of the Exchange Act, the amount of such grants remains within the discretion of the Committee to the extent necessary to ensure that acquisitions of Shares or other Awards are exempt from liability under Section 16(b) of the Exchange Act. Shares or Awards granted hereunder shall be subject to such other terms as shall be determined by the Committee.

(g) **Dividend Equivalents.** The Committee is authorized to grant Dividend Equivalents to any Eligible Person entitling the Eligible Person to receive cash, Shares, other Awards, or other property equal in value to the dividends paid with respect to a specified number of Shares, or other periodic payments. Dividend Equivalents may be awarded on a free-standing basis or in connection with another Award. The Committee may provide that Dividend Equivalents shall be paid or distributed when accrued or shall be deemed to have been reinvested in additional Shares, Awards, or other investment vehicles, and subject to such restrictions on transferability and risks of forfeiture, as the Committee may specify. Any such determination by the Committee shall be made at the grant date of the applicable Award.

(h) **Performance Awards.** The Committee is authorized to grant Performance Awards to any Eligible Person payable in cash, Shares, or other Awards, on terms and conditions established by the Committee, subject to the provisions of Section 8 if and to the extent that the Committee shall, in its sole discretion, determine that an Award shall be subject to those provisions. The performance criteria to be achieved during any Performance Period and the length of the Performance Period shall be determined by the Committee upon the grant of each Performance Award. Except as provided in Section 9 or as may be provided in an Award Agreement, Performance Awards will be distributed only after the end of the relevant Performance Period. The performance goals to be achieved for each Performance Period shall be conclusively determined by the Committee and may be based upon the criteria set forth in Section 8(b), or in the case of an Award that the Committee determines shall not be subject to Section 8 hereof, any other criteria that the Committee, in its sole discretion, shall determine should be used for that purpose. The amount of the Award to be distributed shall be conclusively determined by the Committee. Performance Awards may be paid in a lump sum or in installments following the close of the Performance Period or, in accordance with procedures established by the Committee, on a deferred basis in a manner that does not violate the requirements of Section 409A of the Code.

(i) **Other Stock-Based Awards.** The Committee is authorized, subject to limitations under applicable law, to grant to any Eligible Person such other Awards that may be denominated or 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. Other Stock-Based Awards may be granted to Participants either alone or in addition to other Awards granted under the Plan, and such Other Stock-Based Awards shall also be available as a form of payment in the settlement of other Awards granted under the Plan. The Committee shall determine the terms and conditions of such Awards. Shares delivered pursuant to an Award in the nature of a purchase right granted under this Section 6(i) shall be purchased for such consideration, (including without limitation loans from the Company or a Related Entity provided that such loans are not in violation of Section 13(k) of the Exchange Act, or any rule or regulation adopted thereunder or any other applicable law) paid for at such times, by such methods, and in such forms, including, without limitation, cash, Shares, other Awards or other property, as the Committee shall determine.

7. Certain Provisions Applicable to Awards.

(a) **Stand-Alone, Additional, Tandem, and Substitute Awards.** Awards granted under the Plan may, in the discretion of the Committee, be granted either alone or in addition to, in tandem with, or in substitution or exchange for, any other Award or any award granted under another plan of the Company, any Related Entity, or any business entity to be acquired by the Company or a Related Entity, or any other right of a Participant to receive payment from the Company or any Related Entity. Such additional, tandem, and substitute or exchange Awards may be granted at any time. If an Award is granted in substitution or exchange for another Award or award, the Committee shall require the surrender of such other Award or award in consideration for the grant of the new Award. In addition, Awards may be granted in lieu of cash compensation, including in lieu of cash amounts payable under other plans of the Company or any Related Entity, in which the value of Shares subject to the Award is equivalent in value to the cash compensation (for example, Restricted Stock or Restricted Stock Units), or in which the exercise price, grant price or purchase price of the Award in the nature of a right that may be exercised is equal to the Fair Market Value of the underlying Shares minus the value of the cash compensation surrendered (for example, Options or Stock Appreciation Right granted with an exercise price or grant price discounted by the amount of the cash compensation surrendered), provided that any such determination to grant an Award in lieu of cash compensation must be made in compliance with Section 409A of the Code.

(b) **Term of Awards.** The term of each Award shall be for such period as may be determined by the Committee; provided that in no event shall the term of any Option or Stock Appreciation Right exceed a period of ten years (or in the case of an Incentive Stock Option such shorter term as may be required under Section 422 of the Code).

(c) **Form and Timing of Payment Under Awards; Deferrals.** Subject to the terms of the Plan and any applicable Award Agreement, payments to be made by the Company or a Related Entity upon the exercise of an

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Option or other Award or settlement of an Award may be made in such forms as the Committee shall determine, including, without limitation, cash, Shares, other Awards or other property, and may be made in a single payment or transfer, in installments, or on a deferred basis, provided that any determination to pay in installments or on a deferred basis shall be made by the Committee at the date of grant. Any installment or deferral provided for in the preceding sentence shall, however, be subject to the Company's compliance with applicable law and all applicable rules of the Listing Market, and in a manner intended to be exempt from or otherwise satisfy the requirements of Section 409A of the Code. Subject to Section 7(e) hereof, the settlement of any Award may be accelerated, and cash paid in lieu of Shares in connection with such settlement, in the sole discretion of the Committee or upon occurrence of one or more specified events (in addition to a Change in Control). Any such settlement shall be at a value determined by the Committee in its sole discretion, which, without limitation, may in the case of an Option or Stock Appreciation Right be limited to the amount if any by which the Fair Market Value of a Share on the settlement date exceeds the exercise or grant price. Installment or deferred payments may be required by the Committee (subject to Section 7(e) of the Plan, including the consent provisions thereof in the case of any deferral of an outstanding Award not provided for in the original Award Agreement) or permitted at the election of the Participant on terms and conditions established by the Committee. The Committee may, without limitation, make provision for the payment or crediting of a reasonable interest rate on installment or deferred payments or the grant or crediting of Dividend Equivalents or other amounts in respect of installment or deferred payments denominated in Shares.

(d) ***Exemptions from Section 16(b) Liability.*** It is the intent of the Company that the grant of any Awards to or other transaction by a Participant who is subject to Section 16 of the Exchange Act shall be exempt from Section 16 pursuant to an applicable exemption (except for transactions acknowledged in writing to be non-exempt by such Participant). Accordingly, if any provision of this Plan or any Award Agreement does not comply with the requirements of Rule 16b-3 then applicable to any such transaction, such provision shall be construed or deemed amended to the extent necessary to conform to the applicable requirements of Rule 16b-3 so that such Participant shall avoid liability under Section 16(b).

(e) ***Code Section 409A.***

(i) The Award Agreement for any Award that the Committee reasonably determines to constitute a Section 409A Plan, as defined in Section 7(e)(ii) hereof, and the provisions of the Plan applicable to that Award, shall be construed in a manner consistent with the applicable requirements of Section 409A, and the Committee, in its sole discretion and without the consent of any Participant, may amend any Award Agreement (and the provisions of the Plan applicable thereto) if and to the extent that the Committee determines that such amendment is necessary or appropriate to comply with the requirements of Section 409A of the Code.

(ii) If any Award constitutes a nonqualified deferred compensation plan under Section 409A of the Code (a Section 409A Plan), then the Award shall be subject to the following additional requirements, if and to the extent required to comply with Section 409A of the Code:

(A) Payments under the Section 409A Plan may not be made earlier than the first to occur of (u) the Participant's separation from service, (v) the date the Participant becomes disabled, (w) the Participant's death, (x) a specified time (or pursuant to a fixed schedule) specified in the Award Agreement at the date of the deferral of such compensation, (y) a change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets of the Company, or (z) the occurrence of an unforeseeable emergency;

(B) The time or schedule for any payment of the deferred compensation may not be accelerated, except to the extent provided in applicable Treasury Regulations or other applicable guidance issued by the Internal Revenue Service;

(C) Any elections with respect to the deferral of such compensation or the time and form of distribution of such deferred compensation shall comply with the requirements of Section 409A(a)(4) of the Code; and

(D) In the case of any Participant who is a specified employee, a distribution on account of a separation from service may not be made before the date which is six months after the date of the Participant's separation from service (or, if earlier, the date of the Participant's death).

For purposes of the foregoing, the terms in quotations shall have the same meanings as those terms have for purposes of Section 409A of the Code, and the limitations set forth herein shall be applied in such manner (and only to the extent) as shall be necessary to comply with any requirements of Section 409A of the Code that are applicable to the Award.

(iii) Notwithstanding the foregoing, or any provision of this Plan or any Award Agreement, the Company does not make any representation to any Participant or Beneficiary that any Awards made pursuant to this Plan are exempt from, or satisfy, the requirements of, Section 409A, and the Company shall have no liability or other obligation to indemnify or hold harmless the Participant or any Beneficiary for any tax, additional tax, interest or penalties that the Participant or any Beneficiary may incur in the event that any provision of this Plan, or any Award Agreement, or any amendment or modification thereof, or any other action taken with respect thereto, is deemed to violate any of the requirements of Section 409A.

8. *Code Section 162(m) Provisions.*

(a) **Covered Employees.** Unless otherwise specified by the Committee, the provisions of this Section 8 shall be applicable to any Performance Award granted to an Eligible Person who is, or is likely to be, as of the end of the tax year in which the Company would claim a tax deduction in connection with such Award, a Covered Employee.

(b) **Performance Criteria.** If a Performance Award is subject to this Section 8, then the payment or distribution thereof or the lapsing of restrictions thereon and the distribution of cash, Shares or other property pursuant thereto, as applicable, shall be contingent upon achievement of one or more objective performance goals. Performance goals shall be objective and shall otherwise meet the requirements of Section 162(m) of the Code and regulations thereunder including the requirement that the level or levels of performance targeted by the Committee result in the achievement of performance goals being substantially uncertain. One or more of the following business criteria for the Company, on a consolidated basis, and/or for Related Entities, or for business or geographical units of the Company and/or a Related Entity (except with respect to the total stockholder return and earnings per share criteria), shall be used by the Committee in establishing performance goals for such Awards: (1) earnings per share; (2) revenues or margins; (3) cash flow; (4) operating margin; (5) return on net assets, investment, capital, or equity; (6) economic value added; (7) direct contribution; (8) net income; pretax earnings; earnings before interest and taxes; earnings before interest, taxes, depreciation and amortization; earnings after interest expense and before extraordinary or special items; operating income or income from operations; income before interest income or expense, unusual items and income taxes, local, state or federal and excluding budgeted and actual bonuses which might be paid under any ongoing bonus plans of the Company; (9) working capital; (10) management of fixed costs or variable costs; (11) identification or consummation of investment opportunities or completion of specified projects in accordance with corporate business plans, including strategic mergers, acquisitions or divestitures; (12) total stockholder return; (13) debt reduction; (14) market share; (15) entry into new markets, either geographically or by business unit; (16) customer retention and satisfaction; (17) strategic plan development and implementation, including turnaround plans; and/or (18) the Fair Market Value of a Share. Any of the above goals may be determined on an absolute or relative basis or as compared to the performance of a published or special index deemed applicable by the Committee including, but not limited to, the Standard & Poor's 500 Stock Index or a group of companies that are comparable to the Company. In determining the achievement of the performance goals, unless otherwise specified by the Committee at the time the performance goals are set, the Committee shall exclude the impact of any (i) restructurings, discontinued operations, extraordinary items (as defined pursuant to generally accepted accounting principles), and other unusual or non-recurring charges, (ii) event either not directly related to the operations of the Company or not within the reasonable control of the Company's management, (iii) change in

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accounting standards required by generally accepted accounting principles; or (iv) such other exclusions or adjustments as the Committee specifies at the time the Award is granted.

(c) **Performance Period; Timing For Establishing Performance Goals.** Achievement of performance goals in respect of Performance Awards shall be measured over a Performance Period specified by the Committee. Performance goals shall be established not later than 90 days after the beginning of any Performance Period applicable to such Performance Awards, or at such other date as may be required or permitted for performance-based compensation under Section 162(m) of the Code.

(d) **Adjustments.** The Committee may, in its discretion, reduce the amount of a settlement otherwise to be made in connection with Awards subject to this Section 8, but may not exercise discretion to increase any such amount payable to a Covered Employee in respect of an Award subject to this Section 8. The Committee shall specify the circumstances in which such Awards shall be paid or forfeited in the event of termination of Continuous Service by the Participant prior to the end of a Performance Period or settlement of Awards.

(e) **Committee Certification.** No Participant shall receive any payment under the Plan that is subject to this Section 8 unless the Committee has certified, by resolution or other appropriate action in writing, that the performance criteria and any other material terms previously established by the Committee or set forth in the Plan, have been satisfied to the extent necessary to qualify as performance based compensation under Section 162(m) of the Code.

9. **Change in Control.**

(a) **Effect of Change in Control.** If and only to the extent provided in any employment or other agreement between the Participant and the Company or any Related Entity, or in any Award Agreement, or to the extent otherwise determined by the Committee, as constituted immediately before the Change in Control, in its sole discretion and without any requirement that each Participant be treated consistently, upon the occurrence of a Change in Control, as defined in Section 9(b):

(i) Any Option or Stock Appreciation Right that was not previously vested and exercisable as of the time of the Change in Control, shall become immediately vested and exercisable, subject to applicable restrictions set forth in Section 10(a) hereof.

(ii) Any restrictions, deferral of settlement, and forfeiture conditions applicable to a Restricted Stock Award, Restricted Stock Unit Award or an Other Stock-Based Award subject only to future service requirements granted under the Plan shall lapse and such Awards shall be deemed fully vested as of the time of the Change in Control, except to the extent of any waiver by the Participant and subject to applicable restrictions set forth in Section 10(a) hereof.

(iii) With respect to any outstanding Award subject to achievement of performance goals and conditions under the Plan, the Committee may, in its discretion, deem such performance goals and conditions as having been met as of the date of the Change in Control.

(iv) Notwithstanding the foregoing, in the event of a termination of the Participant's Continuous Service with the Company (if it is the surviving entity in the Change in Control) or the successor company (other than a termination of the Participant's Continuous Service for Cause by the Company or the successor company, as applicable, by the Participant without Good Reason, or by reason of the Participant's death or Disability) within 24 months following such Change in Control, the Participant's Award(s) shall become immediately vested.

(b) **Definition of Change in Control** . Unless otherwise specified in any employment agreement between the Participant and the Company or any Related Entity, or in an Award Agreement, a **Change in Control** shall mean the occurrence of any of the following:

(i) The acquisition by any Person of Beneficial Ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of more than fifty percent (50%) of either (A) the value of then outstanding equity securities of the Company (the **Outstanding Company Stock**) or (B) the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors (the **Outstanding Company Voting Securities**) (the foregoing Beneficial Ownership hereinafter being referred to as a **Controlling Interest**); provided, however, that for purposes of this Section 9(b), the following acquisitions shall not constitute or result in a **Change in Control**: (v) any acquisition directly from the Company; (w) any acquisition by the Company; (x) any acquisition by any Person that as of the Effective Date owns Beneficial Ownership of a **Controlling Interest**; (y) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any Related Entity; or (z) any acquisition by any entity pursuant to a transaction which complies with clauses (A), (B) and (C) of subsection (iii) below; or

(ii) During any period of two (2) consecutive years (not including any period prior to the Effective Date) individuals who constitute the Board on the Effective Date (the **Incumbent Board**) cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to the Effective Date whose election, or nomination for election by the Company's stockholders, was approved by a vote of at least a majority of the directors then comprising the **Incumbent Board** shall be considered as though such individual were a member of the **Incumbent Board**, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(iii) Consummation of a reorganization, merger, statutory share exchange or consolidation or similar transaction involving the Company or any of its Subsidiaries, a sale or other disposition of all or substantially all of the assets of the Company, or the acquisition of assets or equity of another entity by the Company or any of its Subsidiaries (each a **Business Combination**), in each case, unless, following such **Business Combination**, (A) all or substantially all of the individuals and entities who were the Beneficial Owners, respectively, of the **Outstanding Company Stock** and **Outstanding Company Voting Securities** immediately prior to such **Business Combination** beneficially own, directly or indirectly, more than fifty percent (50%) of the value of the then outstanding equity securities and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of members of the board of directors (or comparable governing body of an entity that does not have such a board), as the case may be, of the entity resulting from such **Business Combination** (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 either directly or through one or more subsidiaries) in substantially the same proportions as their ownership, immediately prior to such **Business Combination** of the **Outstanding Company Stock** and **Outstanding Company Voting Securities**, as the case may be, (B) no Person (excluding any employee benefit plan (or related trust) of the Company or such entity resulting from such **Business Combination** or any Person that as of the Effective Date owns Beneficial Ownership of a **Controlling Interest**) beneficially owns, directly or indirectly, fifty percent (50%) or more of the value of the then outstanding equity securities of the entity resulting from such **Business Combination** or the combined voting power of the then outstanding voting securities of such entity except to the extent that such ownership existed prior to the **Business Combination** and (C) at least a majority of the members of the Board of Directors or other governing body of the entity resulting from such **Business Combination** were members of the **Incumbent Board** at the time of the execution of the initial agreement, or of the action of the Board, providing for such **Business Combination**; or

(iv) Approval by the stockholders of the Company of a complete liquidation or dissolution of the Company.

10. *General Provisions.*

(a) ***Compliance With Legal and Other Requirements.*** The Company may, to the extent deemed necessary or advisable by the Committee, postpone the issuance or delivery of Shares or payment of other benefits under any Award until completion of such registration or qualification of such Shares or other required action under any federal or state law, rule or regulation, listing or other required action with respect to the Listing Market, or compliance with any other obligation of the Company, as the Committee, may consider appropriate, and may require any Participant to make such representations, furnish such information and comply with or be subject to such other conditions as it may consider appropriate in connection with the issuance or delivery of Shares or payment of other benefits in compliance with applicable laws, rules, and regulations, listing requirements, or other obligations.

(b) ***Limits on Transferability; Beneficiaries.*** No Award or other right or interest granted under the Plan shall be pledged, hypothecated or otherwise encumbered or subject to any lien, obligation or liability of such Participant to any party, or assigned or transferred by such Participant otherwise than by will or the laws of descent and distribution or to a Beneficiary upon the death of a Participant, and such Awards or rights that may be exercisable shall be exercised during the lifetime of the Participant only by the Participant or his or her guardian or legal representative, except that Awards and other rights (other than Incentive Stock Options and Stock Appreciation Rights in tandem therewith) may be transferred to one or more Beneficiaries or other transferees during the lifetime of the Participant, and may be exercised by such transferees in accordance with the terms of such Award, but only if and to the extent such transfers are permitted by the Committee pursuant to the express terms of an Award Agreement (subject to any terms and conditions which the Committee may impose thereon). A Beneficiary, transferee, or other person claiming any rights under the Plan from or through any Participant shall be subject to all terms and conditions of the Plan and any Award Agreement applicable to such Participant, except as otherwise determined by the Committee, and to any additional terms and conditions deemed necessary or appropriate by the Committee.

(c) *Adjustments.*

(i) ***Adjustments to Awards.*** In the event that any extraordinary dividend or other distribution (whether in the form of cash, Shares, or other property), recapitalization, forward or reverse split, reorganization, merger, consolidation, spin-off, combination, repurchase, share exchange, liquidation, dissolution or other similar corporate transaction or event affects the Shares and/or such other securities of the Company or any other issuer such that a substitution, exchange, or adjustment is determined by the Committee to be appropriate, then the Committee shall, in such manner as it may deem equitable, substitute, exchange or adjust any or all of (A) the number and kind of Shares which may be delivered in connection with Awards granted thereafter, (B) the number and kind of Shares by which annual per-person Award limitations are measured under Section 4 hereof, (C) the number and kind of Shares subject to or deliverable in respect of outstanding Awards, (D) the exercise price, grant price or purchase price relating to any Award and/or make provision for payment of cash or other property in respect of any outstanding Award, and (E) any other aspect of any Award that the Committee determines to be appropriate.

(ii) ***Adjustments in Case of Certain Transactions.*** In the event of any merger, consolidation or other reorganization in which the Company does not survive, or in the event of any Change in Control, any outstanding Awards may be dealt with in accordance with any of the following approaches, without the requirement of obtaining any consent or agreement of a Participant as such, as determined by the agreement effectuating the transaction or, if and to the extent not so determined, as determined by the Committee: (a) the continuation of the outstanding Awards by the Company, if the Company is a surviving entity, (b) the assumption or substitution for, as those terms are defined below, the outstanding Awards by the surviving entity or its parent or subsidiary, (c) full exercisability or vesting and accelerated expiration of the outstanding Awards, or (d) settlement of the value of the outstanding Awards in cash or cash equivalents or other property followed by cancellation of such Awards (which value, in the case of Options or Stock Appreciation Rights, shall be

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measured by the amount, if any, by which the Fair Market Value of a Share exceeds the exercise or grant price of the Option or Stock Appreciation Right as of the effective date of the transaction). For the purposes of this Agreement, an Option, Stock Appreciation Right, Restricted Stock Award, Restricted Stock Unit Award or Other Stock-Based Award shall be considered assumed or substituted for if following the Change in Control the Award confers the right to purchase or receive, for each Share subject to the Option, Stock Appreciation Right, Restricted Stock Award, Restricted Stock Unit Award or Other Stock-Based Award immediately prior to the Change in Control, on substantially the same vesting and other terms and conditions as were applicable to the Award immediately prior to the Change in Control, the consideration (whether stock, cash or other securities or property) received in the transaction constituting a Change in Control by holders of Shares for each Share held on the effective date of such transaction (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding shares); provided, however, that if such consideration received in the transaction constituting a Change in Control is not solely common stock of the successor company or its parent or subsidiary, the Committee may, with the consent of the successor company or its parent or subsidiary, provide that the consideration to be received upon the exercise or vesting of an Option, Stock Appreciation Right, Restricted Stock Award, Restricted Stock Unit Award or Other Stock-Based Award, for each Share subject thereto, will be solely common stock of the successor company or its parent or subsidiary substantially equal in fair market value to the per share consideration received by holders of Shares in the transaction constituting a Change in Control. The determination of such substantial equality of value of consideration shall be made by the Committee in its sole discretion and its determination shall be conclusive and binding. The Committee shall give written notice of any proposed transaction referred to in this Section 10(c)(ii) at a reasonable period of time prior to the closing date for such transaction (which notice may be given either before or after the approval of such transaction), in order that Participants may have a reasonable period of time prior to the closing date of such transaction within which to exercise any Awards that are then exercisable (including any Awards that may become exercisable upon the closing date of such transaction). A Participant may condition his exercise of any Awards upon the consummation of the transaction.

(iii) **Other Adjustments.** The Committee (and the Board if and only to the extent such authority is not required to be exercised by the Committee to comply with Section 162(m) of the Code) is authorized to make adjustments in the terms and conditions of, and the criteria included in, Awards (including Performance Awards, or performance goals and conditions relating thereto) in recognition of unusual or nonrecurring events (including, without limitation, acquisitions and dispositions of businesses and assets) affecting the Company, any Related Entity or any business unit, or the financial statements of the Company or any Related Entity, or in response to changes in applicable laws, regulations, accounting principles, tax rates and regulations or business conditions or in view of the Committee's assessment of the business strategy of the Company, any Related Entity or business unit thereof, performance of comparable organizations, economic and business conditions, personal performance of a Participant, and any other circumstances deemed relevant; provided that no such adjustment shall be authorized or made if and to the extent that such authority or the making of such adjustment would cause Options, Stock Appreciation Rights, Performance Awards granted pursuant to Section 8(b) hereof to Participants designated by the Committee as Covered Employees and intended to qualify as performance-based compensation under Code Section 162(m) and the regulations thereunder to otherwise fail to qualify as performance-based compensation under Code Section 162(m) and regulations thereunder. Adjustments permitted hereby may include, without limitation, increasing the exercise price of Options and Stock Appreciation Rights, increasing performance goals, or other adjustments that may be adverse to the Participant. Notwithstanding the foregoing, no adjustments may be made with respect to any Performance Awards subject to Section 8 if and to the extent that such adjustment would cause the Award to fail to qualify as performance-based compensation under Section 162(m) of the Code.

(d) **Taxes.** The Company and any Related Entity are authorized to withhold from any Award granted, any payment relating to an Award under the Plan, including from a distribution of Shares, or any payroll or other payment to a Participant, amounts of withholding and other taxes due or potentially payable in connection with any transaction involving an Award, and to take such other action as the Committee may deem advisable to enable the Company or any Related Entity and Participants to satisfy obligations for the payment of withholding

taxes and other tax obligations relating to any Award. This authority shall include authority to withhold or receive Shares or other property and to make cash payments in respect thereof in satisfaction of a Participant's tax obligations, either on a mandatory or elective basis in the discretion of the Committee.

(e) ***Changes to the Plan and Awards.*** The Board may amend, alter, suspend, discontinue or terminate the Plan, or the Committee's authority to grant Awards under the Plan, without the consent of stockholders or Participants (including in a manner adverse to the rights of a Participant under an outstanding Award), except that any amendment or alteration to the Plan shall be subject to the approval of the Company's stockholders not later than the annual meeting next following such Board action if such stockholder approval is required by any federal or state law or regulation (including, without limitation, Rule 16b-3 or Code Section 162(m)) or the rules of the Listing Market, and the Board may otherwise, in its discretion, determine to submit other such changes to the Plan to stockholders for approval. The Committee may waive any conditions or rights under, or amend, alter, suspend, discontinue or terminate any Award theretofore granted and any Award Agreement relating thereto. Notwithstanding anything to the contrary, the Committee shall be authorized to amend any outstanding Option and/or Stock Appreciation Right to reduce the exercise price or grant price without the prior approval of the stockholders of the Company. In addition, the Committee shall be authorized to cancel outstanding Options and/or Stock Appreciation Rights replaced with Awards having a lower exercise price without the prior approval of the stockholders of the Company.

(f) ***Limitation on Rights Conferred Under Plan.*** Neither the Plan nor any action taken hereunder or under any Award shall be construed as (i) giving any Eligible Person or Participant the right to continue as an Eligible Person or Participant or in the employ or service of the Company or a Related Entity; (ii) interfering in any way with the right of the Company or a Related Entity to terminate any Eligible Person's or Participant's Continuous Service at any time, (iii) giving an Eligible Person or Participant any claim to be granted any Award under the Plan or to be treated uniformly with other Participants and Employees, or (iv) conferring on a Participant any of the rights of a stockholder of the Company including, without limitation, any right to receive dividends or distributions, any right to vote or act by written consent, any right to attend meetings of stockholders or any right to receive any information concerning the Company's business, financial condition, results of operation or prospects, unless and until such time as the Participant is duly issued Shares on the stock books of the Company in accordance with the terms of an Award. None of the Company, its officers or its directors shall have any fiduciary obligation to the Participant with respect to any Awards unless and until the Participant is duly issued Shares pursuant to the Award on the stock books of the Company in accordance with the terms of an Award. Neither the Company nor any of the Company's officers, directors, representatives or agents is granting any rights under the Plan to the Participant whatsoever, oral or written, express or implied, other than those rights expressly set forth in this Plan or the Award Agreement.

(g) ***Unfunded Status of Awards; Creation of Trusts.*** The Plan is intended to constitute an unfunded plan for incentive and deferred compensation. With respect to any payments not yet made to a Participant or obligation to deliver Shares pursuant to an Award, nothing contained in the Plan or any Award Agreement shall give any such Participant any rights that are greater than those of a general creditor of the Company; provided that the Committee may authorize the creation of trusts and deposit therein cash, Shares, other Awards or other property, or make other arrangements to meet the Company's obligations under the Plan. Such trusts or other arrangements shall be consistent with the unfunded status of the Plan unless the Committee otherwise determines with the consent of each affected Participant. The trustee of such trusts may be authorized to dispose of trust assets and reinvest the proceeds in alternative investments, subject to such terms and conditions as the Committee may specify and in accordance with applicable law.

(h) ***Nonexclusivity of the Plan.*** Neither the adoption of the Plan by the Board nor its submission to the stockholders of the Company for approval shall be construed as creating any limitations on the power of the Board or a committee thereof to adopt such other incentive arrangements as it may deem desirable including incentive arrangements and awards which do not qualify under Section 162(m) of the Code.

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(i) ***Payments in the Event of Forfeitures; Fractional Shares.*** Unless otherwise determined by the Committee, in the event of a forfeiture of an Award with respect to which a Participant paid cash or other consideration, the Participant shall be repaid the amount of such cash or other consideration. No fractional Shares shall be issued or delivered pursuant to the Plan or any Award. The Committee shall determine whether cash, other Awards or other property shall be issued or paid in lieu of such fractional shares or whether such fractional shares or any rights thereto shall be forfeited or otherwise eliminated.

(j) ***Governing Law.*** The validity, construction and effect of the Plan, any rules and regulations under the Plan, and any Award Agreement shall be determined in accordance with the laws of the State of Delaware without giving effect to principles of conflict of laws, and applicable federal law.

(k) ***Non-U.S. Laws.*** The Committee shall have the authority to adopt such modifications, procedures, and subplans as may be necessary or desirable to comply with provisions of the laws of foreign countries in which the Company or its Related Entities may operate to assure the viability of the benefits from Awards granted to Participants performing services in such countries and to meet the objectives of the Plan.

(l) ***Plan Effective Date and Stockholder Approval; Termination of Plan.*** The Plan shall become effective on the Effective Date, subject to subsequent approval, within 12 months of its adoption by the Board, by stockholders of the Company eligible to vote in the election of directors, by a vote sufficient to meet the requirements of Code Sections 162(m) (if applicable) and 422, Rule 16b-3 under the Exchange Act (if applicable), applicable requirements under the rules of any stock exchange or automated quotation system on which the Shares may be listed or quoted, and other laws, regulations, and obligations of the Company applicable to the Plan. Awards may be granted subject to stockholder approval, but may not be exercised or otherwise settled in the event the stockholder approval is not obtained. The Plan shall terminate at the earliest of (a) such time as no Shares remain available for issuance under the Plan, (b) termination of this Plan by the Board, or (c) the tenth anniversary of the Effective Date. Awards outstanding upon expiration of the Plan shall remain in effect until they have been exercised or terminated, or have expired.

