

ARTS WAY MANUFACTURING CO INC
Form S-3
December 01, 2010

Electronically transmitted to the Securities and Exchange Commission on November 30, 2010
Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-3

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ART'S-WAY MANUFACTURING CO., INC.
(Exact name of registrant as specified in its charter)

Delaware
(State or other
jurisdiction of
incorporation or
organization)

42-0920725
(IRS Employer
Identification No.)

5556 Highway 9
Armstrong, Iowa 50514
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Carrie L. Majeski
Chief Executive Officer
Art's-Way Manufacturing Co., Inc.
5556 Highway 9
Armstrong, Iowa 50514
(712) 864-3131
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:
Melodie R. Rose, Esq.
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, Minnesota 55402
(612) 492-7000

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this Registration Statement, as determined by market conditions and other factors.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box:

If any of the securities being offered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, please check the following box:

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act.

Large accelerated filer
 Non-accelerated filer

Accelerated filer
 Smaller reporting company

CALCULATION OF REGISTRATION FEE

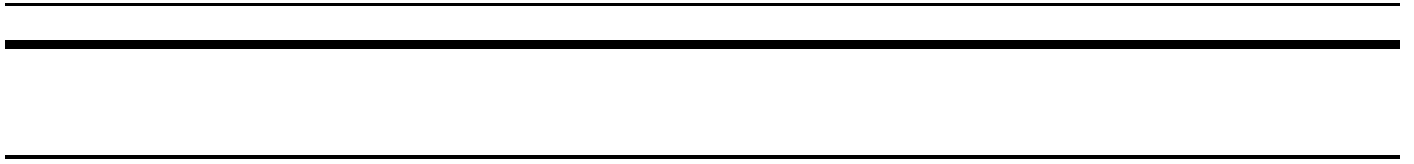
Title of Securities to be Registered	Amount to be Registered(1)	Proposed Maximum Offering Price per Share(2)	Proposed Maximum Aggregate Offering Price(1)	Amount of Registration Fee
Common Stock	1,546,991(3)	\$9.59	\$14,831,776.21	\$1,057.51

(1) The shares of our common stock being registered hereunder are being registered for sale by the selling stockholder, as defined in the accompanying prospectus.

(2) For purposes of calculating the registration fee pursuant to Rule 457(c) under the Securities Act of 1933, such amount is based upon the average of the high and low prices of the registrant’s Common Stock as reported on the Nasdaq Capital Market on November 24, 2010.

(3) Includes 4,000 shares of common stock issuable upon exercise of outstanding options.

The registrant amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.



SUBJECT TO COMPLETION

DATED NOVEMBER 30, 2010

The information in this prospectus is not complete and may be changed. The selling stockholder may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and we are not soliciting offers to buy these securities in any state where the offer or sale is not permitted.

PROSPECTUS

ART'S-WAY MANUFACTURING CO., INC.

1,546,991 Shares of Common Stock

This prospectus relates to the offer and sale of up to 1,546,991 shares of common stock, \$0.01 par value (the "Common Stock"), of Art's-Way Manufacturing Co., Inc., a Delaware corporation ("Art's-Way" or the "Company"), including 4,000 shares that may be issued upon the exercise of outstanding options, that may be offered and sold from time to time by persons who are currently stockholders of Art's-Way, or by pledgees, donees, transferees, or other successors in interest that receive such shares as a gift, distribution, or other non-sale related transfer. The selling stockholder may offer shares from time to time through or to brokers or dealers in the over-the-counter market at market prices prevailing at the time of sale or in one or more negotiated transactions at prices acceptable to the selling stockholder. We will not receive any proceeds from the sale of shares by the selling stockholder. See "Plan of Distribution" beginning on page 1.

Our Common Stock is traded on the Nasdaq Capital Market under the symbol "ARTW." The closing sale price on November 24, 2010, as reflected on the Nasdaq Capital Market, was \$9.46 per share.

For information concerning certain risks relating to an investment in Art's-Way Common Stock see "Risk Factors" beginning on page 2.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus is November 30, 2010

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PROSPECTUS SUMMARY

This summary highlights select information contained or incorporated by reference in this prospectus. It may not contain all of the information that is important to you. Important information is contained in documents incorporated by reference into this prospectus or included as exhibits to the registration statement that contains this prospectus. To understand this offering fully, you should read carefully the entire prospectus, including “Risk Factors” and the other information incorporated by reference in this prospectus.

ABOUT ART’S-WAY MANUFACTURING CO., INC.

Art’s-Way Manufacturing Co., Inc., a Delaware corporation (“we,” “us,” “our,” “Art’s-Way” or the “Company”), began operating as a farm equipment manufacturer in 1956. Since that time, we have become a major manufacturer of agricultural equipment. We believe our strength lies in innovation, quality, and dependability, the traditions on which we have built our company and for which our products still stand today.

Our business is organized into three operating segments: Art’s-Way Manufacturing, Art’s-Way Vessels, and Art’s-Way Scientific. Art’s-Way Vessels, Inc. and Art’s-Way Scientific, Inc. are wholly owned subsidiaries of Art’s-Way Manufacturing Co., Inc., located in Dubuque, Iowa and Monona, Iowa, respectively.

Art’s-Way Manufacturing produces a variety of specialized farm machinery under our own label, including: portable and stationary feed processing equipment and related attachments used to mill and mix feed grains into custom animal feed rations; a high bulk mixing wagon to mix animal feeds containing silage, hay and grain; a line of portable grain augers; a line of stalk shredders; sugar beet harvesting equipment; and a line of land maintenance equipment, moldboard plows and grain drill equipment. We sell our labeled products through independent farm equipment dealers throughout the United States. In addition, we manufacture and supply hay blowers under an original equipment manufacturer agreement with Case New Holland.

Art’s-Way Vessels, Inc. manufactures and sells pressure vessels in carbon and stainless steel, ranging from atmospheric (0 PSI) storage vessels up to any PSI pressure rating required, and in sizes from 4 to 168 inches in diameter or larger. The vessels are primarily sold to manufacturing facilities that will use the vessels as component parts of their end product. Art’s-Way Vessels primarily serves the following industries: water treatment, air receivers, refineries, co-generation, chemical and petrochemical, storage tanks, agriculture, marine, refrigeration, hydro pneumatic, heavy equipment, pharmaceuticals and mining.

Art’s-Way Scientific, Inc. manufactures modular buildings for various uses. The buildings are custom made and range from basic swine buildings to complex containment research laboratories, although our focus is shifting toward providing research facilities for academic research institutions, government research and diagnostic centers, public health institutions, and private research and pharmaceutical companies.

Our corporate headquarters are located at 5556 Highway 9, Armstrong Iowa and our telephone number is (712) 864-3131. Our website can be found at www.artsway-mfg.com. The information in our website is not part of this prospectus.

THE OFFERING

We are registering 1,546,991 shares of our Common Stock, including 4,000 shares that may be issued upon the exercise outstanding options, for resale by a selling stockholder. We are also registering for resale any additional shares of common stock which may become issuable to prevent dilution resulting from stock dividends, stock splits, recapitalizations or other similar transactions effected without receipt of consideration that cause an increase in the

number of outstanding shares of common stock. The selling stockholder is J. Ward McConnell, Jr. as trustee of the J. Ward McConnell, Jr. Living Trust. Mr. McConnell has served as Art's-Way's Executive Chairman since 2002.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains certain statements that constitute forward-looking statements that reflect our current view on future events, future business, industry and other conditions, our future performance, and our plans and expectations for future performance and actions. In some cases, such statements can be identified by the use of terminology such as “anticipate,” “believe,” “estimate,” “expect,” “intend,” “may,” “could,” “possible,” “plan,” “project,” “will,” “forecast,” and similar expressions. Our forward-looking statements in this prospectus relate to the following: the performance of our stock, potential future stock issuances, general economic trends and trends affecting the agricultural industry, our ability to sell our products, potential acquisition activity, and changes to the price of steel and other raw materials. Forward-looking statements are only predictions and are subject to risks, uncertainties and assumptions that are difficult to predict. Therefore actual results may differ materially and adversely from those expressed in any forward-looking statements. Factors that might cause or contribute to such differences include, but are not limited to, those discussed in this prospectus and in our periodic reports filed with the SEC from time to time. Many of such factors relate to events and circumstances that are beyond our control. You should not place undue reliance on forward-looking statements.

RISK FACTORS

In addition to the other information in this prospectus, before purchasing the shares you should carefully consider the following risk factors in your evaluation of us and our business. Investing in our Common Stock involves a high degree of risk. The risks and uncertainties described are not the only ones we face. Additional risks and uncertainties not presently known to us or that we consider immaterial may also affect our business operations. If any of these risks occur, our business could suffer, the market price of our Common Stock could decline and you could lose all or part of your investment in our Common Stock.

Risks Related to Our Shares

Our stock is publicly traded, but the trading volume and price is subject to change and you may not be able to resell your shares on favorable terms. The bid price of our common stock has ranged from \$11.54 to \$3.54 per share during our 2010 fiscal year, through November 26, 2010. In our 2009 and 2008 fiscal years, respectively, it ranged from \$6.35 to \$2.90 and from \$19.88 to \$2.92 per share. Our stock price may fluctuate in response to the risk factors set forth below or in response to a number of other factors. These factors include variations in our financial results, recommendations made by analysts, stock performance of other companies and the general strength of the economy.

Future sales of our common stock may depress the market price of our common stock. Future sales of substantial amounts of our common stock could depress the prevailing market price and impair our ability to raise capital through additional sales of our securities. If we or our existing stockholders, including the selling stockholder, undertake to sell a significant amount of our stock in the public market, or if there is a public perception that these sales may occur, the market price of our stock could decline.

You may experience dilution due to the future issuance of additional shares of our common stock. If we engage in future public or private stock offerings to raise capital, it will result in dilution of the ownership interests of our current stockholders. In addition, we have shares available for grant under our 2007 Non-Employee Directors’ Stock Option Plan and 2007 Employee Stock Option Plan. Additional stock options or other compensation plans or amendments to our existing plans may be adopted. We may also issue additional shares of our common stock for other business purposes such as acquisitions or hiring of personnel. This would result in further dilution to our existing stockholders.

There is no assurance that we will declare dividends or have cash available to pay them. We do not declare and pay dividends on a consistent basis, and there is no guarantee that we will declare dividends in the future or that funds will be available for this purpose. Our declaration and payment of dividends is conditioned by the terms of our loan agreement and revolving line of credit agreement with West Bank. We may issue dividends without the permission of West Bank if we meet all of our financial covenants which include, but are not limited to, providing financial statements to the bank, maintaining our primary deposit accounts at West Bank and meeting certain financial performance ratios.

One of our stockholders owns a significant amount of our common stock, and his interests may conflict with those of our other stockholders. J. Ward McConnell, Jr., our Executive Chairman and the selling stockholder, currently owns approximately 40% of our outstanding common stock. As a result, he may be able to significantly influence the direction of our company, the election of our Board of Directors and any other matter requiring stockholder approval. His interests may conflict with the interests of our other stockholders.

Risks Related to Our Business

The current economic downturn may continue to negatively impact our results of operations and financial condition. The profitability and success of our business depends on the overall demand for our products. Our sales revenues are subject to general economic conditions. Consumers are generally less likely to purchase farm equipment, vessels or modular buildings during periods of economic uncertainty. Levels of interest rates also affect our customers' buying decisions. A downturn in the general economy or the economy of a particular region containing a large part of our customer base could result in fewer customers purchasing our products and would adversely affect our financial results.

Our success depends on our ability to enhance our existing product lines through research and development. The long-term financial success of our business depends on our ability to introduce and market new products successfully, which requires significant expenditures on research and development, production and marketing. As we refine our existing products, our success will depend upon a number of factors that are largely beyond our control. These factors include customer acceptance, the availability of component parts from our suppliers, the strength of our dealer system, the intensity of competition in the industry and the economy in general. To continue our strategy to introduce new versions of our products, we expect to use a substantial amount of capital. Such expenditures could adversely affect our financial condition.

We depend on suppliers for our raw materials and component parts for our products, and any failure of our suppliers to meet our demands will harm our ability to manufacture and sell our products on a timely basis. Our products are made from component parts that are manufactured by others. At any particular time, we depend on a number of suppliers so that we may efficiently manufacture our products, develop enhancements to existing products and deliver products to our dealers and customers. The failure of our suppliers to meet our expectations will result in fewer products being manufactured and sold, and our financial results could be negatively impacted.

The price and availability of raw materials, component parts and fuel are subject to price fluctuations which can increase our production costs and negatively impact our financial results. We have no control over price fluctuations in, for example, the price of steel and fuel. Additionally, although we are typically able to procure our supplies from a network of domestic and foreign suppliers, we could experience disruptions in the availability of our supplies for a number of reasons and may have to obtain the supplies from a higher-priced supplier. We may not be able to offset increased production costs by passing these costs on to our customers. A significant increase in the price or change in the availability of any raw material, component part or fuel could adversely affect our profitability.

Our businesses operate in highly competitive industries, and many of our competitors have greater resources that may enable them to compete more effectively. We compete with several large domestic and international companies that offer a broader range of products than us, in addition to local and regional manufacturers that supply a more limited product range. Some of our competitors have greater resources than we do, and having greater resources at their disposal may enable them to compete more effectively. Our competitors may devote their resources to developing and marketing products that will directly compete with our product lines, and new competitors may enter the market. Our inability to compete with existing companies and new entrants to the markets in which we operate will have a negative impact on our business and financial condition.

The markets that we serve vary, and we face a challenge in adequately meeting each market's needs. We offer products for a number of markets, including agricultural equipment, modular building and scientific research laboratories, and pressurized vessels. Because we operate in multiple markets, we must work constantly to understand the needs, standards and technical requirements of several different industries and must devote significant resources to developing products for these industries. If we do not accurately predict our customers' needs, we may expend valuable resources in developing products that do not achieve broad acceptance across the markets. If we fail to adequately meet our customers' needs and our product offerings in any particular market are not competitive, our business and results of operations would be harmed.

Like other manufacturers, we are subject to an ongoing risk of product liability claims. We may be exposed to product liability claims in the event that any of our products results, or is claimed to have resulted in, bodily injury or property damage. We cannot provide assurance that we will not suffer material losses due to product liability claims in the future, and we may incur significant costs in order to defend against such claims. Our insurance may be insufficient to cover these claims; as such, significant product liability claims may damage our reputation and harm our financial condition.

We are subject to environmental, health and safety and employment laws and regulations which lead to significant compliance costs. Like other manufacturers, our business is heavily regulated with regard to hazardous substances, waste materials, workplace safety and equal employment opportunities. We have incurred and will continue to incur expenses associated with complying with the laws and regulations that impact our operations. These laws and regulations are continually subject to change, and we cannot predict the cost of future compliance. If we face unexpected obligations or are unable or unwilling to comply with these laws and regulations, our business and financial condition could suffer.

If we do not retain key personnel and hire highly skilled employees, our business will suffer. Our ability to maintain and improve our financial results will depend on, among other things, the efforts and skills of our management and employees. We depend primarily on our executive officers to move forward with our business plans and strategies, and we also depend on our ability to attract and retain qualified technical, manufacturing and sales personnel. We do not maintain "key person" life insurance for any of our employees or management, and all of our employees and management are employed at will. The loss of a key member of management or key employees could have an adverse effect on our business and financial results.

Although we have no planned acquisitions at this time, our strategy in acquiring businesses or product lines in the future may adversely affect our business. We intend to evaluate the possibility of acquiring additional product lines or businesses in the future as opportunities arise. We cannot provide assurance that we will be able to identify targets, obtain financing for acquisitions on favorable terms, or successfully acquire and integrate target companies or product lines. Competition for acquisitions may prevent us from following through with acquisition plans. Once acquired, integration of product lines into our existing operations may lead to substantial costs, delays and other challenges. We may not be able to successfully produce and distribute new product lines in a cost-effective manner. In addition, acquisitions may divert our management's time and expertise away from production. Any one or all of these factors may adversely affect our financial condition.

Our patents and other intellectual property rights may not adequately protect our products, and we may be involved in litigation related to our intellectual property rights. We rely on patents and other proprietary rights to protect our products and our competitive position. However, we cannot assure you that any current or future patents issued or licensed to us will not be challenged, invalidated or circumvented or that the rights granted thereunder will provide a competitive advantage or prevent competitors from entering markets we currently serve. Moreover, we may be forced to engage in litigation to enforce our intellectual property rights or to defend against claims that we have infringed upon the intellectual property rights of others. Such litigation could be costly, time consuming, and divert the

attention of management from the implementation of our business strategy. Furthermore, the outcome of litigation is inherently difficult to predict and we may not prevail in any litigation in which we become involved.

We have incurred substantial amounts of long-term debt which could have adverse consequences to our financial results. Our indebtedness requires us to divert a substantial portion of our cash flow from operations to payments on our indebtedness. These payments may reduce our available cash flow for working capital, capital expenditures, acquisitions and pursuing other business opportunities. Indebtedness could also increase our susceptibility to downturns in the industry and the economy in general. Our failure to maintain financial performance ratios or to meet certain financial covenants in our loan and credit agreements with West Bank may require us to request West Bank's permission to pay dividends. Finally, indebtedness could place us at a competitive disadvantage compared to our competitors that may have less indebtedness.

Risks Related to the Production of Agricultural Equipment

Our financial results for our Art's-Way Manufacturing segment primarily depend upon the agricultural industry, and factors that adversely affect the agricultural industry may also negatively impact our business. Sales of agricultural equipment are closely tied to the well-being of the agricultural industry. Historically, the agricultural industry has been cyclical and is often impacted by factors beyond our control, including general economic conditions, weather patterns and legislation. Adverse weather conditions, crop pest or animal disease outbreaks during important sales seasons may dramatically impact our business. In the United States, legislation such as the 2008 Farm Bill may significantly affect commodity prices and our customers' ability to purchase our products. Our business will likely be subject to fluctuations in the farm industry, and we expect downturns in the industry to negatively impact our financial results.

The continuing globalization of the agricultural industry may alter our business in unpredictable and potentially negative ways. Our competition, customer base and products may change significantly due to the globalization of the agricultural industry. To some extent, our success depends on the development of the global agricultural market, and we may have to adapt quickly in order to maintain our position in the industry. Our failure to keep pace with the globalization of the industry may adversely impact our financial condition.

The agricultural equipment industry is seasonal, and seasonal fluctuations in our operations may negatively impact our financial results. Sales often fluctuate as a result of our customers' tax planning considerations, planting and harvest times and dealer incentives. As a result, our quarterly results and available cash flow fluctuates due to the seasonality of our agricultural equipment sales.

Changing demand for farm outputs could affect the demand for our agricultural equipment. Worldwide demand for food coupled with increased demand for crop-based renewable fuels could have an effect on prices and demand for farm commodities. As such, the demand for our agricultural equipment may experience fluctuations along with the demand for agricultural products. As with other factors impacting the agricultural industry, we have no control over demand for farm outputs, and our business is subject to both positive and negative changes in demand.

The export of our agricultural machinery exposes us to the risks of doing business abroad. Selling our products to other countries exposes us to various risks, including: import and export restrictions, tariffs and quotas; uncertain political environments, economic conditions and foreign business cycles; changes in laws and policies; cultural differences; and changes in currency exchange rates. Political developments and policies, such as changes in farm subsidies, could directly impact the demand for our products. Further, our profitability is affected by fluctuations in the value of the U.S. dollar as compared to the currencies of countries in which we sell our products. Significant fluctuations in exchange rates could prevent us from realizing the advantages of exporting our products. Our lack of experience in exporting may impact our ability to adapt to these risks which could adversely affect our success as an exporter.

Our failure to accurately predict and maintain adequate inventory to meet our customers' demands may reduce our profitability. The modular building and research laboratory industry is somewhat cyclical in nature, mainly due to the budgeting processes of health centers and educational institutions. We cannot reliably forecast the timing and size of our customers' orders. In order to meet expected demand, we order raw materials and build a quantity of inventory to anticipate purchase orders. Our financial results could be harmed if we do not accurately estimate our customers' demands and are unable to adapt to the cyclical nature of our business.

USE OF PROCEEDS

We will not receive any proceeds from the resale of common stock by the selling stockholder subject to this prospectus.

SELLING STOCKHOLDER

Set forth below is the name of the selling stockholder, the number of shares of Art's-Way Common Stock beneficially owned by him on the date hereof and the percentage of Common Stock to be owned if all shares registered hereunder are sold by the selling stockholder. The shares offered hereby shall be deemed to include shares offered by any pledgee, donee, transferee or other successor in interest of the selling stockholder listed below, provided that this prospectus is amended or supplemented if required by applicable law.

The selling stockholder is J. Ward McConnell Jr. as trustee of the J. Ward McConnell Jr. Living Trust. Mr. McConnell has served as Art's-Way's Executive Chairman of the Board of Directors since 2002.

Name	Beneficial Ownership Prior to Offering			Beneficial Ownership After Offering		
	Common Shares Owned	Options Exercisable	Total Number of Shares Beneficially Owned	Number of Shares Offered	Total Number	Percent
J. Ward McConnell Jr. as Trustee of the J. Ward McConnell Living Trust(1)	1,542,991	4,000(2)	1,546,991	1,546,991	0	--%

(1) J. Ward McConnell Jr., as trustee of the J. Ward McConnell Living Trust (the "Trust"), has sole power to vote and dispose of the securities held by the Trust. The selling stockholder is not affiliated with a broker-dealer and acquired the securities to be resold solely for the account of the selling stockholder, and not with a view toward distribution.

(2) Shares that may be issued to Mr. McConnell in his individual capacity upon exercise of two options to purchase 2,000 shares each, which became exercisable on April 30, 2009 and April 29, 2010, respectively, and expire five years after the date on which each became exercisable.

PLAN OF DISTRIBUTION

We are registering shares of Common Stock issued to the selling stockholder to permit the resale of these shares of Common Stock by the selling stockholder from time to time after the date of this prospectus. We will not receive any of the proceeds from the sale by the selling stockholder of the shares of Common Stock. We will bear all fees and expenses incident to the registration of the shares of Common Stock.

The selling stockholder, which as used herein includes donees, pledgees, transferees or other successors-in-interest selling shares of Common Stock or interests in shares of Common Stock received after the date of this prospectus from the selling stockholder as a gift, pledge, partnership distribution or other transfer, may sell all or a portion of the shares of Common Stock beneficially owned by him and offered hereby from time to time directly or through one or more underwriters, broker-dealers or agents. If the shares of Common Stock are sold through underwriters or broker-dealers, the selling stockholder will be responsible for underwriting discounts or commissions or agent's commissions. The shares of Common Stock may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of the sale, at varying prices determined at the time of sale, or at negotiated prices. These sales may be effected in transactions that may involve crosses or block transactions. To the extent the selling stockholder gifts, pledges or otherwise transfers the shares offered hereby, such transferees may offer and sell the shares from time to time under this prospectus, provided that this prospectus has been amended or supplemented under Rule 424(b)(3) or other applicable provision of the Securities Act to include the name of such transferee in the

list of selling stockholders under this prospectus. The selling stockholder may use any one or more of the following methods when selling shares:

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- on the Nasdaq Capital Market or any other national securities exchange or quotation service on which the securities may be listed or quoted at the time of sale;
- in the over-the-counter market;
- in transactions otherwise than on these exchanges or systems or in the over-the-counter market;
- through the writing of options, whether such options are listed on an options exchange or otherwise;
- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- settlement of short sales entered into after the effective date of the registration statement of which this prospectus is a part;
- sales by broker-dealers of a specified number of such shares at a stipulated price per share;
- a combination of any such methods of sale; and
- any other method permitted pursuant to applicable law.

The selling stockholder may also sell shares under Rule 144 under the Securities Act, if available, rather than under this prospectus.

The selling stockholder may, from time to time, authorize underwriters acting as his agents to offer and sell the Common Stock upon such terms and conditions as shall be set forth in a prospectus supplement. In addition, broker-dealers engaged by the selling stockholder may arrange for other broker-dealers to participate in sales. If the selling stockholder effects such transactions by selling shares of Common Stock to or through underwriters, broker-dealers or agents, such underwriters, broker-dealers or agents may receive commissions in the form of discounts, concessions or commissions from the selling stockholder or commissions from purchasers of the shares of Common Stock for whom they may act as agent or to whom they may sell as principal. Such commissions will be in amounts to be negotiated, but, except as set forth in a supplement to this prospectus, in the case of an agency transaction will not be in excess of a customary brokerage commission in compliance with NASD Rule 2440, and in the case of a principal transaction a markup or markdown in compliance with NASD IM-2440.

In connection with sales of the shares of Common Stock or otherwise, the selling stockholder may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the shares of Common Stock in the course of hedging in positions they assume. The selling stockholder may also sell shares of Common Stock short and if such short sale shall take place after the date that the registration statement is declared effective by the Securities and Exchange Commission, the selling stockholder may deliver shares of Common Stock covered by this prospectus to close out short positions and to return borrowed shares in connection with such short sales. The selling stockholder may also loan or pledge shares of Common Stock to broker-dealers that in turn may sell such shares. The selling stockholder may also enter into option or other transactions with broker-dealers or other financial institutions or the creation of one or more derivative securities that require the delivery to such broker-dealer or other financial institution of shares offered by this prospectus, which shares such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The selling stockholder may pledge or grant a security interest in some or all of the options or shares of Common Stock owned by him and, if he defaults in the performance of his secured obligations, the pledgees or secured parties may offer and sell the shares of Common Stock from time to time pursuant to this prospectus or any amendment or supplement to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act of 1933, as amended, amending, if necessary, the list of selling stockholders to include the pledgee, transferee or other successors in interest as selling stockholders under this prospectus. The selling stockholder also may transfer and donate the shares of Common Stock in other circumstances in which case the transferees, donees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

Offers and sales may also be made directly by the selling stockholder, or other bona fide owners of the Common Stock, so long as an applicable exemption from state broker-dealer registration requirements is available in the jurisdiction of sale.

The selling stockholder participating in the distribution of the shares of Common Stock may, and any broker-dealers participating in the distribution of the shares of Common Stock will, be deemed to be “underwriters” within the meaning of the Securities Act, and any commission paid to, any discounts or concessions allowed to or any profit realized on resale by any suc