

AROTECH CORP
Form 10-K/A
September 12, 2013

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

FORM 10-K/A

x ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF
1934 FOR THE FISCAL YEAR ENDED DECEMBER 31, 2012 .

o TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT
OF 1934 FOR THE TRANSITION PERIOD FROM _____ TO _____.

Commission File Number: 0-23336

AROTECH CORPORATION
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or
organization)

95-4302784
(I.R.S. Employer Identification No.)

1229 Oak Valley Drive, Ann Arbor, Michigan
(Address of principal executive offices)

48108
(Zip Code)

(800) 281-0356
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Name of each exchange on which registered
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Common Stock, \$0.01 par
value

The Nasdaq Stock Market
LLC

Securities registered pursuant to section 12(g) of the Act: Common Stock, \$0.01 par value

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.
Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days: Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.
☐

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

Large accelerated filer: ☐ Accelerated filer: ☐ Non-accelerated filer: ☐ Smaller reporting company:
☒

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes ☐ No ☒

The aggregate market value of the registrant's voting stock held by non-affiliates of the registrant as of June 29, 2012 was approximately \$13,134,959 (based on the last sale price of such stock on such date as reported by The Nasdaq Global Market and assuming, for the purpose of this calculation only, that all of the registrant's directors and executive officers are affiliates).

(Applicable only to corporate registrants) Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date: 16,174,187 as of 3/31/2013

Documents incorporated by reference: None

EXPLANATORY NOTE

Arotech Corporation is filing this Amendment No. 1 to its Annual Report on Form 10-K for the year ended December 31, 2012, as filed with the Securities and Exchange Commission on April 1, 2013, in order to file certain exhibits inadvertently omitted from its original filing, including exhibits relating to the disclosure therein with respect to its credit facility.

This document does not contain any other changes from the version of this document previously filed with the Securities and Exchange Commission. No revisions are being made to the Company's financial statements and, except as described below, this Amendment does not reflect events occurring after the filing of the Form 10-K, or modify or update those disclosures that may be affected by subsequent events, and no other changes are being made to any other disclosure contained in the Form 10-K.

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES

(a) The following documents are filed as part of this amended report:

(3) Exhibits – The following Exhibits are either filed herewith or have previously been filed with the Securities and Exchange Commission and are referred to and incorporated herein by reference to such filings:

Exhibit No.	Description
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- | | |
|-----------|---|
| (1)3.1 | Amended and Restated Certificate of Incorporation |
| (2)3.1.1 | Amendment to our Amended and Restated Certificate of Incorporation |
| (3)3.1.2 | Amendment to our Amended and Restated Certificate of Incorporation |
| (4)3.1.3 | Amendment to our Amended and Restated Certificate of Incorporation |
| (7)3.1.4 | Amendment to our Amended and Restated Certificate of Incorporation |
| (8)3.1.5 | Amendment to our Amended and Restated Certificate of Incorporation |
| (2)3.2 | Amended and Restated By-Laws |
| (5)4.1 | Specimen Certificate for shares of common stock, \$0.01 par value |
| (6)10.1 | Promissory Note dated February 9, 2000, from Robert S. Ehrlich to us |
| (4)10.2 | Promissory Note dated July 1, 2002 from Robert S. Ehrlich to us |
| (4)10.3 | Lease dated April 8, 1997, between AMR Holdings, L.L.C. and FAAC Incorporated |
| † (5)10.4 | Consulting Agreement, effective as of January 1, 2005, between us and Sampen Corporation |
| (6)10.5 | Lease dated February 10, 2006 between Arbor Development Company LLC and FAAC Incorporated |
| † (8)10.6 | Fifth Amended and Restated Employment Agreement, dated February 2, 2012 and effective as of January 1, 2012, between us, EFL and Robert S. Ehrlich |
| † (8)10.7 | Second Amended and Restated Employment Agreement, dated February 2, 2012 and effective as of January 1, 2012, between EFL and Steven Esses |
| † (8)10.8 | Second Amended and Restated Employment Agreement between the Company and Thomas J. Paup dated February 2, 2012 and effective as of January 1, 2012 |
| *10.9 | <u>Credit Agreement among FAAC Incorporated, the Company and Fifth Third Bank dated April 30, 2012</u> |
| *10.10 | <u>Security Agreement between FAAC Incorporated and Fifth Third Bank dated April 30, 2012</u> |
| *10.11 | <u>Guaranty of the Company and Electric Fuel Battery Corporation to Fifth Third Bank dated April 30, 2012</u> |
| *10.12 | <u>Amendment to Credit Agreement among FAAC Incorporated, the Company and Fifth Third Bank dated February 22, 2013</u> |
| *21.1 | <u>List of Subsidiaries of the Registrant</u> |
| (9)23.1 | Consent of BDO USA, LLP |
| *31.1 | <u>Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</u> |
| *31.2 | <u>Certification of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</u> |
| (9)32.1 | Certification of Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 |
| (9)32.2 | |

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Certification of Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

* Filed herewith

† Includes management contracts and compensation plans and arrangements

(1) Incorporated by reference to our Annual Report on Form 10-K for the year ended December 31, 1998

(2) Incorporated by reference to our Registration Statement on Form S-1 (Registration No. 33-97944), which became effective on February 5, 1996

(3) Incorporated by reference to our Annual Report on Form 10-K for the year ended December 31, 2000

(4) Incorporated by reference to our Annual Report on Form 10-K for the year ended December 31, 2003

(5) Incorporated by reference to our Annual Report on Form 10-K for the year ended December 31, 2004

(6) Incorporated by reference to our Annual Report on Form 10-K for the year ended December 31, 2005

(7) Incorporated by reference to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2006

(8) Incorporated by reference to our Current Report on Form 8-K filed June 9, 2009

(9) Incorporated by reference to our Annual Report on Form 10-K for the year ended December 31, 2012

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this amended report to be signed on its behalf by the undersigned, thereunto duly authorized.

AROTECH CORPORATION

By: /s/ Robert S. Ehrlich
 Name: Robert S. Ehrlich
 Title: Chairman and Chief Executive Officer

Date: September 12, 2013

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Robert S. Ehrlich Robert S. Ehrlich	Chairman, Chief Executive Officer and Director (Principal Executive Officer)	September 12, 2013
/s/ Thomas J. Paup Thomas J. Paup	Senior Vice President – Finance (Principal Financial Officer)	September 12, 2013
/s/ Norman E. Johnson Norman E. Johnson	Controller (Principal Accounting Officer)	September 12, 2013
/s/ Steven Esses Steven Esses	President and Director	September 12, 2013
/s/ Jay M. Eastman Dr. Jay M. Eastman	Director	September 12, 2013
/s/ Edward J. Borey Edward J. Borey	Director	September 12, 2013
/s/ Seymour Jones Seymour Jones	Director	September 12, 2013
/s/ Elliot Sloyer Elliot Sloyer	Director	September 12, 2013
/s/ Michael E. Marrus Michael E. Marrus	Director	September 12, 2013
/s/ Arthur S. Leibowitz Arthur S. Leibowitz	Director	September 12, 2013

