



Zix Corporation

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Director Nomination and Election Policies

A. Director Nomination Policy

1. Purpose

The Board of Directors (“Board”) of Zix Corporation (“Company”) has adopted this *Director Nomination Policy* in order to set forth the process by which the Board or its Nominating and Corporate Governance Committee (“Committee”) identifies, evaluates, selects, and recommends to the Board candidates to serve as potential Directors of the Company. References in this *Director Nomination Policy* to the Committee include the Board whenever it is considering Director candidates.

2. Application

The Committee follows this *Director Nomination Policy* if a vacancy on the Board is anticipated or otherwise occurs, or if the Committee receives an unsolicited nomination, recommendation or offer concerning a Director candidate.

3. Succession Planning

The Committee assesses whether any vacancy on the Board has been created or is expected due to a Director’s death, resignation, retirement, disqualification, removal from office or other cause or due to an increase in the authorized number of Directors. Depending on the circumstances, the Committee may endeavor to identify in advance one or more candidates who may fill those expected vacancies. The Committee develops the criteria to be applied in identifying candidates, based upon the considerations described in Section 6 below.

4. Identification of Candidates

The Committee considers Director candidates identified by various sources. For example, Director candidates come to the attention of the Committee through current Directors and officers, stockholder nominations or recommendations, individuals offering to serve, and third party referrals and recommendations, including those from any recruiting firm commissioned by the Committee.

4.1 Stockholder Nominations

Director nominations by a stockholder or group of stockholders for consideration by the Company's stockholders at the Company's annual meeting of stockholders (or at a special meeting of the Company's stockholders that includes on its agenda the election of one or more Directors) shall be made pursuant to the Company's Bylaws and as otherwise provided by law. Nominations pursuant to the Bylaws are made by delivering to the Company's Corporate Secretary, within the time frame described in the Bylaws and applicable law, all of the materials and information that the Bylaws require for Director nominations by stockholders.

4.2 Unsolicited Offers and Recommendations

The Committee may consider, in its discretion, unsolicited written offers by individuals seeking to serve as a Director, and unsolicited written recommendations of Director candidates from the Company's stockholders or third parties. Unsolicited offers and recommendations relating to Director candidates should be sent via pre-paid mail or courier to:

Nominating and Corporate Governance Committee
c/o Corporate Secretary
Zix Corporation
2711 North Haskell Avenue
Suite 2200
Dallas, Texas 75204
United States of America

The Corporate Secretary forwards unsolicited offers and recommendations relating to Director candidates to the Chairman of the Committee for a determination of whether they warrant further evaluation or consideration by the full Committee and the Board.

4.3 Candidate Search by Committee

The Committee may conduct a search for Director candidates in any manner that it deems appropriate in its discretion, including by hiring third parties that may be paid by the Committee to assist it in identifying or evaluating candidates.

5. Candidate Evaluation

A Director candidate is to be evaluated by the Committee (including any subcommittee of Committee members that might be created for this purpose) before the Committee recommends that candidate to the full Board for nomination or election.

5.1 Basic Criteria

The evaluation process includes a determination whether the candidate meets the basic criteria established by the Board from time to time, including those described in Section 6 below.

5.2 Additional Criteria

The Committee may also apply in its evaluation, at its discretion, any objective or subjective criteria that it develops related to specific skills, experience, qualities or characteristics that are deemed desirable or that are being sought in Director candidates at any given time.

5.3 Background Checks

The evaluation of any particular Director candidate may include, in the Committee's discretion: reviewing the candidate's résumé, curriculum vitae and other biographical information; confirming the candidate's qualifications, including verifying school and employment records; interviewing references; and conducting psychological, financial, criminal, legal and other background investigations.

5.4 Candidate Interviews

The evaluation of any particular Director candidate may include, in the Committee's discretion, personal interviews with various members of the Committee, various members of the Board and executive management personnel of the Company.

6. Evaluation Criteria and Considerations

6.1 Required Qualifications of All Candidates

The Committee believes the following qualifications are required for a candidate to be recommended by the Committee to the Board for nomination or election as a Director of the Company:

- Integrity.
- The candidate's ability to objectively analyze complex business problems and develop creative solutions.
- The candidate's availability and ability to participate in Board activities and fulfill the responsibilities of a Director, including attendance at, and active participation in, meetings of the Board and its committees.
- The candidate's ability to work well with the other Directors and senior management of the Company.
- The candidate's business and financial sophistication.

6.2 Independence

Inasmuch as SEC regulations and the corporate governance listing standards of the Nasdaq Stock Market require that a majority of the Company's Directors meet certain independence criteria, the Committee will consider and evaluate whether a given Director candidate has the ability to meet the independence criteria that have been adopted by the Board and are set forth on Exhibit A attached hereto. In making an independence determination with respect to any Director candidate, the Committee broadly considers all relevant facts and circumstances. In particular, when assessing

the materiality of a Director candidate's relationship with the Company, the Committee considers the issue not merely from the standpoint of the candidate, but also from that of persons or organizations with which the candidate is affiliated.

6.3 Financial Skills and Expertise Considerations

The Committee believes the following criteria should be met by one or more members of the Board and it may consider the following criteria (among other criteria) in evaluating Director candidates:

- The candidate's ability to qualify as an "audit committee financial expert" under the rules of the SEC and the listing standards of the Nasdaq Stock Market.*

6.4 Additional Considerations

The Committee may also consider the following criteria (among other criteria) in evaluating Director candidates:

- The extent to which the candidate possesses pertinent technological, political, business, financial or social/cultural expertise and experience.
- The extent of the candidate's commitment to increasing stockholder value.
- The candidate's achievement in education, career and community.
- The candidate's past or current service on boards of directors of public or private companies, charitable organizations, and community organizations.
- The extent of the candidate's familiarity with issues affecting the Company's business and industry.
- The candidate's expected contribution to the Board's desired balance and diversity (diversity being broadly construed to mean a variety of opinions, perspectives, personal and professional experiences and backgrounds and other differentiating characteristics).
- The extent of the candidate's present or past experience at the CEO, CFO, COO or similar level of management.
- The extent of the candidate's experience at a strategy- or policy-setting level in business, government, education, technology or public interest organizations.
- The extent of the candidate's general understanding of elements relevant to the success of a publicly-traded company.
- The extent to which the candidate demonstrates a long-term and strategic perspective.
- The geographic location of the candidate's principal place of residence or occupation.
- The candidate's ability to advance constructive debate and a collaborative atmosphere and culture.

* Rule 5605(c)(2) of the Nasdaq Stock market provides that at least one member of the Audit Committee must have past experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities.

7. Recommendation and Selection Process

The Committee considers qualified Director candidates based on all of the information obtained in the evaluation process. Following a discussion of the candidate's attributes, and taking into consideration the information gathered in the evaluation process, the candidate's ability to satisfy the various criteria set forth in Section 6 above, and the needs of the Board and the Company at the time, the Committee recommends potential Director candidates to the Board for nomination or election as a Director.

8. Nomination and Election of Directors by the Board

The nomination and election of Directors is governed by the Company's Bylaws. The Board's nomination of a Director candidate to stand for election at a shareholders meeting is determined by the affirmative vote of a majority of Directors present at a Board meeting at which a quorum is present. The Board's election of a person as a Director to fill a vacancy on the Board is determined by the affirmative vote of a majority of the remaining directors, even if less than a quorum. Notwithstanding anything to the contrary in this *Director Nomination Policy*, the Board of Directors retains the authority to control the process by which candidates are identified, qualified, recommended, nominated and elected, subject to applicable provisions of the Company's Bylaws.

B. Policy Concerning Election of Directors

Any nominee for election as a Director in an uncontested election (as defined below) who receives a greater number of votes "withheld" from his or her election than votes "for" such election (a "Majority Withheld Vote") shall, promptly following the certification of the voting results for such election, tender his or her offer of resignation for consideration by the Nominating and Corporate Governance Committee of the Board. For these purposes, an "uncontested election" means an election of Directors at a properly called and convened meeting of shareholders at which the number of nominees for election as Directors does not exceed the number of Directors to be elected at such meeting. In order to effectuate the foregoing, each nominee for election as a director shall, in advance of the annual meeting of shareholders at which he or she is standing for election to the Board, execute and deliver to the Secretary of the Company a letter containing an offer of resignation from the Board that shall be contingent upon acceptance by the Board in accordance with this policy (a "letter of resignation"). The Secretary shall hold each of these letters of resignation in escrow until such time as the first sentence above shall be triggered, at which time the Secretary shall report same to each affected director and the Nominating and Corporate Governance Committee, whereupon the applicable letter(s) of resignation shall be deemed effective and formally tendered to the Nominating and Corporate Governance Committee, although still contingent upon acceptance by the Board in accordance with this policy.

The Nominating and Corporate Governance Committee shall recommend to the Board whether to accept the offered resignation or other action to be taken with respect thereto, and the Board will act on the offered resignation, within 90 days following the certification of voting results for

such election and promptly thereafter disclose in a Current Report on Form 8-K its decision with respect thereto, and, if applicable, the reasons for rejecting the resignation offer. The Nominating and Corporate Governance Committee and the Board may consider any factors and alternatives they deem appropriate in making their recommendation or decision, as the case may be.

Any Director who is required to tender his or her offer of resignation pursuant to these provisions shall not participate in the Nominating and Corporate Governance Committee recommendation or Board action regarding such offered resignation. However, if each member of the Nominating and Corporate Governance Committee received a Majority Withheld Vote at the same election, then the independent Directors who did not receive a Majority Withheld Vote shall appoint a committee among themselves to consider and make a recommendation to the Board with respect to the offered resignations.

Notwithstanding the foregoing, if the only Directors who did not receive a Majority Withheld Vote in the same election constitute three or fewer Directors, all Directors may participate in the Board's action regarding whether to accept the offered resignations

C. Administration

This statement of the Company's *Director Nomination and Election Policies* supersedes any and all previously adopted or published statements of the Company's guidelines, criteria, policies and/or procedures regarding any of the matters or topics described herein. This statement of the Company's *Director Nomination and Election Policies*, and any provision herein, may be amended, modified or waived at any time and from time to time by the Board in its sole and absolute discretion.

EXHIBIT A

Independence Criteria

The Board defines an “independent Director” as a Director who meets the criteria described below. Generally speaking, all non-management Directors are expected to meet (i) the Nasdaq Stock Market corporate governance listing standards for Director independence and committee membership, as applicable, (ii) the Securities and Exchange Commission (“SEC”) standards related to listed company audit and compensation committees, and (ii) any additional independence standards established from time to time by the Board.

1. Director Independence Criteria

General Rule: An independent Director is not an Executive Officer¹ or employee of the Company or any of its consolidated subsidiaries (collectively, “Zix”) and has no relationship with Zix that would interfere with the exercise of independent judgment in carrying out the responsibilities of a Director.

Disqualifying Relationships for Independence: The following persons shall not be considered independent:

- A person who is, or at any time during the past three years was, employed by Zix, except for employment as an Executive Officer on an interim basis where such interim employment has ceased and did not last longer than one year.
- A person who accepted or has a Family Member² who accepted any compensation from Zix in excess of \$120,000 during any period of twelve consecutive months within the preceding three years, other than the following:
 - compensation for Board or Board committee service;
 - compensation paid to a Family Member who is an employee (other than an Executive Officer) of Zix;
 - benefits under a tax-qualified retirement plan, or non-discretionary compensation; or
 - compensation received for former service as an Executive Officer on an interim basis where such service has ceased and did not last longer than one year.
- A person who is a Family Member of an individual who is, or at any time during the past three years was, employed by Zix as an Executive Officer.

¹ “Executive Officer” means those officers covered in Rule 16a-1(f) under the Securities Exchange Act of 1934.

² “Family Member” means a person’s spouse, parents, children and siblings, whether by blood, marriage or adoption, or anyone residing in such person’s home.

- A person who is, or has a Family Member who is, a partner (other than a limited partner) in, or a controlling shareholder or an Executive Officer of, any organization (including charitable organizations) to which Zix made, or from which Zix received, payments for property or services in the current or any of the past three fiscal years that exceed 5% of the recipient's consolidated gross revenues for that year, or \$200,000, whichever is more, other than the following:
 - payments arising solely from investments in Zix's securities; or
 - payments under non-discretionary charitable contribution matching programs.
- A person who is, or has a Family Member who is, employed as an Executive Officer of another entity where at any time during the past three years any of the Executive Officers of Zix serve on the compensation committee of such other entity.
- A person who is, or has a Family member who is, a current partner of Zix's outside auditor, or was a partner or employee of Zix's auditor who worked on Zix's audit at any time during any of the past three years.

Disqualifying Relationships for Audit Committee Membership: With respect to persons proposed to serve or serving on the Audit Committee of the Board, the following persons shall not be considered independent:

- A person who directly or indirectly accepts any consulting, advisory, or other compensatory fee from Zix (during service on such Committee), except (i) fees received for services as a Director or as a member of a Board committee and (ii) fixed amounts of compensation under a retirement plan (including deferred compensation) for prior service with Zix (provided that such compensation is not contingent in any way on continued service);
- A person who is an "affiliated person"³ of Zix; or
- A person who has participated in the preparation of the financial statements of Zix at any time during the past three years.

Special Considerations for Compensation Committee Members: In affirmatively determining the independence of persons proposed to serve or serving on the Compensation Committee of the Board, the Board will consider all factors specifically relevant to determining whether such person has a relationship to Zix which is material to such person's ability to be independent from management in connection with the duties of a Compensation Committee member, including, but not limited to: (i) the sources of compensation of such person, including any consulting, advisory or other compensatory fee paid by Zix or any of its subsidiaries to such

³ "Affiliated person" has the meaning defined in Rule 10A-3(e)(1) under the Securities Exchange Act of 1934, which is generally a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or under common control with, the Company.

person and (ii) whether such person is affiliated with Zix, any subsidiary of Zix or any affiliate of any subsidiary of Zix. In considering sources of compensation, the Board will consider whether any such person receives compensation from any person or entity that would impair such person's ability to make independent judgments about Zix's executive compensation. In considering affiliate relationships, the Board will consider whether any such relationship places any such person under the direct or indirect control of Zix or its senior management, or creates a direct relationship between such person and members of senior management, in each case of a nature that would impair such person's ability to make independent judgments about Zix's executive compensation. While the Board may conclude differently with respect to individual facts and circumstances, ownership of Zix stock, by itself, or possession of a controlling interest through ownership of Zix stock, by itself, will not preclude a Board finding that it is appropriate for a person to serve on the Compensation Committee.

2. Immaterial Relationships

The Board has determined that the following types of relationships between any Director and Zix or a member of its management are immaterial for purposes of assessing that Director's independence. The existence of any immaterial relationship which is not described in this section does not necessarily preclude a determination that the Director is independent from Zix.

- Payments involving Zix which are made to or received from the Director or a Family Member, or an entity with which the Director or the Director's Family Member is affiliated or is currently employed, for goods or services, or other contractual arrangements, if they are made in the ordinary course of business and on substantially the same terms as those prevailing at the time for comparable transactions with non-affiliated persons, so long as the total amount of such payments during each of the current calendar year and each of the three preceding calendar years does not exceed \$120,000; provided, however, that the foregoing shall not obviate the need for the Board to consider all sources of compensation in determining the independence of members of the Compensation Committee in accordance with "Special Considerations for Compensation Committee Members" set forth above.
- The Director or the Director's Family Member, or an entity with which the Director or the Director's Family Member is affiliated or is currently employed, uses any encrypted email services provided by Zix, directly or indirectly (including, but not limited to services provided by a third-party relying on such services provided by Zix) on substantially the same terms as those prevailing at the time for comparable transactions with non-affiliated persons, so long as the total amount of payments to or from the Director, Family Member or entity and Zix, as the case may be, during each of the current fiscal year and each of the preceding three fiscal years does not exceed \$120,000.

- The Director or the Director's Family Member is an officer, Director or trustee of a foundation, university or other not-for-profit organization that receives from Zix, during the current fiscal year or any of the prior three fiscal years, contributions in an amount not exceeding \$120,000.
- A family relationship other than a defined Family Member relationship.
- A Director or the Director's Family member is involved with, participates in, or enjoys common membership in the same academic, alumni, charitable, social, or similar organizations as one or more members of Zix management, other members of the Board or any of their respective Family Members.