ALASKA AIR GROUP INC
Form NO ACT
March 17, 2003



eft"> 66.3%

(1) Except as noted in any footnotes below, each person has sole voting power and sole dispositive power as to all of the shares shown as beneficially owned by them. Beneficial ownership is determined in accordance with the rules of the SEC and generally includes voting or investment power with respect to securities.

(2) Percentage ownership is based on 42,349,018 shares of common stock outstanding on March 31, 2009. Shares of common stock subject to options, warrants and convertible notes currently exercisable or convertible, or exercisable or convertible within 60 days, are deemed outstanding for determining the number of shares beneficially owned by the directors and officers, and the directors and officers as a group, and for computing the percentage ownership of the person holding such options, but are not deemed outstanding for computing the percentage ownership of any other person.

(3) Includes 22,139,012 shares issued on April 30, 2007 to IOWC Technologies, Inc., which Mr. Code controls, in connection with the acquisition by the Company of certain intellectual property and other assets on that date. Includes 66,666 shares issuable to Mr. Code upon exercise of a portion of the option issued pursuant to the 2007 plan on December 28, 2007, which option vests over three years in equal amounts on the anniversary of the option grant date.

(4) Includes 1,636,364 shares issued on April 13, 2007 to New Millennium Capital Partners, LLC ( New Millennium ), which is wholly owned or controlled by Mr. Calvert, on conversion of the principal amount of a promissory note held by New Millennium. Does not include shares issuable upon conversion of the remaining interest due pursuant to the New Millennium Note. See Certain Relationships and Related Transactions Transactions with Dennis Calvert and New Millennium Capital Partners, LLC. Includes 5,155,506 shares issuable to Mr. Calvert upon exercise of a portion the option issued in connection with his employment agreement,

2,577,753 of which vested on April 30, 2008, and 2,577,753 of which vests on April 30, 2009. Includes 66,666 shares issuable to Mr. Calvert upon exercise of a portion of the option issued pursuant to the 2007 plan on December 28, 2007, which option vests over three years in equal amounts on the anniversary of the option grant date.

(5) Includes 33,333 shares issuable to Mr. Provenzano upon exercise of a portion of the option issued pursuant to the 2007 plan on December 28, 2007, which option vests over three years in equal amounts on the anniversary of the option grant date.

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(6) Includes 10,000 shares issuable upon exercise of an option issued pursuant to the 2007 Plan on September 6, 2007. Includes 10,000 shares issuable upon exercise of an option issued pursuant to the 2007 Plan on May 29, 2008.

(7) Includes 10,000 shares issuable upon exercise of an option issued pursuant to the 2007 Plan on September 6, 2007. Includes 10,000 shares issuable upon exercise of an option issued pursuant to the 2007 Plan on May 29, 2008.

(8) Consists of options to purchase 200,000 shares of our Common Stock issued pursuant to our agreement with Mr. Dargan in which he was appointed as our Chief Financial Officer effective February 1, 2008, and the extension of that

agreement
effective
February 1,
2009.

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## CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

### Transactions with Dennis Calvert and New Millennium Capital Partners, LLC

*New Millennium Note*. In conjunction with our acquisition of a technology license from Med Wireless, Inc. ( Med Wireless ) on August 21, 2002, we assumed a $1,120,000 promissory note (the Med Wireless Note ) with interest at 10% per annum payable by Med Wireless to Summitt Ventures, Inc. ( Summitt Ventures ). On March 26, 2003, Summitt Ventures sold the Med Wireless Note, together with 167,258 shares (all share amounts and share prices in this section have been adjusted for the 1-for-25 reverse split of our common stock on March 21, 2007) of the Company s common stock, to New Millennium Capital Partners LLC ( New Millennium ), a limited liability company controlled and owned in part by the Company s CEO and president, Dennis Calvert, in exchange for a $900,000 promissory note issued by New Millennium in favor of Summitt Ventures. Neither Med Wireless nor Summitt Ventures is or was controlled by, controlling, or under common control with, either New Millennium or Mr. Calvert. From time to time following New Millennium s acquisition of the Med Wireless Note, we have held discussions with New Millennium concerning potential amendments to the Med Wireless Note to amend payment dates and to add conversion features. New Millennium also agreed to waive a payment default with respect to a $100,000 installment payment originally due on October 1, 2003. On April 28, 2006, New Millennium agreed to amend the Med Wireless Note to (i) extend the due date to January 15, 2008; (ii) waive any payments of interest until the Med Wireless Note becomes due; (iii) reduce the principal amount of the Note from $1,120,000 to $900,000, equal to a 19.6% reduction; and (iv) correspondingly reduce the accrued but unpaid interest due under the terms of the Note from $317,956 to $255,636, also equal to a 19.6% reduction.

On April 13, 2007, New Millennium converted the $900,000 principal amount of the Note into 1,636,364 shares of our common stock, at a price of $0.55 per share, which was the last bid price on the date of conversion. Accrued but unpaid interest in the amount of $380,658 as of the conversion date of April 13, 2007 remained outstanding on the Note, which amount was due to be paid on January 15, 2008. We did not make such payment on such date. On November 12, 2008, we agreed to further extend the date on which interest would be paid to April 30, 2009. On April 27, 2009, New Millennium agreed to accept as payment of $230,658 of the outstanding $380,658 in accrued but unpaid interest an option to purchase 691,974 shares of our common stock, exercisable at $0.55 cents per share. This option will expire April 24, 2012. New Millennium further agreed to extend the due date for the remaining $150,000 unpaid interest to April 30, 2010.

### Retirement of a Portion of Board of Director and Officer Payables

On April 27, 2009, in an effort to preserve cash and reduce outstanding payables to third parties, officers and board members, the Board offered an option to purchase common stock in lieu of cash payment to reduce amounts owed. The options may be exercised at $0.50 cents a share, an amount which was 20 cents a share above the 30 cents per share closing price of the Company s common stock on April 27, 2009, would be issued pursuant to the 2007 Plan, and would expire April 27, 2012. The number of shares of common stock purchasable pursuant to the option would be equal to three times the dollar amount reduced by the particular optionee.

Each member of the Board opted to reduce outstanding accrued and unpaid compensation pursuant to the terms set by the Board and offered to third parties to whom the Company owed money. Mssrs. Calvert and Code reduced the outstanding amount owed to each by $20,000, and in exchange each received options to purchase 60,000 shares of common stock. The options issued to Mssrs. Calvert and Code were exercisable at $0.55 per share, which is ten percent above the exercise price, per the terms of the 2007 Plan. Mr. Provenzano reduced the outstanding amount owed to him by $10,000, and in exchange received an option to purchase 30,000 shares of common stock at $0.50 per share. Mr. Marshall reduced the outstanding amount owed to him by $50,000, and in exchange received an option to purchase 150,000 shares of common stock at $0.50 per share. Mr. Cox reduced the outstanding amount owed to him by $38,000, and in exchange received an option to purchase 114,000 shares of common stock at $0.50 per share. In addition to these Board members, our Chief Financial Officer reduced the outstanding amount owed to him by $12,000, and in exchange received an option to purchase 36,000 shares of common stock at $0.50 per share.

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**PRINCIPAL ACCOUNTANT FEES AND SERVICES**

The following table summarizes the fees billed by Jeffrey S. Gilbert, our principal accountant, for professional services rendered to the Company and its subsidiaries during 2007 and 2008:

| | Amount Billed and Paid | |
|---|---|---|
| **Type of Fee** | **Fiscal Year 2007** | **Fiscal Year 2008** |
| Audit Fees(1) | $ 49,300 | $ 64,075 |
| Audit-Related(2) | 11,000 | 1,650 |
| Total | $ 60,300 | $ 65,725 |

(1) This category consists of fees for the audit of our annual financial statements included in our annual report on Form 10-K, as amended, and review of the financial statements included in the Company s quarterly reports on Form 10-Q. This category also includes advice on audit and accounting matters that arose during, or as a result of, the audit or the review of interim financial statements, statutory audits required by non-U.S. jurisdictions and the preparation of an annual

management letter on internal control matters.

(2) Represents services that are normally provided by the independent auditors in connection with statutory and regulatory filings or engagements for those fiscal years, aggregate fees charged for assurance and related services that are reasonably related to the performance of the audit and are not reported as audit fees. These services include consultations regarding Sarbanes-Oxley Act requirements, various SEC filings and the implementation of new accounting requirements.

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## REPORT OF COMPENSATION COMMITTEE

The following Report of the Compensation Committee does not constitute soliciting material and should not be deemed filed or incorporated by reference into any of our other filings under the Securities Act of 1933, as amended (the Securities Act ), or the Exchange Act, except to the extent that we specifically incorporate this report. The Compensation Committee has furnished this report on executive compensation for the 2008 fiscal year.

**Compensation Program and Philosophy**

The Compensation Committee administers the Company s executive compensation program. The Compensation Committee has the authority to review and determine the salaries and bonuses of the executive officers of the Company, including the Chief Executive Officer and the other Named Executive Officers, and to establish the general compensation policies for such individuals. The Compensation Committee also has the sole and exclusive authority to make discretionary option grants to all of the Company s employees under the Company s equity incentive plans. The Compensation Committee operates under a written charter. The duties and responsibilities of a member of the Compensation Committee are in addition to his or her duties as a member of the Board. The charter reflects these various responsibilities, and the Committee is charged with periodically reviewing the charter. The Committee s membership is determined by the Board and is composed entirely of independent directors. In addition, the Committee has the authority to engage the services of outside advisors, experts and others, including independent compensation consultants who do not advise the Company, to assist the Committee. Mr. Marshall has served as Chairman of the Compensation Committee since April 28, 2006. Mr. Cox also serves on the Compensation Committee. The Compensation Committee met once and acted by written consent once during 2008.

The Compensation Committee believes that the compensation programs for the Company s executive officers should reflect the Company s performance, support the short- and long-term strategic goals and values of the Company, reward individual contribution to the Company s success and align the interests of the Company s executive officers with the interests of the Company s stockholders. The Company is engaged in a very competitive industry, and the Company s success depends upon its ability to attract and retain qualified executives through the competitive compensation packages it offers to such individuals. To that end, it is the view of the Board that the total compensation program for executive officers should consist of all or most of the following components:

- base salary
- bonus
- equity-based compensation

The Committee does not rely solely on predetermined formulas or a limited set of criteria when it evaluates the performance of the Company s chief executive officer and the Company s other executive officers. Typically, our Chief Executive Officer makes compensation recommendations to the Committee with respect to the compensation of our officers, and the Committee may accept or adjust such recommendations in its discretion. In 2008, the Committee considered management s continuing achievement of its short- and long-term goals versus its strategic imperatives. The principal factors that were taken into account in establishing each executive officer s compensation package for the 2008 fiscal year are described below. However, the Compensation Committee may in its discretion apply entirely different factors, such as different measures of financial performance, for future fiscal years. Moreover, all of the Company s Named Executive Officers have entered into employment agreements or arrangements with the Company, and many components of each such person s compensation are set by such agreement or arrangement.

**Chief Executive Officer Compensation**

On April 30, 2007, the Company entered into an employment agreement with Mr. Calvert, pursuant to which, throughout 2008, Mr. Calvert served as the President, Chief Executive Officer and Interim Chief Financial Officer (until Mr. Dargan was retained February 1, 2008). No modifications to Mr. Calvert s employment agreement were made in 2008. Other provisions of Mr. Calvert s Employment Agreement are discussed elsewhere in this Information Statement. See EXECUTIVE COMPENSATION Employment Agreements *Dennis P. Calvert* above.

**Chief Technology Officer Compensation**

On April 30, 2007, the Company entered an employment agreement with Mr. Code, pursuant to which, throughout 2008, Mr. Code served as the Company s Chief Technology Officer. Other provisions of Mr. Code s employment agreement are discussed elsewhere in this Information Statement. See EXECUTIVE COMPENSATION Employment Agreements *Kenneth R. Code* above.

**Other Executive Compensation**

As part of the negotiations with Mr. Provenzano, our Chief Executive Officer consulted with certain individual members of the Committee and legal counsel with respect to terms and conditions of his employment agreement. In January 2008 our Chief Executive Officer made recommendations to the Committee that the Committee approve a new employment agreement with Mr. Provenzano. The Committee reviewed and evaluated such recommendations and, following the completion of the Committee s evaluation, the Board reviewed and approved the employment agreement for Mr. Provenzano, as recommended by the Chief Executive Officer and the Committee.

**Deductibility of Executive Compensation**

Section 162(m) of the Internal Revenue Code disallows a tax deduction to publicly-held companies for compensation paid to certain of their executive officers, to the extent that compensation exceeds $1 million per covered officer in any fiscal year. The limitation applies only to compensation which is not considered to be performance based. Non-performance based compensation paid to the Company s executive officers for the 2008 fiscal year did not exceed the $1 million limit per officer, and the Compensation Committee does not anticipate that the non-performance based compensation to be paid to the Company s executive officers for the 2009 fiscal year will exceed that limit. Because it is unlikely that the cash non-performance based compensation payable to any of the Company s executive officers in the foreseeable future will approach the $1 million limit, the Compensation Committee has decided at this time not to take any action to limit or restructure the elements of cash compensation payable to the Company s executive officers. The Compensation Committee will reconsider this decision should the individual cash non-performance based compensation of any executive officer ever approach the $1 million level.

Submitted by the Compensation Committee:

/s/ Dennis E. Marshall, Chair

/s/ Gary A. Cox

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## REPORT OF AUDIT COMMITTEE

The following report of the Audit Committee does not constitute soliciting material and should not be deemed filed or incorporated by reference into any of our other filings under the Securities Act or the Exchange Act, except to the extent that we specifically incorporate this report by reference therein, and shall not be deemed to be soliciting material or otherwise deemed filed under either such Act.

The Audit Committee is currently comprised of two independent directors, both of whom are independent under the rules of the SEC and Nasdaq. Mr. Marshall serves as Chairman of the Audit Committee. Mr. Cox also serves on the Audit Committee. The Board has determined that Mr. Marshall qualifies as an audit committee financial expert as defined in Item 401(h) of Regulation S-K of the Securities Exchange Act of 1934, as amended. The duties and responsibilities of a member of the Audit Committee are in addition to his or her duties as a member of the Board. The Audit Committee operates under a written charter, a copy of which is available on the Company s corporate website. The Audit Committee met six times during 2008.

The Audit Committee s primary duties and responsibilities are to:

- engage the Company s independent auditor,
- monitor the independent auditor s independence, qualifications and performance,
- pre-approve all audit and non-audit services,
- monitor the integrity of the Company s financial reporting process and internal control systems,
- provide an open avenue of communication among the independent auditor, financial and senior management of the Company and the Board, and
- monitor the Company s compliance with legal and regulatory requirements, contingent liabilities, risk assessment and risk management.

Management is responsible for the Company s internal controls and the financial reporting process. The Company s independent auditor is responsible for performing an independent audit of the Company s consolidated financial statements in accordance with the standards of the Public Company Accounting Oversight Board and issuing a report thereon. The Audit Committee s responsibility is to monitor and oversee these processes.

In carrying out these responsibilities, the Audit Committee monitored the scope and staffing of the Company s internal management group that was previously established by the Company and held meetings with the Company s internal auditor regarding the progress and completion of the implementation of the Company s internal controls and the scope of their audit of such internal controls.

In overseeing the preparation of the Company s financial statements, the Audit Committee held meetings with the Company s internal auditor and independent auditors, both in the presence of management and privately, to review and discuss all financial statements prior to their issuance and to discuss the overall scope and plans for their respective audits, the evaluation of the Company s internal controls and significant accounting issues. Management advised the Audit Committee that all financial statements were prepared in accordance with accounting principles generally accepted in the United States of America, and the Audit Committee discussed the statements with both management and the Company s independent auditors. In accordance with Section 204 of the Sarbanes-Oxley Act of 2002 and the Statement on Auditing Standards ( SAS ) No. 61 (Communication With Audit Committees) as amended by SAS No. 90 (Audit Committee Communications), the Audit Committee has discussed with the Company s independent auditors all matters required to be discussed under the Sarbanes-Oxley Act and the foregoing standards.

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With respect to the Company s independent auditors, the Audit Committee, among other things, discussed with Jeffrey S. Gilbert matters relating to its independence, including the written disclosures made to the Audit Committee as required by the Independence Standards Board Standard No. 1 (Independence Discussions with Audit Committees). The Audit Committee also reviewed and approved the audit and non-audit fees of Mr. Gilbert.

On the basis of these reviews and discussions, the Audit Committee (i) appointed Mr. Gilbert as the Company s independent registered public accounting firm for the 2009 fiscal year and (ii) recommended to the Board that the Board approve the inclusion of the Company s audited financial statements in the Form 10-K for the year ended December 31, 2008 for filing with the SEC.

Submitted by the Audit Committee:

/s/ Dennis E. Marshall, Chair

/s/ Gary A. Cox

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## STOCKHOLDER PROPOSALS

From time to time stockholders present proposals that may be proper subjects for inclusion in a proxy statement and for consideration at an annual meeting of stockholders. Under the rules of the SEC, to be included in the proxy statement for our 2010 annual meeting of stockholders, proposals must be received by us no later than March 1, 2010.

## ANNUAL REPORT ON FORM 10-K

We filed with the SEC our Annual Report for the year ended December 31, 2008 on Form 10-K on March 31, 2009. A copy of the 10-K has been made available on the Internet or mailed to all stockholders along with this information statement. Stockholders may obtain additional copies of the 10-K and the exhibits thereto, without charge, by writing to our Corporate Secretary, at our principal executive offices at 2603 Main Street, Suite 1155, Irvine, California 92614.

We incorporate by this reference herein the Company s Financial Statements and the notes thereto, and the discussions under the captions Description of Business, Description of Properties, Legal Proceedings, Management s Discussion and Analysis of Financial Condition and Results of Operations contained in the 10-K.

## OTHER MATTERS

Management does not know of any matters to be considered by the Consenting Stockholders other than those set forth herein and in the notice accompanying this information statement.

**WE ARE NOT ASKING YOU FOR A PROXY AND YOU ARE NOT REQUESTED TO SEND US A PROXY.**

By Order of the Board of Directors,

Dennis Calvert
*Chairman*
Irvine, California
April 30, 2009