

ADOBE SYSTEMS INC  
Form 8-K  
January 28, 2011

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

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**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934**

Date of Report (date of earliest event reported): **January 24, 2011**

**Adobe Systems Incorporated**

(Exact name of Registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation)

**0-15175**  
(Commission File Number)

**77-0019522**  
(I.R.S. Employer Identification  
No.)

**345 Park Avenue**  
**San Jose, California 95110-2704**  
(Address of principal executive offices and zip code)

Registrant's telephone number, including area code: **(408) 536-6000**

**Not Applicable**

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Section 5 Corporate Governance and Management**

**Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

**(e) 2011 Performance Share Program**

On January 24, 2011, the Executive Compensation Committee of the Board of Directors (the *Committee*) of Adobe Systems Incorporated ( *Adobe* or the *Company* ) approved the Award Calculation Methodology for the 2011 Performance Share Program (the *Program* ) under the terms of the *Company* 's 2003 Equity Incentive Plan. The *Committee* established the *Program* to (i) help focus key employees on achieving specific performance targets, (ii) reinforce a team orientation, (iii) provide significant award potential for achieving outstanding performance, and (iv) enhance the ability of the *Company* to attract and retain highly talented and competent individuals. Members of the *Company* 's executive management team and other key members of senior management were selected by the *Committee* to participate in the *Program* for fiscal year 2011. The *Committee* granted awards for the executive officers under the *Program* on January 24, 2011 in the form of a target award and a Maximum Award (as defined below) of performance shares approved pursuant to the terms of the *Company* 's 2003 Equity Incentive Plan.

The *Program* requires that the *Company* achieve an established performance goal as an initial threshold in order to earn any performance shares under the *Program*. If the initial threshold is met, the *Program* then provides for the calculation of the performance shares actually earned.

For fiscal year 2011, the initial threshold and Other Performance Goals (as defined below) are set, including metrics that determine the actual number of performance shares earned, in the 2011 Award Calculation Methodology adopted as part of the *Program*. The Award Calculation Methodology requires that the *Company* achieve at least 80% of the GAAP revenue target approved by the Board of Directors under the annual operating plan as an initial threshold before participants may earn any performance shares under the *Program*. If the initial threshold is not achieved, participants forfeit their entire award. If this initial threshold is achieved, the actual number of performance shares earned by each participant is set at 150% of his or her target incentive amount (the *Maximum Award* ), subject to a reduction based on the level of achievement of five sets of strategic objectives approved by the *Committee* (the *Other Performance Goals* ) which will determine the actual award earned. For each set of *Other Performance Goals*, the calculation is as follows:

$$\begin{matrix} \textit{Other Performance Goal} \\ \textit{Weight (20\%)} \end{matrix} \times \begin{matrix} \textit{Number of Performance} \\ \textit{Shares in Target Award} \end{matrix} \times \begin{matrix} \textit{Other Performance Goal} \\ \textit{Achievement \%} \end{matrix} = \begin{matrix} \textit{Earned Performance} \\ \textit{Shares} \end{matrix}$$

All five sets of *Other Performance Goals* are weighted equally (20%) and the *Other Performance Goal Achievement %* for each set of *Other Performance Goals* is capped at 150%. The actual award earned equals the sum of the *Earned Performance Shares* determined using the equation above for all five sets of *Other Performance Goals*. Any partial share of an actual award will be rounded up to the next whole share.

Performance shares will be earned (if at all) upon certification by the *Committee* of actual performance achievement following the *Company* 's 2011 fiscal year-end, subject to specified change of control exceptions. In addition, as a condition to earning any part of the *Maximum Award*, a participant must be employed by the *Company* through the first anniversary of the grant date to be eligible.



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Earned performance shares will vest as to 1/3 of the total number of earned performance shares on the date the Committee certifies achievement of the applicable metrics, or the first anniversary of the grant date, whichever is later. Thereafter, the earned performance shares are subject to time-based vesting and will vest as to 1/3 of the total number of earned performance shares each year on the second and third anniversaries of the grant date, contingent upon the participant's continued service to the Company.

The target awards and Maximum Awards for the performance shares granted to the Company's principal executive officer, principal financial officer and other named executive officers\* on January 24, 2011 are as follows:

<b>Officer</b>	<b>Title</b>	<b>Target Award</b>	<b>Maximum Award</b>
Shantanu Narayen	President and Chief Executive Officer	91,000	136,500
Mark Garrett	Executive Vice President and Chief Financial Officer	29,000	43,500
Johnny Loiacono	Senior Vice President, Digital Media Business Unit	21,000	31,500
Kevin Lynch	Senior Vice President, Chief Technology Officer	47,000	70,500
Matthew Thompson	Senior Vice President, Worldwide Field Operations	26,000	39,000

\* For purposes of this filing, the term "named executive officer" refers to executive officers for whom disclosure was required in our most recent filing with the Securities Exchange Commission under the Securities Act of 1933 or the Securities Exchange Act of 1934 that required disclosure pursuant to Item 402(c) of Regulation S-K.

A participant may receive less than his or her target award, and in no event may actual shares earned exceed the Maximum Award.

The description of the Program contained herein is a summary of the material terms of the Program, does not purport to be complete and is qualified in its entirety by reference to the Program used in connection with the 2003 Equity Incentive Plan. A copy of the forms of the Program and the Award Grant Notice and Performance Share Award Agreement for use in connection with grants under this Program is incorporated by reference as Exhibit 10.1 and Exhibit 10.2, respectively, to this Current Report on Form 8-K and incorporated herein by reference. The 2011 Award Calculation Methodology is attached hereto as Exhibit 10.3.

### ***2011 Executive Cash Performance Bonus Plan***

On January 24, 2011, the Committee approved, subject to stockholder approval, a new 2011 Executive Cash Performance Bonus Plan (the "Master Bonus Plan") and the Board of Directors directed that the Master Bonus Plan be submitted to the Company's stockholders at the 2011 Annual Meeting of Stockholders. Stockholder approval of the Master Bonus Plan will allow bonuses paid under it to "covered employees" (as defined under 162(m) of the Internal Revenue Code of 1986, as amended (the "Code")) to qualify as deductible performance-based compensation within the meaning of Section 162(m) of the Code.

The purpose of the Master Bonus Plan is to motivate eligible employees to achieve goals relating to the performance of the Company or one of its business units or other objectively determinable goals, and to reward them when those objectives are satisfied, thereby increasing stockholder value and the success of Adobe.

Participants in the Master Bonus Plan are members of senior management of Adobe who are chosen solely at the discretion of the Committee.

Under the Master Bonus Plan, participants will be eligible to receive cash awards based upon the attainment and certification of certain performance goals established by the Committee for the applicable performance period. The performance goals will be determined in accordance with United States generally accepted accounting principles ( GAAP ), unless the Committee determines that a non-GAAP measure can and will be used in a manner that complies with 162(m) of the Code.

The performance goals may be based on (i) absolute target values, (ii) growth, maintenance or limiting losses, or (iii) values relative to peers or indices, in each case in one or more such categories compared to a prior period, and may differ for each participant. Performance goals may apply to the Company or to one of its business units.

The Master Bonus Plan will first apply to fiscal year 2011; however, no payments will be made under the Master Bonus Plan to participants who are covered employees (as defined under 162(m) of the Code) in respect of performance in fiscal year 2011 if the Master Bonus Plan is not approved by stockholders at the 2011 Annual Meeting of Stockholders. The Master Bonus Plan will continue until the earlier of (i) the date as of which the Committee terminates the plan and (ii) the last day of the plan fiscal year ending in 2015 unless it is again approved by the Company's stockholders prior to such day.

The description of the Master Bonus Plan contained herein is a summary of the material terms of the Master Bonus Plan, does not purport to be complete and is qualified in its entirety by reference to the Master Bonus Plan, a copy of which is attached hereto as Exhibit 10.4.

#### ***2011 Executive Annual Incentive Plan***

On January 24, 2011, the Committee approved the terms of the 2011 Executive Annual Incentive Plan (the Incentive Plan ), adopted pursuant to the Master Bonus Plan, which is applicable to certain executive officers of the Company. If the Master Bonus Plan is not approved by stockholders at the 2011 Annual Meeting of Stockholders, no payments will be made under the Incentive Plan to participants who are covered employees (as defined under 162(m) of the Code) for the 2011 fiscal year. The Incentive Plan is designed to (i) drive revenue growth and operating profits, (ii) encourage accountability, (iii) drive execution of long-term strategy and annual operating plan objectives, and (iv) recognize and reward executives upon the achievement of the Company's objectives.

Executive officers of the Company who are employed during the eligibility period (fiscal year), are Senior Vice President level or above and are regular employees of Adobe through the date the bonus is paid are eligible to participate in the Incentive Plan. Pursuant to the Incentive Plan, each participant is eligible to receive an incentive bonus calculated as a percentage of the participant's earned base salary.

The Incentive Plan requires that the Company achieve at least 90% of the GAAP revenue target approved by the Board of Directors under the annual operating plan (disregarding the effects of any material acquisitions not incorporated into the operating plan) as a minimum performance threshold before participants may earn any incentive bonus under the Incentive Plan. If the initial threshold is not achieved, no payments are made under the Incentive Plan. If the initial threshold is achieved, each participant is eligible to earn a maximum bonus (the Maximum Bonus ) equal to 200% of such participant's annual bonus target, up to a maximum of \$5 million, subject to reduction as described below. The target bonus is calculated by multiplying the participant's base salary earned during the fiscal year by a Committee-approved target bonus percentage. The actual bonus earned by each participant is calculated as described below.





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For fiscal year 2011, the target bonus and Maximum Bonus, expressed as a percentage of annual base salary for the Company's principal executive officer, principal financial officer and other named executive officers, are as follows:

Officer	Title	Target Bonus	Maximum Bonus
Shantanu Narayen	President and Chief Executive Officer	125%	250%
Mark Garrett	Executive Vice President and Chief Financial Officer	100%	200%
Johnny Loiacono	Senior Vice President, Digital Media Business Unit	75%	150%
Kevin Lynch	Senior Vice President, Chief Technology Officer	75%	150%
Matthew Thompson	Senior Vice President, Worldwide Field Operations	100%	200%

The Maximum Bonus for each participant is subject to reduction based on the Company's achievement, as determined under a matrix, of adjusted revenue (GAAP revenue adjusted to reflect the shippable backlog at the end of the fiscal year and to disregard the effects of any material acquisitions not incorporated into the operating plan) and adjusted non-GAAP operating profit (GAAP operating profit, adjusted to include the operating profit associated with shippable backlog at the end of the fiscal year and to exclude (i) any annual incentive plan payments, (ii) the effects of any material acquisitions not incorporated into the operating plan, (iii) the impact of stock compensation, (iv) deferred compensation expense, (v) restructuring charges, and (vi) amortization of purchased intangibles, technology license arrangements and incomplete technology. These two metrics, expressed as a percentage, form the Corporate Result. The Maximum Bonus is reduced to zero if the Company achieves less than 75% of the operating profit target or less than 90% of the revenue target. The maximum Corporate Result percentage is 200%.

The Maximum Bonus is also subject to reduction based on each individual's level of achievement of specified individual performance goals. The results of these individual metrics, expressed as a percentage, form the Individual Result. The Individual Result percentage may not exceed 100%.

The Corporate Result and Individual Result are used in the calculation of the actual bonus payable under the Incentive Plan as follows:

Participant Target Bonus x Corporate Result x Individual Result

No participant will earn an actual bonus under the Incentive Plan in excess of his or her target bonus unless the Corporate Result exceeds 100%.

The description of the Incentive Plan contained herein is a summary of the material terms of the Incentive Plan, does not purport to be complete, and is qualified in its entirety by reference to the Incentive Plan. A copy of the Incentive Plan is attached to this Current Report on Form 8-K as Exhibit 10.5.

**Section 9 Financial Statements and Exhibits**

**Item 9.01 Financial Statements and Exhibits.**

**(d) Exhibits**

<b>Exhibit Number</b>	<b>Exhibit Description</b>	<b>Form</b>	<b>Incorporated by Reference Date</b>	<b>Number</b>	<b>Filed Herewith</b>
10.1	Form of Performance Share Program pursuant to the 2003 Equity Incentive Plan	8-K	1/29/2010	10.1	
10.2	Form of Award Grant Notice and Performance Share Award Agreement pursuant to the 2003 Equity Incentive Plan	8-K	12/20/2010	99.5	
10.3	Award Calculation Methodology to the 2011 Performance Share Program pursuant to the 2003 Equity Incentive Plan				X
10.4	2011 Executive Cash Performance Bonus Plan				X
10.5	2011 Executive Annual Incentive Plan				X

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

ADOBE SYSTEMS INCORPORATED

Date: January 28, 2011

By:

*/s/ KAREN O. COTTLE*

Karen O. Cottle

Senior Vice President, General Counsel and Secretary

EXHIBIT INDEX

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10.2	Form of Award Grant Notice and Performance Share Award Agreement pursuant to the 2003 Equity Incentive Plan	8-K	12/20/2010	99.5	
10.3	Award Calculation Methodology to the 2011 Performance Share Program pursuant to the 2003 Equity Incentive Plan				X
10.4	2011 Executive Cash Performance Bonus Plan				X
10.5	2011 Executive Annual Incentive Plan				X

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D> Salary Bonus Awards Award Satisfaction Earnings Satisfaction Total Position Year (\$)((\$)((\$)(

(1)(\$)((\$)((\$)(	<b>Ronald</b>								
A.2006200,000 <sup>(3)</sup> 300,000 <sup>(4)</sup> ---	11,538 <sup>(6)</sup> 511,538	<b>Hirsch</b>	2005200,000 <sup>(3)</sup> --	515,826 <sup>(5)</sup> -	-715,826	Chairman	and		
Chief Executive Officer <sup>(2)</sup>		<b>John</b>							
T.2006203,000 <sup>(7)</sup> 375,000 <sup>(4)(8)</sup> ---	10,096 <sup>(6)</sup> 588,096	<b>Perry</b>	200552,700 <sup>(7)</sup> 75,000 <sup>(8)</sup> -	143,835---	271,535	President,	Chief	E	
and Chief Executive Officer <sup>(9)</sup>		<b>Erland</b>							
A.2006150,000 <sup>(12)</sup> 300,000 <sup>(4)</sup> -	126,633 <sup>(13)</sup> --	8,654 <sup>(6)</sup> 585,287	<b>Anderson</b>	2005150,000 <sup>(12)</sup> -----	150,000	Executive	Vice	Pre	
and Chief Operating Officer <sup>(11)</sup>									

Notes

- (1) This column represents the dollar amount recognized for financial statement reporting purposes with respect to the 2006 fiscal year for the fair value of stock options granted to each of the named executive officer, in 2006 as well as prior fiscal years, in accordance with SFAS 123R. Pursuant to SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions. For additional information on the valuation assumptions with respect to the options, refer to Note 1 under the heading Stock-Based Compensation and Note 8 under the heading Stock Options in our consolidated financial statements in the Form 10-KSB for the year ended December 31, 2006 as filed with the SEC.
- (2) Mr. Hirsch resigned as Chief Executive Officer of the Company effective February 15, 2006, but remains Chairman of the Board.
- (3) \$200,000 of salary deferred in each of 2006 and 2005. This amount was paid on June 11, 2007. See Certain Relationships and Related Party Transactions Compensatory Arrangements .
- (4) On October 16, 2006, our company's board of directors declared bonuses of \$300,000 to each of Mr. Hirsch, Mr. Anderson and Mr. Perry for their success in bringing our company back into compliance with its SEC reporting obligations and

otherwise positioning our company to focus on its near-term objective of reactivating the Johnson Camp Mine. The bonuses were accrued and to be paid when our company has sufficient funds to make the payments, as determined in the discretion of the board of directors. These amounts were paid as to \$150,000 to Mr. Perry on April 17, 2007 and the remaining amounts on June 14, 2007. See Certain Relationships and Related Party Transactions Compensatory Arrangements .

- (5) Mr. Hirsch exercised 1,750,000 stock options at an aggregate exercise price of \$35,000 during June 2004. During April 2005, we agreed to rescind this stock option exercise and to reinstate the original 1,750,000 options at the exercise price and with the expiration date of the options under the original grant. We issued Mr. Hirsch a convertible promissory note, dated as of the date of the rescinded option exercise, for the \$35,000 received by us as the exercise price but which was not refunded to Mr. Hirsch upon cancellation of the underlying stock.
- (6) Vacation earned but not taken during the 2006 calendar year.
- (7) Fair value of shares in lieu of salary. The shares are restricted securities within the meaning assigned in Rule 144(a)(3) under the *Securities Act of 1933*.
- (8) \$75,000 of which represents fair value of shares. We agreed to issue 500,000 shares of common stock to Mr. Perry as a signing bonus upon his employment by our company, of which 250,000 shares valued at \$75,000 were issued upon the execution of the original memorandum of understanding between our company and Mr. Perry, and the remaining 250,000 shares valued at \$75,000 were issued in April 2006. The shares are restricted securities within the meaning assigned in Rule 144(a)(3) under the *Securities Act of 1933*.
- (9) Mr. Tintor resigned as President and Chief Executive Officer on August 21, 2006.
- (10) We entered into a settlement agreement with Mr. Tintor following his resignation as our President and Chief Executive Officer pursuant to which we paid Mr. Tintor a total of \$233,000 as follows: we paid \$70,000 in cash upon execution of the agreement on September 29, 2006, and we paid the balance of \$163,000 by issuing a total of 139,880 fully paid and non-assessable shares of common stock of our company to Mr. Tintor on January 7, 2007. Mr. Tintor had been granted 500,000 options on May 16, 2006, with a fair value of \$188,806. These options were cancelled on September 29, 2006 pursuant to the settlement agreement. Additionally, Mr. Tintor had accrued but unpaid salary of \$37,500 in 2006 which was forgiven pursuant to the settlement agreement.
- (11) Mr. Anderson was also President and a director of the Company until February 15, 2006. Mr. Anderson was appointed Executive Vice President and Chief Operating Officer on February 15, 2006, and succeeded Mr. Tintor as interim President and Chief Executive Officer, on an interim basis, on August 21, 2006. On April 23, 2007, Mr. Anderson resigned as President and Chief Executive Officer and was appointed Executive Vice President and Chief Operating Officer.
- (12) \$90,000 and \$98,000 of salary was deferred in 2006 and 2005, respectively. These amounts were paid on June 11, 2007. See Certain Relationships and Related Party Transactions Compensatory Arrangements .
- (13) On February 1, 2006, Erland Anderson voluntarily surrendered for cancellation stock options entitling him to purchase up to 675,000 shares of our common stock at an exercise price of \$0.02 per share, being the market price of one share of common stock on the grant date. In exchange for such options, Mr. Anderson was granted replacement options entitling him to purchase up to 675,000 shares of our common stock, exercisable for five years at an exercise price of \$0.50 per share.

**Outstanding Equity Awards as of December 31, 2006**

The following table summarizes the outstanding equity awards as of December 31, 2006 for each of our named executive officers:

Name	<u>Option Awards</u>					<u>Stock Awards</u>			
	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Options (#)	Option Exercise Price (\$)	Option Expiration Date	Number of Shares or Units of Stock or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested (\$)	Equity Incentive Plan Awards: Number of Shares, Units or Rights That Have Not Vested (#)	Equity Incentive Plan Awards: Market or Unearned Value of Shares, Units or Rights That Have Not Vested (\$)
Ronald Hirsch	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
John T. Perry	200,000	N/A	N/A	\$0.30	4/1/2010	N/A	NA	NA	N/A
	100,000	N/A	N/A	\$0.40	4/1/2010				
	100,000	N/A	N/A	\$0.50	4/1/2010				
	100,000	N/A	N/A	\$0.60	4/1/2010				
Erland A. Anderson	675,000	N/A	N/A	\$0.50	2/1/ 2011	N/A	N/A	N/A	N/A

On June 11, 2007, the Board of Directors granted 500,000 common stock purchase options to John Perry and 250,000 common stock purchase options to Erland Anderson. These options were granted pursuant to our 2006 Stock Incentive Plan, and are exercisable for a period of ten years at a price of \$0.68 per share. One-third of the options vested on the grant date and the remaining options will vest as to one-third on each of the first and second anniversaries of the grant date. Mr. Perry was granted an additional 150,000 options on the same terms in his capacity as a director. See Compensation of Directors below.

On July 11, 2007 the Board of Directors granted an additional 50,000 common stock purchase options to Erland Anderson. These options were granted pursuant to our 2006 Stock Incentive Plan, and are exercisable for a period of ten years at a price of \$0.85 per share. One-third of the options vested on the grant date and the remaining will vest as to one-third on each of the first and second anniversaries of the grant date.

**Employment Contracts and Termination of Employment and Change-In-Control Arrangements*****Ronald Hirsch***

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On January 2, 2004, we entered into an Executive Employment Agreement with Ronald Hirsch to serve as our CEO. The term of this agreement is for three years, and the agreement is subject to automatic renewals for successive one year periods unless cancelled by either of the parties. Mr. Hirsch's base salary under the agreement is \$200,000 annually. Mr. Hirsch is also entitled to participate in a formal incentive stock option plan, once adopted by us. In addition, Mr. Hirsch is entitled to participate

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in all health, insurance, retirement and other benefits provided to our other senior executives pursuant to authorization by our Board of Directors.

The Executive Employment Agreement provides that, absent a change in control, if we terminate Mr. Hirsch for any reason not for cause (other than due to death or disability), we must pay to Mr. Hirsch (i) accrued unpaid salary, bonuses and expenses, if any, (ii) his base salary for the greater of the remaining term and 12 months, and (iii) his health insurance premiums until the earlier of the expiration of 12 months and the date he is eligible for similar health benefits with another employer. Following a change in control, in the event we terminate Mr. Hirsch for any reason other than for death/disability or cause, we are required to pay Mr. Hirsch all accrued unpaid salary, bonuses, and expenses, a lump sum equal to three times his base salary, and we are required to pay for his health, medical, and disability insurance premiums for 18 months. Mr. Hirsch may also elect to terminate his employment following a change of control and receive these payments.

In connection with his employment by our company, Mr. Hirsch received stock options for the purchase of up to 3,000,000 shares of our common stock with an exercise price of \$0.02 per share, which was the market price at the time of grant.

Effective February 15, 2006, Mr. Hirsch resigned as our Chief Executive Officer but has continued to serve as Chairman of our Board of Directors. On February 15, 2006, our company and Mr. Hirsch entered into a waiver and amendment to the Executive Employment Agreement whereby Mr. Hirsch agreed, among other things, to work with Mr. Tintor for six months as part of the Company's transition to our new Chief Executive Officer, and to continue to act as Chairman for a period of two years after we have received funding of at least \$25,000,000.

Effective October 18, 2006, we entered into an Amended and Restated Waiver Agreement And Amendment Of Employment Agreement with Mr. Hirsch which superseded and replaced the waiver and amendment to the Executive Employment Agreement. Its provisions included the requirement that we pay to Mr. Hirsch all of his accrued consulting fees for services provided by Mr. Hirsch to our company between May 1, 2001 and October 19, 2003 (totaling \$295,000), and all of his accrued and unpaid salary (totaling \$600,000 as of December 31, 2006), on the earlier of the closing date of: (a) a registered equity offering and/or a debt project financing in which we raised not less than the aggregate of \$25,000,000; or (b) a Significant Transaction, which is defined to mean a significant transaction in which (i) any person, together with all affiliates and associates of such person, becomes the beneficial owner, directly or indirectly, of securities of Nord representing or convertible into 51% or more of the common stock of Nord, or (ii) there is a sale, lease, exchange or other transfer (in one transaction or a series of transactions contemplated or arranged by any party as a single plan) of all or substantially all of the assets of Nord or of assets of Nord valued at \$12,000,000 or greater. The provision automatically terminated on February 15, 2007, and the accrued salary and accrued consulting fees continue to be an amount payable by our company to Mr. Hirsch on demand.

The Amended and Restated Waiver Agreement And Amendment Of Employment Agreement also provides that:

- Mr. Hirsch's base salary in his capacity as Chairman from February 15, 2006, to February 15, 2007 continued at \$200,000 per annum, and was reduced to \$100,000 per annum thereafter.
- Notwithstanding Mr. Hirsch's retirement, resignation or termination for any reason other than for Cause (as defined in the Executive Employment Agreement) or as a result of a Significant Transaction in which any person, together with all affiliates and associates of such person, becomes the beneficial owner, directly or indirectly, of securities of Nord representing or



convertible into 51% or more of the common stock of Nord, Nord shall continue to provide health insurance benefits to Mr. Hirsch until he reaches the age of 65.

- Since a Significant Transaction did not occur by February 15, 2007, Mr. Hirsch has the right, subject to the approval of our board of directors, to be appointed the President and Chief Executive Officer on the terms and subject to payment of an annual salary to be agreed between Nord and Mr. Hirsch.
- If Nord enters into an agreement with respect to a Significant Transaction in which any person, together with all affiliates and associates of such person, shall become the beneficial owner, directly or indirectly, of securities of Nord representing or convertible into 51% or more of the common stock of Nord, Mr. Hirsch will voluntarily resign as Chairman or, if applicable, as the President and Chief Executive Officer, effective immediately prior to the completion of the Significant Transaction.
- In the event that Mr. Hirsch ceases to be employed by Nord (other than by way of termination for Cause) in connection with the completion of a Significant Transaction other than one in which any person, together with all affiliates and associates of such person, becomes the beneficial owner, directly or indirectly, of securities of Nord representing or convertible into 51% or more of the common stock of Nord, Nord shall provide to Mr. Hirsch the payments and benefits set forth in the following sections of the Executive Employment Agreement, subject to execution and delivery by Mr. Hirsch to our company of a mutual and general release of claims:

(a) Section 7(g)(i)(A), which requires our company to pay the Accrued Obligations (as defined in the Executive Employment Agreement) in a lump sum within sixty (60) days following termination of employment,

(b) Section 7(g)(i)(B), which contemplates the payment to Mr. Hirsch of an amount equal to three times the Mr. Hirsch's Base Salary (as defined in the Executive Employment Agreement), payable in a lump sum within sixty (60) days following termination of employment,

(c) Section 7(g)(i)(C), which provides that if Nord elects continuation of coverage of medical and dental benefits under the *Consolidated Omnibus Budget Reconciliation Act of 1985*, Nord will pay 100% of such premiums for the first 18 months of coverage, and

(d) Section 7(g)(i)(D), which contemplates payment of premiums necessary for continuation of any Supplemental Disability Policy (as defined in the Executive Employment Agreement) or, at the election of Nord, a lump sum amount equal to the aggregate premiums to be paid thereon, in either case for a period of 18 months following the effective date of termination; provided, however, that in lieu of the payments and benefits set forth in sections 7(g)(i)(C) and Section 7(g)(i)(D) of the Executive Employment Agreement, and in full payment and satisfaction Nord's obligations to Mr. Hirsch in respect thereof, Nord may in its sole discretion elect to pay to Mr. Hirsch the sum of \$9,000 in cash no later than the closing date of the Significant Transaction.

- In the event of the completion of a Significant Transaction in which any person, together with all affiliates and associates of such person, becomes the beneficial owner, directly or indirectly, of securities of Nord representing or convertible into 51% or more of the common stock of Nord, Mr. Hirsch will not be entitled to receive the compensation contemplated by Section 7(g)(i)(B) of the Executive Employment Agreement, but Mr. Hirsch will be entitled to receive the payments and benefits set out in the following sections of the Employment Agreement: Section 7(g)(i)(A), Section 7(g)(i)(C), and Section 7(g)(i)(D); provided, however, that in lieu of the payments and



benefits set forth in sections 7(g)(i)(C) and Section 7(g)(i)(D) of the Executive Employment Agreement, and in full payment and satisfaction our company's obligations to Mr. Hirsch in respect thereof, Nord may in its sole discretion elect to pay to Mr. Hirsch the sum of \$9,000 in cash no later than the closing date of the Significant Transaction.

***Nicholas Tintor***

On February 15, 2006, Nicholas Tintor accepted our offer to serve as President and Chief Executive Officer of our Company pursuant to a letter agreement that contemplated the execution and delivery of a definitive Executive Employment Agreement between our company and Mr. Tintor within 30 days of the date of his acceptance of our offer.

We agreed to pay Mr. Tintor a signing bonus of \$150,000, payable as to \$75,000 as soon as practicable following the adoption of a formal stock incentive plan and \$75,000 on the one-year anniversary of his acceptance. The bonus was to be paid in shares of common stock, to be issued as fully paid and non-assessable at a deemed issue price per share equal to the market price of our common stock, less a 15% discount to reflect their status as restricted securities with the meaning assigned in Rule 144 under the *Securities Act of 1933*, as amended. On May 12, 2006, we issued 176,471 shares of our common stock to Mr. Tintor in payment of the initial \$75,000 installment of the signing bonus; the shares were valued at \$88,236 at the time of issuance. Additionally, we granted Mr. Tintor 500,000 options to purchase shares of common stock with a term of three years.

Mr. Tintor resigned as our President and Chief Executive Officer effective August 21, 2006, and we subsequently entered into a settlement agreement with Mr. Tintor. At the time of his resignation, we and Mr. Tintor had been negotiating the terms of the definitive Executive Employment Agreement in good faith. The term of his Executive Employment Agreement was to have been for three years and his initial salary was fixed at \$6,000 per month, increasing to \$200,000 per annum contingent and effective upon our receiving funding of at least \$25,000,000. Mr. Tintor's salary was being accrued but unpaid until such time as our company received such funding.

Under the settlement agreement, in consideration of a mutual release of claims, we paid Mr. Tintor \$70,000 in cash upon execution of the agreement on September 29, 2006, and we paid an additional \$163,000 to Mr. Tintor by issuing a total of 139,880 fully paid and non-assessable shares of common stock to him on January 7, 2007. The 500,000 options that had been granted to Mr. Tintor were cancelled on September 29, 2006 pursuant to the settlement agreement.

***Erland A. Anderson***

On January 2, 2004, we entered into an Executive Employment Agreement with Erland A. Anderson to serve as our President. The term of this agreement is for three years, and the agreement is subject to automatic renewal for successive one year periods unless cancelled by either of the parties. Mr. Anderson's base salary under the agreement is \$150,000 annually. Mr. Anderson is also entitled to participate in a formal incentive stock option plan, once adopted by us. Additionally, Mr. Anderson is entitled to participate in all health, insurance, retirement and other benefits provided to our other senior executives pursuant to authorization by our Board of Directors. Absent a change in control, if we terminate Mr. Anderson for any reason not for cause (other than due to death or disability), we must pay to Mr. Anderson (i) accrued unpaid salary, bonuses and expenses, if any, (ii) his base salary for the greater of the remaining term and 12 months, and (iii) his health insurance premiums until the earlier of the expiration of 12 months and the date he is eligible for similar health benefits with another employer. Following a change in control, in the event we terminate Mr. Anderson for any reason other than for death/disability or cause, we are required to pay Mr. Anderson all accrued unpaid salary, bonuses, and

expenses, a lump sum equal to three times his base salary, and we are required to pay for his health, dental, and disability insurance premiums for 18 months. Mr. Anderson may also elect to terminate his employment following a change of control and receive these payments.

In connection with his employment with our company, Mr. Anderson received stock options for the purchase of up to 1,500,000 shares of our common stock with an exercise price of \$0.02 per share, which was the market price at the time of grant. In January 2006, Mr. Anderson voluntarily surrendered half of these options for cancellation, and received in exchange 675,000 options with a grant date of February 1, 2006 and exercisable for five years at a price of \$0.50 per share.

Effective February 15, 2006, Mr. Anderson resigned as our President and was appointed as Executive Vice President and Chief Operating Officer. On February 15, 2006, we entered into a waiver and amendment to the Executive Employment Agreement with Mr. Anderson to revise the Executive Employment Agreement in light of Mr. Anderson's new appointments and to confirm the waiver of any rights that he may have had under such Agreement in respect of Nicholas Tintor's appointment as President and the changes to the composition of the Board of Directors.

In light of Mr. Tintor's resignation as an officer of our company, Mr. Anderson was appointed as our President and Chief Executive Officer on an interim basis.

Effective October 18, 2006, we entered into an Amended and Restated Waiver Agreement And Amendment Of Employment Agreement with Mr. Anderson which supersedes and replaces the waiver and amendment to the Executive Employment Agreement. It provides for, among other things, an amendment to section 3(a) of the Executive Employment Agreement such that it provided that Mr. Anderson shall serve as the President and Chief Executive Officer; provided, however, that Mr. Anderson was to resign as President and Chief Executive Officer and assume the office of Chief Operating Officer in the event that Mr. Hirsch exercised his rights to be appointed at the President and Chief Executive Officer subject to the approval of the Board of Directors. Its provisions also included the requirement that we pay to Mr. Anderson all of his accrued and unpaid salary (totaling \$385,833 as of December 31, 2006), on the earlier of the closing date of: (a) a registered equity offering and/or a debt project financing in which we raise not less than the aggregate of \$25,000,000; or (b) a Significant Transaction. The provision automatically terminated on February 15, 2007, and the accrued salary continues to be an amount payable by our company to Mr. Anderson on demand.

The Amended and Restated Waiver Agreement And Amendment Of Employment Agreement also provides that:

- If Nord enters into an agreement with respect to a Significant Transaction in which any person, together with all affiliates and associates of such person, shall become the beneficial owner, directly or indirectly, of securities of Nord representing or convertible into 51% or more of the common stock of Nord, Mr. Anderson will voluntarily resign as the President and Chief Executive Officer, or, if applicable, as the Chief Operating Officer, effective immediately prior to the completion of the Significant Transaction.
- In the event that Mr. Anderson ceases to be employed by Nord (other than by way of termination for Cause) in connection with the completion of a Significant Transaction other than one in which any person, together with all affiliates and associates of such person, becomes the beneficial owner, directly or indirectly, of securities of Nord representing or convertible into 51% or more of the common stock of Nord, Nord shall provide to Mr. Anderson the payments and benefits set forth in the following sections of the Executive Employment Agreement, subject to execution and delivery by Mr. Anderson to Nord of a mutual and general release of claims:

(a) Section 7(g)(i)(A), which requires Nord to pay the Accrued Obligations (as defined in the Executive Employment Agreement) in a lump sum within sixty (60) days following termination of employment,

(b) Section 7(g)(i)(B), which contemplates the payment to Mr. Anderson of an amount equal to three times the Mr. Anderson's Base Salary (as defined in the Executive Employment Agreement), payable in a lump sum within sixty (60) days following termination of employment,

(c) Section 7(g)(i)(C), which provides that if Nord elects continuation of coverage of medical and dental benefits under the *Consolidated Omnibus Budget Reconciliation Act of 1985*, Nord will pay 100% of such premiums for the first 18 months of coverage, and

(d) Section 7(g)(i) (D), which contemplates payment of premiums necessary for continuation of any Supplemental Disability Policy (as defined in the Executive Employment Agreement) or, at the election of our company, a lump sum amount equal to the aggregate premiums to be paid thereon, in either case for a period of 18 months following the effective date of termination;

provided, however, that in lieu of the payments and benefits set forth in sections 7(g)(i)(C) and Section 7(g)(i)(D) of the Executive Employment Agreement, and in full payment and satisfaction Nord's obligations to Mr. Anderson in respect thereof, Nord may in its sole discretion elect to pay to Mr. Anderson the sum of \$24,000 in cash no later than the closing date of the Significant Transaction.

- In the event of the completion of a Significant Transaction in which any person, together with all affiliates and associates of such person, becomes the beneficial owner, directly or indirectly, of securities of Nord representing or convertible into 51% or more of the common stock of Nord, Mr. Anderson will not be entitled to receive the compensation contemplated by Section 7(g)(i)(B) of the Executive Employment Agreement, but Mr. Anderson will be entitled to receive \$150,000 and the payments and benefits set out in the following sections of the Employment Agreement: Section 7(g)(i)(A), Section 7(g)(i)(C), and Section 7(g)(i) (D); provided, however, that in lieu of the payments and benefits set forth in sections 7(g)(i)(C) and Section 7(g)(i)(D) of the Executive Employment Agreement, and in full payment and satisfaction our company's obligations to Mr. Anderson in respect thereof, Nord may in its sole discretion elect to pay to Mr. Anderson the sum of \$24,000 in cash no later than the closing date of the Significant Transaction.

Mr. Anderson was appointed Executive Vice President and Chief Operating Officer effective April 23, 2007. Given his increased responsibilities, the Board of Directors authorized an increase in his salary to \$175,000 effective July 9, 2007.

### ***John T. Perry***

Effective April 1, 2005, we hired John Perry as our Senior Vice President and Chief Financial Officer. In connection with his hiring, we executed a memorandum of understanding with Mr. Perry which states that for employment services rendered, Mr. Perry will be compensated on a monthly basis with 20,000 shares of common stock until such time that we receive funding of at least \$10,000,000. Additionally, we agreed to issue 500,000 shares of common stock to Mr. Perry as a signing bonus, of which 250,000 were issued upon the execution of the memorandum of understanding, and the remaining 250,000 was issued in April 2006. We also issued stock options to Mr. Perry entitling him to purchase up to 500,000 shares of our common stock, exercisable for a term of five years, as follows: (a) 200,000 shares at an exercise price of \$0.30 per share; (b) 100,000 at an exercise price of \$0.40 per share; (c) 100,000 at an exercise price of \$0.50 per share; and (d) 100,000 at an exercise price of \$0.60 per share.

On April 18, 2005, we entered into an employment agreement with Mr. Perry to serve as our Senior Vice President and Chief Financial Officer. The term of this agreement is for two years, and the agreement is subject to automatic renewal for successive one year periods unless cancelled by either of the parties. Mr. Perry's base salary under the agreement is \$175,000 annually, although Mr. Perry has agreed to accept 20,000 shares of common stock per month under his memorandum of understanding with us, in lieu of cash salary, until we have received funding of at least \$10,000,000. The agreement also confirms that Mr. Perry will be compensated in the form of common shares of our company until such time as we complete a financing of at least \$10,000,000. Given our completion of an unregistered offering of special warrants in June 2007, Mr. Perry now receives his salary in cash. In addition, Mr. Perry is entitled to participate in any formal incentive stock option plan adopted by us, including the 2006 Stock Incentive Plan. Mr. Perry is also entitled to participate in all health, insurance, retirement and other benefits provided to our other senior executives pursuant to authorization by our Board of Directors. Absent a change in control, if we terminate Mr. Perry for any reason not for cause, we must pay Mr. Perry's salary and health and dental insurance premiums for the greater of the remainder of the term or 12 months. Following a change in control, in the event we terminate Mr. Perry for any reason other than for death/disability or cause, we are required to pay Mr. Perry all accrued unpaid salary, bonuses, expenses, a lump sum equal to three times his base salary, and we are required to pay for his health, dental, and disability insurance premiums for 18 months. Mr. Perry may also elect to terminate his employment following a change of control and receive these payments.

On February 15, 2006, we entered into a waiver agreement with Mr. Perry to confirm the waiver of any rights that he may have had under his Executive Employment Agreement with respect to the changes to the composition of the Board of Directors.

Effective October 18, 2006, our company entered into an Amendment Of Employment Agreement with Mr. Perry. Its provisions include the following:

- If we enter into an agreement with respect to a Significant Transaction in which any person, together with all affiliates and associates of such person, shall become the beneficial owner, directly or indirectly, of securities of Nord representing or convertible into 51% or more of the common stock of Nord, Mr. Perry will voluntarily resign as Senior Vice President and Chief Financial Officer, effective immediately prior to the completion of the Significant Transaction.
- In the event that Mr. Perry ceases to be employed by Nord (other than by way of termination for Cause) in connection with a Significant Transaction other than one in which any person, together with all affiliates and associates of such person, becomes the beneficial owner, directly or indirectly, of securities of Nord representing or convertible into 51% or more of the common stock of Nord, Nord shall provide to Mr. Perry the payments and benefits set forth in the following sections of the Executive Employment Agreement, subject to execution and delivery by Mr. Perry to Nord of a mutual and general release of claims:
  - (a) Section 7(g)(i)(A), which requires Nord to pay the Accrued Obligations (as defined in the Executive Employment Agreement) in a lump sum within sixty (60) days following termination of employment,
  - (b) Section 7(g)(i)(B), which contemplates the payment to Mr. Perry of an amount equal to three times the Mr. Perry's Base Salary (as defined in the Executive Employment Agreement), payable in a lump sum within sixty (60) days following termination of employment,

(c) Section 7(g)(i)(C), which provides that if Nord elects continuation of coverage of medical and dental benefits under the *Consolidated Omnibus Budget Reconciliation Act of 1985*, Nord will pay 100% of such premiums for the first 18 months of coverage, and

(d) Section 7(g)(i) (D), which contemplates payment of premiums necessary for continuation of any Supplemental Disability Policy (as defined in the Executive Employment Agreement) or, at the election of our company, a lump sum amount equal to the aggregate premiums to be paid thereon, in either case for a period of 18 months following the effective date of termination;

provided, however, that in lieu of the payments and benefits set forth in sections 7(g)(i)(C) and Section 7(g)(i)(D) of the Executive Employment Agreement, and in full payment and satisfaction Nord's obligations to Mr. Perry in respect thereof, Nord may in its sole discretion elect to pay to Mr. Perry a lump sum in cash equal to the aggregate of the premiums that would have been payable during the 18 months following the closing date of the Significant Transaction on the assumption that the premiums would be assessed and charged during that period at the same respective rates in force on the date of such payment.

- In the event of the completion of a Significant Transaction in which any person, together with all affiliates and associates of such person, becomes the beneficial owner, directly or indirectly, of securities of Nord representing or convertible into 51% or more of the common stock of Nord, Mr. Perry will not be entitled to receive the compensation contemplated by Section 7(g)(i)(B) of the Executive Employment Agreement, but Mr. Perry will be entitled to receive \$225,000 and the payments and benefits set out in the following sections of the Employment Agreement: Section 7(g)(i)(A), Section 7(g)(i)(C), and Section 7(g)(i) (D); provided, however, that in lieu of the payments and benefits set forth in sections 7(g)(i)(C) and Section 7(g)(i)(D) of the Executive Employment Agreement, and in full payment and satisfaction Nord's obligations to Mr. Perry in respect thereof, Nord may in its sole discretion elect to pay to Mr. Perry a lump sum in cash equal to the aggregate of the premiums that would have been payable during the 18 months following the closing date of the Significant Transaction on the assumption that the premiums would be assessed and charged during that period at the same respective rates in force on the date of such payment.

Mr. Perry was appointed President and Chief Executive Officer effective April 23, 2007. Given his increased responsibilities, the Board of Directors authorized an increase in his salary to \$200,000 effective June 1, 2007.

### ***Effect of Recent Financing Transactions***

Our company entered into a Credit Agreement dated as of June 28, 2007 with Nedbank Limited, as administrative agent and lead arranger. The Credit Agreement provides for a \$25 million secured term loan credit facility that will be used by our company to assist in financing the construction, start-up and operation of the Johnson Camp Mine. The Credit Agreement contemplates a series of term loans to be funded from time to time by a syndicate of lenders in response to draw-down requests by our company, with the aggregate amount of all term loans being \$25 million.

The availability of the loan facility contemplated by the Credit Agreement, and the special warrant financing completed by our company on June 5, 2007, has permitted us to repay all amounts accrued and outstanding under our executive employment agreements with Mr. Hirsch, Mr. Anderson and Mr. Perry. In addition, Mr. Perry is now entitled to be paid his salary in cash rather than in shares of common stock.

**Performance Incentive Plan**

On July 31, 2007, we adopted a performance incentive plan (the Performance Plan ) for the purpose of retaining and providing an incentive to certain key employees involved in restarting and commissioning the Johnson Camp Mine (the JCM ). The Performance Plan covers the period of time from July 1, 2007 to December 31, 2008 and bases its payouts on the achievement of certain key targets and milestones associated with the restart and commissioning of the JCM. The key targets and milestones are as follows:

<u>Target or Milestone</u>	<b>Weight %</b>
First production of cathode	20%
Commencement of mining operations	10%
Completion of mining construction	10%
Achievement of the production of approximately 1,000,000 lbs of cathode, on a monthly basis	10%
Achievement of the production of approximately 2,000,000 lbs of cathode, on a monthly basis	20%
Restart and commissioning capital expenditure of less than a certain amount	20%
- Self funding upside of 150% if capital expenditures are equal to or less than a certain amount	
Safety # of Lost Time Incidents during plan period	10%

Our Compensation Committee is responsible for administering the Plan, including selecting employees eligible to participate in the Performance Plan, determining their participation level and establishing key target dates for payments to be made under the Performance Plan.

Under the Performance Plan, the achievement of targets or milestones is not on an all or nothing basis. If a milestone is achieved later than the target date set by the Compensation Committee, it will still have been achieved; however, it will have been achieved at less than 100%. The level of achievement reached with respect to the established targets or milestones will be determined by the Chief Executive Officer and President, subject to approval by the Compensation Committee

In August of 2007, the Compensation Committee selected the employees entitled to participate in the Performance Plan and set the key target dates and payout levels under the Performance Plan. John Perry, our President and Chief Executive Officer, and Erland A. Anderson, our Executive Vice President and Chief Operating Officer, are both participants under the Performance Plan and are entitled to a maximum payout of up to 110% of their base salary during the plan period if all targets or milestones are met at 100%.



**Compensation of Directors**

The following table summarizes the compensation of our company's directors for the year ended December 31, 2006:

Name <sup>(1)</sup>	Fees Earned or Paid in	Stock Awards	Option Awards <sup>(3)</sup>	Non-Equity Incentive Plan Compen- sation	Non-qualified Deferred Compen- sation Earnings	All Other Compen- sation	Total
	Cash (\$)	(2) (\$)	(3) (\$)	(4) (\$)	(5) (\$)	(6) (\$)	(7) (\$)
Doug Hamilton	34,500 <sup>(4)</sup>	35,000 <sup>(5)</sup>	114,285	-	-	-	183,785
Stephen Seymour	12,000 <sup>(6)</sup>	21,875 <sup>(5)</sup>	114,285	-	-	-	148,160
John Cook	22,500 <sup>(7)</sup>	28,436 <sup>(5)</sup>	114,285	-	-	-	165,221
Wade Nesmith <sup>(8)</sup>	86,250 <sup>(9)</sup>	41,563 <sup>(5)</sup>	114,285 <sup>(10)</sup>	-	-	-	242,098

**Notes**

- (1) Ronald Hirsch and John Perry, members of our board of directors, are named executive officers and did not receive any compensation as a director that has not been disclosed in the summary compensation table above.
- (2) This column represents the dollar amount recognized for financial statement reporting purposes with respect to the 2006 fiscal year for the fair value of DSUs granted in 2006 in accordance with SFAS 123R. Fair value is calculated using the average of the high and low price of our stock on the trading day prior to the date of grant. The outstanding DSUs for the directors at December 31, 2006 are as follows: Douglas Hamilton (40,342 DSUs), Stephen Seymour (25,214 DSUs), John Cook (32,778 DSUs) and Wade Nesmith (47,907 DSUs).
- (3) This column represents the dollar amount recognized for financial statement reporting purposes with respect to the 2006 fiscal year for the fair value of stock options granted to each of the directors in 2006, as well as prior fiscal years, in accordance with SFAS 123R. Pursuant to SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions. For additional information on the valuation assumptions with respect to the options, refer to Note 1 under the heading "Stock-Based Compensation" and Note 8 under the heading "Stock Options" in our consolidated financial statements in the Form 10-KSB for the year ended December 31, 2006 as filed with the SEC. The outstanding stock option awards for the directors at December 31, 2006 are as follows: Ronald Hirsch (none), Douglas Hamilton (200,000), Stephen Seymour (200,000), John Cook (200,000) and Wade Nesmith (200,000).
- (4) Cash fees totaling \$34,500, of which \$30,000 was deferred. The deferred amount was paid on June 13, 2007.
- (5) Fair value of deferred stock units issued pursuant to our Company's 2006 Stock Incentive Plan. In January 2007, we issued 25,651 shares of common stock to John Cook in settlement of 25,651 deferred stock units. In May, 2007, we issued 64,376 shares of common stock to Wade Nesmith in settlement of 64,376 deferred stock units.
- (6) Cash fees totaling \$12,000, of which \$7,500 was deferred. The deferred amount was paid on June 13, 2007.
- (7) Cash fees totaling \$22,500, all of which was deferred. The deferred amount was paid on June 13, 2007.
- (8) Mr. Nesmith resigned as a director effective March 29, 2007.
- (9) Cash fees totaling \$86,250, of which \$63,750 was deferred. The deferred amount was paid on June 19, 2007.

(10) Includes \$26,086 attributable to options that were subsequently forfeited in March 2007 at the time of Mr. Nesmith's resignation.

On June 11, 2007, the Board of Directors granted 150,000 common stock purchase options to each of Ronald Hirsch, John Perry, Stephen Seymour, Douglas Hamilton, John Cook and Sean Harvey. These options were granted pursuant to our 2006 Stock Incentive Plan, and are exercisable for a period of ten years at a price of \$0.68 per share. One-third of the options vested on the grant date and the remaining options will vest as to one-third on each of the first and second anniversaries of the grant date.

On July 11, 2007 the Board of Directors granted options to acquire 125,000 and 275,000 shares of common stock to Stephen Seymour and Ronald Hirsch, respectively. These options were granted pursuant to our 2006 Stock Incentive Plan, and are exercisable for a period of ten years at a price of \$0.85

per share. One-third of the options vested on the grant date and the remaining options will vest as to one-third on each of the first and second anniversaries of the grant date.

The Board of Directors has approved a compensation structure for our non-executive directors which is designed to fairly pay non-executive directors for work required while aligning the interests of the non-executive directors with the long-term interests of stockholders.

Non-executive directors are entitled to receive a \$25,000 annual retainer, with an additional \$15,000 payable annually to the Chairman of the Audit Committee and \$7,500 payable annually to the Chairman of the Compensation Committee and the Chairman of the Nominating and Corporate Governance Committee. All of these fees are payable in stock, restricted stock, restricted stock units, or such other equity-based compensation as the Board of Directors determines.

To date, the equity-based fees have been payable in common stock pursuant to our 2006 Stock Incentive Plan. The non-executive directors have limited rights, exercisable within applicable time limits, to elect to have any percentage of such awards, and any percentage of cash fees, payable in deferred stock units (the DSUs). Each of our non-executive directors exercised such rights in respect of the equity-based fees payable to him for the 2006 fiscal year. Accordingly, all retainer fees paid during fiscal 2006 were paid in DSUs. The DSUs are subject to the 2006 Stock Incentive Plan. DSUs are awarded on a quarterly basis at the end of March, June, September and December, or as otherwise determined by the administrator of the 2006 Stock Incentive Plan. The number of DSUs awarded each quarter is calculated by dividing the total fees payable to each director for that quarter by the fair market value of our common stock, determined in accordance with the 2006 Stock Incentive Plan. Each DSU is the economic equivalent of one share of our common stock. The DSUs will be converted into shares of common stock upon the director's termination of service, or as otherwise provided in their individual deferral election.

The non-executive directors are also entitled to receive attendance fees of \$1,500 per meeting for each board and committee meeting (except for members of the Executive Committee who will not receive additional attendance fees), payable in cash.

We paid cash fees to our non-executive directors totaling \$31,500 during the year ended December 31, 2006, as follows:

<u>Name</u>	<u>Amount of Cash Fees Paid</u>
Wade Nesmith	\$22,500
Doug Hamilton	4,500
Stephen Seymour	<u>4,500</u>
	<u>\$31,500</u>

**THE BOARD OF DIRECTORS RECOMMENDS THAT YOU  
VOTE FOR THE ELECTION OF THE DIRECTOR NOMINEES SET FORTH ABOVE.  
DIRECTORS ARE ELECTED BY A PLURALITY OF THE VOTES CAST**

**PROPOSAL NUMBER TWO:**

**APPROVAL OF AMENDMENT TO AMENDED CERTIFICATE OF INCORPORATION TO INCREASE AUTHORIZED SHARES OF COMMON STOCK**

The stockholders are being asked to approve an amendment to the Company's Amended Certificate of Incorporation (the "Amended Certificate") to increase the number of authorized shares of common stock from 100,000,000 to 200,000,000. On August 15, 2007, the Company's Board of Directors adopted resolutions approving and authorizing the amendment and directing that the amendment be submitted to a vote of the stockholders at the Annual Meeting. A copy of the proposed amendment to our Amended Certificate effecting the increase in our authorized shares is attached hereto as Exhibit A. The Board of Directors determined that the amendment is in the best interests of the Company and its stockholders and unanimously recommends approval by the stockholders.

If this proposed amendment is approved by the stockholders, the Board of Directors may proceed to file the amendment at any future time, thereby making the increase in authorized capital effective. The Board of Directors may, in its discretion, abandon the amendment to increase the authorized capital at any future time. If stockholder approval is obtained and the Board of Directors determines that it is in the best interests of the Company and its stockholders to proceed with the increase in authorized capital, the Board of Directors will, at its discretion, file with the Secretary of State of the State of Delaware a Certificate of Amendment to the Amended Certificate increasing the Company's authorized capital as set forth in this proposal.

The Amended Certificate currently authorizes the issuance of up to 100,000,000 shares of stock, of which 100,000,000 shares are designated as common stock, \$.01 par value per share. Of the 100,000,000 shares of common stock currently authorized, as of the close of business on July 31, 2007, there were 35,271,685 shares of common stock issued and outstanding. In addition, as of July 31, 2007, the Company has reserved up to approximately 58,043,659 shares of common stock for issuance pursuant to outstanding options, warrants and special warrants.

**Reasons for Increase**

The Board of Directors has proposed this amendment to ensure that the Company has sufficient shares available for general corporate purposes including, without limitation, equity financings, acquisitions, establishing strategic relationships with corporate partners, providing equity incentives to employees, and payments of stock dividends, stock splits or other recapitalizations. The Company considers from time to time acquisitions, equity financings, strategic relationships and other transactions as market conditions or other opportunities arise. Without an increase in the shares of common stock authorized for issuance, the Company might not be able to conclude any such transaction in a timely fashion.

**Effect of Increase**

If the stockholders approve the proposed amendment, the Board of Directors may cause the issuance of additional shares of common stock without further vote of the stockholders of the Company, except as may be required in particular cases by the Company's charter documents, applicable law or the rules of any national securities exchange on which shares of common stock of the Company may then be listed. Under the Company's Amended Certificate, the Company's stockholders do not have preemptive rights to subscribe to additional securities that may be issued by the Company, which means that current stockholders do not have a prior right to purchase any new issue of capital stock of the Company in order

to maintain their proportionate ownership of common stock. In addition, if the Board of Directors elects to cause the Company to issue additional shares of common stock or securities convertible into or exercisable for common stock, such issuance could have a dilutive effect on the voting power and earnings per share of existing stockholders.

The increase in the number of authorized shares of common stock could have an anti-takeover effect, although this is not the intent of the Board of Directors in proposing the amendment. For example, if the Board of Directors issues additional shares in the future, such issuance could dilute the voting power of a person seeking control of the Company, thereby deterring or rendering more difficult a merger, tender offer, proxy contest or an extraordinary transaction opposed by the Board of Directors. As of the date of this Proxy Statement, the Board of Directors is not aware of any attempt or plan to obtain control of the Company.

**THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR THE APPROVAL OF THE  
AMENDMENT TO THE AMENDED CERTIFICATE OF INCORPORATION INCREASING  
THE NUMBER OF AUTHORIZED SHARES OF COMMON STOCK**

**PROPOSAL NUMBER THREE:**

**RATIFICATION OF APPOINTMENT OF  
INDEPENDENT REGISTERED PUBLIC ACCOUNTANTS**

Mayer Hoffman McCann P.C. has been appointed as our independent registered public accountants of the Company for the year ending December 31, 2007. Mayer Hoffman McCann P.C. audited the Company's financial statements for the years ended December 31, 2006 and 2005.

The Company anticipates that a representative of Mayer Hoffman McCann P.C. will be present at the annual meeting. The representative will have the opportunity to make a statement if they desire to do so. It is expected the representative will not be available to respond to questions.

In the event ratification by the stockholders of the appointment of Mayer Hoffman McCann P.C. as the Company's independent registered public accountants is not obtained, our Board of Directors will reconsider such appointment.

**Principal Accountant Fees and Services**

Mayer Hoffman McCann P.C. performed the services listed below and was paid the fees listed below for the fiscal years ended December 31, 2006 and 2005:

**Audit Fees**

<b>2006</b>	<b>2005</b>
\$272,289	\$264,850

Audit Fees consists of fees billed for professional services rendered for the audits of our financial statements, reviews of interim financial statements included in quarterly reports, services performed in connection with filings with the SEC and related comfort letters and other services that are normally provided by Mayer Hoffman McCann P.C. in connection with statutory and regulatory filings or engagements.

**Audit - Related  
Fees**

<b>2006</b>	<b>2005</b>
None	None

Audit-Related Fees consists of fees billed for assurance and related services that are reasonably related to the performance of the audit or review of our financial statements.

**Tax Fees**

<b>2006</b>	<b>2005</b>
\$71,961	\$51,975

Tax Fees consists of fees billed for professional services for tax compliance, tax advice and tax planning. These services include assistance regarding federal, state and local tax compliance and consultation in connection with various transactions and acquisitions.

**All Other Fees**

	<b>2006</b>	<b>2005</b>
	None	\$2,475

All Other Fees consists of fees billed for accounting services related to stock options and financing matters.

**Pre-Approval of Services by the Independent Auditor**

The Audit Committee is responsible for the pre-approval of audit and permitted non-audit services to be performed by the Company's independent auditor, Mayer Hoffman McCann P.C. The Audit Committee will, on an annual basis, consider and, if appropriate, approve the provision of audit and non-audit services by Mayer Hoffman McCann P.C. Thereafter, the Audit Committee will, as necessary, consider and, if appropriate, approve the provision of additional audit and non-audit services by Mayer Hoffman McCann P.C. which are not encompassed by the Audit Committee's annual pre-approval and are not prohibited by law. The Audit Committee has delegated to the Chair of the Audit Committee the authority to pre-approve, on a case-by-case basis, non-audit services to be performed by Mayer Hoffman McCann P.C. The Audit Committee was formed in February of 2006. Since that time, the Audit Committee has approved all of the audit and permitted non-audit services performed by Mayer Hoffman McCann P.C.

**THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR THIS PROPOSAL TO  
RATIFY THE APPOINTMENT OF MAYER HOFFMAN MCCANN P.C. AS THE  
INDEPENDENT REGISTERED PUBLIC ACCOUNTANTS OF THE COMPANY FOR THE  
YEAR ENDING DECEMBER 31, 2007**

## **FORWARD LOOKING STATEMENTS**

This proxy statement includes statements that are not historical facts. These statements are forward-looking statements as defined in the Private Securities Litigation Reform Act of 1995 and are based, among other things, on the Company's current plans and expectations relating to expectations of anticipated growth in the future and future success under various circumstances. As such, these forward-looking statements involve uncertainty and risk.

Other factors and assumptions not identified above could also cause the actual results to differ materially from those set forth in any forward-looking statement. The Company does not undertake any obligation to update the forward-looking statements contained in this proxy statement to reflect actual results, changes in assumptions, or changes in other factors affecting these forward-looking statements.

## **FUTURE STOCKHOLDER PROPOSALS**

It is anticipated that the release date for the Company's proxy statement and form of proxy for this current annual meeting of stockholders will be September 14, 2007. The deadline for submission of stockholder proposals to be included in the proxy statement and form of proxy for the Company's next Annual Meeting of stockholders will be May 16, 2008. Stockholder proposals must satisfy the conditions established by the Securities and Exchange Commission for stockholder proposals in order to be included in the Company's proxy statement for that meeting.

For any stockholder that intends to present a proposal that will not be included in the proxy statement for the Company's 2007 Annual Meeting, but is instead sought to be presented directly at the 2007 Annual Meeting, SEC rules permit management to vote proxies in its discretion if we: (1) receive notice of the proposal before the close of business on July 31, 2008 and advise stockholders in the 2007 proxy statement about the nature of the matter and how management intends to vote on such matter; or (2) do not receive notice of the proposal prior to the close of business on July 31, 2008.

Proposals or notices of intention to present proposals should be addressed to: John T. Perry, President, Nord Resources Corporation, 1 West Wetmore Road, Suite 203, Tucson, Arizona, 85705.

## **WHERE YOU CAN FIND MORE INFORMATION**

We are subject to the informational requirements of the *Securities Exchange Act of 1934*. We file reports, proxy statements and other information with the SEC. You may read and copy these reports, proxy statements and other information at the SEC's Public Reference Section at One Station Place, 100 F Street, NE, Washington, DC 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC also maintains an Internet website, located at [www.sec.gov](http://www.sec.gov), that contains reports, proxy statements and other information regarding our company.

### **By Order of the Board of Directors of Nord Resources Corporation**

Ronald A. Hirsch  
Chairman of the Board

September 14, 2007



**EXHIBIT A:**

**CERTIFICATE OF AMENDMENT  
TO THE  
AMENDED CERTIFICATE OF INCORPORATION  
OF  
NORD RESOURCES CORPORATION**

It is hereby certified that:

1. The name of the corporation (hereinafter called the Corporation ) is NORD RESOURCES CORPORATION and the certificate of incorporation of the Corporation was filed on January 18, 1971.

2. The amended certificate of incorporation of the Corporation is hereby amended by striking the first paragraph of Article 4 thereof and by substituting in lieu of said Article the following new first paragraph of Article 4:

4: The total number of shares of stock which the Corporation has authority to issue is Two Hundred Million (200,000,000) and the par value of each such share is One Cent, \$0.01, amounting in the aggregate to Two Million (\$2,000,000) Dollars.

3. The foregoing was duly adopted in accordance with Sections 141 and 242 of the Delaware General Corporation Law by resolution of the Board of Directors of the Corporation on August 15, 2007 and approved by the holders of a majority of the capital stock outstanding and entitled to vote at the annual meeting of stockholders of the Corporation on \_\_\_\_\_, 2007.

Signed as of the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
John T. Perry  
Secretary

## **NORD RESOURCES CORPORATION**

**1 West Wetmore Road, Suite 203**

**Tucson, Arizona 85705**

### **THIS PROXY IS SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS**

The undersigned hereby appoints Erland A. Anderson and John T. Perry as proxies, each with full power of substitution, to represent and vote as designated on the reverse side, all the shares of Common Stock of Nord Resources Corporation held of record by the undersigned on September 6, 2007, at the Annual Meeting of Stockholders to be held at the Holiday Inn Express located at 620 East Wetmore Road, Tucson, Arizona, 85705, on October 17, 2007 or any adjournment or postponement thereof.

(Continued and to be signed on the reverse side.)

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