

SOMANETICS CORP
Form DEF 14A
March 06, 2009

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SCHEDULE 14A INFORMATION

**Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934
(Amendment No.)**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to § 240.14a-12

Somanetics Corporation

(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

- Fee paid previously with preliminary materials

- Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by the registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

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**1653 East Maple Road
Troy, Michigan 48083-4208
NOTICE OF THE ANNUAL MEETING OF SHAREHOLDERS
TO BE HELD APRIL 23, 2009**

To the Shareholders of Somanetics Corporation:

THIS IS OUR NOTICE TO YOU that the annual meeting of shareholders of Somanetics Corporation will be held at the Townsend Hotel, 100 Townsend Street, Birmingham, Michigan 48009, at 10:00 a.m. eastern time on Thursday, April 23, 2009 for the following purposes:

1. To select one director, to serve until the 2012 annual meeting of shareholders and until his successor is elected and qualified.
2. To transact such other business as may properly come before the meeting and any adjournment thereof.

Only shareholders of record on February 23, 2009 will be entitled to notice of the meeting or any adjournment of the meeting and to vote at the meeting or any adjournment of the meeting.

All shareholders are cordially invited to attend the meeting. Whether or not you expect to attend the meeting, please complete, date and sign the enclosed proxy and return it as promptly as possible to ensure your representation at the meeting. A return postage-prepaid envelope is enclosed for that purpose. If you return the proxy, you may withdraw your proxy and vote your shares in person if you attend the meeting.

Your attention is called to the attached proxy statement and the accompanying proxy. A copy of our annual report for the fiscal year ended November 30, 2008 accompanies this notice.

By order of the board of directors
Bruce J. Barrett
President and Chief Executive Officer

Troy, Michigan
March 6, 2009

Important Notice Regarding the Availability of Proxy Materials for the Shareholder Meeting to Be Held on April 23, 2009. Our 2009 proxy statement and annual report for the fiscal year ended November 30, 2008 are available free of charge at <http://materials.proxyvote.com/834445>.

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**SOMANETICS CORPORATION
1653 East Maple Road
Troy, Michigan 48083-4208
PROXY STATEMENT
Annual Meeting of Shareholders
April 23, 2009**

General Information

This proxy statement is furnished in connection with the solicitation of proxies by the board of directors of Somanetics Corporation. The proxies are being solicited for use at the 2009 annual meeting of shareholders to be held at the Townsend Hotel, 100 Townsend Street, Birmingham, Michigan 48009, at 10:00 a.m. eastern time on Thursday, April 23, 2009, and at any adjournment of that meeting. The 2009 annual meeting of shareholders is being held for the purposes described in the notice of annual meeting of shareholders on the prior page. We expect that this proxy statement and accompanying proxy will be first sent or given to shareholders on or about March 6, 2009.

Solicitation

We will bear the entire cost of soliciting proxies in the enclosed form, including the costs of preparing, assembling, printing and mailing this proxy statement, the accompanying proxy and any additional information we furnish to shareholders and Internet websites. We may supplement our solicitation of proxies by mail with telephone, telegraph, facsimile, e-mail or personal solicitation by our directors, officers or other regular employees and via the Internet, such as postings on websites. We will not pay any additional compensation to our directors, officers or other regular employees for these services. We will request that brokers, nominees and other similar record holders forward soliciting material, and we will reimburse them upon request for their out-of-pocket expenses.

Voting Securities and Principal Holders

Voting Rights and Outstanding Shares

Only shareholders of record at the close of business on February 23, 2009 will be entitled to notice of the annual meeting or any adjournment of the meeting and to vote at the annual meeting or any adjournment of the meeting. As of the close of business on February 23, 2009, we had 12,042,662 outstanding common shares, \$0.01 par value, the only class of our stock outstanding and entitled to vote.

Each common share is entitled to one vote on each matter submitted for a vote at the meeting. The presence, in person or by proxy, of the holders of record of a majority of the outstanding common shares entitled to vote, or 6,021,332 shares, is necessary to constitute a quorum for the transaction of business at the meeting or any adjournment of the meeting.

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A shareholder giving a proxy may revoke it at any time before it is voted by giving written notice of revocation to our Secretary or by executing and delivering to our Secretary a later dated proxy. A shareholder's attendance at the meeting will not have the effect of revoking any proxy given by that shareholder unless the shareholder gives written notice of revocation to our Secretary before the proxy is voted. Any written notice revoking a proxy, and any later dated proxy, should be sent to Somanetics Corporation, 1653 East Maple Road, Troy, Michigan 48083-4208, Attention: Investor Relations Department.

Valid proxies in the enclosed form that are returned in time for the meeting and executed and dated in accordance with the instructions on the proxy will be voted as specified in the proxy. If no specification is made, the proxies will be voted **FOR** the election as a director of the nominee listed below.

Principal Holders of Our Voting Securities

The following table contains information with respect to the beneficial ownership of our common shares as of February 23, 2009 by each person known to us to beneficially own more than five percent of our common shares, our only outstanding class of voting shares:

| Name and Address of Beneficial Owner | Amount and Nature of Beneficial Ownership | Percentage of Common Shares Owned (1) |
|--|--|--|
| Barclays Global Investors, NA Barclays Global Fund Advisors 400 Howard Street San Francisco, California 94105 | 691,576 (2) | 5.7 |
| Bruce J. Barrett 1653 East Maple Road Troy, Michigan 48083-4208 | 646,210 (3) | 5.1 |

(1) Based on 12,042,662 common shares outstanding as of February 23, 2009.

(2) The information with respect to Barclays Global Investors, NA (Barclays Investors NA) and Barclays Global Fund Advisors (Barclays Advisors) is based solely on

a Schedule 13G report, dated February 6, 2009. Barclays Investors NA is a bank having sole voting power over 353,007 common shares and sole dispositive power over 402,424 common shares. Barclays Advisors is an investment advisor having sole voting and investment power over 289,152 common shares. The Schedule 13G states that the shares are held in trust accounts for the economic benefit of the beneficiaries of those accounts. The Schedule 13G also discloses relationships with the following entities, but no ownership by them:

- (1) Barclays Global Investors, LTD, a foreign entity, with a business address of Murray House, 1Royal Mint

Court, London
EC3N 4HH,
(2) Barclays
Global Investors
Japan Limited, a
foreign entity,
with a business
address of Ebisu
Prime Square
Tower 8th Floor,
1-1-39 Hiroo
Shibuya-Ku,
Tokyo 150-8402
Japan,
(3) Barclays
Global Investors
Canada Limited,
a foreign entity,
with a business
address of
Brookfield
Place, 161 Bay
Street,
Suite 2500, PO
Box 614,
Toronto,
Ontario, Canada
M5J 2S1,
(4) Barclays
Global Investors
Australia
Limited, a
foreign entity,
with a business
address of Level
43, Grosvenor
Place, 225
George Street,
PO Box N43,
Sydney,
Australia NSW
1220, and
(5) Barclays
Global Investors
(Deutschland)
AG, a foreign
entity, with a
business address
of Apianstrasse
6, D-85774,
Unterföhring,

Germany.

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- (3) Includes
 543,519
 common shares
 that Mr. Barrett
 has the right to
 acquire within
 60 days of
 February 23,
 2009, 18,000
 restricted
 common shares
 that vest in five
 equal annual
 installments
 beginning
 June 29, 2007
 (7,200 common
 shares have
 vested and are
 no longer
 restricted),
 18,000
 restricted
 common shares
 that vest in five
 equal annual
 installments
 beginning
 March 20, 2009,
 and 17,000
 common shares
 owned jointly
 with his wife.

I. ELECTION OF DIRECTORS

Our board of directors proposes that the person named below as nominee for election as a director for a three-year term be elected as one of our directors, to hold office until the annual meeting of shareholders to be held in 2012 and until his successor is elected and qualified. Mr. Follis was last elected as a director at the 2006 annual meeting of shareholders on April 6, 2006. Effective on the date of the 2009 annual meeting of shareholders, the size of the Board of Directors will be reduced to five members. If a quorum is present, the nominee receiving the greatest number of votes cast at the meeting or its adjournment will be elected. Withheld votes and broker non-votes will not be deemed votes cast in determining which nominee receives the greatest number of votes cast, but will be counted for purposes of determining whether a quorum is present. The persons named in the accompanying proxy intend to vote all valid proxies received by them **FOR** the election of the nominee listed below unless the person giving the proxy withholds authority to vote for this nominee. The nominee listed below has consented to serve if elected. If the nominee is unable or declines to serve, which we do not expect to happen, the proxy holders intend to vote the proxies in accordance with their best judgment for another qualified person.

The following information is furnished as of February 23, 2009 with respect to our nominee for election as one of our director, with respect to each person whose term of office as one of our directors will continue after the meeting, with respect to one person whose term of office as one of our directors will not continue after the meeting, with

respect to each of our executive officers who is named in the Summary Compensation Table below, and with respect to all of our directors and executive officers as a group:

| Name | Director Since | Age | Position and Offices With Us and Other Principal Occupation | Amount and Nature of Common Shares Beneficially Owned | Percentage of Common Shares Owned(1) | Term to Expire |
|---|-----------------------|------------|--|--|---|-----------------------|
| NOMINEE FOR ELECTION AS A DIRECTOR FOR A THREE-YEAR TERM | | | | | | |
| Daniel S. Follis | 4/89 | 71 | Director, President of Verschuren & Follis, Inc. and President of Follis Corporation | 26,270 (2) | * | 2012 |

DIRECTORS CONTINUING IN OFFICE

| | | | | | | |
|------------------|------|----|--|-------------|-----|------|
| Bruce J. Barrett | 6/94 | 49 | President, Chief Executive Officer and a Director | 646,210 (3) | 5.1 | 2010 |
| John P. Jumper | 6/07 | 64 | Director and Retired Chief of Staff, United States Air Force | 4,000 (4) | * | 2010 |

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| Name | Director Since | Age | Position and Offices With Us and Other Principal Occupation | Amount and Nature of Common Shares Beneficially Owned | Percentage of Common Shares Owned(1) | Term to Expire |
|---------------------|-----------------------|------------|--|--|---|-----------------------|
| Dr. James I. Ausman | 6/94 | 71 | Director, Somanetics, Clinical Professor of Neurosurgery at the University of California at Los Angeles, Chief Executive Officer, Waymaster Corporation, President and Chief Executive Officer, Future Healthcare Strategies, and Editor of Surgical Neurology | 58,791 (5) | * | 2011 |
| Richard R. Sorensen | 6/06 | 53 | Director, Treasurer and Chief Financial Officer, U.S. Health Holdings Ltd. and its wholly-owned subsidiaries, U.S. Health and Life Insurance Company and Automated Benefit Services, Inc. | 8,000 (6) | * | 2011 |

DIRECTOR NOT CONTINUING IN OFFICE

| | | | | | | |
|-----------------|-------|----|---|-------------|-----|------|
| Robert R. Henry | 12/98 | 68 | Director and President of Robert R. Henry & Co., Inc. | 374,800 (7) | 3.1 | 2009 |
|-----------------|-------|----|---|-------------|-----|------|

OTHER EXECUTIVE OFFICERS

| | | | | | | |
|--|--|--|--|----------------|------|--|
| William M. Iacona | | | | 145,325 (8) | 1.2 | |
| Dominic J. Spadafore | | | | 134,980 (9) | 1.1 | |
| Mary Ann Victor | | | | 148,161 (10) | 1.2 | |
| All directors and executive officers as a group (10 persons) | | | | 1,557,337 (11) | 11.9 | |

* Less than 1 percent

(1) Based on 12,042,662 common shares outstanding as of February 23, 2009. For purposes of the

table above, and in accordance with the rules of the Securities and Exchange Commission, we deem common shares that are subject to options that are currently exercisable or exercisable within 60 days of February 23, 2009 to be outstanding and beneficially owned by the person holding the options for the purpose of computing the percentage ownership of that person, but we do not treat them as outstanding for the purpose of computing the percentage ownership of any other person. Except as otherwise noted, the persons or entities in this table have sole voting and investment power with respect to all of the common shares beneficially owned by them.

- (2) Includes 18,000 common shares

that Mr. Follis has the right to acquire within 60 days of February 23, 2009. The common shares shown above as beneficially owned by Mr. Follis include 8,270 common shares owned by The Infinity Fund, a limited partnership in which Mr. Follis is a 28.33 percent limited partner and a 50 percent general partner and which is administered by Verschuren & Follis, Inc., a corporation in which Mr. Follis is a 50 percent shareholder, a director and the President.

- (3) Includes 543,519 common shares that Mr. Barrett has the right to acquire within 60 days of February 23, 2009, 18,000 restricted common shares that vest in five equal annual installments beginning June 29, 2007 (7,200 common

shares have
vested and are
no longer
restricted),
18,000
restricted
common shares
that vest in five
equal annual
installments
beginning
March 20, 2009,
and 17,000
common shares
owned jointly
with his wife.

- (4) Includes 4,000
common shares
that Mr. Jumper
has the right to
acquire within
60 days of
February 23,
2009.

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- (5) Includes 34,500 common shares that Dr. Ausman has the right to acquire within 60 days of February 23, 2009, 17,761 common shares owned jointly with his wife, and 6,530 shares held in an individual retirement account over which Dr. Ausman exercises sole voting and investment control.

- (6) Includes 8,000 common shares that Mr. Sorensen has the right to acquire within 60 days of February 23, 2009.

- (7) Includes 34,500 common shares that Mr. Henry has the right to acquire within 60 days of February 23, 2009. The other shares beneficially owned by Mr. Henry are held in brokerage margin accounts and are pledged

to secure margin loans that may be outstanding from time to time.

- (8) Includes 122,325 common shares that Mr. Iacona has the right to acquire within 60 days of February 23, 2009, 9,000 restricted common shares that vest in five equal annual installments beginning June 29, 2007 (3,600 common shares have vested, are no longer restricted and are owned jointly with his wife), 9,000 restricted common shares that vest in five equal annual installments beginning March 20, 2009, and 5,000 additional common shares owned jointly with his wife.

- (9) Includes 113,480 common shares that Mr. Spadafore has the right to acquire within 60 days of February 23,

2009, 9,000 restricted common shares that vest in five equal annual installments beginning June 29, 2007 (3,600 common shares have vested and are no longer restricted), 9,000 restricted common shares that vest in five equal annual installments beginning March 20, 2009, and 3,500 common shares that Mr. Spadafore owns jointly with his wife.

- (10) Includes 125,061 common shares that Ms. Victor has the right to acquire within 60 days of February 23, 2009, 9,000 restricted common shares that vest in five equal annual installments beginning June 29, 2007 (3,600 common shares have vested and are no longer restricted), 9,000 restricted common shares that vest in five

equal annual installments beginning March 20, 2009, 5,100 common shares held by Ms. Victor's husband.

(11) Includes 1,006,985 common shares that all executive officers and directors as a group have the right to acquire within 60 days of February 23, 2009, 45,000 restricted common shares that vest in five equal annual installments beginning June 29, 2007 (18,000 common shares have vested and are no longer restricted), 9,000 restricted common shares that vest in five equal annual installments beginning November 2, 2008 (1,800 common shares have vested, are no longer restricted and have been sold) and 45,000 restricted common shares that vest in five equal annual

installments
beginning
March 20, 2009.

Biographical Information

The following is a brief account of the business experience during the past five years of each nominee for our board of directors and of each of our directors whose term of office will continue after the meeting:

Daniel S. Follis. Mr. Follis has served as one of our directors since April 1989. Since 1981, he has served as President of Verschuren & Follis, Inc., which advises and administers The Infinity Fund, a limited partnership that invests in emerging growth companies. Since 1995 he has also served as President of Follis Corporation, a sales and marketing company engaged in media sales, television production, serving as a manufacturer's representative and investment management. Mr. Follis received a B.A. degree in business from Michigan State University.

Bruce J. Barrett. Mr. Barrett has served as our President and Chief Executive Officer and as one of our directors since June 1994. Earlier in his career, Mr. Barrett served as the Director, Hospital Products Division, for Abbott Laboratories, Ltd., a health care equipment

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manufacturer and distributor, and as the Director, Sales and Marketing, for Abbott Critical Care Systems, a division of Abbott Laboratories, Inc., a health care equipment manufacturer and distributor. While at Abbott Critical Care Systems, Mr. Barrett managed Abbott's invasive oximetry products for approximately four years. Prior to joining Abbott Laboratories, he served as the group product manager of hemodynamic monitoring products of Baxter Edwards Critical Care, an affiliate of Baxter International, Inc., another health care equipment manufacturer and distributor. Mr. Barrett received a B.S. degree in marketing from Indiana State University and an M.B.A. degree from Arizona State University. Mr. Barrett is a party to an employment agreement with us that requires us to elect him to the offices he currently holds.

John P. Jumper. General Jumper retired from the United States Air Force in 2005 after a 39-year military career. In his last position as Chief of Staff he served as the senior military officer in the Air Force leading more than 700,000 military, civilian, Air National Guard and Air Force Reserve men and women. In that position he administered annual budgets in excess of \$100 billion. As Chief of Staff, he was a member of the Joint Chiefs of Staff providing military advice to the Secretary of Defense, the National Security Council and the President. From 2000 to 2001 General Jumper served as Commander, Air Combat Command. During the 1999 war in Kosovo and Serbia he commanded U.S. Air Forces in Europe and Allied Air Forces Central Europe. In earlier assignments he served on the Joint Staff and as Senior Military Assistant to Secretary of Defense Dick Cheney and Secretary Les Aspin. He also commanded an F-16 fighter squadron and two fighter wings, accumulating more than 5,000 flying hours, including more than 1,400 combat hours in Vietnam and Iraq. He currently serves on the Board of Directors of Goodrich Corporation, TechTeam Global, Inc., SAIC, Inc. and Jacobs Engineering Group Inc., as well as on the non-profit Boards of the American Air Museum in Britain, the VMI Board of Trustees, the Marshall Foundation and the Air Force Village Charitable Foundation. He also serves as a director of several private companies and as an advisor and independent consultant to several technology companies. General Jumper holds a degree in electrical engineering from the Virginia Military Institute and an M.B.A. from Golden Gate University in San Francisco.

James I. Ausman, M.D., Ph.D. Dr. Ausman has served as one of our directors since June 1994. He has been Clinical Professor of Neurosurgery at the University of California at Los Angeles since 2005 and Professor of the Department of Neurosurgery at the University of Illinois at Chicago since 1991 and served as its head from 1991 until September 2001. Since January 2006, he has served as Chief Executive Officer, Waymaster Corporation, a television production company, and since November 2007 he has served as President and Chief Executive Officer, Future Healthcare Strategies, a healthcare consulting company. Since 1994, he has also been the editor of Surgical Neurology. He serves as the medical expert for KMIR 6 TV in Palm Desert, California. He and his wife, Carolyn, are the creators and executive producers of the PBS television show *The Leading Gen: What will you do with the rest of your life?* From August 2006 until December 2007 he served as a consultant for Sg2 LLC, a healthcare consulting firm. From July 2002 until December 2005, he served as a consultant for Navigant Consulting, Inc. (formerly The Tiber Group), a healthcare strategic planning and market research company. From September 1978 until August 1991, he was Chairman of the Department of Neurosurgery at Henry Ford Hospital in Detroit. From December 1987 until July 1991, he served as Director of the Henry Ford Neurosurgical Institute, also at Henry Ford Hospital. In

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addition, he was Clinical Professor of Surgery, Section of Neurosurgery at the University of Michigan in Ann Arbor from 1980 until 1991. Dr. Ausman received a B.S. degree in chemistry and biology from Tufts University, a Doctorate of Medicine from Johns Hopkins University School of Medicine, a Masters of Arts in Physiology from the State University of New York at Buffalo, and a Ph.D. in Pharmacology from George Washington University. He has also received graduate training in neurosurgery at the University of Minnesota and has obtained board certification from the American Board of Neurological Surgery.

Richard R. Sorensen. Mr. Sorensen has served as one of our directors since June 2006. Since May 2007 he has served as Treasurer and Chief Financial Officer of U.S. Health Holdings Ltd and its wholly-owned subsidiaries U.S. Health and Life Insurance Company, a group health and life insurance company, and Automated Benefit Services, Inc., a third party administrator. From June 2005 to May 2007, he served as a financial advisor with UBS Financial Services, Inc., a firm providing financial advisory and brokerage services. From September 1998 to June 2005, he served at Superior Consultant Holdings Corporation, a publicly-traded provider of information technology, consulting and outsourcing to hospitals and healthcare systems, most recently as its Chief Financial Officer from October 2000 to June 2005. Superior Consultant Holdings Corporation merged with Affiliated Computer Services, Inc. in January 2005. Previously he served as an audit partner with Plante & Moran LLP, a professional service firm, including an independent registered public accounting firm, providing tax, assurance and business consulting services in Michigan, Ohio and Illinois. Mr. Sorensen received a BBA degree in accounting from University of Michigan.

Corporate Governance

Independence

Our board of directors has determined that Dr. Ausman, General Jumper and Messrs. Follis, Henry and Sorensen are independent under the listing standards of The NASDAQ Stock Market LLC Marketplace Rules, as those standards have been modified or supplemented.

Board Meetings and Annual Meeting Attendance Policy

During the fiscal year ended November 30, 2008, our board of directors held 10 meetings and acted by written consent five times.

We encourage all of our directors to attend the annual meeting of shareholders, if possible and if they will continue as directors after the meeting. All six of our then current directors attended the 2008 annual meeting of shareholders.

Audit Committee

Our board of directors has established a separately-designated, standing Audit Committee that consists of five directors (four after the 2009 annual meeting) and is established for the purpose of overseeing our accounting and financial reporting processes and audits of our

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financial statements. Mr. Sorensen (Chairman), Dr. Ausman, Mr. Follis, Mr. Henry and General Jumper are the current members of this committee. The Audit Committee:

is directly responsible for the appointment, compensation, retention and oversight of the work of any registered public accounting firm engaged for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for us, including responsibility for the resolution of disagreements between management and the auditor regarding financial reporting; each such registered public accounting firm must report directly to the Audit Committee;

ensures that before the independent accountant is engaged by us to render audit or non-audit services, the engagement is approved by the Audit Committee or the engagement to render the service is entered into pursuant to pre-approval policies and procedures established by the Audit Committee; this pre-approval authority may be delegated to one or more members of the Audit Committee;

takes, or recommends that the full board takes, appropriate action to oversee the independence of our independent accountants;

oversees our independent accountants' relationship by discussing with our independent accountants the nature, scope and rigor of the audit process, receiving and reviewing audit and other reports from the independent accountants and providing our independent accountants with full access to the committee and the board to report on any and all appropriate matters;

reviews and discusses the audited financial statements and the matters required to be discussed by SAS 61 with management and the independent accountants, including discussions concerning the independent accountants' judgments about the quality of our accounting principles, applications and practices as applied in our financial reporting;

recommends to the board whether the audited financial statements should be included in our Annual Report on Form 10-K;

reviews with management and the independent accountants the quarterly financial information before we file our Form 10-Qs; this review is performed by the committee or its chairperson;

discusses with management and the independent accountants the quality and adequacy of our internal controls;

establishes procedures for (1) the receipt, retention, and treatment of complaints received by us regarding accounting, internal accounting controls, or auditing matters, and (2) the confidential, anonymous submission by our employees of concerns regarding questionable accounting or auditing matters;

reviews related party transactions required to be disclosed in our proxy statement for potential conflict of interest situations and approves all such transactions;

discusses with management the status of pending litigation as it pertains to the financial statements and disclosure and other areas of oversight as the committee deems appropriate; and

reports committee activities to the full board.

During the fiscal year ended November 30, 2008, our Audit Committee held five meetings and acted by written consent once.

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Our board of directors has adopted a written charter for the Audit Committee, a current copy of which is available to shareholders on our website, at <http://www.somanetics.com>.

Audit Committee Financial Experts

Our board of directors has determined that Mr. Henry and Mr. Sorensen are Audit Committee financial experts, as defined by the Securities and Exchange Commission, serving on our Audit Committee. Mr. Henry and Mr. Sorensen are independent as independence for audit committee members is defined in the listing standards of The NASDAQ Stock Market LLC Marketplace Rules. Mr. Henry's experience that qualifies him as our Audit Committee financial expert includes investment banking experience serving as managing director of Morgan Stanley from 1977 to 1989, corporate securities underwriting experience with Morgan Stanley from 1965 to 1977 and an M.B.A. from Harvard Business School in 1964. Mr. Sorensen's experience that qualifies him as our Audit Committee financial expert includes his current position as Treasurer and Chief Financial Officer of US Health and Life Insurance Company and his former position as Chief Financial Officer of Superior Consultant Holdings Corporation, a publicly-traded company, and his service as an audit partner with Plante & Moran LLP. See Biographical Information.

Audit Committee Report

Our Audit Committee has:

reviewed and discussed our audited financial statements for the fiscal year ended November 30, 2008 with our management;

discussed with our independent auditors the matters required to be discussed by the Statement on Auditing Standards No. 61, as amended (AICPA, *Professional Standards*, Vol. 1. AU section 380), as adopted by the Public Company Accounting Oversight Board in Rule 3200T;

received the written disclosures and the letter from our independent accountants required by applicable requirements of the Public Company Accounting Oversight Board regarding the independent accountants communications with the audit committee concerning independence; and

discussed with our independent accountants our independent accountants' independence.

Based on the review and discussions described above in this paragraph, our Audit Committee recommended to our board of directors that the audited financial statements for the fiscal year ended November 30, 2008 be included in our Annual Report on Form 10-K for the fiscal year ended November 30, 2008 for filing with the Securities and Exchange Commission.

Management is responsible for the Company's financial reporting process including its system of internal control, and for the preparation of consolidated financial statements in accordance with generally accepted accounting principles. The Company's independent auditors are responsible for auditing those financial statements. Our responsibility is to monitor and

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review these processes. It is not our duty or our responsibility to conduct auditing or accounting reviews or procedures. We are not employees of the Company or its accountants or auditors. Therefore, we have relied, without independent verification, on management's representation that the financial statements have been prepared with integrity and objectivity and in conformity with accounting principles generally accepted in the United States of America and on the representations of the independent auditors included in their report on the Company's financial statements. Our oversight does not provide us with an independent basis to determine that management has maintained appropriate accounting and financial reporting principles or policies, or appropriate internal controls and procedures designed to assure compliance with accounting standards and applicable laws and regulations.

Furthermore, our considerations and discussions with management and the independent auditors do not assure that the Company's financial statements are presented in accordance with generally accepted accounting principles, that the audit of our Company's financial statements has been carried out in accordance with generally accepted auditing standards or that our Company's independent accountants are in fact independent.

By the Audit Committee

Richard R. Sorensen, Chairman

James I. Ausman, M.D., Ph.D.

Daniel S. Follis

Robert R. Henry

John P. Jumper

Compensation Committee

Our board of directors has a standing Compensation Committee which consists of five directors (four after the 2009 annual meeting). Mr. Follis (Chairman), Dr. Ausman, Mr. Henry, General Jumper and Mr. Sorensen are the current members of this Committee. The Compensation Committee makes recommendations to the board of directors with respect to compensation arrangements and plans for executive officers and directors of the Company and administers the Company's 1991 Incentive Stock Option Plan, 1997 Stock Option Plan, and 2005 Stock Incentive Plan. During the fiscal year ended November 30, 2008, the Compensation Committee held six meetings and took action by written consent once.

Our board of directors has adopted a written charter for the Compensation Committee, a current copy of which is available to shareholders on our website, at <http://www.somanetics.com>.

The Committee generally meets at regularly scheduled quarterly and annual meetings of the board of directors, with additional meetings held as often as its members deem necessary. The Committee generally considers executive salaries at the regularly scheduled meeting of the board after the end of the third quarter, generally effective August 1, but sometimes effective at later times depending on the date of the most recent change, and at the time of a promotion or change in duties. The Committee generally considers an annual bonus plan near the beginning of the year, in connection with, or after, review and approval of our business plan for the year, with payouts usually reviewed and determined at the regular meeting held after the end of the first

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three quarters and at a mid-December meeting after the end of the fourth quarter. The Committee generally considers equity awards at varying times depending on various factors, such as the date of the last award and Committee deliberations about proposed awards or other compensation. In fiscal 2007, the Committee deferred recommendation of executive officer equity awards, and in fiscal 2008, the Committee granted awards in March 2008.

The Committee may delegate any of its responsibilities to subcommittees as the Committee deems appropriate, provided that subcommittees are composed entirely of independent directors. The Committee has the authority to retain a compensation consultant to assist in the evaluation of compensation, and has the sole authority to retain and terminate such firm and to approve its fees and other retention terms. The Committee also has authority to retain other advisors. We must provide appropriate funding for payment of compensation to any consulting firm or other advisors employed by the Committee.

The Committee has not delegated any of its responsibilities to a subcommittee and has not retained a compensation consultant or other advisor. Proposals regarding compensation of executive officers and directors (including recommending bonus formulas and plans, performance measures, compensation and award levels, and payout amounts) are generally made by management, primarily our Chief Executive Officer. The Committee has discretion to accept, reject or modify these recommendations. Our Secretary generally prepares materials and agendas for Committee meetings, attends the meetings and keeps the minutes of the meetings. Our Chief Executive Officer generally attends Committee meetings, but is not present during voting or deliberations regarding his compensation.

In evaluating these proposals, the Compensation Committee relies primarily on its members' reviews of summaries of past and current salaries and bonuses of, and equity awards to, our executive officers, values of outstanding equity awards held by our executive officers, and previous bonus plans and employment and severance agreements, its members' reviews of the information contained in our proxy statement, and its members' subjective review of the reasonableness and fairness of proposed compensation in light of our size and results of operations and the objectives of such compensation.

Compensation Committee Interlocks and Insider Participation

During the fiscal year ended November 30, 2008, Dr. Ausman, Mr. Follis (Chairman), Mr. Henry, (beginning April 10, 2008) General Jumper and Mr. Sorensen served as the members of our Compensation Committee. None of the members of our Compensation Committee was, during the fiscal year ended November 30, 2008, one of our officers or employees, or one of our former officers. None of the committee members had any relationship requiring disclosure by us pursuant to Securities and Exchange Commission rules regarding disclosure of related-party transactions.

Compensation Committee Report

Our Compensation Committee has reviewed and discussed the Compensation Discussion and Analysis set forth below under the caption Executive Compensation Compensation

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Discussion and Analysis with our management. Based on this review and discussion, our Compensation Committee recommended to our board of directors that the Compensation Discussion and Analysis be included in this proxy statement and incorporated by reference into our Annual Report on Form 10-K for the fiscal year ended November 30, 2008.

By the Compensation Committee

Daniel S. Follis, Chairman

James I. Ausman, M.D., Ph.D.

Robert R. Henry

John P. Jumper

Richard R. Sorensen

Nominating Committee

Our board of directors has a standing Nominating Committee which consists of five directors (four after the 2009 annual meeting). General Jumper (Chairman), Dr. Ausman, Mr. Follis, Mr. Henry and Mr. Sorensen are the current members of this committee. The Nominating Committee identifies individuals to become board members and selects, or recommends for the board's selection, director nominees to be presented for shareholder approval at the annual meeting of shareholders or to fill any vacancies. During the fiscal year ended November 30, 2008, the Nominating Committee held two meetings and acted by written consent once.

Our board of directors has adopted a written charter for the Nominating Committee, a current copy of which is available to shareholders on our website, at <http://www.somanetics.com>.

The Nominating Committee's policy is to consider any director candidates recommended by shareholders. Such recommendations must be made pursuant to timely notice in writing to our Secretary, at Somanetics Corporation, 1653 East Maple Road, Troy, Michigan 48083-4208. To be timely, the notice must be received at our offices at least 120 days before the anniversary of the mailing of our proxy statement relating to the previous annual meeting of shareholders. The notice must set forth:

with respect to the director candidate,

the candidate's name, age, business address and residence address,

the candidate's principal occupation or employment,

the number of our common shares beneficially owned by the candidate,

information with respect to the candidate's independence, as defined under Nasdaq's listing standards for independent directors in general and with respect to Audit Committee members,

information with respect to other boards on which the candidate serves,

information with respect to direct or indirect transactions, relationships, arrangements and understandings between the candidate and us and between the candidate and the shareholder giving the notice, and

any other information relating to the candidate that we would be required to disclose in our proxy statement if we were to solicit proxies for the election of

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the candidate as one of our directors or that is otherwise required under Securities and Exchange Commission rules, including the candidate's written consent to being named in the proxy statement as a nominee and to serving as a director if elected, and
with respect to the shareholder giving the notice,
the name and address of the shareholder as they appear on our stock transfer records, and

the number of our common shares beneficially owned by the shareholder (and the period they have been held).

The Nominating Committee has not established specific, minimum qualifications for recommended nominees or specific qualities or skills for one or more of our directors to possess. The Nominating Committee uses a subjective process for identifying and evaluating nominees for director, based on the information available to, and the subjective judgments of, the members of the Nominating Committee and our then current needs, although the committee does not believe there would be any difference in the manner in which it evaluates nominees based on whether the nominee is recommended by a shareholder. Historically, nominees have been existing directors or business or other associates of our directors or officers.

Code of Business Conduct and Ethics

We have adopted a Code of Business Conduct and Ethics that applies to all of our employees, officers and directors, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. Our Code of Business Conduct and Ethics contains written standards that we believe are reasonably designed to deter wrongdoing and to promote:

Honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;

Full, fair, accurate, timely, and understandable disclosure in reports and documents that we file with, or submit to, the Securities and Exchange Commission and in other public communications we make;

Compliance with applicable governmental laws, rules and regulations;

The prompt internal reporting of violations of the code to an appropriate person or persons named in the code; and

Accountability for adherence to the code.

This Code of Business Conduct and Ethics is attached to our Annual Report on Form 10-K for the fiscal year ended November 30, 2008 as Exhibit 14.1. We have also posted it on our website at <http://www.somanetics.com>. We will provide to any person without charge, upon request, a copy of our Code of Business Conduct and Ethics. Requests for a copy of our Code of Business Conduct and Ethics should be made to our Secretary at Somanetics Corporation, 1653 East Maple Road, Troy, Michigan 48083-4208. We intend to satisfy the disclosure requirement under Item 5.05 of Form 8-K regarding an amendment to, or a waiver from, a provision of our Code of Business Conduct and Ethics that applies to our principal executive officer, principal financial officer, principal accounting officer or controller or persons

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performing similar functions and that relates to any element of the code definition enumerated in Securities and Exchange Commission, Regulation S-K, Item 406(b) by posting such information on our website at <http://www.somanetics.com> within four business days following the date of the amendment or waiver.

Review, Approval or Ratification of Transactions with Related Persons

Our board of directors has adopted a written Related Party Transactions Policy. We have posted it on our website at <http://www.somanetics.com>. In general, it is our policy to avoid related-party transactions. If a Related Party Transaction is offered that appears to be in our best interests, then the policy provides a process to review and approve the transaction. Under this policy, a Related Party Transaction will be consummated or will continue only if:

our Audit Committee approves or ratifies the transaction and the transaction is on terms comparable to, or more beneficial to us than, those that could be obtained in arm's length dealings with an unrelated third party; or

the transaction is approved by disinterested members of our board of directors; or

the transaction involves compensation approved by our Compensation Committee.

For purposes of this policy, Related Party has the same meaning as related person under Item 404 of Regulation S-K promulgated by the Securities and Exchange Commission, and includes:

any of our directors or executive officers,

any person who is known to us to be the beneficial owner of more than five percent of any class of our voting securities, and

any immediate family member of one of our directors or executive officers or person known to us to be a more than five percent shareholder.

For purposes of this policy, a Related Party Transaction is a transaction in which we are a participant and in which any Related Party had or will have a direct or indirect material interest (including any transactions requiring disclosure under Item 404 of Regulation S-K), other than:

transactions available to all salaried employees generally, and

transactions involving less than \$5,000 when aggregated with all similar transactions.

Management will present to the Audit Committee for approval by the next regularly scheduled Audit Committee meeting any Related Party Transactions proposed to be entered into by us, including the proposed aggregate value of such transactions, if applicable, or Related Party Transactions may preliminarily be entered into by management subject to ratification by the Audit Committee. The Audit Committee will review and approve or disapprove such transactions, and at each subsequent regularly-scheduled Audit Committee meeting, management will update the Audit Committee as to any material change to the approved transactions. If such transactions are not ratified, management must make all reasonable efforts to cancel or annul the transaction.

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The policy also covers opportunities that are presented to an executive officer or director that may be available to us, either directly or by referral. Before the executive officer or director may consummate such an opportunity, it must be presented to the board of directors for consideration.

The policy also requires that all Related Party Transactions be disclosed in our filings with the SEC to the extent required by the SEC's rules, and that they be disclosed to the Audit Committee and, if material, to the full board of directors.

Shareholder Communications with the Board

Our board of directors has a process for shareholders to send communications to the board of directors, its Nominating Committee or its Audit Committee, including complaints regarding accounting, internal accounting controls, or auditing matters. Communications can be sent to the board of directors, its Nominating Committee or its Audit Committee or specific directors either by regular mail to the attention of the board of directors, its Nominating Committee, its Audit Committee or specific directors, at our principal executive offices at 1653 East Maple Road, Troy, Michigan 48083-4208, or by e-mail to directors01@somanetics.com. All of these communications will be reviewed by our Secretary (1) to filter out communications that our Secretary deems are not appropriate for our directors, such as spam and communications offering to buy or sell products or services, and (2) to sort and relay the remainder (unedited) to the appropriate directors.

Executive Compensation

Compensation Discussion and Analysis

Objectives. Our objectives for executive compensation are to provide compensation that attracts and retains qualified executives and motivates them to achieve our annual goals without taking excessive risks and to increase shareholder value. The Compensation Committee uses salaries, annual bonuses, options, restricted stock, a 401(k) plan, employment and change in control agreements and minimal miscellaneous personal benefits to achieve these goals. We do not have non-qualified deferred compensation plans or retirement or pension plans, other than our 401(k) Plan. Our Compensation Committee reviews these goals each year and has approved this philosophy.

In fiscal 2008, for executives, the Committee increased salaries, adopted an annual bonus plan, granted stock options and restricted stock, and updated employment and change in control agreements to comply with deferred compensation rules, eliminate perks and extend expiring agreements. As described below, we adopted a bonus plan for fiscal 2008 that is tied directly to achieving net revenues and operating income targets (described below under Bonuses).

Salary and annual bonus are cash-based, while long-term incentives consist of option and restricted stock awards. We do not have a specific goal for allocating between cash and equity-based compensation or between annual and long-term compensation. We strive to balance

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incentives to achieve our annual financial goals and incentives to increase shareholder value. Our policy is that target bonuses based on achieving our annual goals should be a large part of an executive's total compensation. Target bonuses were 55 percent to 65 percent of the executives' salaries in fiscal 2008 and are the same for fiscal 2009. As a result, changes in an executive's salary change the amounts of bonuses. Severance pay also varies with salary.

Options and restricted stock are designed to retain executives and to motivate them to increase shareholder value. We believe they should be a large part of an executive's total compensation. Option and restricted stock awards are generally determined based on the executive's position, although we do not use objective formulas to determine the amounts of our option and restricted stock awards. Awards in fiscal 2008 were the same in terms of numbers of shares and allocation between options and restricted stock as the awards in fiscal 2006.

See Corporate Governance Compensation Committee for a discussion of the members of the Compensation Committee, their independence, the Compensation Committee Charter, the Compensation Committee's meetings and procedures, and the role of executive officers in determining executive compensation.

Benchmarking. When we make compensation decisions, we sometimes look at the compensation paid to similar executives at companies that we consider to be our peers, either because they are in a similar business or because they have a similar market capitalization. This is often referred to as benchmarking. We believe that a benchmark should be a point of reference. The purpose of this information is not to determine the amount of our executives' compensation, but to help us evaluate whether proposed compensation is reasonable, fair or at levels needed to attract or retain our executives. We do not target our compensation to be at a particular level compared to compensation at other companies. We do not review benchmarking information every year.

The Committee has discretion in determining the nature and extent of the use of this information. There are limitations related to this information, including that it may omit information about other forms of compensation, severance pay or wealth accumulation and that there may be differences in the size and businesses of the companies included and in the experience, responsibilities and performance of the executives included. As a result, the Committee may elect not to use the information at all or may elect to make subjective judgments about, and adjustments to, the information in connection with its decisions.

The Committee considers salaries, bonuses and equity incentive awards to be reasonable if they are in the range of those amounts for similar executives at comparable companies in our industry, adjusted in the Committee's subjective judgment for the size of the company (in terms of market capitalization, revenues and numbers of employees), its business, its growth rate, the duties and experience of the applicable executive and our performance, unless there is a reason for the applicable compensation to be higher or lower.

In fiscal 2008, the Committee did not review any benchmarking information in connection with its review of proposed salary increases, bonuses, grants of stock options or restricted stock or changes in employment or change in control agreements for executive

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officers. Instead, for salaries, based in part on management's recommendations and on the Company's net revenues and operating income to date, the Committee determined that the proposed five percent increases in executive salaries effective August 1, 2008 (December 1, 2008 for Dominic Spadafore because his prior increase was effective December 1, 2007) were reasonable.

Tally Sheets and Wealth Accumulation Analysis. Each year, the Committee analyzes tally sheets prepared for each of the named executive officers. These tally sheets are prepared by our Vice President and Chief Administrative Officer. They include the dollar amount of salary and bonus, including, for bonuses, the target amount, the estimated actual amount and projected amounts based on various assumptions, and, separately, the unrealized value of outstanding options and restricted stock held by the executive based on various stock price assumptions. They do not include 401(k) plan benefits, severance or change in control arrangements, profits from past option exercises or vested restricted stock or perks.

The purpose of these tally sheets is to bring together, in one place, the primary elements of actual and potential future compensation of our executives, as well as information about wealth accumulation from outstanding options and restricted stock. This information allows the Committee to analyze both the individual elements of compensation, including the compensation mix, as well as the aggregate total amount of these elements of actual and projected compensation.

In fiscal 2008 and in fiscal 2009, this information was presented to the Committee in connection with its adoption of bonus plans. Using this information, the Committee determined that annual compensation amounts for our executives remained consistent with the Committee's expectations and that the portion of compensation represented by the proposed bonus plan was appropriate, including the targeted bonuses as a percent of salaries. The Committee uses this information in other aspects of its analysis of compensation, including in considering internal pay equity and in evaluating the reasonableness and portion of compensation represented by proposed option and restricted stock grants.

Internal Pay Equity and Subjective Analysis. We believe that our executive compensation program must be equitable in order to achieve our compensation goals. The Committee does not use objective guidelines or formulas to determine the relative amounts of salary, bonus, options and restricted stock. Instead, the Committee relies on its collective subjective judgment together with the information provided by the Company, the analyses and goals described above and the recommendations of our CEO. The Committee also subjectively considers the qualifications, length of service, experience, consistency of performance, position, responsibilities, individual performance and available competitive alternatives of our executives, their existing compensation and our financial resources, performance and prospects in determining appropriate levels of compensation for our executives.

As a result of this analysis, in December 2007, the Committee recommended promoting Dominic Spadafore to Senior Vice President, Sales and Marketing (from Vice President, Sales and Marketing) and increasing his salary from \$168,501 annually to \$200,000 annually, based on the roles and responsibilities of his position, including the increasing number of sales and

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marketing employees that he manages. Also, effective August 1, 2008 (December 1, 2008 for Dominic Spadafore), the Committee approved salary increases for all executives equal to five percent of their salaries.

Also, after the end of fiscal 2008, in January 2009, the Committee recommended promoting Arik A. Anderson to Senior Vice President, R&D and Operations (from Senior Vice President, Research and Development), making him a new executive officer, and increasing his salary from \$157,500 annually to \$173,250 annually, based on the roles and responsibilities of his new position, including increased responsibility for manufacturing operations.

In addition, in fiscal 2008, the Committee approved a bonus plan that provided our CEO with a target bonus equal to 65% of his salary and provided the other three of our executives with target bonuses equal to 55% of their salaries. The Committee generally grants our CEO twice as much equity incentive compensation as it grants to our other executive officers, and grants equal amounts of equity incentive compensation to each of our other executive officers. It followed this practice in fiscal 2008 when it approved grants of options and restricted stock for the same numbers of shares as were granted to the executives in fiscal 2006.

The Committee also determined to extend the change in control severance agreements for each of the executive officers whose agreement was expiring and to provide all executive officers with one year's salary upon termination of employment in connection with a change in control (two years for the CEO).

Salaries. The Compensation Committee's policy is to provide salaries that it believes are necessary to attract and retain qualified executives. In determining its recommendations for executive officer salaries, the Compensation Committee generally relies to a significant extent on Mr. Barrett's recommendations as our CEO and the analyses described above.

As described above, in December 2007, the Committee recommended promoting Dominic Spadafore to Senior Vice President, Sales and Marketing (from Vice President, Sales and Marketing) and increased his salary from \$168,501 annually to \$200,000 annually, based on the roles and responsibilities of his position, including the increasing number of sales and marketing employees that he manages.

Also, effective June 17, 2008, in connection with the amendment and restatement of Mr. Barrett's employment Agreement, the Committee recommended increasing Mr. Barrett's salary from \$330,750 to \$350,750, in exchange for deleting requirements under the agreement that we provide him with an automobile and all related expenses (up to \$20,000 a year), a cellular phone, related phone service and Internet access. He is still entitled to reimbursement for his business expenses. The Committee determined that a \$20,000 increase in salary was fair in exchange for Mr. Barrett giving up these benefits in his agreement, and that deleting these benefits was consistent with its policy of minimizing perks.

Also, as described above, effective August 1, 2008 (December 1, 2008 for Dominic Spadafore because his salary was increased effective December 1, 2007), the Committee approved salary increases for all executives equal to five percent of their salaries, based

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primarily on the Committee's subjective evaluation of Mr. Barrett's recommendations, our significant profitability in fiscal 2007, and our performance in fiscal 2008 through the third quarter. The Committee determined that an equal percentage increase was fair to the executives and reasonable.

Also as described above, after the end of fiscal 2008, in January 2009, the Committee recommended promoting Arik A. Anderson to Senior Vice President, R&D and Operations (from Senior Vice President, Research and Development), making him a new executive officer, and increased his salary from \$157,500 annually to \$173,250 annually, based on the roles and responsibilities of his new position, including increased responsibility for manufacturing operations.

Bonuses. The Committee's policy is to make a meaningful portion of an executive's compensation depend on achieving our net revenues and operating income targets. These targets were chosen because the Committee believes they are key measures of our success. If targeted levels are reached, bonuses are 55% of the executive's salary (65% for the CEO). In addition, the Committee considers discretionary bonuses, determined after the end of the fiscal year, to compensate executives for performance or achievements during the fiscal year not covered by other bonuses. No discretionary bonuses were paid to executives for fiscal 2008. We do not have a policy regarding adjustment of bonus payments if the relevant performance measures upon which they are based are restated or otherwise adjusted in a manner that would reduce the size of the payment, but we have not had such a restatement or adjustment.

For fiscal 2008, we adopted the 2008 Executive Officer Incentive Compensation Plan for our executive officers. Eighty percent of the potential bonuses under the plan were based on our net revenues (40%) and operating income (40%), determined and payable quarterly. The quarterly bonus equaled (1) the percentage of our year-to-date net revenues compared to our net revenues targets, (2) multiplied by a factor, (3) multiplied by the executive's salary, (4) multiplied by a pay-out rate, and (5) multiplied by .1 (i.e., eighty percent of the potential bonus, divided among the four quarters, divided between the net revenues and operating income targets), plus (1) the percentage of our year-to-date operating income compared to our operating income targets, (2) multiplied by a factor, (3) multiplied by the executive's salary, (4) multiplied by a pay-out rate, and (5) multiplied by .1 (i.e., eighty percent of the potential bonus, divided among the four quarters, divided between the net revenues and net income targets). No bonus was payable for net revenues or operating income less than 80 percent of the net revenues or operating income targets. The other twenty percent of the bonuses under the plan was based on the same formula as the fourth quarter bonus. The formula required an improvement over fiscal 2007 in net revenues and operating income for every quarter and were consistent with our business plan so that executives had incentives to achieve our annual plans.

The factors ranged from 0.6 for net revenues and operating income from 80 percent to 84 percent of the net revenues and operating income targets to 1.8 for net revenues and operating income of 113 percent or more of the net revenues and operating income targets. The factor equaled 1.00 for net revenues and net income equal to 100 percent of the net revenues and operating income targets. These factors cause the related bonuses to increase or decrease as a percentage more than the percentage difference between actual net revenues and operating

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income and their targets to provide executives with extra incentives to exceed targets. The dollar increases in net revenues and operating income, however, are significantly greater than the resulting dollar increase in bonuses, so we still benefit from exceeding targets. Pay-out rates were 65 percent for Mr. Barrett, 55 percent for Mr. Iacona, Mr. Spadafore and Ms. Victor. Bonuses based on net revenues and operating income in excess of 100 percent of the net revenues and operating income targets were paid after the end of the fiscal year.

Net revenues and operating income were as reported in our Form 10-Q and 10-K, except operating income excludes expense for overachievement payments under any of our incentive plans and any adjustment to our deferred tax asset valuation allowance, and the Compensation Committee may, in its discretion, adjust net revenues and/or operating income to eliminate the impact, if any, of other unusual or non-recurring charges and benefits. Immaterial discretionary adjustments were made in fiscal 2008. In fiscal 2008, we met 86 percent, 97 percent, 97 percent and 95 percent of our cumulative net revenue targets and 53 percent, 108 percent, 120 percent and 113 percent of our cumulative operating income targets through the first, second, third and fourth quarters, respectively, and, therefore, paid bonuses to our four executive officers under the plan aggregating \$706,930.

To help show how difficult it is for our executives to earn their target bonuses, with targets based on our business plan, the following chart shows, for the past five fiscal years for each of our executive officers their target bonus as a percentage of their salaries, the actual bonus paid as a percentage of their salaries and the targets used in the plan:

| Executive | Fiscal Year | | | | |
|-----------------------------|--------------------------------|--------------------------------|---------------------------------------|--------------------------------------|--------------------------------------|
| | 2004 | 2005 | 2006 | 2007 | 2008 |
| Bruce J. Barrett | | | | | |
| Target Percent | 50% | 75% | 68% | 65% | 65% |
| Actual Percent | 77% | 121% | 91% | 108% | 96% |
| Targets | Sales & Individual Goals | Sales & Individual Goals | Sales & Net Income & Individual | Sales & Operating Income Goals | Sales & Operating Income Goals |
| William M. Iacona | | | | | |
| Target Percent | 30% | 50% | 55% | 55% | 55% |
| Actual Percent | 49% | 82% | 73% | 91% | 79% |
| Targets | Sales & Individual Goals | Sales & Individual Goals | Sales & Net Income & Individual | Sales & Operating Income Goals | Sales & Operating Income Goals |
| Mary Ann Victor | | | | | |
| Target Percent | 35% | 50% | 55% | 55% | 55% |
| Actual Percent | 52% | 79% | 73% | 91% | 79% |
| Targets | Sales & Individual Goals | Sales & Individual Goals | Sales & Net Income & Individual | Sales & Operating Income Goals | Sales & Operating Income Goals |
| Dominic J. Spadafore | | | | | |
| Target Percent | 53% | 55% | 55% | 56% | 55% |
| Actual Percent | 75% | 140% | 42% | 50% | 76% |
| Targets | U.S. Sales | U.S. Sales | U.S. Sales | U.S. Sales | Sales & Operating Income Goals |

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For fiscal 2009, we have adopted a similar incentive compensation plan for executive officers, except that (1) our newest executive officer is a participant in this plan, and (2) overachievement payments will not exceed 50% of our operating margin overachievement without Compensation Committee approval. The formula requires an improvement over fiscal 2008 in net revenues, but has lower targets for operating income for every quarter, and the targets are consistent with our business plan so that executives have incentives to achieve our annual plans. The Compensation Committee reserves the right to pay bonuses to participants beyond those, if any, called for by the Plan, less than those called for by the Plan, or to defer payment of bonuses, provided that the payments are made on or before March 14, 2010.

Equity Incentives. The Compensation Committee's policy is to award stock options and/or restricted stock to officers, employees, consultants and directors under our shareholder-approved 2005 Stock Incentive Plan to retain them and provide a long-term incentive to increase shareholder value. The Committee's policy is that these equity incentives should be a significant portion of an executive's potential compensation because it believes that increasing shareholder value is one of management's primary objectives.

Starting in fiscal 2006, we began using restricted stock awards to executives to increase the retention value of the equity compensation and to provide a similar incentive as options. Restricted stock has some value even if the stock price declines, but also subjects the holder to some risk of decreases in stock price. Restricted stock also provides executives with an incentive to increase shareholder value even if the stock price declines after the award date. The significant unrealized value of options held by our executives also causes them to have unrealized gains and losses when our stock price rises and falls. However, most of these options are fully vested, and provide limited incentives for executives to remain with us. Because executives might sell restricted shares when they vest to pay the related taxes, the Committee also grants stock options to executives to maintain a long-term incentive to increase shareholder value.

The Committee's policy is to fix the exercise price of the options at the fair market value of the underlying shares on the date of grant. Our 2005 Stock Incentive Plan provides that subject to the anti-dilution provisions of the plan, without the approval of shareholders, we will not amend or replace previously granted options in a transaction that constitutes a repricing under Nasdaq Stock Market Marketplace Rules. Therefore, options granted under that plan only provide compensation if the price of the underlying shares increases. The Committee determines fair market value based on the closing sale price of the shares on the date of grant.

The Committee does not have a policy of timing option grants in coordination with the release of material non-public information. However, if options are granted at a regular meeting held just before a quarterly news release, the Committee's policy is to make the grant effective at least one business day after the news release. The Committee generally considers equity awards at varying times depending on various factors, such as the date of the last award and Committee deliberations about proposed awards or other compensation. In fiscal 2007, the Committee deferred recommendation of executive officer equity awards, and in fiscal 2008, the Committee granted awards in March 2008.

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The Committee's policy is to grant options and restricted stock that vest over five years to provide the executive with an incentive to remain with us, to provide a long-term incentive and to lessen the accounting charge for such options (which is generally amortized over the vesting period). We do not, however, require that any portion of the shares acquired be held until retirement. We do not have any stock ownership requirements for executive officers or directors. We do not have a policy prohibiting a director or executive officer from hedging the economic risks of his or her stock ownership position. However, each of our executives has a significant number of exercisable options and we do not believe that any executive officer or director has hedged the economic risks of his or her stock ownership position.

In addition, the vesting of all of our option and restricted share awards accelerate upon a change in control to provide a greater incentive for all optionees to complete change in control transactions that benefit shareholders by giving them the full benefit of their options in the transaction regardless of whether their employment will continue. Also, the vested portion of options granted to executives and directors generally remain exercisable after termination of employment (other than termination for cause) until their original expiration date, primarily to allow them to retain benefits that have already been earned. The Committee's policy is also to provide new executives with options to attract them to us based on negotiations with new executives, management's recommendations and the Committee's subjective judgment primarily after reviewing the number of options granted to our other executives.

The Committee generally grants our CEO twice as much equity incentive compensation as it grants to our other executive officers, and grants equal amounts of equity incentive compensation to each of our other executive officers. It followed this practice in fiscal 2008 when it approved grants of options and restricted stock for the same numbers of shares as were granted to the executives in fiscal 2006.

401(k) Plan. We have adopted a 401(k) plan to provide all eligible employees a means to accumulate retirement savings on a tax-advantaged basis. Our executive officers are eligible to participate in this plan on the same basis as other participants. Participants may defer specified portions of their compensation and (1) we match 200 percent of employee contributions up to a contribution by us equal to four percent of the employee's compensation and (2) we may, but are not required to, make additional discretionary contributions. The amount of additional discretionary contributions are based on the Committee's subjective judgment of what is appropriate, after reviewing management's recommendation. As a result of the matching contribution implemented in 2005 to reward employees for their collective efforts in making us profitable, the Committee recommended that we not make an additional discretionary contribution to the 401(k) plan for fiscal 2008.

Employment and Change in Control Agreements. The Company has employment agreements with Messrs. Barrett and Spadafore. The agreements were entered into initially as a result of arms-length negotiations and because they were necessary to attract these officers. We keep them in effect to retain these officers and to provide them with specified minimum salaries, fringe benefits and severance benefits. In Mr. Spadafore's case, the severance benefits apply only in connection with a change in control, like the change in control agreements with other

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executives. We keep Mr. Barrett's agreement in place to provide him with a specified minimum position and period of employment and severance. We do not consider gains from prior option or stock exercises or awards or the executive's term of service to the Company in setting severance benefits.

In June 2008, the Committee recommended that we amend and restate Mr. Barrett's employment agreement primarily to (1) extend the term of the agreement and delete the provisions providing Mr. Barrett with severance if we did not offer to renew the agreement on the same terms for a year before it otherwise expired, to provide for Mr. Barrett's continued services to the Company (the agreement would have expired in April 2009), (2) deleted the requirements to provide Mr. Barrett with an automobile and all related expenses (up to \$20,000 a year), a cellular phone, related phone service and Internet access, in exchange for a \$20,000 salary increase (as described above under Salary), (3) add provisions providing for approximately double severance if Mr. Barrett's employment is terminated without cause or for good reason in connection with a Change in Control, and (4) changes the definitions of Good Reason and adds a definition of Termination of Employment to comply with exemptions from the deferred compensation requirements of Section 409A of the Internal Revenue Code.

In June 2008, the Committee also recommended that we enter into an amended and restated employment agreement with Dominic Spadafore and amended and restated Change in Control Agreements with our other executive officers. The amendments primarily (1) extend the period in which the change in control must occur from June 2008 to June 2011, and changes the definitions of Good Reason and adds a definition of Termination of Employment to comply with exemptions from the deferred compensation requirements of Section 409A of the Internal Revenue Code. These agreements provide them with specified severance benefits in the event of termination of employment by us without cause or by the executive for good reason in connection with a change in control.

We believe the change in control severance provisions for all of our executives create incentives for our executive team to engage in transactions in which we may be acquired in the future that may be beneficial to our shareholders, despite the risk of losing their employment. These benefits are also intended to encourage these executives to remain employed through any transition period relating to a change in control. If they quit without good reason, they get no severance under these agreements. They are also intended to encourage our executives to stay with us even though they might have other job alternatives that may appear to them to be less risky without these arrangements.

Except for the provisions in our options and restricted stock awards accelerating vesting upon a change in control, these change in control severance arrangements are double trigger, meaning that both a change in control and termination of employment must occur before severance is payable. The double trigger arrangements may also be more attractive to potential buyers, who may want to retain our executives or, at least, not pay them severance if they quit without good reason. We do not consider gains from prior option or stock awards or the executive's term of service to the Company in setting severance benefits.

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See Employment Contracts and Termination of Employment and Change-in-Control Arrangements below for a description of the terms of our employment agreements and Change in Control Agreements. See also Potential Payments Upon Termination or Change-in-Control below for an estimate of amounts that would have been payable had they been triggered on November 30, 2008. Our Compensation Committee has reviewed the amounts of severance payments disclosed below and have determined them to be reasonable.

Miscellaneous Personal Benefits. Our policy with respect to personal benefits (other than severance pay) is that they should be kept to a minimum. We have provided Mr. Barrett and Mr. Spadafore with car allowances and payment of related expenses and have provided all of our executives with additional disability insurance. As described above, we eliminated Mr. Barrett's car allowance and related expenses, among other benefits, in exchange for a \$20,000 salary increase in June 2008 as part of our policy to keep personal benefits to a minimum. See Salary. We have provided these perquisites as a means of providing additional compensation to our executives through the availability of benefits that are convenient for the executives to use when faced with the demands of their positions.

Section 162(m) Policy. The Committee reserves the right to pay compensation to our executives in amounts it deems appropriate regardless of whether it is deductible for federal income tax purposes. The Committee believes that paying appropriate equity compensation is more important to us than the potential loss of related compensation deductions. In part, this is due to our net operating loss carryforwards and the non-cash nature of deductions relating to option exercises. In addition, the salaries and bonuses of our executives have been below the \$1,000,000 cap on executive compensation deductions under Section 162(m) of the Internal Revenue Code of 1986.

Nonetheless, we attempt to comply with Section 162(m) with respect to the grant of stock options to our executives by having them granted under shareholder approved plans with exercise prices equal to the fair market value of the underlying shares on the date of grant and having them granted (or recommended to the board for grant), by our Compensation Committee. We do not believe that Section 162(m) has prevented us from deducting compensation paid to our executive officers.

Summary Compensation Table

The following table sets forth information for the fiscal years ended November 30, 2008, 2007 and 2006 concerning compensation of (1) all individuals serving as our principal executive officer during the fiscal year ended November 30, 2008, (2) all individuals serving as our principal financial officer during fiscal 2008, and (3) our other executive officers in fiscal 2008 who were serving as executive officers as of November 30, 2008 and whose total compensation exceeded \$100,000:

Table of Contents**SUMMARY COMPENSATION TABLE**

| Name and Principal Position | Year | Salary (\$ (1)) | Bonus (\$ (2)) | Stock Awards (\$ (3)) | Option Awards (\$ (3)) | Non-Equity Incentive | All Other Compen- sation | Total (\$) |
|---|------|--------------------|-------------------|-----------------------------|------------------------------|---------------------------------------|-----------------------------------|---------------|
| | | | | | | Plan Compen- sation (\$ (2)) | sation (\$ (4)) | |
| Bruce J. Barrett, President and Chief Executive Officer | 2008 | 345,907 | 0 | 95,280 | 108,456 | 332,572 | 17,299 | 899,514 |
| | 2007 | 320,249 | 0 | 65,016 | 73,512 | 345,700 | 23,875 | 828,352 |
| | 2006 | 288,174 | 41,367 | 27,090 | 30,630 | 219,778 | 20,580 | 627,619 |
| William M. Iacona, Vice President, Chief Financial Officer, Treasurer and Controller | 2008 | 133,274 | 0 | 47,640 | 54,228 | 105,180 | 9,130 | 349,452 |
| | 2007 | 126,928 | 0 | 32,508 | 36,756 | 115,940 | 9,140 | 321,272 |
| | 2006 | 119,336 | 13,080 | 13,545 | 15,315 | 74,502 | 8,636 | 244,414 |
| Dominic J. Spadafore, Senior Vice President, U.S. Sales and Marketing | 2008 | 200,000 | 0 | 47,640 | 54,228 | 152,823 | 22,878 | 477,569 |
| | 2007 | 164,817 | 34,950 | 32,508 | 36,756 | 108,278 | 22,775 | 400,084 |
| | 2006 | 148,172 | 16,074 | 13,545 | 15,315 | 46,065 | 18,363 | 257,534 |
| Mary Ann Victor, Vice President and Chief Administrative Officer and Secretary | 2008 | 147,447 | 0 | 47,640 | 54,228 | 116,355 | 9,685 | 375,355 |
| | 2007 | 140,423 | 0 | 32,508 | 36,756 | 128,258 | 9,697 | 347,642 |
| | 2006 | 132,182 | 14,469 | 13,545 | 15,315 | 82,418 | 9,697 | 267,626 |

(1) Effective August 1, 2008 (December 1, 2008 for Dominic Spadafore), the salaries of the following executives were increased to the amount set forth next to his or her name: Bruce J. Barrett: \$368,278.50; William M. Iacona: \$137,649.75; Dominic J. Spadafore: \$210,000.00; and Mary Ann

Victor:
\$152,274.15. In
January 2009,
Arik A.
Anderson was
promoted to be
an executive
officer and
effective
February 1,
2009, his salary
was increased
from \$157,500
to \$173,250. See
Compensation
Discussion and
Analysis for an
explanation of
the amount of
salary and
bonuses in
proportion to
total
compensation.

- (2) Amounts for
fiscal 2007 and
2006 represent
amounts paid
under incentive
compensation
plans with
respect to
periods
completed
before adoption
of the related
incentive
compensation
plan because the
target for the
completed
period was not
substantially
uncertain at the
time the target
was established.
Also,
Mr. Spadafore
received a
discretionary

bonus of \$30,000 with respect to fiscal 2007 in December 2007, which is also included under the caption

Bonus . The bonuses payable under the 2008 Incentive Compensation Plan and the balance of the incentive compensation payable under the plans in fiscal 2007 and 2006 are shown under the caption

Non-Equity Incentive Plan Compensation. See

Compensation Discussion and Analysis Bonuses for a description of our bonus plans for executive officers.

- (3) These amounts relate to options and restricted stock granted to the executives in fiscal 2008 and 2006. For a discussion of the assumptions made in the valuation of the Stock Awards and Option Awards, see Note 7 of the Notes to

Financial Statements, included in our annual report to shareholders for the fiscal year ended November 30, 2008, which accompanies this proxy statement.

- (4) Amounts for fiscal 2008 include (a) the following amounts paid by us for automobiles provided by us to Mr. Barrett and Mr. Spadafore (including amounts paid as a car allowance and for gasoline and parking; such payments no longer apply to Mr. Barrett): \$5,325 for Mr. Barrett and \$11,297 for Mr. Spadafore; (b) the following matching contributions paid by us into our 401(k) plan on behalf of the following persons: \$8,800 for Mr. Barrett, \$8,790 for Mr. Iacona, \$8,800 for Mr. Spadafore and \$8,788 for Ms. Victor, and (c) the following

premiums paid
for additional
disability
insurance for the
following
persons: \$3,174
for Mr. Barrett,
\$340 for
Mr. Iacona,
\$2,781 for
Mr. Spadafore
and \$897 for
Ms. Victor.

Grants of Plan-Based Awards

The following table sets forth information concerning each grant of an award made during the fiscal year ended November 30, 2008 to each of our executive officers named in the Summary Compensation Table above.

Table of Contents**GRANTS OF PLAN-BASED AWARDS YEAR ENDED NOVEMBER 30, 2008**

| Name | Grant Date | Compen- sation Com- mittee Action Date (2) | Estimated Future Payouts Under Non-Equity Incentive Plan Awards (1) | | | All Other Stock Awards: Number of Shares of Stock or Units (#) (3) | All Other Option Awards: Number of Securities Underlying Options (#) (4) | Exercise or Base Price of Option Awards (\$/Sh) | Grant Date Fair Value and Option Awards (\$) |
|-------------------------|------------|---|---|----------------|-----------------|--|---|---|--|
| | | | Threshold (\$) | Target (\$) | Maximum (\$) | | | | |
| Bruce J. Barrett | 03/20/08 | 03/17/08 | 110,219 | 229,624 | 467,054 | 18,000 | | 226,980 | |
| | 03/20/08 | 03/17/08 | | | | | 36,000 | 12.61 | 262,080 |
| William M. Iacona | 03/20/08 | 03/17/08 | 35,647 | 74,265 | 151,056 | 9,000 | | 113,490 | |
| | 03/20/08 | 03/17/08 | | | | | 18,000 | 12.61 | 131,040 |
| Dominic J. Spadafore | 03/20/08 | 03/17/08 | 52,800 | 110,000 | 223,740 | 9,000 | | 113,490 | |
| | 03/20/08 | 03/17/08 | | | | | 18,000 | 12.61 | 131,040 |
| Mary Ann Victor | 03/20/08 | 03/17/08 | 39,435 | 82,156 | 167,104 | 9,000 | | 113,490 | |
| | 03/20/08 | 03/17/08 | | | | | 18,000 | 12.61 | 131,040 |

(1) See
 Compensation
 Discussion and
 Analysis
 Bonuses for a
 description of
 our bonus plans
 for executive
 officers,
 including the
 formula for
 determining
 amounts
 payable, and the
 Summary

Compensation
Table under the
Non-Equity
Incentive Plan
Compensation
column for the
amounts
actually paid
under our bonus
plans for fiscal
2008 to our
executive
officers.

Non-equity
incentive plan
awards to
executives in
fiscal 2008 were
made under the
2008 Executive
Officer
Incentive
Compensation
Plan and stock
option and
restricted stock
awards to
executives in
fiscal 2008 were
made under the
2005 Stock
Incentive Plan.

The 2008
Executive
Officer
Incentive
Compensation
Plan does not
have a
maximum bonus
because one of
the factors in the
quarterly and
year-end bonus
formulas is the
percentage of
our year to date
net revenues
and operating
income

compared to our net revenues and operating income targets, and the percentage is not capped. The amount shown in the maximum column is based on net revenues and operating income at 113% of target amounts because that level results in the highest factor in the bonus formula.

- (2) The Compensation Committee determined that the effective date of the grants and awards to executives in fiscal 2008 should be two business days after the quarterly financial news release for the first quarter (three days after the Compensation Committee meeting) and granted the options with exercise prices equal to the closing sale price of the common shares on the effective

date of the grants.

- (3) The stock awards listed in the table were awards of restricted shares to Messrs Barrett, Iacona and Spadafore and Ms. Victor in fiscal 2008 under our 2005 Stock Incentive Plan. Each of these restricted share awards vests in five equal annual installments beginning March 20, 2009. The restrictions also lapse in full upon a Change in Control as defined in the 2005 Stock Incentive Plan. Restricted shares are entitled to any dividends paid with respect to our outstanding common shares, although we have never paid cash dividends on our common shares and do not expect to pay such dividends in the foreseeable future.
- (4) The options listed in the

table are
ten-year,
non-qualified
stock options
granted to
Messrs. Barrett,
Iacona and
Spadafore and
Ms. Victor in
fiscal 2008
under our 2005
Stock Incentive
Plan,
exercisable at
the then current
fair market
value of the
underlying
commons
shares. Each of
these options is
exercisable in
five equal
annual
installments
beginning
March 20, 2009.
Each option is
also
immediately
exercisable in
full upon a
Change in
Control as
defined in the
2005 Stock
Incentive Plan.
The portion of
these options
that is
exercisable at
the date of
termination of
employment
remains
exercisable until
the expiration
date of the
option, unless
termination is
for cause. If,

upon exercise of
any of the
options, we
must pay any
amount for
income tax
withholding, in
the
Compensation
Committee's or
the board of
directors' sole
discretion,
either the
optionee will
pay such
amount to us or
we will

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appropriately reduce the number of common shares we deliver to the optionee to reimburse us for such payment. The Compensation Committee or the board may also permit the optionee to choose to have these shares withheld or to tender common shares the optionee already owns. The Compensation Committee or the board may also make such other arrangements with respect to income tax withholding as it shall determine.

Employment Contracts and Termination of Employment and Change-in-Control Arrangements

Bruce J. Barrett. Pursuant to an employment agreement entered into in May 1994 and amended and restated in April 2006 and June 2008, we employ Bruce J. Barrett as our President and Chief Executive Officer. His employment under the agreement expires on June 17, 2011, unless earlier terminated as provided in the agreement, except that the term is automatically extended for additional one-year periods effective one year before it would otherwise expire (i.e., so that the remaining term will be two years), unless either party provides the other with notice that the term will not be extended and such notice is provided at least one year before the term would otherwise expire. Mr. Barrett's annual salary is currently \$368,278.50, which may be increased, but not decreased, in the discretion of our board of directors. The agreement provides that the board of directors must establish a bonus plan in which Mr. Barrett is eligible to participate for each fiscal year during the term of the agreement, and that Mr. Barrett's target bonus (the bonus payable if targets are 100 percent met, but not necessarily the actual amount of the bonus payable under the plan) under the plan must be at least 65 percent of Mr. Barrett's salary, which percentage is subject to increase, but not decrease by the Board of Directors.

Under the terms of the agreement, Mr. Barrett is entitled to various fringe benefits under the agreement, including insurance, vacation, other employee benefit plans and business expense reimbursement applicable to our other similar employees.

Upon termination of employment by us without cause, by Mr. Barrett for good reason, Mr. Barrett is entitled to (1) continuation of the fringe benefits applicable to similar employees, including insurance and applicable employee benefit plans, but not vacation and business expense reimbursement, for one year (two years if termination is in connection with a Change in Control) after termination, at our expense, (2) a lump sum payment within 10 business days after termination equal to (a) one year's salary (two years if termination is in connection with a Change in Control), plus (b) the target bonus for the year in which termination occurs (two times the target bonus if termination is in connection with a Change in Control) plus an additional pro rata portion of the target bonus for the portion of the year through the date of termination (less any amounts already paid). If Mr. Barrett is a specified employee as defined in the deferred compensation regulations under Section 409A of the Internal Revenue Code as of the date of

termination, then any portion of the above amounts payable that exceeds the maximum allowable separation pay amount under the deferred compensation regulations and that otherwise constitutes deferred compensation subject to Section 409A, is payable six months after the date of termination of employment, or, if earlier, the date of Mr. Barrett's death.

Mr. Barrett has agreed not to compete with us until one year following termination of his employment, and not to solicit our employees until five years following termination of his employment. He has also agreed to various confidentiality and assignment of invention obligations.

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Dominic J. Spadafore. Pursuant to an employment agreement entered into in August 2002 and amended and restated in June 2005 and June 2008, we employ Dominic J. Spadafore as our Senior Vice President, U.S. Sales and Marketing, or in such other position as the board of directors determines. His employment under the agreement expires upon his death, termination by us upon his disability or with or without cause or termination by Mr. Spadafore. Mr. Spadafore's annual salary is currently \$210,000, which may be increased, but not decreased, by the board of directors. Mr. Spadafore is also entitled to participate in bonus plans established from time to time by our Board of Directors. Under the terms of the agreement, Mr. Spadafore is entitled to various fringe benefits under the agreement, including insurance, vacation, other employee benefit plans and business expense reimbursement applicable to our other similar employees.

The agreement provides for severance benefits equal to one year's salary upon termination of employment without cause or for good reason 90 days before to one year after a change of control of the Company that occurs by June 17, 2011. Mr. Spadafore has agreed not to compete with us until one year following termination of his employment, and not to solicit our employees until five years following termination of his employment. He has also agreed to various confidentiality and assignment of invention obligations.

Change in Control Agreements. In June 2008, we entered into amended and restated Change in Control Agreements with three of our current executive officers: Arik A. Anderson, William M. Iacona and Mary Ann Victor. These agreements replace similar agreements that were expiring and provide for severance benefits equal to one year's salary upon termination of employment without cause or for good reason 90 days before to one year after a change of control of the Company that occurs by June 17, 2011. Each of these officers has agreed not to compete with us until one year following termination of his or her employment, and not to solicit our employees until five years following termination of his or her employment. Each of these officers has also agreed to various confidentiality and assignment of invention obligations.

Equity Award Terms. All options and restricted stock granted under our stock option plans that are not already 100 percent exercisable immediately, including options and restricted stock granted to Messrs. Anderson, Barrett, Iacona and Spadafore and Ms. Victor, become 100 percent exercisable upon specified changes in control of our company.

Outstanding Equity Awards at Fiscal Year End

The following table sets forth information concerning unexercised options and stock that has not vested for each of our executive officers named in the Summary Compensation Table above that was outstanding as of November 30, 2008:

Table of Contents**OUTSTANDING EQUITY AWARDS AT FISCAL YEAR-END NOVEMBER 30, 2008**

| Name | Option Awards | | | | Stock Awards | |
|----------------------|---|---|----------------------------|------------------------|---|--|
| | Number of Securities Underlying Unexercised Options (#) | Number of Securities Underlying Unexercised Options (#) | Option Exercise Price (\$) | Option Expiration Date | Number of Shares or Units of Stock That Have Not Vested (#) | Market Value of Shares or Units of Stock That Have Not Vested (\$) |
| Bruce J. Barrett | 40,000 (1) | 0 | \$ 2.88 | 02/16/10 | | |
| | 50,000 (2) | 0 | \$ 1.97 | 12/04/10 | | |
| | 168,000 (3) | 0 | \$ 2.00 | 03/05/11 | | |
| | 100,000 (4) | 0 | \$ 2.95 | 05/10/12 | | |
| | 132,000 (5) | 0 | \$ 3.89 | 08/13/13 | | |
| | 31,919 (6) | 0 | \$13.55 | 04/21/15 | | |
| | 14,400 (7) | 21,600 (7) | \$18.06 | 06/29/16 | | |
| | 0 (8) | 36,000 (8) | \$12.61 | 03/20/18 | | |
| | | | | 10,800 (7) | 189,432 | |
| | | | | 18,000 (8) | 315,720 | |
| William M. Iacona | 60,000 (4) | 0 | \$ 2.95 | 05/10/12 | | |
| | 40,000 (5) | 0 | \$ 3.89 | 08/13/13 | | |
| | 11,525 (6) | 0 | \$13.55 | 04/21/15 | | |
| | 7,200 (7) | 10,800 (7) | \$18.06 | 06/29/16 | | |
| | 0 (8) | 18,000 (8) | \$12.61 | 03/20/18 | | |
| | | | | 5,400 (7) | 94,716 | |
| | | | | 9,000 (8) | 157,860 | |
| Dominic J. Spadafore | 55,000 (9) | 0 | \$ 2.30 | 08/01/12 | | |
| | 36,000 (5) | 0 | \$ 3.89 | 08/13/13 | | |
| | 11,680 (6) | 0 | \$13.55 | 04/21/15 | | |
| | 7,200 (7) | 10,800 (7) | \$18.06 | 06/29/16 | | |
| | 0 (8) | 18,000 (8) | \$12.61 | 03/20/18 | | |
| | | | | 5,400 (7) | 94,716 | |
| | | | | 9,000 (8) | 157,860 | |
| Mary Ann Victor | 5,000 (10) | 0 | \$ 3.56 | 05/20/09 | | |
| | 12,000 (1) | 0 | \$ 2.88 | 02/16/10 | | |
| | 15,000 (2) | 0 | \$ 1.97 | 12/04/10 | | |
| | 4,400 (3) | 0 | \$ 2.00 | 03/05/11 | | |
| | 46,000 (4) | 0 | \$ 2.95 | 05/10/12 | | |
| | 19,000 (5) | 0 | \$ 3.89 | 08/13/13 | | |
| | 12,861 (6) | 0 | \$13.55 | 04/21/15 | | |
| | 7,200 (7) | 10,800 (7) | \$18.06 | 06/29/16 | | |
| | 0 (8) | 18,000 (8) | \$12.61 | 03/20/18 | | |
| | | | | 5,400 (7) | 94,716 | |

- (1) The option vested in one third cumulative annual increments beginning February 16, 2001.
- (2) The option vested in one third cumulative annual increments beginning December 4, 2001.
- (3) The option vested in one twenty-fourth cumulative monthly increments beginning March 5, 2001.
- (4) The option vested in one third cumulative annual increments beginning May 10, 2003.

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- (5) The option vested in one third cumulative annual increments beginning August 13, 2005. The vesting was accelerated and the option became 100% exercisable on November 30, 2005.
- (6) The option vested 100% on November 30, 2005.
- (7) The option and restricted stock vest in one-fifth cumulative annual increments beginning June 29, 2007.
- (8) The option and restricted stock vest in one-fifth cumulative annual increments beginning March 20, 2009.
- (9) The option vested in one third cumulative annual increments beginning August 1, 2003.
- (10) The option vested in one

third cumulative
annual
increments
beginning
May 20, 2000.

Option Exercises and Stock Vested Table

The following table sets forth information concerning each exercise of stock options and each vesting of stock, including restricted stock, during the fiscal year ended November 30, 2008 by each of our executive officers named in the Summary Compensation Table above on an aggregated basis:

OPTION EXERCISES AND STOCK VESTED YEAR ENDED NOVEMBER 30, 2008

| Name | Option Awards | | Stock Awards | |
|----------------------|--|---|--|--|
| | Number of Shares Acquired on Exercise (#) | Value Realized on Exercise (\$ (1)) | Number of Shares Acquired on Vesting (#) | Value Realized on Vesting (\$ (1)) |
| Bruce J. Barrett | 109,691 | 1,570,531 | 3,600 | 71,316 |
| William M. Iacona | 0 | 0 | 1,800 | 35,658 |
| Dominic J. Spadafore | 15,000 | 298,575 | 1,800 | 35,658 |
| Mary Ann Victor | 25,000 | 482,075 | 1,800 | 35,658 |

(1) Value Realized represents the market price of the underlying securities at exercise or vesting, as applicable, based on the closing or actual sale prices on the date of exercise or vesting, minus (for options) the aggregate exercise price of the options.

Potential Payments Upon Termination or Change-in-Control

We have entered into agreements and we maintain plans that will require us to provide compensation to our executives named in the Summary Compensation Table above in the event of a termination of employment or a change in control of us. See Employment Contracts and Termination of Employment and Change-in-Control Arrangements for a description of our Employment Agreements with Messrs. Barrett and Spadafore, our Change in Control Agreements with Mr. Anderson, Mr. Iacona and Ms. Victor, the terms of our options and restricted stock awards that become 100 percent exercisable upon specified changes in control of us and how the payment and benefit levels are determined in connection with terminations of employment. The amount of compensation payable to each named executive officer in each situation is listed in the tables below.

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The following table describes and quantifies the estimated payments and benefits that would be provided upon termination or a change in control of us for Bruce J. Barrett, our President and Chief Executive Officer:

| Benefits and Payments (1) | Termination Employment Agreement | | | Death | Disability | Change in Control (5) |
|--|---|-----------------------------|------------------------|-------------------|---------------------|--------------------------------|
| | Employment Agreement Severance (2) | Control Severance (3) | No Severance (4) | | | |
| Base Salary (\$368,278.50) | \$ 368,279 | \$ 736,557 | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| Bonus (65% of Base Salary) (6) | 321,049 | 550,673 | 0 | 0 | 0 | 0 |
| Options (Accelerated Vesting) (5) | 0 | 177,480 | 0 | 0 | 0 | 177,480 |
| Restricted Stock (Accelerated Vesting) (5) | 0 | 505,152 | 0 | 0 | 0 | 505,152 |
| Life Insurance Proceeds (7) | 0 | 0 | 0 | 200,000 | 0 | 0 |
| Disability Insurance Proceeds (8) | 0 | 0 | 0 | 0 | 3,065,400 | 0 |
| Insurance Premiums (Life, Health and Disability) (9) | 27,495 | 48,490 | 0 | 0 | 0 | 0 |
| Total | \$ 716,823 | \$ 2,018,352 | \$ 0 | \$ 200,000 | \$ 3,065,400 | \$ 682,632 |

(1) For purposes of this analysis, we have assumed that Mr. Barrett is terminated on November 30, 2008, when his base salary was \$368,278.50, his target bonus was 65% of his base salary, and \$138,199 of his bonus for fiscal 2008 had been paid (the quarterly sales portion of his bonus for the first three quarters of fiscal 2008). The base salary and bonus payments are due in a lump

sum from us;
provided that if
Mr. Barrett is a
specified
employee as
defined in the
deferred
compensation
regulations
under
Section 409A of
the Internal
Revenue Code
as of the date of
termination,
then any portion
of the above
amounts
payable that
exceeds the
maximum
allowable
separation pay
amount under
the deferred
compensation
regulations and
that otherwise
constitutes
deferred
compensation
subject to
Section 409A, is
payable six
months after the
date of
termination of
employment, or,
if earlier, the
date of
Mr. Barrett's
death.

- (2) Mr. Barrett's
employment
agreement
provides him
with the same
severance
payments upon
(1) termination

of employment
by us without
Cause, or
(2) termination
of employment
by Mr. Barrett
for Good
Reason, except
if such
termination
occurs in
connection with
a Change in
Control, which
is described in
the next column.

- (3) Mr. Barrett's
employment
agreement
provides him
with the same
severance
payments upon
(1) termination
of employment
by us without
Cause, or
(2) termination
of employment
by Mr. Barrett
for Good
Reason in
connection with
a Change in
Control.

- (4) This column
covers
termination of
Mr. Barrett's
employment
under his
employment
agreement by us
for Cause or by
Mr. Barrett
without Good
Reason.

- (5)

See Accelerated Vesting of Options and Restricted Stock Upon a Change in Control below for a description of the assumptions underlying the calculation of the value of accelerated vesting of unvested options and restricted stock. The above table does not include the benefit of the continuation of vested options after termination. Mr. Barrett had vested options to purchase 536,319 common shares as of November 30, 2008, with a value of \$7,363,777 at that date. The change in control benefits are included in the termination benefits payable in connection with termination of employment that are in connection with a change in control.

- (6) Mr. Barrett's employment agreement

provides him with the target bonus for the year of termination (\$229,624, see Grants of Plan-Based Awards) (two times the target bonus if termination is in connection with a Change in Control) plus a pro rata portion of the target bonus for the portion of the year through the date of termination (\$229,624 if termination is November 30, 2008), less amounts already paid (\$138,199 through November 30, 2008). Mr. Barrett s target bonus for fiscal 2009 is currently higher (65% of \$368,278.50, or \$239,381, subject to increase if his salary or target bonus percentage increases during the year).

- (7) The life insurance proceeds represent the aggregate face

value of life
insurance
policies for
which we pay
the premiums
and Mr. Barrett
designates the
beneficiary. The
payments are
actually paid by
the life
insurance
company in a
lump sum. The
policy pays
twice as much
as shown in the
table if
Mr. Barrett dies
in an accident.

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- (8) The disability insurance proceeds represent the sum of the disability benefits payable to Mr. Barrett until he reaches age 65 assuming he became totally and permanently disabled on November 30, 2008. The payments are actually paid by our disability insurers and by us (for the \$6,500 self-insured short-term disability portion) in monthly installments. The long-term disability insurance payments provide for a three percent cost of living increase each year that is not reflected in the table. The numbers in the table are not discounted to present value.
- (9) These premiums are paid by us when due for one year after termination (two

years if termination is in connection with a Change in Control), except with respect to short-term disability and vision benefits, which are self-insured.

The numbers in the table are based on the premiums paid in fiscal 2008, except for the short-term disability and vision benefits, which are based on the estimated maximum benefits payable by us in fiscal 2009.

The following table describes and quantifies the estimated payments and benefits that would be provided upon termination or a change in control of us for William M. Iacona, our Vice President, Chief Financial Officer, Treasurer and Controller:

| Benefits and Payments (1) | Termination | | | Disability | Change in Control (4) |
|--|-----------------------------|--------------------------------|-------------------|---------------------|-----------------------|
| | CIC Agreement Severance (2) | CIC Agreement No Severance (3) | Death | | |
| Base Salary (\$137,649.75) | \$ 137,650 | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| Options (Accelerated Vesting) (4) | 0 | 0 | 0 | 0 | 88,740 |
| Restricted Stock (Accelerated Vesting) (4) | 0 | 0 | 0 | 0 | 252,576 |
| Life Insurance Proceeds (5) | 0 | 0 | 200,000 | 0 | 0 |
| Disability Insurance Proceeds (6) | 0 | 0 | 0 | 3,563,350 | 0 |
| Total | \$ 137,650 | \$ 0 | \$ 200,000 | \$ 3,563,350 | \$ 341,316 |

(1) For purposes of this analysis, we have assumed that Mr. Iacona is terminated on

November 30, 2008, when his base salary was \$137,649.75. The base salary is due in a lump sum from us.

(2) Mr. Iacona's Change in Control Agreement provides him with the same severance payments upon termination of employment by us without Cause or by Mr. Iacona for Good Reason 90 days before to one year after a Change of Control of the Company that occurs by June 17, 2011.

(3) This column covers termination of Mr. Iacona's employment under his Change in Control Agreement (1) by us for Cause, (2) by Mr. Iacona without Good Reason, or (3) for any reason (other than death or disability) if such termination is not 90 days before to one

year after a
Change of
Control of the
Company that
occurs by
June 17, 2011.

- (4) See Accelerated Vesting of Options and Restricted Stock Upon a Change in Control below for a description of the assumptions underlying the calculation of the value of accelerated vesting of unvested options and restricted stock. The above table does not include the benefit of the continuation of vested options after termination. Mr. Iacona had vested options to purchase 118,725 common shares as of November 30, 2008, with a value of \$1,467,385 at that date. The change in control benefits increase the termination benefits payable in connection with termination of employment that are in

connection with
a change in
control.

(5) The life insurance proceeds represent the aggregate face value of life insurance policies for which we pay the premiums and Mr. Iacona designates the beneficiary. The payments are actually paid by the life insurance company in a lump sum. The policy pays twice as much as shown in the table if Mr. Iacona dies in an accident.

(6) The disability insurance proceeds represent the sum of the disability benefits payable to Mr. Iacona until he reaches age 65 assuming he became totally and permanently disabled on November 30, 2008. The payments are actually paid by our disability insurers and by us (for the

\$6,500
self-insured
short-term
disability
portion) in
monthly
installments.
The long-term
disability
insurance
payments
provide for a
three percent
cost of living
increase each
year that is not
reflected in the
table. The
numbers in the
table are not
discounted to
present value.

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The following table describes and quantifies the estimated payments and benefits that would be provided upon termination or a change in control of us for Dominic J. Spadafore, our Senior Vice President, U.S. Sales and Marketing:

| Benefits and Payments (1) | Termination | | | | Change in Control (4) |
|---|---|--|-------------------|---------------------|--|
| | Employment Agreement Severance (2) | Employment Agreement No Severance (3) | Death | Disability | |
| Base Salary (\$200,000) | \$ 200,000 | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| Options (Accelerated Vesting) (4) | 0 | 0 | 0 | 0 | 88,740 |
| Restricted Stock (Accelerated Vesting) (4) | 0 | 0 | 0 | 0 | 252,576 |
| Life Insurance Proceeds (5) | 0 | 0 | 200,000 | 0 | 0 |
| Disability Insurance Proceeds (6) | 0 | 0 | 0 | 2,829,507 | 0 |
| Total | \$ 200,000 | \$ 0 | \$ 200,000 | \$ 2,829,507 | \$ 341,316 |

(1) For purposes of this analysis, we have assumed that Mr. Spadafore is terminated on November 30, 2008, when his base salary was \$200,000. Effective December 1, 2008, however, his base salary increased to \$210,000, which would increase his severance benefits. The base salary is due in a lump sum from us.

(2) Mr. Spadafore's employment agreement provides him with the same severance

payments upon termination of employment by us without Cause or by Mr. Spadafore for Good Reason 90 days before to one year after a Change of Control of the Company that occurs by June 17, 2011.

- (3) This column covers termination of Mr. Spadafore's employment under his employment agreement (1) by us for Cause, (2) by Mr. Spadafore without Good Reason, or (3) for any reason (other than death or disability) if such termination is not 90 days before to one year after a Change of Control of the Company that occurs by June 17, 2011.

- (4) See Accelerated Vesting of Options and Restricted Stock Upon a Change in Control below for a description of

the assumptions underlying the calculation of the value of accelerated vesting of unvested options and restricted stock.

The above table does not include the benefit of the continuation of vested options after termination.

Mr. Spadafore had vested options to purchase 109,880 common shares as of

November 30, 2008, with a value of \$1,376,203 at that date. The change in control benefits increase the termination benefits payable in connection with termination of employment that are in connection with a change in control.

- (5) The life insurance proceeds represent the aggregate face value of life insurance policies for which we pay the premiums

and
Mr. Spadafore
designates the
beneficiary. The
payments are
actually paid by
the life
insurance
company in a
lump sum. The
policy pays
twice as much
as shown in the
table if
Mr. Spadafore
dies in an
accident.

- (6) The disability
insurance
proceeds
represent the
sum of the
disability
benefits payable
to Mr.
Spadafore until
he reaches age
65 assuming he
became totally
and permanently
disabled on
November 30,
2008. The
payments are
actually paid by
our disability
insurers and by
us (for the
\$11,700
self-insured
short-term
disability
portion, less \$93
in extra
premiums) in
monthly
installments.
The long-term
disability
insurance

payments provide for a three percent cost of living increase each year that is not reflected in the table. The numbers in the table are not discounted to present value.

The following table describes and quantifies the estimated payments and benefits that would be provided upon termination or a change in control of us for Mary Ann Victor, our Vice President and Chief Administrative Officer and Secretary:

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| | Termination | | | | Change in Control (4) |
|---|--|---|-------------------|---------------------|--|
| | CIC Agreement Severance (2) | CIC Agreement No Severance (3) | Death | Disability | |
| Benefits and Payments (1) | | | | | |
| Base Salary (\$152,274.15) | \$ 152,274 | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| Options (Accelerated Vesting) (4) | 0 | 0 | 0 | 0 | 88,740 |
| Restricted Stock (Accelerated Vesting) (4) | 0 | 0 | 0 | 0 | 252,576 |
| Life Insurance Proceeds (5) | 0 | 0 | 200,000 | 0 | 0 |
| Disability Insurance Proceeds (6) | 0 | 0 | 0 | 1,925,343 | 0 |
| Total | \$ 152,274 | \$ 0 | \$ 200,000 | \$ 1,925,343 | \$ 341,316 |

(1) For purposes of this analysis, we have assumed that Ms. Victor is terminated on November 30, 2008, when her base salary was \$152,274.15. The base salary is due in a lump sum from us.

(2) Ms. Victor's Change in Control Agreement provides her with the same severance payments upon termination of employment by us without Cause or by Ms. Victor for Good Reason 90 days before to one year after a Change of Control of the Company that occurs by

June 17, 2011.

(3) This column covers termination of Ms. Victor's employment under her Change in Control, Invention, Confidentiality, Non-Compete and Non-Solicitation Agreement (1) by us for Cause, (2) by Ms. Victor without Good Reason, or (3) for any reason (other than death or disability) if such termination is not 90 days before to one year after a Change of Control of the Company that occurs by June 17, 2011.

(4) See Accelerated Vesting of Options and Restricted Stock Upon a Change in Control below for a description of the assumptions underlying the calculation of the value of accelerated vesting of unvested options and restricted

stock. The above table does not include the benefit of the continuation of vested options after termination. Ms. Victor had vested options to purchase 121,461 common shares as of November 30, 2008, with a value of \$1,529,551 at that date. The change in control benefits increase the termination benefits payable in connection with termination of employment that are in connection with a change in control.

- (5) The life insurance proceeds represent the aggregate face value of life insurance policies for which we pay the premiums and Ms. Victor designates the beneficiary. The payments are actually paid by the life insurance company in a lump sum. The policy pays twice as much as shown in the table if

Ms. Victor dies
in an accident.

- (6) The disability insurance proceeds represent the sum of the disability benefits payable to Ms. Victor until she reaches age 65 assuming she became totally and permanently disabled on November 30, 2008. The payments are actually paid by our disability insurers and by us (for the \$9,750 self-insured short-term disability portion, less \$57 in extra premiums) in monthly installments. The long-term disability insurance payments provide for a three percent cost of living increase each year that is not reflected in the table. The numbers in the table are not discounted to present value.

Below is a description of the assumptions used in creating the tables above and the definitions, conditions and obligations relating to the agreements described in those tables. Unless otherwise noted the descriptions of the payments below are applicable to all of the above tables relating to potential payments upon termination or change in

control.

401(k) Plan. The above tables do not include benefits under our 401(k) plan, because that plan does not discriminate in scope, terms or operation in favor of our executive officers and is available generally to all of our salaried employees.

Accelerated Vesting of Options and Restricted Stock Upon a Change in Control. Options and restricted stock granted under our plans accelerate upon a Change in Control (as defined below) regardless of whether employment also terminates.

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The numbers in the tables assume that the benefit of acceleration for the options equals the difference between the closing sales price of our common shares on November 30, 2008 (\$17.54 per share) and the exercise price of the unvested options multiplied by the number of common shares underlying the unvested options held by the executive at November 30, 2008.

The numbers in the tables assume that the benefit of acceleration for the restricted stock equals the closing sales price of our common shares on November 30, 2008 (\$17.54 per share) multiplied by the number of common shares subject to the unvested restricted stock held by the executive at November 30, 2008.

In addition, terminated executive officers' vested options do not expire upon termination of their employment, unless such termination is by us for cause. The above tables do not include the benefit of the continuation of such vested options after termination because that value can be realized before termination by exercise of the options. Footnotes to the above tables, however, disclose the difference between the market value of the common shares underlying vested options held by the executive at November 30, 2008 (valued at the closing sales price of our common shares at November 30, 2008) and the exercise prices of those options.

Cause. For purposes of Mr. Barrett's and Mr. Spadafore's employment agreements and Mr. Anderson's, Mr. Iacona's and Ms. Victor's Change in Control Agreements, Cause means (1) the executive's continued failure (after notice and at least 30 days to cure such failure) to make a good faith effort to perform the executive's employment duties, (2) any breach by the executive of his or her invention, confidentiality, non-competition and non-solicitation covenants, or (3) the executive's conviction of a felony involving dishonesty or fraud.

Good Reason. For purposes of Mr. Barrett's and Mr. Spadafore's employment agreements and Mr. Anderson's, Mr. Iacona's and Ms. Victor's Change in Control Agreements, Good Reason means termination of the executive's employment within one year of the initial existence of one or more of the following conditions arising without the executive's consent:

a material diminution in the executive's base compensation,

a material diminution in the executive's authority, duties or responsibilities,

a material diminution in the authority, duties or responsibilities of the supervisor to whom the executive is required to report, including a requirement that the executive report to a corporate officer or employee instead of reporting directly to the board,

a material diminution in the budget over which the executive retains authority,

any material change in the geographic location at which the executive must perform services, or

any other action or inaction that constitutes a material breach by us of the agreement or any other agreement under which the executive provides services.

The executive must provide us with notice of the existence of the applicable condition within 90 days of its initial existence and must give us at least 30 days to remedy the applicable condition before there is good reason for termination. Death, disability and retirement are not conditions under which the executive's employment may be terminated for good reason.

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Change in Control. For purposes of Mr. Barrett's and Mr. Spadafore's employment agreements, Mr. Anderson's, Mr. Iacona's and Ms. Victor's Change in Control Agreements, and our 2005 Stock Incentive Plan, "Change in Control" means

the acquisition by any person or group of beneficial ownership of 40% or more of our outstanding common shares (generally excluding acquisitions directly from us, by us, or by employee benefit plans sponsored by us).

individuals who constituted the board at the date of the applicable agreement or plan (together with directors approved by at least a majority of those individuals who are still serving and directors previously so approved) cease to constitute at least a majority of the board members.

the consummation of a reorganization, merger or consolidation of us, or a sale or other disposition of all or substantially all of our assets, unless

our shareholders continue to own (in substantially the same proportions) at least 60% of the outstanding voting securities of the entity resulting from that transaction,

there is no new 40% owner (other than us, our benefit plans, our subsidiaries, and the entity resulting from the transaction), and

individuals who were members of the incumbent board constitute at least a majority of the members of the board of the entity resulting from the transaction, or

the consummation of a plan of our complete liquidation or dissolution.

Non-Competition, Non-Solicitation, Confidentiality and Assignment of Inventions. Mr. Barrett and Mr. Spadafore, under their employment agreements, and Mr. Anderson, Mr. Iacona and Ms. Victor, under their Change in Control Agreements have agreed, in part in exchange for the severance benefits provided in those agreements:

that during the term of his or her employment and for one year after termination of his or her employment, he or she will not, directly or indirectly,

engage in activities in connection with patches for ventricular restoration, cerebral and/or somatic oximeters, related sensors or products sold by us during the term of his or her employment,

be employed by or have a financial interest in any person or entity that manufactures, assembles or sells any of those products (except for investments in up to three percent of the stock of public companies with which he is she is not otherwise affiliated), or

solicit any entity that he or she knows was one of our customers during the year before his or her employment terminated to supply such products

that during the term of his or her employment and for five years after termination of his or her employment, he or she will not, directly or indirectly,

solicit or attempt to hire one of our employees or consultants or any person he or she knows was an employee or consultant during the year before his or her employment terminated (except, for Mr. Barrett, persons terminated by us and persons terminated for at least six months), or

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encourage any such person to terminate his or her employment or consultation with us, not to disclose or appropriate our confidential information at any time, and that all materials pertaining to the confidential information are our property, and

that any inventions that the employee makes during his or her employment with us and relating to our business are our property.

Breach of these provisions can generally be waived by amending the applicable agreement by mutual agreement of the parties.

Compensation of Directors

The following table sets forth information concerning the compensation of our directors for the fiscal year ended November 30, 2008:

DIRECTOR COMPENSATION YEAR ENDED NOVEMBER 30, 2008

| Name (1) | Fees Earned or Paid in Cash (\$) | Option Awards (\$ (2)) | Total (\$) |
|-----------------------------|--|------------------------------|---------------|
| James I. Ausman, M.D., Ph.D | 18,000 | 53,400 | 71,400 |
| Daniel S. Follis | 18,000 | 53,400 | 71,400 |
| Robert R. Henry (3) | 18,000 | 53,400 | 71,400 |
| John P. Jumper | 18,000 | 32,980 | 50,980 |
| Richard R. Sorensen | 18,000 | 50,300 | 68,300 |

(1) Bruce J. Barrett is not included in the table because he is also a named executive officer in the Summary Compensation Table above. He receives no additional compensation for his service as one of our directors.

(2) Includes amounts expensed in fiscal 2008 for grants of options to purchase 10,000 shares to each of

the outside
directors in
fiscal 2006
(except for
General Jumper,
who was not a
director at the
time), fiscal
2007 and fiscal
2008.

The grant date fair values of the option awards listed in the table above that were granted in fiscal 2008 were as follows for the following directors: Dr. Ausman \$97,200, Mr. Follis \$97,200, Mr. Henry \$97,200, General Jumper \$97,200 and Mr. Sorensen \$97,200.

The grant date fair values of the option awards listed in the table above that were granted in fiscal 2007 were as follows for the following directors: Dr. Ausman \$100,100, Mr. Follis \$100,100, Mr. Henry \$100,100, General Jumper \$100,100 and Mr. Sorensen \$100,100.

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The grant date fair values of the option awards listed in the table above that were granted in fiscal 2006 were as follows for the following directors: Dr. Ausman \$102,100, Mr. Follis \$102,100, Mr. Henry \$102,100, and Mr. Sorensen \$86,600.

For a discussion of the assumptions made in the valuation of the Option Awards, see Note 7 of the Notes to Financial Statements, included in our annual report to shareholders for the fiscal year ended November 30, 2008, which accompanies this proxy statement.

As of November 30, 2008, the following directors listed in the table above have the following number of option awards outstanding: Dr. Ausman 56,500, Mr. Follis 40,000, Mr. Henry 56,500, General Jumper 20,000, and Mr. Sorensen 30,000.

(3) Mr. Henry's term as a director expires at the 2009 annual meeting of shareholders.

We refer to our directors who are not our officers or employees as Outside Directors. Effective July 1, 2006, each Outside Director receives a fee of \$1,500 a month and reimbursement of reasonable expenses of attending board and board committee meetings. In addition, the board of directors may grant options to Outside Directors on a case by case basis.

On April 10, 2008, we granted a total of 50,000 non-qualified stock options to our five Outside Directors under the 2005 Stock Incentive Plan. The options are 10-year options, exercisable at \$16.82 a share, the closing sales price of the common shares on April 10, 2008. The options vest in one-fifth cumulative annual installments beginning April 10, 2009 and continue to be exercisable after termination of the director's service unless the director is terminated for cause.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934 requires our officers and directors, and persons who own more than ten percent of a registered class of our equity securities, to file reports of ownership and changes in ownership with the Securities and Exchange Commission. Officers, directors and greater than ten-percent shareholders are required by Securities and Exchange Commission regulation to furnish us with copies of all Section 16(a) reports they file. Based solely on review of the copies of such reports furnished to us during or with respect to fiscal 2008, or written representations that no Forms 5 were required, we believe that during the fiscal year ended November 30, 2008 all Section 16(a) filing requirements applicable to our officers, directors and greater than ten-percent beneficial owners were complied with.

Equity Compensation Plan Information

The following information is provided as of November 30, 2008 with respect to compensation plans, including individual compensation arrangements, under which our equity securities are authorized for issuance:

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| 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 security holders (1) | 1,767,187 | \$ 8.30 | 367,511 |
| Equity compensation plans not approved by security holders (2) | 55,000 | \$ 2.30 | 0 |
| Total | 1,822,187 | | 367,511 |

(1) These plans consist of:

- (a) the 1991 Incentive Stock Option Plan, which terminated in 2001 except for the options granted before that date, (b) the Somanetics Corporation 1997 Stock Option Plan, which terminated in 2007 except for the options granted before that date, and
- (c) the Somanetics Corporation 2005 Stock Incentive Plan.

All of the

securities disclosed in column (c) are available for issuance under the 2005 Stock Incentive Plan, which permits us to grant stock options, restricted stock and restricted stock units.

- (2) These plans consist of non-qualified options to purchase 55,000 common shares granted to one current executive officer independent of our stock option plans. The options were granted on August 1, 2002 as an inducement essential to a new executive officer entering into an employment agreement with us. The options are subject to anti-dilution adjustments.

All of the options have vested. They continue to be exercisable until the original termination date notwithstanding termination of employment, unless such termination is for cause, in which case such options expire at the date of such termination.

The non-plan options expire 10 years after they were granted. The exercise price of these options is \$2.30 a share, which was at least the fair market value of the underlying common shares on the date of grant. At the time these options are exercised, the optionee must pay the full option price for all shares purchased:

in cash, or

with the consent of the Compensation Committee or the board of directors, in its discretion, and to the extent permitted by applicable law,
in common shares,

by a promissory note payable to the order of us that is acceptable to the Compensation Committee or the board of directors,

by a cash down payment and a promissory note for the unpaid balance,

subject to any conditions established by the Compensation Committee or the board of directors, by having us retain from the shares to be delivered upon

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exercise of the stock option that number of shares having a fair market value on the date of exercise equal to the option price,

by delivery to us of written notice of the exercise, in such form as the Compensation Committee or the board of directors may prescribe, accompanied by irrevocable instructions to a stock broker to promptly deliver to us full payment for the shares with respect to which the option is exercised from the proceeds of the stock broker's sale of the shares or loan against them, or

in such other manner as the Compensation Committee or the board of directors determines is appropriate, in its discretion.

Specified consolidations, mergers, transfers of substantially all of our properties and assets, dissolutions, liquidations, reorganizations or reclassifications in such a way that holders of common shares are entitled to receive stock, securities, cash or other assets with respect to, or in exchange for, their common shares, are each referred to as a Transaction. If we engage in a Transaction, then each holder of a non-plan option after consummation of the Transaction will be entitled to receive (for the same aggregate exercise price) the stock and other securities, cash and assets the holder would have received in the Transaction if he or she had exercised the option in full immediately before consummation of the Transaction.

In addition, in connection with a Transaction, the Compensation Committee or the board of directors, acting in its discretion without the consent of any holder of any non-plan option and regardless of any other provision of the option, may:

permit such options to be exercised in full for a limited period of time, after which all unexercised options and all rights of holders of such options would terminate,

permit such options to be exercised in full for their then remaining terms, or

require all such options to be surrendered to us for cancellation and payment to each holder in cash of the excess of the fair market value of the underlying common shares as of the date the Transaction is effective over the exercise price, less any applicable withholding taxes.

The Compensation Committee or the board of directors may not select an alternative for a holder that would result in his or her liability under Section 16(b) of the Exchange Act, without the holder's consent. If all of the alternatives have such a result, the Compensation Committee or board of directors will take action to put the holder in as close to the same position as he or she would have been in if one of the alternatives described above had been selected, but without resulting in any payment by the holder under Section 16(b) of the Exchange Act. With the consent of each holder, the Compensation Committee or board of directors may make such provision with respect to any Transaction as it deems appropriate.

The options may not be transferred other than by will or by the laws of descent and distribution, and during the optionee's lifetime, the option is exercisable only by the optionee.

Table of Contents**II. OTHER MATTERS****Annual Report**

A copy of our Annual Report to Shareholders for the fiscal year ended November 30, 2008 accompanies this proxy statement. We file an Annual Report on Form 10-K with the Securities and Exchange Commission. We will provide, without charge, to each person being solicited by this proxy statement, upon the written request of any such person, a copy of our Annual Report on Form 10-K for the fiscal year ended November 30, 2008 (as filed with the Securities and Exchange Commission, excluding exhibits for which a reasonable charge shall be imposed). All such requests should be directed to Somanetics Corporation, 1653 East Maple Road, Troy, Michigan 48083-4208, Attention: Investor Relations Department.

Independent Accountants

Deloitte & Touche LLP are our independent accountants, have reported on the financial statements in our 2008 Annual Report to Shareholders, which accompanies this proxy statement, and have served as our independent accountants for many years. Our independent accountants are appointed by the Audit Committee of our board of directors. We will not select our independent accountants for the fiscal year ending November 30, 2009 until later in our fiscal year.

A representative of Deloitte & Touche LLP is expected to be present at the Annual Meeting of Shareholders and will have the opportunity to make a statement at the meeting if she desires to do so. The representative will also be available to respond to appropriate questions.

The following table presents aggregate fees billed for each of the years ended November 30, 2008 and 2007 for professional services rendered by Deloitte & Touche LLP in the following categories:

| | Fiscal Year Ended November 30, | |
|------------------------|-----------------------------------|-----------|
| | 2008 | 2007 |
| Audit Fees (1) | \$444,075 | \$418,610 |
| Audit-Related Fees (2) | \$ 18,980 | \$ 0 |
| Tax Fees (3) | \$117,836 | \$ 71,550 |
| All Other Fees | \$ 0 | \$ 0 |

(1) Consists of fees for the audit of our annual financial statements and the audit of our internal controls over financial reporting, review of financial statements included in our Form 10-Qs, and services provided in connection with our Registration Statement on Form S-8 in

connection with
our 2005 Stock
Incentive Plan
in fiscal 2007.

- (2) Consists of due diligence related to mergers and acquisitions.
- (3) Consists of tax return preparation fees, quarterly estimated tax preparation fees and international tax consulting fees.

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In accordance with Section 10A(i) of the Exchange Act, before Deloitte & Touche LLP is engaged by us to render audit or non-audit services, the engagement is approved by our Audit Committee. None of the audit-related, tax and other services described in the table above were approved by the Audit Committee pursuant to Rule 2-01(c)(7)(i)(C) of Regulation S-X.

Shareholder Proposals

Proposals of shareholders that are intended to be presented at our 2010 annual meeting of shareholders must be received by our Secretary at our offices, 1653 East Maple Road, Troy, Michigan 48083-4208, no later than November 6, 2009 to be considered for inclusion in the proxy statement and proxy relating to that meeting. Such proposals should be sent by certified mail, return receipt requested.

We must receive notice of any proposals of shareholders that are intended to be presented at our 2010 annual meeting of shareholders, but that are not intended to be considered for inclusion in our proxy statement and proxy related to that meeting, no later than January 20, 2010 to be considered timely. Such proposals should be sent by certified mail, return receipt requested and addressed to Somanetics Corporation, 1653 East Maple Road, Troy, Michigan 48083-4208, Attention: Investor Relations Department. If we do not have notice of the matter by that date, our form of proxy in connection with that meeting may confer discretionary authority to vote on that matter, and the persons named in our form of proxy will vote the shares represented by such proxies in accordance with their best judgment.

Other Business

Neither we nor the members of our board of directors intend to bring before the annual meeting any matters other than those set forth in the Notice of Annual Meeting of Shareholders, and none of us has any present knowledge that other matters will be presented for action at the annual meeting by others. However, if other matters are properly presented to the meeting, the persons named in the enclosed proxy intend to vote the shares represented by the proxy in accordance with their best judgment.

By order of the board of directors

Bruce J. Barrett

President and Chief Executive Officer

Troy, Michigan

March 6, 2009

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**SOMANETICS CORPORATION
PROXY
BOARD OF DIRECTORS PROXY FOR ANNUAL MEETING APRIL 23, 2009
THIS PROXY IS SOLICITED ON BEHALF OF
THE BOARD OF DIRECTORS OF SOMANETICS CORPORATION**

The undersigned hereby appoints Bruce J. Barrett and Mary Ann Victor, and each of them, attorneys and proxies with full power of substitution in each of them, in the name, place and stead of the undersigned to vote as proxy all the common shares, par value \$0.01 per share, of the undersigned in Somanetics Corporation (the Company) which the undersigned is entitled to vote at the Annual Meeting of Shareholders of the Company to be held on April 23, 2009, and at any and all adjournments thereof.

(Continued and to be signed on the reverse side)

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**ANNUAL MEETING OF SHAREHOLDERS OF
SOMANETICS CORPORATION**

April 23, 2009

NOTICE OF INTERNET AVAILABILITY OF PROXY MATERIAL:

The Notice of Meeting, proxy statement and proxy card are available at <http://materials.proxyvote.com/834445>

Please sign, date and mail your proxy card in the envelope provided as soon as possible.

ê Please detach along perforated line and mail in the envelope provided. ê

THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR THE ELECTION OF DIRECTOR. PLEASE SIGN, DATE AND RETURN PROMPTLY IN THE ENCLOSED ENVELOPE. PLEASE MARK YOUR VOTE IN BLUE OR BLACK INK AS SHOWN HERE Ÿ

1. Election of Director

NOMINEE:

o **FOR THE NOMINEE**

Daniel S. Follis

o **WITHHOLD AUTHORITY FOR THE NOMINEE**

2. In their discretion with respect to any other matters that may properly come before the meeting.

The shares represented by this proxy will be voted in accordance with the specifications made herein. The shares represented by this proxy will be voted for the election of the director named in Proposal 1 if no instructions to the contrary are indicated or if no instruction is given.

PLEASE DATE, SIGN AND RETURN THIS PROXY PROMPTLY IN THE ENCLOSED ENVELOPE.

To change the address on your account, please check the box at right and indicate your new address in the address space above. Please note that changes to the registered name(s) on the o account may not be submitted via this method.

Signature of Shareholder:

Date:

Signature of Shareholder:

Date:

NOTE: Please sign exactly as your name or names appear on this Proxy. When shares are held jointly, each holder should sign. When signing as executor, administrator, attorney, trustee or guardian, please give full title as such. If the signer is a corporation, please sign full corporate name by duly authorized officer, giving full title as such. If signer is a partnership, please sign in partnership name by authorized person.