

Carbonite Inc
Form PRER14A
May 08, 2015

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
SCHEDULE 14A
(RULE 14A-101)

Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934
(Amendment No. 1)

Filed by the Registrant Filed by a Party other than the Registrant

Check the appropriate box:

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

CARBONITE, INC.

(Name of Registrant as Specified in Its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

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

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

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing

fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

.. Fee paid previously with preliminary materials.

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

(1) Amount Previously Paid:

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

(3) Filing Party

(4) Date Filed:

PRELIMINARY - SUBJECT TO COMPLETION

[], 2015

Dear Fellow Stockholders:

I am pleased to invite you to attend the 2015 Annual Meeting of Stockholders of Carbonite, Inc. (the Company) to be held on [], June [], 2015 at 9:00 a.m. Eastern Time at Foley & Lardner LLP, 111 Huntington Avenue, Boston, MA 02199.

Details regarding the meeting and the business to be conducted are more fully described in the accompanying Notice of Annual Meeting and Proxy Statement.

Engine Capital, L.P. (Engine Capital) has provided notice of its intention to propose three director nominees for election at the Annual Meeting. **OUR BOARD OF DIRECTORS URGES YOU TO VOTE ONLY FOR OUR BOARD S PROPOSED NOMINEES BY USING THE ENCLOSED WHITE PROXY CARD, TO DISREGARD ANY MATERIALS SENT BY ENGINE CAPITAL AND NOT TO SIGN OR RETURN OR VOTE ANY PROXY CARD SENT TO YOU BY ENGINE CAPITAL OR ANYONE SOLICITING PROXIES TO VOTE FOR ANY OF THE NOMINEES OF ENGINE CAPITAL.**

Our Board of Directors is committed to acting in the best interests of all of the Company s stockholders and, after considering the proposed nominees of Engine Capital, strongly urges all of the Company s stockholders to reject Engine Capital s efforts to replace any of the current directors on our Board of Directors. **Accordingly, our Board of Directors recommends that you vote FOR its director nominees, Mohamad Ali, Peter Gyenes and Pravin Vazirani, and FOR Proposals 2 and 3 using the WHITE proxy card.**

We urge you NOT to sign or return any proxy cards sent by Engine Capital. If you have already voted using a proxy card sent to you by Engine Capital, you can revoke it by subsequently executing and delivering the **WHITE** proxy card or by voting in person at the Annual Meeting. You may also vote over the Internet using the Internet address on the **WHITE** proxy card or by telephone using the toll-free number on the **WHITE** proxy card. Only your last-dated proxy will count, and any proxy may be revoked at any time prior to its exercise at the Annual Meeting as described in this Proxy Statement.

Your vote is important. Whether or not you plan to attend the 2015 Annual Meeting, I hope that you will vote as soon as possible.

Thank you for your ongoing support of and continued interest in Carbonite, Inc. Our Board of Directors is committed to acting in your best interests. We look forward to seeing you at our Annual Meeting.

Sincerely,

Mohamad Ali
President and Chief Executive Officer

Two Avenue de Lafayette

Boston, Massachusetts 02111

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS TO BE HELD ON JUNE [], 2015

Notice is hereby given that the 2015 Annual Meeting of Stockholders (the Annual Meeting) of Carbonite, Inc., a Delaware corporation (the Company), will be held at Foley & Lardner LLP, 111 Huntington Avenue, Boston, MA 02199, on [], June [], 2015, at 9:00 a.m. Eastern Time for the following purposes:

1. To elect three Class I directors to hold office until the 2018 annual meeting of stockholders or until their successors are elected and qualified;
2. To ratify the selection by the Audit Committee of the Board of Directors of the Company (the Audit Committee) of Ernst & Young LLP as the independent registered public accounting firm of the Company for the fiscal year ending December 31, 2015;
3. To approve, on an advisory basis, the compensation of the Company s named executive officers as disclosed in the accompanying materials; and
4. To transact such other business as may properly come before the Annual Meeting or any adjournment or postponement thereof.

Stockholders of record at the close of business on Friday, April 10, 2015 (the Record Date) are entitled to receive this notice of the Annual Meeting and to vote at the Annual Meeting and at any adjournments of such meeting.

This Proxy Statement and the accompanying **WHITE** proxy card are first being sent or given to stockholders of record on or about [], 2015.

Whether or not you plan to attend the meeting, **please sign and return the enclosed WHITE proxy card as promptly as possible** in the envelope enclosed for your convenience, or please vote via the Internet or phone using the instructions on the **WHITE** proxy card. If you receive more than one **WHITE** proxy card because your shares are registered in different names or addresses, each **WHITE** proxy card should be signed and returned to assure that all of your shares are represented at the meeting. Proxies forwarded by or for banks, brokers or other nominees should be returned as requested by them. The prompt return of proxies will save the expense involved in further communication.

You can find detailed information regarding voting in the section entitled Information About the Annual Meeting and Voting on pages 7 through 10 of this Proxy Statement. If you have any questions or require assistance in voting, please contact MacKenzie Partners, Inc. toll-free at (800) 322-2885 or call collect (212) 929-5500.

YOUR VOTE IS IMPORTANT. WHETHER OR NOT YOU INTEND TO BE PRESENT AT THE ANNUAL MEETING, PLEASE MARK, SIGN AND DATE THE ENCLOSED WHITE PROXY CARD AND RETURN IT IN THE ENCLOSED PREPAID ENVELOPE OR, IF YOU PREFER, SUBMIT YOUR PROXY BY TELEPHONE OR VIA THE INTERNET USING THE INSTRUCTIONS ON THE WHITE PROXY CARD

TO ASSURE THAT YOUR SHARES ARE REPRESENTED AT THE ANNUAL MEETING. IF YOU ATTEND THE ANNUAL MEETING, YOU MAY VOTE IN PERSON IF YOU WISH TO DO SO, EVEN IF YOU HAVE PREVIOUSLY SUBMITTED YOUR PROXY.

By Order of the Board of Directors,

Danielle Sheer

*General Counsel, Vice President, and
Secretary*

[], 2015

IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS

FOR THE ANNUAL MEETING OF STOCKHOLDERS TO BE HELD ON JUNE [], 2015

The Proxy Statement and the Company's 2014 Annual Report to stockholders (the Annual Report) are available at www.carbonite.com.

IMPORTANT

Our Board urges you **NOT** to sign any proxy card sent to you by Engine Capital or anyone soliciting proxies to vote for any of the nominees of Engine Capital. Engine Capital has notified the Company that it intends to propose three director nominees for election at the Annual Meeting. If you have already signed any proxy card provided by Engine Capital, you have every legal right to change your vote by using the enclosed **WHITE** proxy card to vote **TODAY** - by telephone or by Internet using the instructions on the **WHITE** proxy card, or by signing, dating and returning the **WHITE** proxy card in the postage-paid envelope provided.

PRELIMINARY - SUBJECT TO COMPLETION

Two Avenue de Lafayette

Boston, Massachusetts 02111

PROXY STATEMENT

FOR THE ANNUAL MEETING OF STOCKHOLDERS TO BE HELD ON JUNE [], 2015

The Board of Directors of Carbonite, Inc. is soliciting your proxy to vote at the Annual Meeting of Stockholders to be held on [], June [], 2015, at 9:00 a.m. Eastern Time and any adjournment or postponement of that meeting (the Annual Meeting). The Annual Meeting will be held at Foley & Lardner LLP, 111 Huntington Avenue, Boston, MA 02199. On or about [], 2015, we first mailed this Proxy Statement and the accompanying **WHITE** proxy card to stockholders of record as of April 10, 2015 (the Record Date). The only voting securities of Carbonite are shares of common stock, par value \$0.01 per share (the Common Stock). There were 27,332,782 shares of Common Stock outstanding as of the Record Date. We need the holders of a majority in voting power of the shares of Common Stock issued and outstanding and entitled to vote, present in person or represented by proxy, to hold the Annual Meeting.

In this Proxy Statement, we refer to Carbonite, Inc. as the Company, Carbonite, we, or us and the Board of Directors as our Board. When we refer to Carbonite's fiscal year, we mean the twelve-month period ending December 31 of the stated year.

The Company's Annual Report, including our Form 10-K for the year ended December 31, 2014, as amended (our Form 10-K), contains consolidated financial statements for the 2014 fiscal year and accompanies this Proxy Statement. You also may obtain a copy of our Form 10-K that was filed with the Securities and Exchange Commission (the SEC), without charge, by writing to our Investor Relations department at the above address. Our Form 10-K is also posted on our website at <http://investor.carbonite.com/sec.cfm>.

Proxy Summary

This summary highlights information contained elsewhere in this Proxy Statement. This summary does not contain all of the information you should consider and you should read the entire Proxy Statement before voting.

2015 Annual Meeting of Shareholders

Date & Time: [], June [], 2015, at 9:00 a.m. EST

Record Date: April 10, 2015

Place: Foley & Lardner LLP

111 Huntington Avenue

Boston, MA 02199

Voting: Only stockholders of record at the close of business on the Record Date will be entitled to vote at the Annual Meeting. Each share of Common Stock outstanding on the Record Date is entitled to one vote on each matter.

Meeting Agenda and Voting Matters

Item	Management Proposal	Board Vote Recommendation	Page Reference (for more detail)
1	Election of three Class I directors to hold office until the 2018 annual meeting of stockholders or until their successors are elected and qualified	FOR each of our Board's director nominees named in the Proxy Statement	24
2	Ratification of the selection by the Audit Committee of our Board of Ernst & Young LLP as the independent registered public accounting firm of the Company for the fiscal year ending December 31, 2015	FOR	25
3	Approval, on an advisory basis, of the compensation of the Company's named executive officers	FOR	26

Our Board urges you to vote for our Board's nominees and proposals by using the enclosed WHITE proxy card and not to sign or return or vote any proxy card sent to you by Engine Capital or anyone soliciting proxies to vote for any of the nominees of Engine Capital.

Members of our Board of Directors

Name	Age	Position	Term Expires
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David Friend	67	Executive Chairman of the Board (Class III)	2017
Mohamad Ali	44	President, Chief Executive Officer and Director (Class I)	2015
Peter Gyenes	69	Director (Class I)	2015
Pravin Vazirani	43	Director (Class I)	2015
Stephen Munford	49	Director (Class II)	2016
Charles Kane	57	Director (Class II)	2016
Todd Krasnow	57	Director (Class III)	2017
Jeffry Flowers	61	Director (Class III)	2017

Information about our Board and Committees

	Number of Members	Independence	Number of Meetings During Fiscal Year 2014
Full Board	8	62.5%	14
Audit Committee	3	100%	7
Compensation Committee	3	100%	5
Nominating and Corporate Governance Committee	3	100%	1
Governance Highlights			

- ü **Standing Board Committees Comprised Solely of Independent Directors**
- ü **Lead Independent Director**
- ü **Majority Independent Board**
- ü **Committee Authority to Retain Independent Advisors**
- ü **Robust Code of Business Conduct and Ethics; Policies on Insider Trading and Related Person Transactions**

Executive Compensation Highlights**Our Philosophy**

Our compensation philosophy is to tie a significant percentage of an executive officer's compensation to stockholder returns. We believe that because the achievement of our business and financial objectives will be reflected in the value of our equity, our executive officers will be incentivized to achieve these objectives when a significant portion of their compensation is tied to the value of our equity. To this end, we use stock options and restricted stock units (RSUs) as components of our named executive officer compensation program because we believe that equity compensation best ties individual compensation to the creation of stockholder value over time. We believe that equity compensation is a significant motivator in attracting employees to internet-related and other technology companies.

Core Components of Executive Compensation

- ü **Base Salary** Fixed cash payment giving consideration to the compensation paid to similarly situated executives at peer companies and an assessment of each executive officer's responsibilities, performance and contributions, among other factors.

- ü

Incentive Cash Bonus Variable cash payment giving consideration to the base compensation paid to similarly situated executives at peer companies and an assessment of each executive officer's responsibilities, performance and contributions, among other factors.

- ii **Equity Incentives** Stock options and RSUs giving consideration to certain internal factors, such as the relative job scope, the value of prior and outstanding equity awards, individual performance and contributions, and external factors.

Key Features of our Executive Compensation Program

What We Do:

- ü **Linkage Between Performance Measures and Strategic and Operational Objectives** Our executive compensation program is designed to align compensation incentives with our corporate strategic, business, and financial objectives and the long-term interests of our stockholders.
- ü **Emphasis on Future Pay Opportunity vs. Current Pay Opportunity** For 2014, all of our long-term incentive awards were delivered 100% in the form of equity.
- ü **Performance-Based Options** For 2014, our new Chief Executive Officer received option awards that vest based on our stock price performance.
- ü **Market Comparison of Executive Compensation Against a Relevant Peer Group**
- ü **Double Trigger Cash Severance in the Event of a Change in Control** In the event of a change in control, cash severance benefits are payable only upon a double trigger.
- ü **Independent Compensation Consultant** - The Compensation Committee retains its own compensation consultant to review the Company's executive compensation program and practices.
- ü **Maximum Payout Caps for Annual Cash Incentive Compensation**

What We Don't Do:

- ý **No Change in Control or Perquisite Tax Gross-Ups**
- ý **No Executive Perquisites**
- ý **No Excessive Severance Benefits**
- ý **No Service-Based Defined Benefit Pension Plan or Other Similar Benefits**
- ý **No Repricing of Underwater Stock Options**

Summary Compensation

The table below includes some, but not all, of the information included in the Summary Compensation Table.

Name and Principal Position	Salary (\$)	Bonus (\$ (1))	Stock Awards (\$ (2))	Non-Equity		All other Compensation (\$)	Total (\$)
				Option Awards (\$ (2))	Incentive Plan Compensation (\$ (3))		
Mohamad Ali, <i>President and Chief Executive Officer</i>	28,409	500,000	6,498,000	1,853,125			8,879,534
David Friend, <i>Executive Chairman (4)</i>	340,000		508,000	523,210	102,000	7,933	1,481,143
Anthony Folger, <i>Chief Financial Officer</i>	296,667	25,000	254,250	261,865	47,467	5,867	891,115
Peter Lamson, <i>Senior Vice President of Global Sales</i>	281,917		127,125	130,933	50,745	10,332	601,052
Brad Meiseles, <i>Senior Vice President of Engineering</i>	263,333		433,497		48,565	9,349	754,744
Danielle Sheer, <i>General Counsel, Vice President and Secretary</i>	256,250	28,000	294,200	104,746	35,875	9,941	729,012
Swami Kumaresan, <i>Executive Vice President of Product and Engineering (2013-2014) (5)</i>	154,917		127,125	130,933		137,865	550,839

(1) The amount reported for Mr. Ali represents a cash sign-on bonus of \$500,000. Mr. Ali is obligated to repay a prorated portion of this sign-on bonus if he voluntarily terminates his employment within one-year of his hire date.

- (2) The amounts reported in these columns represent the aggregate grant date fair value of RSU and option awards, calculated in accordance with FASB ASC Topic 718, except that no forfeiture assumptions were included. Under FASB ASC Topic 718, the vesting condition related to Mr. Ali's performance-based option awards is considered a market condition and not a performance condition. Accordingly, there is no grant date fair value below or in excess of the amount reflected in the table above for Mr. Ali that could be calculated and disclosed based on achievement of the underlying market condition. For a discussion of the assumptions made in the valuations reflected in this column, see Note 9 of the Consolidated Financial Statements included in our Form 10-K for the year ended December 31, 2014. Note that amounts reported in this column reflect the accounting cost for these stock option awards, and do not correspond to the actual economic value that may be received by the recipients of these stock option awards.
- (3) The amounts reported in this column represent incentive cash bonuses paid by the Company.
- (4) Mr. Friend was appointed Executive Chairman of the Board of Directors, effective January 8, 2015.
- (5) Mr. Kumaresan's employment with us terminated effective July 31, 2014.

Recent Compensation Actions

As part of its annual 2014 compensation review process, the Compensation Committee of the Board, approved the following compensation decisions with respect to the 2014 named executive officers:

2014 Base Salary Adjustments. Four of our named executive officers received base salary increases ranging from 3% to 7.7%.

2014 Cash Bonus. Under the 2014 cash bonus plan, bonuses were determined based on the Company's performance with respect to new small business bookings and free cash flow, weighted 60% and 40%, respectively. Based on the Company's performance, the Compensation Committee certified a bonus payout of 40% of target for the participating named executive officers.

2014 Equity Incentives. The 2014 equity program consisted of stock options and RSUs. The Compensation Committee approved the use of RSUs in the Company's executive compensation program to encourage retention and reward performance over the vesting period.

On December 3, 2014, the Company appointed Mohamad Ali as President and Chief Executive Officer and as a member of our Board. Effective upon such appointment, David Friend became Executive Chairman of the Board of Directors. In connection with Mr. Ali's appointment to the position of President and Chief Executive Officer, the Company entered into an executive employment agreement, which included, among other benefits: (i) an annual base salary of \$375,000, (ii) a sign-on bonus of \$500,000 to offset the compensation Mr. Ali forfeited by leaving his prior employer, which is subject to a prorated repayment by Mr. Ali in the event that prior to the one year anniversary of Mr. Ali's employment with the Company he voluntarily terminates his employment other than for Good Reason, Disability, or death or the Company terminates his employment for Cause (each as defined in Mr. Ali's Employment Agreement), (iii) an option to purchase 250,000 shares of Common Stock, with the vesting of such option determined based on the Company's stock price performance and (iv) 450,000 restricted stock units (RSUs), with 50,000 of such RSUs to vest on December 31, 2015 and 400,000 of such RSUs to vest 25% on the one year anniversary of Mr. Ali's employment with the Company and the remainder in equal quarterly installments over the following 36 months, subject to Mr. Ali's continued employment with the Company through each applicable vesting date.

On January 8, 2015, the Company entered into an employment agreement with Mr. Friend setting forth the terms of his employment as the Company's Executive Chairman, which included, among other benefits: (i) an annualized base salary of \$340,000 for an interim period beginning December 3, 2014 and ending February 28, 2015, (ii) an annualized base salary of \$125,000 for twelve (12) months following the conclusion of the interim period and (iii) an option to purchase 100,000 shares of Common Stock, with such option vesting and becoming exercisable quarterly over four (4) years for so long as Mr. Friend serves as an employee or director of the Company.

INFORMATION ABOUT THE ANNUAL MEETING

AND VOTING

Q. Who can vote at the Annual Meeting?

A. Only stockholders of record at the close of business on the Record Date (April 10, 2015) will be entitled to vote at the Annual Meeting. At the close of business on the Record Date, there were 27,332,782 shares of Common Stock issued and outstanding, and entitled to vote.

Q. What if my shares are registered in my name?

A. If, on the Record Date, your shares were registered directly in your name with Carbonite's transfer agent, American Stock Transfer & Trust Company, LLC, then you are a stockholder of record. As a stockholder of record, you may vote in person at the Annual Meeting or vote by proxy. Whether or not you plan to attend the Annual Meeting, we urge you to fill out and return the enclosed **WHITE** proxy card or vote by proxy over the telephone or on the internet as instructed below to ensure that your vote is counted.

Q. What if my shares are registered in the name of a broker, bank or other agent?

A. If, on the Record Date, your shares were held in an account at a brokerage firm, bank, dealer or other similar organization, then you are the beneficial owner of shares held in street name, and these proxy materials, including the **WHITE** voting instruction card, are being forwarded to you by that organization. The organization holding your account is considered to be the stockholder of record for purposes of voting at the Annual Meeting. As a beneficial owner, you have the right to direct your broker or other agent as to how to vote the shares of Common Stock in your account. You are also invited to attend the Annual Meeting. However, since you are not the stockholder of record, you may not vote your shares in person at the Annual Meeting unless you request and obtain a valid proxy card from your broker or other agent.

Q. What am I being asked to vote on?

A. You are being asked to vote **FOR:**

the election of the three Class I directors nominated by our Board, namely Mohamad Ali, Peter Gyenes and Pravin Vazirani, to hold office until the 2018 annual meeting of stockholders or until their successors are elected and qualified;

the ratification of the selection by the Audit Committee of our Board of Ernst & Young LLP as the independent registered public accounting firm of the Company for the fiscal year ending December 31, 2015; and

the approval, on an advisory basis, of the compensation of the Company's named executive officers. In addition, you are entitled to vote on any other matters that are properly brought before the Annual Meeting.

Q. Has the Company been notified that a stockholder intends to propose alternative director nominees at the Annual Meeting?

A. Yes. The Company received a notice dated February 26, 2015 from Engine Capital stating its intention to propose three alternative director nominees for election at the Annual Meeting. The Engine Capital nominees have NOT been endorsed by our Board. We urge you NOT to use any proxy card that you may receive from Engine Capital. We urge you to use the **WHITE** proxy card and vote FOR ALL of our Board's nominees for director.

OUR BOARD OF DIRECTORS URGES YOU TO DISREGARD ANY MATERIALS, AND NOT TO SIGN OR RETURN ANY PROXY CARD, SENT TO YOU BY ENGINE CAPITAL.

We are not responsible for the accuracy of any information provided by or relating to Engine Capital contained in any proxy solicitation materials filed or disseminated by, or on behalf of, Engine Capital or any other statements that Engine Capital may otherwise make.

Q. How do I vote?

A. You may vote by mail using the **WHITE** proxy card or follow any alternative voting procedure described on the **WHITE** proxy card. To use an alternative voting procedure, follow the instructions on the **WHITE** proxy card.

For the election of directors, you may either vote For a nominee or you may Withhold your vote for a nominee. For the ratification of the selection of the Company's independent auditors and the advisory vote on named executive officer compensation, you may vote For or Against or abstain from voting.

It will NOT help to elect the nominees nominated by our Board if you sign and return proxies sent by Engine Capital, even if you vote AGAINST or WITHHOLD on its directors using the Engine Capital proxy card. In fact, doing so will cancel any previous vote you may have cast in favor of our Board's nominees on the Company's **WHITE** proxy card.

Q. What are the voting procedures for stockholders of record?

A. If you are a stockholder of record, you may vote in person at the Annual Meeting. Alternatively, you may vote by mail by using the accompanying **WHITE** proxy card or over the internet or by telephone using the instructions on the **WHITE** proxy card. Whether or not you plan to attend the Annual Meeting, we urge you to vote by proxy to ensure that your vote is counted. Even if you have submitted a proxy before the Annual Meeting, you may still attend the Annual Meeting and vote in person. In such case, your previously submitted proxy card will be disregarded.

To vote in person, come to the Annual Meeting and we will give you a ballot when you arrive.

To vote by proxy over the internet or by telephone, follow the instructions provided on the **WHITE** proxy card.

To vote by mail by, complete, sign and date the **WHITE** proxy card and return it promptly in the envelope provided. If you return your signed **WHITE** proxy card to us before the Annual Meeting, we will vote your shares as you direct.

Q. What are the voting procedures if my shares are registered in the name of a broker, bank or other agent?

A. If you are a beneficial owner of shares registered in the name of your broker, bank or other agent, you should have received a **WHITE** voting instruction card and voting instructions with these proxy materials from that organization rather than from us. To ensure that your vote is counted, follow the directions set forth on the **WHITE** voting instruction card and voting instructions that you receive. To vote in person at the Annual Meeting, you must obtain a valid proxy card from your broker, bank or other agent. Follow the instructions from your broker, bank or other agent included with these proxy materials, or contact your broker, bank or other agent to request a proxy card.

Q. Who counts the votes?

A. MacKenzie Partners, Inc. (MacKenzie) has been engaged as our independent agent to provide advisory, consulting and solicitation services, and tabulate stockholder votes. If you are a stockholder of record, your executed proxy card is returned directly to MacKenzie for tabulation. If you hold your shares through a broker, your broker returns one proxy card to MacKenzie on behalf of all its clients.

Q. How are votes counted?

A. Each share of Common Stock outstanding on the Record Date is entitled to one vote on each matter.

With respect to Proposal One, the election of the directors, the three nominees receiving the highest number of votes will be elected.

With respect to Proposal Two and Proposal Three, the affirmative vote of the holders of a majority in voting power of the shares of Common Stock that are present in person or by proxy and entitled to vote on each proposal is required for approval.

If your shares are held by a broker, bank, or other agent (that is, in street name) and you do not instruct the broker, bank, or other agent as to how to vote these shares on Proposals One or Three, the broker, bank, or other agent may not exercise discretion to vote for or against those proposals. This would be a broker non-vote and these shares will not be counted as having been voted on the applicable proposal. However, broker non-votes will be considered present at the Annual Meeting and will be counted towards determining whether or not a quorum is present. With respect to Proposal Two, the broker, bank, or other agent may exercise its discretion to vote for or against that proposal in the absence of your instruction, except that, if any other person sends you proxy materials to solicit your proxy, your broker will not have discretionary authority to vote your shares with respect to Proposal Two. **Please instruct your broker, bank, or other agent so that your vote can be counted.**

If stockholders abstain from voting, including brokers, banks, or other agents holding their clients' shares of record who cause abstentions to be recorded, these shares will be considered present and entitled to vote at the Annual Meeting and will be counted towards determining whether or not a quorum is present. Abstentions will have no effect with regard to Proposal One because approval of a percentage of shares present or outstanding is not required for this proposal. With respect to Proposals Two and Three, abstentions will have the same effect as an Against vote.

Q. How do I vote via internet or telephone?

A. You may vote by proxy via the internet or by telephone by following the instructions provided on the **WHITE** proxy card. Please be aware that if you vote by phone or over the internet, you may incur costs such as telephone and internet access charges for which you will be responsible. The internet and telephone voting facilities for eligible stockholders of record will close at 11:59 p.m. Eastern Time on [], 2015. The giving of such a telephonic or internet proxy will not affect your right to vote in person should you decide to attend the Annual Meeting.

The telephone and internet voting procedures are designed to authenticate stockholders' identities, to allow stockholders to give their voting instructions and to confirm that stockholders' instructions have been recorded properly.

Q. What if I return a WHITE proxy card but do not make specific choices?

A. If we receive a signed and dated **WHITE** proxy card and the **WHITE** proxy card does not specify how your shares are to be voted, your shares will be voted in accordance with the recommendations of our Board, including For the election of each of our Board's three nominees for director, For the ratification of the appointment of Ernst & Young LLP as our independent registered public accounting firm and For the approval, on an advisory basis, of named executive officer compensation. If any other matter is properly presented at the Annual Meeting, your proxy (one of the individuals named on your proxy card) will vote your shares using his or her best judgment.

Q. Who is paying for this proxy solicitation?

A. This proxy solicitation is being made on behalf of our Board. We will pay for the entire cost of soliciting proxies. Directors, officers and employees will not be paid any additional compensation for soliciting proxies. We may also reimburse brokerage firms, banks and other agents for the cost of forwarding proxy materials to beneficial owners. The Company has engaged MacKenzie to provide advisory, consulting and solicitation services. If Engine Capital proceeds with a potential proxy contest, we may incur substantial additional costs in connection with our solicitation of proxies. The Company has agreed to pay MacKenzie customary compensation for its services, including an initial retainer of \$40,000 plus reimbursement for reasonable out-of-pocket expenses incurred during the solicitation, of which \$40,000.00 has been paid to date. MacKenzie has advised us that its initial fees could be up to \$150,000 in connection with a proxy contest. The Company has also arranged to indemnify MacKenzie against certain liabilities arising from or in connection with the engagement. In addition to mailed proxy materials and proxy materials available over t