

WITNESS SYSTEMS, INC. COMPENSATION COMMITTEE CHARTER

The Purpose of the Compensation Committee

The purpose of the Compensation Committee is to discharge the Board of Directors' responsibilities with respect to compensation of the Company's executive officers, including determination of certain compensation awards for senior executives, and produce an annual report on executive compensation for inclusion in the Company's proxy statement relating to its annual meeting of stockholders.

Membership

The Board of Directors appoints a Compensation Committee of at least three members, consisting entirely of "independent" directors of the Board and designates one member as chairperson. "Independent" means a director who (i) satisfies all criteria to be a "non-employee director" within the meaning of Rule 16b-3 promulgated by the Securities and Exchange Commission (the "SEC"), (ii) meets the NASDAQ Stock Market (the "NASDAQ") definition of "independence" (including all criteria imposed with respect to service on a compensation committee), (iii) meets the definition of "outside director" under Section 162(m) of the Internal Revenue Code, and (iv) is otherwise free from any relationship that, in the opinion of the Board of Directors, would interfere with the exercise of his or her independent judgment as a member of the Compensation Committee, all as determined by the Board of Directors.

Responsibilities

The Compensation Committee shall discharge the Board's responsibilities with respect to compensation of the Company's executive officers, including determination of certain compensation awards for senior executives, and produce an annual report on executive compensation for inclusion in the Company's proxy statement relating to its annual meeting of stockholders. Specifically, the Compensation Committee will:

- (a) Set corporate goals and objectives relevant to the compensation for the Chairman and Chief Executive Officer ("CEO").
- (b) Evaluate the CEO's performance in light of such goals and objectives and set the compensation for the CEO based on this evaluation.
- (c) Set the compensation of other executive officers based upon the recommendation of the CEO.
- (d) Make awards to executives under the Company's Stock Option Plans.

- (e) Review and approve the design of other benefit plans pertaining solely to executives of the company.
- (f) Review and recommend to the Board of Directors regarding the design and approval of all incentive compensation plans and equity-based plans not otherwise approved pursuant to clause (e) above.
- (g) Approve such reports on compensation as are necessary for filing with the SEC and other government bodies.
- (h) Administer all plans that require "disinterested administration" under Rule 16b-3 under the Securities Exchange Act of 1934.
- (i) Approve the amendment or modification of compensation or benefit plans pertaining to executives of the Company that do not require shareowner approval, if any.¹
- (j) Review and recommend to the Board of Directors changes to the outside directors' compensation.
- (k) Retain outside consultants and obtain assistance from members of management as the Committee deems appropriate in the exercise of its authority.
- (l) Make reports and recommendations to the Board of Directors within the scope of its functions.
- (m) Prepare an annual report on executive compensation satisfying the requirements of Item 402(k) of Regulation S-K for inclusion in the Company's proxy statement relating to its annual meeting of stockholders.
- (n) Conduct an annual performance evaluation of the Compensation Committee.

Meetings

The Compensation Committee will meet as often as it deems necessary or appropriate, in its judgment, either in person or telephonically, and at such times and places as the Committee determines. The majority of the members of the Compensation Committee constitute a quorum.

¹ Currently proposed SEC and NYSE rules would require stockholder approval of virtually all compensation plans. As such, this provision may become largely dormant as a result of these rules.