

## Novacea, Inc.

**TO: All Section 16 Officers, Directors and 10% Owners**

**FROM: Edward C. Albin, Chief Financial Officer**

**DATE: April 28, 2006**

**RE: Two-Day Section 16 Reporting Deadline and Pre-Clearance Requirement for All Transactions in Company Stock and Options**

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As you may be aware, the Sarbanes-Oxley Act amended the reporting provisions of Section 16 of the Securities Exchange Act of 1934 to impose a two-day filing deadline with respect to insider transactions occurring on or after August 29, 2002. This extraordinarily short filing deadline contrasts with the former requirements of Section 16, under which most transactions were reported no later than the 10<sup>th</sup> calendar day of the following month. The two-day filing deadline applies not only to open-market purchases and sales, but also to option grants and other employee benefit plan transactions that previously were eligible for deferred reporting at fiscal year-end. In order to meet the two-day filing deadline, the company has adopted a revised Section 16 compliance program, which is detailed in the attached policy statement.

**Please note that under our revised Section 16 compliance program, all transactions by our officers and directors in company equity securities (including options) must be pre-cleared by our Chief Financial Officer.** As discussed in the policy statement, officers and directors must provide advance notice of all proposed transactions to the company's Section 16 filing coordinator. The filing coordinator will contact the Chief Financial Officer to obtain the required approval, and will prepare and file Forms 4 for transactions by officers and directors, unless you have indicated that you prefer to prepare and file your own Section 16 filings. Please keep in mind that regardless of whether you or the company prepare and file your Forms 4, it is your legal obligation, not the company's, to make all required filings. Since June 30, 2003, the SEC has required all Form 4 filings to be made through the SEC's electronic filing system. The filing coordinator can assist you with the electronic filing procedures.

Additionally, please note that, although the pre-clearance requirement applies only to our officers and directors, the two-day filing deadline under Sarbanes-Oxley applies to all persons subject to Section 16 reporting requirements, including holders of 10% or more of our outstanding stock. If requested by holders of 10% or more of our stock, the company's filing coordinator will review in advance any transaction, including the proposed Form 4 filing, by such holders. Again, remember that our **officers** and **directors** are in all cases **required** to obtain advance approval from our Chief Financial Officer for any transaction.

## **SECTION 16 COMPLIANCE PROGRAM**

To enable compliance by officers and directors of Novacea, Inc. with the reporting requirements of Section 16(a) of the Securities Exchange Act of 1934 and the related rules of the U.S. Securities and Exchange Commission, and to prevent inadvertent liability of such persons under the “short-swing” trading rules of Section 16(b), we have implemented the Section 16 Compliance Program.

**As discussed in detail below, the Section 16 Compliance Program requires our officers and directors to obtain pre-clearance by our Chief Financial Officer of all transactions in the company’s equity securities, including options. The company’s Section 16 filing coordinator will prepare and file the reports required for such transactions. In addition, the Program makes available to holders of 10% or more of the company’s stock, upon request, the assistance of the company’s Section 16 filing coordinator in preparing Section 16 reports.**

This Section 16 Compliance Program is divided into two parts. Part I sets forth general information regarding the obligations and potential liabilities of reporting persons under Section 16. Part II sets forth the procedures that must be observed by our officers and directors, and the assistance that will be made available to holders of 10% or more of our stock, in advance of any transactions such persons may make in the company’s equity securities.

### **I. GENERAL INFORMATION REGARDING SECTION 16**

#### **Background**

Section 16(a) of the Securities Exchange Act of 1934, and the related rules of the Securities and Exchange Commission, require you, as an officer, director or holder of 10% or more of the company’s stock, to report all transactions involving company stock (including options, warrants, and other “derivative securities”) to the SEC. As a result of the Sarbanes-Oxley Act of 2002, most transactions must be reported within two business days. The requirement extends to transactions by certain of your family members sharing your household, and transactions in which you have an indirect interest (such as transactions by trusts, corporations, or partnerships in which you have or share control).

Section 16(b) imposes liability on reporting persons when such transactions occur within six months of each other. Under Section 16(b), any combination of a purchase and sale, or a sale and purchase, by a reporting person within a six-month period requires the company to recover the resulting profit. It makes no difference how long you have held the shares being sold. Transactions that occur for up to six months after you cease to be an officer or director may also give rise to liability. Moreover, under the profit calculation rules, your highest-priced sale will

be matched with the lowest-priced purchase, regardless of the order in which the transactions occurred or whether there is any overall profit.

Under SEC rules, certain transactions, including gifts, approved option grants and other transactions under employee benefit plans, are considered “exempt transactions” under Section 16(b) and do not give rise to profit recovery. These exempt transactions in most cases are still required to be reported to the SEC.

### **Consequences of Failures to Report**

The SEC’s rules require companies to list in their annual proxy statement the names of any Section 16 reporting person who, during the preceding fiscal year, failed to file on a timely basis any of the required reports. The consequences of filing a late report or not filing a required report can be significant:

- You and the company may be the subject of adverse publicity as a result of disclosures in the proxy statement.
- You may be subject to an SEC “cease and desist” order.
- You may be required to pay substantial fines for each filing violation.
- Willful failures to file can be, and occasionally have been, prosecuted as a criminal violation of the federal securities laws.

Reporting persons should note that, even if a transaction is properly reported, the transaction can give rise to liability under Section 16(b) if it can be “matched” against another transaction occurring within six months. As explained above, you are required to disgorge the profit from such a match to the company, and if you do not immediately do so, you can expect to receive a demand letter or civil complaint from one or more plaintiffs’ lawyers who specialize in Section 16 actions.

### **Filing Responsibilities and Required Forms**

Under Section 16, you are personally liable for the failure to file required reports on a timely basis. To assist our officers and directors in meeting required filing deadlines, the company will prepare and file required Section 16 reports for all approved transactions, unless you have indicated that you prefer to prepare and file your own reports. You are requested to sign a power of attorney which will give the company’s Chief Financial Officer the authority to prepare and file on your behalf the following required forms:

- **Form 3** must be filed when a person first becomes subject to Section 16. The Form 3 requires the reporting person to list all holdings of company stock, options or other “derivative securities.” The Form 3 must be received by the SEC within ten calendar days after the reporting person becomes an officer, director or 10% holder. For persons who are already officers, directors or 10% holders on the date of the company’s initial public offering, Form 3 was due on the effective date of the registration statement for the IPO.

- **Form 4** must be filed whenever there is a change in the beneficial ownership of securities, including acquisitions or dispositions of company stock. In certain circumstances, changes in the nature of the reporting person's ownership (e.g., from direct to indirect) must be reported on Form 4. Stock option grants and exercises also must be reported on Form 4. Under the Sarbanes-Oxley Act, a Form 4 must be received by the SEC no later than the second business day after a change in beneficial ownership.
- **Form 5** must be filed each year (within 45 days after the end of the company's fiscal year) to report certain exempt transactions and to report failures to file previously due reports. The Sarbanes-Oxley Act has narrowed dramatically the types of exempt transactions previously eligible for deferred reporting on Form 5, as discussed under "Deferred Reporting for Certain Transactions" below.

Additionally, as noted above, Form 5 requires the reporting of any transactions which should have been reported during the fiscal year on a Form 3 or Form 4 but were not. Officers and directors will be required to provide the company with a written representation in the form of Exhibit A at each fiscal year-end stating:

- that they have pre-cleared all transactions during the fiscal year as required by the Section 16 Compliance Program, and
- if applicable, that no Form 5 is due because all holdings and transactions previously have been reported on Form 3 or Form 4.

### **Deferred Reporting for Certain Transactions**

The SEC adopted amended rules implementing the Sarbanes-Oxley Act reporting deadline effective as of August 29, 2002. The amended rules eliminated deferred reporting (i.e. on Form 5) for transactions between officers or directors and the company. Consequently, even though they remain exempt from Section 16(b) liability, stock option grants and exercises are now required to be reported on Form 4 within two days of the transaction. Deferred reporting on Form 5 for some other exempt transactions, such as gifts and inheritances, continues to be available. In addition, the SEC rules allow for a deferral (for up to three days) of certain specified types of transactions under Rule 10b5-1 trading plans and under multi-fund employee benefit plans where the insider does not control the timing of transaction execution.

Transactions which were exempt from Section 16 reporting altogether under the former rules, such as transfers pursuant to domestic relations orders, stock splits, and routine acquisitions under tax-qualified employee benefit plans, continue to be exempt from reporting under the new rules.

In accordance with the Sarbanes-Oxley Act and the Section 16 rule amendments, the company requires its officers and directors to report all transactions in company stock, options and derivative securities, including exempt transactions, on Form 4 within the two-day filing deadline. The company allows deferred reporting or non-reporting of certain exempt transactions to the extent permitted by the SEC's amended rules.

## II. PRE-CLEARANCE AND REPORTING PROCEDURES

### Designated Filing Coordinators

The company has designated Edward Albini as the Section 16 filing coordinator to assist reporting persons in obtaining required pre-clearance of all transactions and to prepare all Form 3, 4 and 5 filings. In the event Edward Albini is absent from the office, Michael Abracham will serve as the back-up filing coordinator.

### Advance Notification and Pre-Clearance of All Transactions Required

All transactions in company stock, options or other “derivative securities” by officers and directors, or their family members sharing the same household, must be pre-cleared by the company’s Chief Financial Officer. The pre-clearance requirement applies to any change in beneficial ownership of company equity securities, including purchases, sales, stock option exercises, transfers, gifts and changes in the form of ownership, and transactions in which you have any indirect interest. The pre-clearance requirement also applies to any pledges of company stock, including the establishment of a margin account containing company stock. No transaction which in any way affects your ownership of company securities is exempt from this requirement.

You must make arrangements with your family members and fiduciaries, such as trustees of family trusts, to collect all of the information necessary to provide notification to the company in advance of any transaction in compliance with the pre-clearance requirement.

If you or a family member wishes to effect a transaction, you must contact the Section 16 filing coordinator in advance of doing so. We require you to give notice of any proposed transaction at least **three (3)** business days prior to the proposed transaction date. Please recognize that, in accordance with our pre-clearance policy, the Chief Financial Officer has the discretion to disapprove or to delay your proposed transaction, so there is no guarantee that you will be able to effect the transaction within the desired time frame. The filing coordinator will e-mail you a form of Pre-Clearance Request similar to Exhibit B. Please complete the form and e-mail it back to the filing coordinator. The filing coordinator then will contact the company’s Chief Financial Officer to obtain approval for your proposed transaction.

The Chief Financial Officer may grant approval for your proposed transaction in his discretion, based on

- whether you may have possession of material nonpublic information,
- whether the trading “window” period is in effect,
- whether the transaction could result in liability to you under the short-swing rules of Section 16(b),
- whether the company’s filing coordinator has been given sufficient advance notice to allow preparation and review of a Form 4,

- whether the transaction complies with Rule 144 and other legal requirements,
- whether the transaction could result in adverse publicity or have a material adverse impact on trading in the company's stock, or
- other relevant considerations.

Please be aware that, if the Chief Financial Officer determines to withhold clearance of your proposed transaction, the Chief Financial Officer cannot be "overruled" by you or any other member of management. In the event of a disagreement regarding a proposed transaction, the Chief Financial Officer is required to report the proposed transaction to the Audit Committee of the Board of Directors should you wish to obtain final resolution of your pre-clearance request. The Chief Financial Officer and the Audit Committee may obtain the advice of outside legal counsel with respect to your request. You may not in any event engage in the proposed transaction until your request has been finally resolved to the satisfaction of the Chief Financial Officer or, if applicable, the Audit Committee.

### **Preparing and Reviewing Forms 3, 4 and 5**

The filing coordinator will prepare the Form 3 for an individual who becomes an officer or director. In addition, the filing coordinator will prepare the Form 4 whenever there is an acquisition or disposition of shares, options or other derivative securities (including option grants and exercises) that would require a filing (unless you have indicated that you prefer to prepare and file your own Forms 4).

- For officers and directors, the filing coordinator will prepare a draft filing based upon the information provided by the officer or director, and return it for the individual's review.
- For 10% stockholders, the filing coordinator will, on request, review a proposed transaction, including any Form 4s prepared by the stockholder, prior to the required filing date. The filing coordinator may, at his or her discretion, assist a 10% stockholder by undertaking to prepare a Form 4 with respect to the proposed transaction.

In each case, the filing coordinator will require each reporting person's input whenever there is any acquisition or disposition of shares, as well as his or her assistance in completing the required forms. Due to the requirement imposed under the Sarbanes-Oxley Act to file a Form 4 within two business days of a change in beneficial ownership, it is essential that you respond promptly to the filing coordinator and to provide all information necessary for SEC reporting if you wish to obtain approval of and to proceed with any proposed transaction.

In addition, you or your broker must report the execution quantity and price of any transaction to the filing coordinator promptly on the day of execution in order to permit completion of the Form 4.

## **Power of Attorney**

In order to permit Forms 4 to be filed on a timely basis, officers and directors are requested to sign and return to the filing coordinator the power of attorney attached as Exhibit C. The power of attorney gives the company the authority to execute and file on your behalf Section 16 reports for all of your transactions.

## **Your Broker's Obligations**

Officers and directors are required to instruct their broker who handles trades in company stock to:

- verify with the company's filing coordinator that the proposed trade was pre-cleared by the company in advance of entering any trading order for company stock;
- confirm that the brokerage firm's Rule 144 and other compliance procedures have been followed in connection with all trades; and
- report to the company's filing coordinator the quantity and price of any trade promptly on the day of execution.

## **Electronic Filing of Reports with the SEC**

Under the Sarbanes-Oxley Act and the rules of the SEC, all Section 16 filings are now required to be made electronically. Accordingly, the Company has implemented an electronic filing procedure utilizing third-party services that interface with the SEC's website to make such filings. The filing coordinator can obtain the necessary SEC filing codes to enable officers and directors to make these electronic filings, and will assist in the making of the filings in accordance with this Section 16 Compliance Program.

## **Website Posting of Reports**

In accordance with SEC rules, the Company's external website now provides a direct hyperlink, accessible by the public generally, to all Section 16 reports filed by our officers, directors and 10% holders.

## **Insider Trading Compliance**

Before you make any purchase or sale of company securities, you must review and comply with the company's Insider Trading Compliance Program. Company policy and federal securities law prohibits trading in company stock when you may be in possession of material information about the company which has not been publicly disclosed. This also applies to members of your household as well as all others whose transactions may be attributable to you. Material information is, in short, any information that could affect the stock price. Either positive or negative information may be material. Moreover, our policy prohibits trading in company stock except during specified quarterly "window" periods. For further information, please refer to our Insider Trading Compliance Program.

## **A Note Regarding 10b5-1 Trading Plans**

Any officer or director who proposes to enter into a trading plan under SEC Rule 10b5-1 must obtain pre-clearance of the plan in accordance with this Section 16 Compliance Program. You may enter into a trading plan only when you are not in possession of material nonpublic information, and only when a trading “window” applies under the company’s Insider Trading Compliance Program. Although transactions effected under a trading plan will not require further pre-clearance at the time of the trade, the transactions (including quantity and execution price) must be reported to the filing coordinator promptly on the day of each trade to permit the filing coordinator to prepare and file a required Form 4. Your broker who implements the trading plan must be instructed to provide such notice to the filing coordinator.

## **Puts, Calls and Short Sales**

Officers and directors are prohibited by company policy and Section 16(c) from engaging in short sales of the company’s equity securities. Officers and directors are also prohibited from trading in put and call options with respect to the company’s stock.

## **The Ultimate Responsibility is Yours**

While the company is offering its assistance to its officers and directors to help them comply with the Section 16 rules, you should recognize that it remains your obligation to see that your filings are accurate and made on time, and that you have no Section 16(b) or Rule 10b-5 insider trading liability. The company cannot assume any legal responsibility in this regard. Under the law, if a filing is missed, you are personally responsible, notwithstanding that the company has undertaken to prepare a required Form 4 or 5 under this Section 16 Compliance Program. Please do not hesitate to call our Chief Financial Officer or the Section 16 filing coordinator if you have any questions about this Program, about any proposed transaction or about the new Section 16 reporting requirements generally or in regard to any particular transaction.