As filed with the Securities and Exchange Commission on June 22, 2004

Registration No. 333-115440

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

PRE-EFFECTIVE AMENDMENT NO. 1 TO
FORM S-1
REGISTRATION STATEMENT

UNDER
THE SECURITIES ACT OF 1933

NEUROMETRIX, INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware	**3841**	**04-3308180**
(State or Other Jurisdiction of Incorporation or Organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

62 Fourth Avenue
Waltham, Massachusetts 02451
(781) 890-9989
(Address, including zip code, and telephone number, including area code, of registrant's principal executive office)

Shai N. Gozani, M.D., Ph.D.
President and Chief Executive Officer
NeuroMetrix, Inc.
62 Fourth Avenue
Waltham, Massachusetts 02451
(781) 890-9989

(Name, address, including zip code and telephone number, including area code, of agent for service)

Copies to:

H. David Henken, PC **Goodwin Procter LLP** **Exchange Place** **Boston, Massachusetts 02109** **(617) 570-1000** **Fax: (617) 523-1231**	**Jeffrey S. Marcus, Esq.** **Christopher Arana, Esq.** **Morrison & Foerster LLP** **1290 Avenue of the Americas** **New York, New York 10104** **(212) 468-8000** **Fax: (212) 468-7900**

Approximate date of commencement of proposed sale to public: As soon as practicable after this Registration Statement becomes effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. o

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

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

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

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. o

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

Subject to completion, dated , 2004

Shares

NEUROMETRIX, INC.

Common Stock

We are offering shares of our common stock. We have granted the underwriters the right to purchase up to an additional shares to cover over-allotments.

This is our initial public offering and no public market currently exists for our shares. We expect that the public offering price will be between $ and $ per share.

We have applied to list our common stock for quotation on the Nasdaq National Market under the symbol "NURO."

Investing in our common stock involves risks. See "Risk Factors" beginning on page 7.

	Per Share	Total
Public Offering Price	$	$
Underwriting Discount	$	$
Proceeds to NeuroMetrix, Inc. (before expenses)	$	$

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

The underwriters expect to deliver the shares to purchasers on , 2004.

PUNK, ZIEGEL & COMPANY WR HAMBRECHT+CO

The date of this prospectus is , 2004.

TABLE OF CONTENTS

You should rely only on the information contained in this prospectus. We have not, and the underwriters have not, authorized anyone to provide you with information that is different. This prospectus is not an offer to sell, nor is it seeking an offer to buy, these securities in any jurisdiction where the offer or sale of these securities is not permitted. You should assume that the information contained in this prospectus is accurate as of the date on the front of this prospectus only. Our business, financial condition, results of operations and prospects may have changed since that date.

Our estimates of market share and market size in this prospectus are based on, in certain cases, public disclosure, industry and trade publications and reports prepared by third parties, which we believe to be reliable but have not independently verified.

PROSPECTUS SUMMARY

This summary only highlights the more detailed information appearing elsewhere in this prospectus. As this is a summary, it does not contain all of the information that you should consider in making an investment decision. You should read this entire prospectus carefully, including the information under "Risk Factors" and our financial statements and the related notes included elsewhere in this prospectus, before you decide to invest in our common stock. In this prospectus, unless the context requires otherwise, "NEUROMetrix," "we," "us," "our" and "our company" refer to NeuroMetrix, Inc., a Delaware corporation, and its predecessor entities for the applicable periods, considered as a single enterprise.

Our Business

NEUROMetrix is a medical device company that designs, develops and sells proprietary products used to diagnose neuropathies. Neuropathies are diseases of the peripheral nerves and parts of the spine that frequently are caused by or associated with diabetes, low back pain and carpal tunnel syndrome, as well as other clinical disorders. We believe that our neuropathy diagnostic system, the NC-stat System, is unique in its ability to provide primary care and specialist physicians with objective information that aids in the rapid and accurate diagnosis of neuropathies at the point of service, that is, in the physician's office at the time the patient is examined. Diagnostic procedures performed with the NC-stat System can generate revenue for the physician and save money for the patient and third-party payer. We believe that the benefits of the NC-stat System will lead to its adoption by a significant number of primary care and specialist physicians, who historically have not had the ability to diagnose these neuropathies at the point of service. This in turn should result in more frequent testing of patients at risk for neuropathies and earlier diagnoses of neuropathies, resulting in improved clinical and economic outcomes. The NC-stat System has been on the market since May 1999 and is presently used in over 1,800 physician's offices, clinics and other health care facilities in the United States. We hold issued utility patents covering a number of important aspects of our NC-stat System. In 2003, we more than doubled our revenues from the prior year, generating $9.2 million in revenues. In the first quarter of 2004, we generated total revenues of $3.0 million, compared to $1.5 million in the first quarter of 2003. Our gross margin percentage in the first quarter of 2004 was 72.7%, and 89.0% of our revenues were attributable to sales of the disposable biosensors that physicians use to perform tests with the NC-stat System. We incurred net losses of approximately $4.8 million in 2002 and $3.7 million in 2003. In the first quarter of 2004, we incurred a net loss of $780,000. Since our inception, more than 230,000 patients have been tested with the NC-stat System.

Our Opportunity

The sensitivity of the nervous system to metabolic and mechanical damage, compounded by its limited regenerative ability, creates a robust market opportunity for a medical device that can assist in point-of-service diagnoses of neuropathies in a manner that is cost-effective for the patient and third-party payer. We estimate that there are approximately two million traditional nerve conduction study and needle electromyography, or NCS/nEMG, procedures currently performed each year in the United States. We believe that use of traditional NCS/nEMG procedures is limited by: (1) the need to obtain a referral for the procedure to a neurologist and the resulting delay in availability of diagnostic information; (2) the inconvenience and discomfort of these procedures for the patient; and (3) the expense to the patient and third-party payer. We anticipate that the advantages and increased availability of the NC-stat System will significantly increase the overall number of nerve conduction studies performed. Based on our analysis of current data, we estimate that the potential market size for the NC-stat System in the diabetes, low back pain and carpal tunnel syndrome markets in the aggregate could be as great as 9.5 million annual patient tests, or over $1.0 billion annually for our disposable NC-stat biosensors, in the United States. However, market size is difficult to predict, and we cannot assure you that our estimates will prove to be correct. We believe that additional applications of the

NC-stat System, including the clinical assessment of patients with neuropathies caused by or associated with other clinical disorders, could further increase this potential market size. Additionally, although we have not yet quantified the size of the market, we believe a significant international market opportunity exists for the NC-stat System.

Our Solution

We believe that the NC-stat System represents a significant advance in neurological diagnostics and offers an improvement over traditional diagnostic methods by:

- Facilitating performance of nerve conduction studies at the point of service;
- Providing a cost-effective diagnostic tool;
- Requiring minimal capital investment;
- Automating much of the procedure, making it simple to operate; and
- Using a patient-friendly, non-invasive procedure.

These benefits address a number of the limitations of the traditional diagnostic methods for assessing patients with or at risk for neuropathies, because these traditional methods typically:

- Require a referral to a neurologist;
- Are expensive to perform;
- Require the use of costly, highly technical equipment; and
- Are uncomfortable and painful for the patient.

We believe the benefits of the NC-stat System will expand the use of nerve conduction studies to include at-risk individuals who currently may not be tested because of these limitations. Additionally, new treatments that are under development for neuropathies, such as those for diabetic peripheral neuropathy, may create increased demand for nerve conduction studies to identify patients in need of these treatments. We therefore believe a significant opportunity exists to broaden the market for nerve conduction studies. By incorporating nerve conduction studies early in patients' care episodes through the use of the NC-stat System, we expect better long-term clinical and economic outcomes will emerge because of the ability to implement preventive care measures based on accurate early diagnostic results.

Our Strategy

Our goal is to become the leading provider of innovative, proprietary, high margin medical devices that provide comprehensive solutions for the diagnosis and treatment of patients with neuropathies. To achieve this objective, we are pursuing the following business strategies:

- Establish the NC-stat System as a standard of care for nerve conduction studies;
- Expand sales and marketing efforts;
- Focus on primary care physician market;
- Continue to strengthen our presence within specific specialty physician markets; and
- Continue to introduce new products.

Our Products

We currently market the NC-stat System throughout the United States through a network that consists of 15 regional sales managers and more than 50 independent regional sales agencies employing

a total of more than 250 independent sales representatives. The NC-stat System is comprised of: (1) disposable NC-stat biosensors that are placed on the patient's body; (2) the NC-stat monitor and related components; and (3) the NC-stat docking station, an optional device that enables the physician to transmit data to our onCall Information System. The onCall Information System formulates the data it receives for each test into a detailed report that is sent to the physician via facsimile or e-mail in three to four minutes on average and aids in the physician's diagnosis. The NC-stat System enables the physician to make rapid and accurate diagnoses that are cost-effective for the patient and third-party payer.

The NC-stat System can be used by primary care and specialist physicians, including neurologists. The complexity and high capital cost of traditional diagnostic methods have limited their use mainly to neurologists. Because of the benefits and advantages of the NC-stat System outlined above, we believe it will be readily adopted by a wide range of physicians.

We also believe that we may be able to adapt and extend our core technology to provide minimally invasive approaches to treating neuropathies. In particular, we believe that many neuropathies can be safely and effectively treated if drugs can be delivered near the disease site without damaging the nerve in the process. We are in the early stages of designing a drug delivery system for the minimally invasive treatment of neuropathies by both primary care and specialist physicians.

Risks Affecting Us

Our business is subject to numerous risks as discussed more fully in the section entitled "Risk Factors" immediately following this prospectus summary. If physicians or other healthcare providers are unable to obtain sufficient reimbursement from third-party healthcare payers for procedures using the NC-stat System, the adoption of the NC-stat System and our future product sales will be severely harmed. We may be unable to expand the market for the NC-stat System, or to successfully sell the NC-stat System to primary care physicians for a variety of reasons, which would limit our ability to increase our revenues. We also may not be able to accurately predict the size of the market for our NC-stat System. From inception through March 31, 2004, we have incurred losses every quarter and, as of March 31, 2004, we had an accumulated deficit of approximately $54.0 million. It is possible that we will never generate sufficient revenues from product sales to achieve profitability.

Our Corporate Information

NEUROMetrix was founded in June 1996 by our President & Chief Executive Officer, Shai N. Gozani, M.D., Ph.D. We originally were incorporated in Massachusetts in 1996, and we reincorporated in Delaware in 2001. Our principal offices are located at 62 Fourth Avenue, Waltham, Massachusetts 02451, and our telephone number is (781) 890-9989. Our website address is www.neurometrix.com. We do not incorporate the information on, or accessible through, our website into this prospectus, and you should not consider it part of this prospectus.

NEUROMetrix®, NC-stat® and onCall™ are trademarks of ours.

The Offering

Common stock offered by NEUROMetrix	shares
Common stock outstanding after this offering	shares
Use of proceeds	We expect to receive net proceeds from this offering of approximately $ million. We intend to use the proceeds to expand our sales and marketing activities, to fund research and development relating to potential new products and to repay outstanding debt obligations of approximately $3.3 million, and for general corporate purposes. See "Use of Proceeds."
Proposed Nasdaq National Market symbol	NURO

The number of shares of common stock outstanding after this offering is based on 8,568,466 shares outstanding as of June 21, 2004 and excludes:

- 1,012,426 shares of common stock issuable upon the exercise of outstanding stock options as of June 21, 2004 at a weighted average exercise price per share of $4.14;
- 100,000 shares of common stock issuable upon the exercise of an outstanding warrant as of June 21, 2004 at an exercise price per share of $6.00;
- 825,000 shares of common stock to be reserved for future issuance upon the exercise of options available for future grant under our 2004 Stock Option and Incentive Plan; and
- 375,000 shares of common stock to be reserved for future issuance under our 2004 Employee Stock Purchase Plan.

Unless otherwise indicated, the information in this prospectus assumes that the underwriters will not exercise the over-allotment option granted to them by us, and has been adjusted to reflect:

- the filing of our Second Amended and Restated Certificate of Incorporation and the adoption of our Second Amended and Restated By-Laws immediately prior to the effectiveness of this offering;
- a planned one-for-four reverse stock split of our common stock prior to the effectiveness of this offering;
- conversion of all outstanding preferred stock into 7,488,758 shares of common stock upon the closing of this offering;
- automatic conversion of our outstanding warrant to purchase 400,000 shares of our Series E-1 preferred stock into a warrant to purchase 100,000 shares of our common stock upon the closing of this offering; and
- the filing of our Third Amended and Restated Certificate of Incorporation immediately following the closing of this offering.

Summary Financial Data

The following summary financial data should be read in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Selected Financial Data" and our financial statements and related notes included elsewhere in this prospectus. The summary financial data for the years ended December 31, 2001, 2002 and 2003, and as of December 31, 2002 and 2003, are derived from our audited financial statements included elsewhere in this prospectus. The summary financial data for the three months ended March 31, 2003 and 2004 have been derived from our unaudited financial statements included elsewhere in this prospectus.

	Year Ended December 31,			Three Months Ended March 31,	
	2001	2002	2003	2003	2004
				(Unaudited)	
	(in thousands, except share and per share data)				
Statement of Operations Data:					
Revenues:					
Diagnostic device	$ 782	$ 723	$ 1,303	$ 287	$ 334
Biosensor	2,682	3,502	7,865	1,334	2,696
Total revenues	3,464	4,225	9,168	1,621	3,030
Cost of revenues	1,424	1,370	2,707	477	827
Gross margin	2,040	2,855	6,461	1,144	2,203
Operating expenses:					
Research and development (1)	2,561	2,146	2,397	541	650
Sales and marketing (1)	5,304	2,870	4,768	1,041	1,335
General and administrative (1)	3,228	2,673	2,850	597	855
Total operating expenses	11,093	7,689	10,015	2,185	2,840
Loss from operations	(9,053)	(4,834)	(3,554)	(1,041)	(637)
Interest income (expense), net	335	40	(113)	—	(143)
Net loss	(8,717)	(4,793)	(3,667)	(1,041)	(780)
Accretion of dividend on redeemable convertible preferred stock	(1,757)	(1,893)	(2,009)	(502)	(534)
Deemed dividend on redeemable convertible preferred stock	—	(6,873)	—	—	(788)
Beneficial conversion feature associated with redeemable convertible preferred stock					(7,051)
Net loss attributable to common stockholders	$ (10,474)	$ (13,559)	$ (5,676)	$ (1,543)	$ (9,153)
Net loss per common share:					
Basic and diluted	$ (10.47)	$ (13.17)	$ (5.46)	$ (1.49)	$ (8.78)
Weighted average basic and diluted common shares outstanding	1,000,323	1,029,210	1,038,817	1,037,007	1,042,990
Pro forma basic and diluted net loss per common share (2)			$ (0.53)		$ (1.03)
Shares used in computing pro forma basic and diluted net loss per common share			6,802,771		8,861,748

(1) Non-cash stock-based compensation expense included in these amounts are as follows:

Research and development	$ 8	$ 7	$ 35	$ 4	$ 16
Sales and marketing	15	6	37	7	17
General and administrative	33	37	24	3	12
Total non-cash stock-based compensation	$ 56	$ 50	$ 96	$ 14	$ 45

(2) Pro forma basic and diluted net loss per common share is calculated assuming the conversion of all then-outstanding shares of redeemable convertible preferred stock into shares of common stock and assuming the repayment of outstanding debt obligations to Lighthouse Capital Partners IV, L.P. of approximately $3.3 million.

	As of March 31, 2004	
	Actual	As Adjusted (1)
Balance sheet data:		
Cash and cash equivalents	$ 10,900	$
Working capital	12,179	
Total assets	17,079	
Long-term debt and other long-term liabilities	1,933	
Warrants for redeemable convertible preferred stock	450	
Redeemable convertible preferred stock	66,623	
Total stockholders' deficit	(54,611)	

(1) The as adjusted balance sheet data as of March 31, 2004 gives effect to (a) the conversion of all outstanding shares of redeemable convertible preferred stock into shares of common stock upon the closing of this offering and (b) the receipt of the net proceeds from the sale of the shares of common stock offered by this prospectus, at the assumed initial public offering price of $ per share, after deducting the estimated underwriting discount, and estimated offering expenses.

RISK FACTORS

An investment in our common stock involves a high degree of risk. Accordingly, you should carefully consider the following risks and all other information contained in this prospectus before purchasing our common stock. If any of the following risks occurs, our business, prospects, reputation, results of operations or financial condition could be harmed. In that case, the trading price of our common stock could decline, and you could lose all or part of your investment. This prospectus also contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those anticipated in the forward-looking statements as a result of specific factors, including the risks described below and elsewhere in this prospectus.

Risks Relating to Our Business

We have incurred significant operating losses since inception and cannot assure you that we will achieve profitability.

Since our inception in 1996, we have incurred losses every quarter. We began commercial sales of our products in May 1999 and we have yet to demonstrate that we can generate sufficient sales of our products to become profitable. The extent of our future operating losses and the timing of profitability are highly uncertain, and we may never achieve or sustain profitability. We have incurred significant net losses since our inception, including net losses of approximately $8.7 million in 2001, $4.8 million in 2002, $3.7 million in 2003 and $780,000 for the three months ended March 31, 2004. At March 31, 2004, we had an accumulated deficit of approximately $54.0 million. It is possible that we will never generate sufficient revenues from product sales to achieve profitability.

If physicians or other healthcare providers are unable to obtain sufficient reimbursement from third-party healthcare payers for procedures using the NC-stat System, the adoption of the NC-stat System and our future product sales will be severely harmed.

Widespread adoption of the NC-stat System by the medical community is unlikely to occur if physicians do not receive sufficient reimbursement from third-party payers for performing nerve conduction studies using the NC-stat System. If physicians are unable to obtain adequate reimbursement for procedures performed using the NC-stat System, we may be unable to sell the NC-stat System and our business would suffer significantly. Additionally, even if these procedures are reimbursed by third-party payers, adverse changes in payers' policies toward reimbursement for the procedures would harm our ability to market and sell the NC-stat System. Third-party payers include those governmental programs such as Medicare and Medicaid, workers' compensation programs, private health insurers and other organizations. These third-party payers may deny coverage if they determine that a procedure was not reasonable or necessary, for example, if its use was not considered medically appropriate, or was experimental, or was performed for an unapproved indication. In addition, some health care systems are moving towards managed care arrangements in which they contract to provide comprehensive healthcare for a fixed cost per person, irrespective of the amount of care actually provided. These providers, in an effort to control healthcare costs, are increasingly challenging the prices charged for medical products and services and, in some instances, have pressured medical suppliers to lower their prices. If we are pressured to lower our prices, our revenues may decline and our profitability could be harmed. The Center for Medicare and Medicaid Services, or CMS, guidelines set the reimbursement rates for procedures covered by Medicare. Future regulatory action by CMS or other governmental agencies or negative clinical results may diminish reimbursement payments to physicians for performing procedures using the NC-stat System. Medicaid reimbursement differs from state to state, and some state Medicaid programs may not reimburse physicians for performing procedures using the NC-stat System in an adequate amount, if at all. Additionally, some private payers do not follow the CMS and Medicaid guidelines and may reimburse for only a portion of

these procedures or not at all. We are unable to predict what changes will be made in the reimbursement methods used by private or governmental third-party payers.

We may be unable to expand the market for the NC-stat System, which would limit our ability to increase our revenues.

We believe that the drawbacks of traditional nerve conduction studies, including those related to the referral process, and the limited treatment options for diabetic peripheral neuropathy, or DPN, have limited the number of nerve conduction studies that are performed. For our future growth, we are relying, in part, on increased use of nerve conduction studies. A number of factors could limit the increased use of nerve conduction studies and the NC-stat System, including:

- third-party payers challenging, or the threat of third-party payers challenging, the necessity of increased levels of nerve conduction studies;
- third-party payers reducing or eliminating reimbursement for procedures performed by physicians using the NC-stat System;
- unfavorable experiences by physicians using the NC-stat System;
- physicians' reluctance to alter their existing practices; and
- the failure of other companies' existing drug development programs to produce an effective treatment for DPN, which may limit the perceived need and the actual use of the NC-stat System in connection with this disease, and thereby limit or delay our growth in the DPN market, which we have estimated to be our largest potential market for our NC-stat System.

If we are unable to expand the market for the NC-stat System, our ability to increase our revenues will be limited and our business prospects will be adversely affected.

We may not be able to accurately predict the size of the market for our NC-stat System.

We may not be able to accurately predict the size of the market for products used to diagnose neuropathies, such as our NC-stat System. Neuropathies traditionally have been diagnosed by an NCS/nEMG procedure, performed by a neurologist or physician in a related specialty. We estimate that there are approximately two million traditional NCS/nEMG procedures performed each year in the United States; however, we anticipate that the advantages and increased availability of the NC-stat System will significantly increase the number of nerve conduction studies performed. Based on our analysis of current data, we estimate that the potential market size for the NC-stat System in the diabetes, low back pain and carpal tunnel syndrome markets in the aggregate could be as great as 9.5 million annual patient tests. This represents a more than four-fold increase in the size of the market for nerve conduction studies and is based upon a number of assumptions and estimates, which themselves may not be accurate. For example, we have assumed that all initial office visits for low back pain may represent an opportunity for use of the NC-stat System, and we have estimated that an annual testing rate of 50% for all individuals diagnosed with diabetes represents the potential addressable market in diabetes. Market size is difficult to predict, and we cannot assure you that our assumptions or estimates will prove to be correct. The industry and market data in this prospectus, including the industry data on which we base our assumptions and estimates of future market size, may be inaccurate or incomplete and we have not independently verified those data. If our estimate of the size of the market for our NC-stat System is incorrect, our potential revenue growth may be limited.

If we are unable to successfully sell the NC-stat System to primary care physicians, our ability to increase our revenues will be limited.

We are focusing our sales and marketing efforts for the NC-stat System on primary care physicians. As these physicians traditionally have not been targeted by companies selling equipment used to

perform nerve conduction studies, we may face difficulties in selling our products to them. Particularly, we may be unable to convince these physicians that the NC-stat System provides an effective alternative or useful supplement to existing testing methods. In addition, these physicians may be reluctant to make the capital investment to purchase the NC-stat System and alter their existing practices. If we are unable to successfully sell the NC-stat System to primary care physicians, our ability to increase our revenues will be severely limited.

We are dependent on two single source manufacturers to produce all of our current products, and any change in our relationship with either of these manufacturers could prevent us from delivering products to our customers in a timely manner and may adversely impact our future revenues or costs.

We rely on two third-party manufacturers to manufacture all of our current products. In the event that either of our manufacturers ceases to manufacture sufficient quantities of our products in a timely manner and on terms acceptable to us, we would be forced to locate an alternate manufacturer. Additionally, if either of our manufacturers experiences a failure in its production process, is unable to obtain sufficient quantities of the components necessary to manufacture our products or otherwise fails to meet our quality requirements, we may be forced to delay the manufacture and sale of our products or locate an alternative manufacturer. We may be unable to locate suitable alternative manufacturers for our products, particularly our NC-stat biosensors, for which the manufacturing process is relatively specialized, on terms acceptable to us, or at all. Currently, we rely on a single manufacturer, Polyflex Circuits, Inc., a wholly owned subsidiary of Parlex Corporation, for the manufacture of the NC-stat biosensors, and a single manufacturer, Advanced Electronics, Inc., or AEI, for the manufacture of our NC-stat monitors and docking stations. We order all of our products from Polyflex on a purchase order basis. Because we do not have a supply agreement in place with Polyflex, Polyflex may cease manufacturing our products or increase the price it charges us for our products at any time. We do have a one-year, automatically renewable contract manufacturing agreement with AEI. However, under the agreement, either party may elect not to renew the agreement upon 90 days' prior written notice prior to end of the current term. Accordingly, AEI could cease manufacturing NC-stat monitors and docking stations for us when the current term of the agreement expires in November 2004. We have not experienced any significant problems in the past with the quality or quantity of products delivered by either AEI or Polyflex. We do occasionally experience transient inventory shortages, typically lasting less than one month, on new products during the initial production ramp-up phase. If any of the changes in our relationship with these manufacturers as described above occurs, our ability to supply our customers will be severely limited until we are able to engage an alternate manufacturer or, if applicable, resolve any quality issues with our existing manufacturer, which could prevent us from delivering products to our customers in a timely manner, lead to decreased sales or increased costs, or harm our reputation with our customers.

If our manufacturers are unable to supply us with an adequate supply of products as we expand our markets, we could lose customers, our growth could be limited and our business could be harmed.

In order for us successfully to expand our business within the United States and internationally, our contract manufacturers must be able to provide us with the products that comprise the NC-stat System in substantial quantities, in compliance with regulatory requirements, in accordance with agreed upon specifications, at acceptable cost and on a timely basis. Our anticipated growth may strain the ability of our manufacturers to deliver an increasingly large supply of products and obtain materials and components in sufficient quantities. Manufacturers often experience difficulties in scaling up production, including problems with production yields and quality control and assurance. If we are unable to obtain sufficient quantities of high quality products to meet customer demand on a timely basis, we could lose customers, our growth may be limited and our business could be harmed.

We currently rely entirely on sales of the products that comprise the NC-stat System to generate revenues, and any factors that negatively impact our sales of these products could significantly reduce our ability to generate revenues.

We introduced the NC-stat System to the market in May 1999. We derive all of our revenues from sales of the products that comprise the NC-stat System, and we expect that sales of these products will continue to constitute the substantial majority of our sales for the foreseeable future. Accordingly, our ability to generate revenues is entirely reliant on our ability to market and sell the products that comprise the NC-stat System, particularly the higher-margin disposable biosensors, sales of which accounted for approximately 85.8% and 82.9% of our total revenues in 2003 and 2002, respectively. Our sales of these products may be negatively impacted by many factors, including:

- changes in reimbursement rates or policies relating to our products by third-party payers;
- the failure of the market to accept our products;
- manufacturing problems;
- claims that our products infringe on patent rights or other intellectual property rights owned by other parties;
- adverse regulatory or legal actions relating to our products;
- competitive pricing and related factors; and
- results of clinical studies relating to our products or our competitors' products.

If any of these events occurs, our ability to generate revenues could be significantly reduced.

The patent rights we rely upon to protect the intellectual property underlying our products may not be adequate, which could enable third parties to use our technology and would harm our ability to compete in the market.

Our success will depend in part on our ability to develop or acquire commercially valuable patent rights and to protect these rights adequately. Our patent position is generally uncertain and involves complex legal and factual questions. The risks and uncertainties that we face with respect to our patents and other related rights include the following:

- the pending patent applications we have filed or to which we have exclusive rights may not result in issued patents or may take longer than we expect to result in issued patents;
- the claims of any patents that are issued may not provide meaningful protection;
- we may not be able to develop additional proprietary technologies that are patentable;
- other parties may challenge patents, patent claims or patent applications licensed or issued to us; and
- other companies may design around technologies we have patented, licensed or developed.

We also may not be able to protect our patent rights effectively in some foreign countries. For a variety of reasons, we may decide not to file for patent protection. Our patent rights underlying our products may not be adequate, and our competitors or customers may design around our proprietary technologies or independently develop similar or alternative technologies or products that are equal or superior to our technology and products without infringing on any of our patent rights. In addition, the patents licensed or issued to us may not provide a competitive advantage. If any of these events were to occur, our ability to compete in the market would be harmed.

Other rights and measures we have taken to protect our intellectual property may not be adequate, which would harm our ability to compete in the market.

In addition to patents, we rely on a combination of trade secrets, copyright and trademark laws, confidentiality, nondisclosure and assignment of invention agreements and other contractual provisions and technical measures to protect our intellectual property rights. In particular, we have sought no patent protection for the technology and algorithms we use in our onCall Information System, and we rely on trade secrets to protect this information. While we currently require employees, consultants and other third parties to enter into confidentiality, non-disclosure or assignment of invention agreements or a combination thereof where appropriate, any of the following could still occur:

- the agreements may be breached;
- we may have inadequate remedies for any breach;
- trade secrets and other proprietary information could be disclosed to our competitors; or
- others may independently develop substantially equivalent proprietary information and techniques or otherwise gain access to our trade secrets or disclose such technologies.

If, for any of the above reasons, our intellectual property is disclosed or misappropriated, it would harm our ability to protect our rights and our competitive position.

We may need to initiate lawsuits to protect or enforce our patents and other intellectual property rights, which could be expensive and, if we lose, could cause us to lose some of our intellectual property rights, which would harm our ability to compete in the market.

We rely on patents to protect a portion of our intellectual property and our competitive position. Patent law relating to the scope of claims in the technology fields in which we operate is still evolving and, consequently, patent positions in the medical device industry are generally uncertain. In order to protect or enforce our patent rights, we may initiate patent litigation against third parties, such as infringement suits or interference proceedings. Litigation may be necessary to:

- assert claims of infringement;
- enforce our patents;
- protect our trade secrets or know-how; or
- determine the enforceability, scope and validity of the proprietary rights of others.

Any lawsuits that we initiate could be expensive, take significant time and divert management's attention from other business concerns. Litigation also puts our patents at risk of being invalidated or interpreted narrowly and our patent applications at risk of not issuing. Additionally, we may provoke third parties to assert claims against us. We may not prevail in any lawsuits that we initiate and the damages or other remedies awarded, if any, may not be commercially valuable. The occurrence of any of these events could harm our business, our ability to compete in the market or our reputation.

Claims that our products infringe on the proprietary rights of others could adversely affect our ability to sell our products and increase our costs.

Substantial litigation over intellectual property rights exists in the medical device industry. We expect that our products could be increasingly subject to third-party infringement claims as the number of competitors grows and the functionality of products and technology in different industry segments overlap. Third parties may currently have, or may eventually be issued, patents on which our products or technologies may infringe. Any of these third parties might make a claim of infringement against us. Any litigation regardless of its impact would likely result in the expenditure of significant financial resources and the diversion of management's time and resources. In addition, litigation in which we are accused of infringement may cause negative publicity, adversely impact prospective customers, cause

product shipment delays or require us to develop non-infringing technology, make substantial payments to third parties, or enter into royalty or license agreements, which may not be available on acceptable terms, or at all. If a successful claim of infringement were made against us and we could not develop non-infringing technology or license the infringed or similar technology on a timely and cost-effective basis, our revenues may decrease substantially and we could be exposed to significant liability.

We are subject to extensive regulation by the U.S. Food and Drug Administration, which could restrict the sales and marketing of the NC-stat System and could cause us to incur significant costs.

We sell medical devices that are subject to extensive regulation in the United States by the Food and Drug Administration, or FDA, for manufacturing, labeling, sale, promotion, distribution and shipping. Before a new medical device, or a new use of or claim for an existing product, can be marketed in the United States, it must first receive either 510(k) clearance, grant of a *de novo* classification or pre-marketing approval from the FDA, unless an exemption applies. We may be required to obtain a new 510(k) clearance or *de novo* classification or pre-market approval for significant post-market modifications to our products. Each of these processes can be expensive and lengthy. The FDA's process for obtaining 510(k) clearance usually takes from three to 12 months, but it can last longer. The process for obtaining *de novo* classification involves a level of scrutiny similar to the 510(k) clearance process. The process for obtaining pre-market approval is much more costly and uncertain and it generally takes from one to three years, or longer, from the time the application is filed with the FDA.

Medical devices may be marketed only for the indications for which they are approved or cleared. We have obtained 510(k) clearance for the current clinical applications for which we market our products. However, our clearances can be revoked if safety or effectiveness problems develop. Further, we may not be able to obtain additional 510(k) clearances or premarket approvals for new products or for modifications to, or additional indications for, our existing products in a timely fashion, or at all. Delays in obtaining future clearances would adversely affect our ability to introduce new or enhanced products in a timely manner which in turn would harm our revenue and future profitability. We have made modifications to our devices in the past and may make additional modifications in the future that we believe do not or will not require additional clearances or approvals. If the FDA disagrees, and requires new clearances or approvals for the modifications, we may be required to recall and to stop marketing the modified devices. We also are subject to numerous post-marketing regulatory requirements, including quality system regulations, which relate to the manufacturing of our products, labeling regulations and medical device reporting regulations. Our failure or either contract manufacturer's failure to comply with applicable regulatory requirements could result in enforcement action by the FDA, which may include any of the following sanctions:

- warning letters, fines, injunctions, consent decrees and civil penalties;
- requiring repair, replacement, refunds, recall or seizure of our products;
- imposing operating restrictions, suspension or shutdown of production;
- refusing our requests for 510(k) clearance or pre-market approval of new products, new intended uses, or modifications to existing products;
- withdrawing 510(k) clearance or pre-market approvals that have already been granted; and
- criminal prosecution.

If any of these events were to occur, they could harm our reputation, our ability to generate revenues and our profitability.

If we or our contract manufacturers fail to comply with the FDA's quality system regulations, the manufacturing and distribution of our products could be interrupted, and our product sales and operating results could suffer.

We and our contract manufacturers are required to comply with the FDA's quality system regulations, which is a complex regulatory scheme that covers the procedures and documentation of the design, testing, production, control, quality assurance, labeling, packaging, sterilization, storage and shipping of our devices. The FDA enforces its quality system regulations through periodic unannounced inspections. We cannot assure you that our facilities or our contract manufacturers' facilities would pass any future quality system inspection. If our or any of our contract manufacturers' facilities fails a quality system inspection, the manufacturing or distribution of our products could be interrupted and our operations disrupted. Failure to take adequate and timely corrective action in response to an adverse quality system inspection could force a suspension or shutdown of our packaging and labeling operations, the manufacturing operations of our contract manufacturers or a recall of our products. If any of these events occurs, we may not be able to provide our customers with the quantity of products they require on a timely basis, our reputation could be harmed, and we could lose customers and suffer reduced revenues and increased costs.

Our products are subject to recalls even after receiving FDA clearance or approval, which would harm our reputation, business and financial results.

We are subject to the medical device reporting regulations, which require us to report to the FDA if our products cause or contribute to a death or serious injury, or malfunction in a way that would likely cause or contribute to a death or serious injury. The FDA and similar governmental bodies in other countries have the authority to require the recall of our products if we or our contract manufacturers fail to comply with relevant regulations pertaining to manufacturing practices, labeling, advertising or promotional activities, or if new information is obtained concerning the safety or efficacy of our products. A government-mandated or voluntary recall by us could occur as a result of manufacturing defects, labeling deficiencies, packaging defects or other failures to comply with applicable regulations. Any recall would divert management attention and financial resources and harm our reputation with customers. A recall involving the NC-stat System would be particularly harmful to our business and financial results because the products that comprise the NC-stat System are currently our only products.

We are subject to federal and state laws prohibiting "kickbacks" and false or fraudulent claims, which, if violated, could subject us to substantial penalties. Additionally, any challenge to or investigation into our practices under these laws could cause adverse publicity and be costly to respond to, and thus could harm our business.

A federal law commonly known as the Medicare/Medicaid anti-kickback law, and several similar state laws, prohibit payments that are intended to induce physicians or others either to refer patients or to acquire or arrange for or recommend the acquisition of healthcare products or services. These laws constrain our sales, marketing and other promotional activities by limiting the kinds of financial arrangements, including sales programs, we may have with hospitals, physicians or other potential purchasers of medical devices. Other federal and state laws generally prohibit individuals or entities from knowingly presenting, or causing to be presented, claims for payment from Medicare, Medicaid or other third-party payers that are false or fraudulent, or for items or services that were not provided as claimed. Because we may provide some coding and billing information to purchasers of our products, and because we cannot assure that the government will regard any billing errors that may be made as inadvertent, these laws are potentially applicable to us. Anti-kickback and false claims laws prescribe civil and criminal penalties for noncompliance, which can be substantial. Even an unsuccessful

challenge or investigation into our practices could cause adverse publicity, and be costly to respond to, and thus could harm on our business and results of operations.

If we are found to have violated laws protecting the confidentiality of patient health information, we could be subject to civil or criminal penalties, which could increase our liabilities and harm our reputation or our business.

There are a number of federal and state laws protecting the confidentiality of certain patient health information, including patient records, and restricting the use and disclosure of that protected information. In particular, the U.S. Department of Health and Human Services promulgated patient privacy rules under the Health Insurance Portability and Accountability Act of 1996, or HIPAA. These privacy rules protect medical records and other personal health information by limiting their use and disclosure, giving individuals the right to access, amend and seek accounting of their own health information and limiting most use and disclosures of health information to the minimum amount reasonably necessary to accomplish the intended purpose. Although we do not believe that we are subject to the HIPAA rules because we receive patient data in our onCall Information System on an anonymous basis, the exact scope of these rules has not been clearly established. If we are found to be in violation of the privacy rules under HIPAA, we could be subject to civil or criminal penalties, which could increase our liabilities and harm our reputation or our business.

The use of the NC-stat System could result in product liability claims that could be expensive, damage our reputation and harm our business.

Our business exposes us to an inherent risk of potential product liability claims related to the manufacturing, marketing and sale of medical devices. The medical device industry historically has been litigious, and we face financial exposure to product liability claims if the use of our products were to cause or contribute to injury or death. In particular, the NC-stat System may be susceptible to claims of injury because it involves the electric stimulation of a patient's nerves. Although we maintain product liability insurance for our products, the coverage limits of these policies may not be adequate to cover future claims. As sales of our products increase, we may be unable to maintain sufficient product liability insurance on acceptable terms or at reasonable costs, and this insurance may not provide us with adequate coverage against potential liabilities. A successful claim brought against us in excess of, or outside of, our insurance coverage could have a material adverse effect on our financial condition and results of operations. A product liability claim, regardless of its merit or eventual outcome, could result in substantial costs to us, a substantial diversion of management attention and adverse publicity. A product liability claim could also harm our reputation and result in a decline in revenues and an increase in expenses.

Our products are complex in design, and defects may not be discovered prior to shipment to customers, which could result in warranty obligations or product liability claims, reducing our revenues and increasing our costs and liabilities.

We depend upon third parties for the manufacture of our products. Our products, particularly our NC-stat biosensors, require a significant degree of technical expertise to produce. If our manufacturers fail to produce our products to specification, or if the manufacturers use defective materials or workmanship in the manufacturing process, the reliability and performance of our products will be compromised.

If our products contain defects that cannot be repaired quickly, easily and inexpensively, we may experience:

- loss of customer orders and delay in order fulfillment;
- damage to our brand reputation;

- increased cost of our warranty program due to product repair or replacement;
- inability to attract new customers;
- diversion of resources from our manufacturing and research and development departments into our service department; and
- legal action.

The occurrence of any one or more of the foregoing could harm our reputation and materially reduce our revenues and increase our costs and liabilities.

If we lose any of our officers or key employees, our management and technical expertise could be weakened significantly.

Our success largely depends on the skills, experience and efforts of our officers, including Shai N. Gozani, M.D., Ph.D., our founder and President and Chief Executive Officer; Gary L. Gregory, our Chief Operating Officer; Guy Daniello, our Senior Vice President of Information Technology; Michael Williams, Ph.D., our Senior Vice President of Engineering; Nicholas J. Alessi, Director of Finance and Treasurer; and our other key employees. We maintain a $5.0 million key person life insurance policy on Dr. Gozani, but do not maintain key person life insurance policies covering any of our other employees. The loss of any of our officers or key employees could weaken our management and technical expertise significantly and harm our business.

If we are unable to recruit, hire and retain skilled and experienced personnel, our ability to manage and expand our business will be harmed, which would impair our future revenues and profitability.

We are a small company with only 54 employees, and our ability to retain our skilled labor force and our success in attracting and hiring new skilled employees will be a critical factor in determining our future performance. We may not be able to meet our future hiring needs or retain existing personnel. We will face challenges and risks in hiring, training, managing and retaining engineering and sales and marketing employees, as well as independent regional sales agencies and sales representatives, most of whom are geographically dispersed and must be trained in the use and benefits of our products. Failure to attract and retain personnel, particularly technical and sales and marketing personnel, would materially harm our ability to compete effectively and grow our business.

If we do not effectively manage our growth, our business resources may become strained, we may not be able to deliver the NC-stat System in a timely manner and our results of operations may be adversely affected.

We expect to increase our sales force and our total headcount significantly subsequent to this offering. This growth as well as any other growth that we may experience in the future will provide challenges to our organization and may strain our management and operations. We may misjudge the amount of time or resources that will be required to effectively manage any anticipated or unanticipated growth in our business or we may not be able to attract, hire and retain sufficient personnel to meet our needs. If we cannot scale our business appropriately, maintain control over expenses or otherwise adapt to anticipated and unanticipated growth, our business resources may become strained, we may not be able to deliver the NC-stat System in a timely manner and our results of operations may be adversely affected.

If we are unable to successfully expand, develop and retain our sales force, our revenues may decline, our future revenue growth may be limited and our expenses may increase.

We presently employ 15 regional sales managers who lead more than 50 independent regional sales agencies employing a total of more than 250 sales representatives. We are highly dependent on our

regional sales managers to generate our revenues. We currently intend to increase our existing sales force significantly using part of the net proceeds from this offering. Our ability to build and develop a strong sales force will be affected by a number of factors, including:

- our ability to attract, integrate and motivate sales personnel;
- our ability to effectively train our sales force;
- the ability of our sales force to sell an increased number of products;
- the length of time it takes new sales personnel to become productive;
- the competition we face from other companies in hiring and retaining sales personnel;
- our ability to effectively manage a multi-location sales organization;
- our ability to enter into agreements with prospective members of our sales force on commercially reasonable terms; and
- our ability to get our independent sales agencies, who may sell products of multiple companies, to commit the necessary resources to effectively market and sell our products.

If we are unable to successfully build, develop and retain a strong sales force, our revenues may decline, our revenue growth may be limited and our expenses may increase.

Failure to develop products other than the NC-stat System and enhance the NC-stat System could have an adverse effect on our business prospects.

All of our current revenues are derived from selling the NC-stat System. Our future business and financial success will depend, in part, on our ability to continue to introduce new products and upgraded products into the marketplace. Developing new products and upgrades to existing and future products imposes burdens on our research and development department and our management. This process is costly, and we cannot assure you that we will be able to successfully develop new products or enhance the NC-stat System or any future products. In addition, as we develop the market for point-of-service nerve conduction studies, future competitors may develop desirable product features earlier than we do, which could make our competitors' products less expensive or more effective than our products and could render our products obsolete or unmarketable. If our product development efforts are unsuccessful, we will have incurred significant costs without recognizing the expected benefits and our business prospects may suffer.

We currently compete, and may in the future need to compete, against other medical device companies with greater resources, more established distribution channels and other competitive advantages, and the success of these competitors may harm our ability to generate revenues.

We currently do, and in the future may need to, compete directly and indirectly with a number of other companies that enjoy significant competitive advantages over us. Currently, in the point-of-service market, we indirectly compete with companies that sell traditional NCS/nEMG equipment. In this market, these companies are indirect competitors because the equipment they sell traditionally has been used by neurologists, who rely upon and seek to obtain referrals from primary care physicians to perform the same types of tests that may be performed by primary care physicians using the NC-stat System. Additionally, in selling the NC-stat System to neurologists, which is not a market we historically have focused on, we compete directly with the companies that sell traditional NCS/nEMG equipment. There are a number of companies that sell traditional NCS/nEMG equipment including the Nicolet Biomedical division of Viasys Healthcare Inc., the Functional Diagnostics division of Medtronic, Inc., Oxford Instruments, Plc., and Cadwell Laboratories, Inc. Additionally, we are aware of one company, Neumed Inc., that markets a nerve conduction study system to the point-of-service market. Of these

companies, Viasys Healthcare, Medtronic and Oxford Instruments, in particular, enjoy significant competitive advantages, including:

- greater resources for product development, sales and marketing
- more established distribution networks;
- greater name recognition;
- more established relationships with health care professionals, customers and third-party payers; and
- additional lines of products and the ability to offer rebates or bundle products to offer discounts or incentives.

Other than Neumed, we do not know if these companies or others are engaged in research and development efforts to develop products to perform point-of-service nerve conduction studies that would be directly competitive with the NC-stat System. As we develop the market for point-of-service nerve conduction studies, we may be faced with competition from these companies or others that decide and are able to enter this market. Some or all of our future competitors in the point-of-service market may enjoy competitive advantages such as those described above. If we are unable to compete effectively against existing and future competitors, our sales will decline and our business will be harmed.

We are dependent upon the computer and communications infrastructure employed and utilized by our onCall Information System, and any failures or disruptions in this infrastructure could impact our revenues and profit margins or harm our reputation.

We are dependent upon the computer and communications infrastructure employed and utilized by our onCall Information System. Our computer and communications infrastructure consists of standard hardware, off-the-shelf system software components, database servers, proprietary application servers, a modem bank and desktop applications. Our future success in selling the NC-stat System will depend, in part, upon the maintenance and growth of this infrastructure. Any failures or outages of this infrastructure as a result of a computer virus, intentional disruption of our systems by a third party, manufacturing failure, telephone system failure, fire, storm, flood, power loss or other similar events, could prevent or delay the operation of our onCall Information System, which could result in increased costs to eliminate these problems and address related security concerns and harm our reputation with our customers. In addition, if our infrastructure fails to accommodate growth in customer transactions, customer satisfaction could be impaired, we could lose customers, our ability to add customers could be impaired or our costs could be increased, any of which would harm our business.

If future clinical studies or other articles are published, or physician associations or other organizations announce positions, that are unfavorable to the NC-stat System, our sales efforts and revenues may be negatively affected.

Future clinical studies or other articles regarding our existing products or any competing products may be published that either support a claim, or are perceived to support a claim, that a competitor's product is more accurate or effective than our products or that our products are not as accurate or effective as we claim or previous clinical studies have concluded. Additionally, physician associations or other organizations that may be viewed as authoritative could endorse products or methods that compete with the NC-stat System or otherwise announce positions that are unfavorable to the NC-stat System. Any of these events may negatively affect our sales efforts and result in decreased revenues.

Our future capital needs are uncertain and we may need to raise additional funds in the future, and these funds may not be available on acceptable terms or at all.

We believe that our current cash and cash equivalents, including the proceeds from this offering, together with our short-term investments and the cash to be generated from expected product sales, will be sufficient to meet our projected operating requirements for at least the next 24 months. However, we may seek additional funds from public and private stock offerings, borrowings under credit lines or other sources. Our capital requirements will depend on many factors, including:

- the revenues generated by sales of the NC-stat System and any other products that we develop;
- the costs associated with expanding our sales and marketing efforts;
- the expenses we incur in manufacturing and selling our products;
- the costs of developing new products or technologies and enhancements to existing products;
- the cost of obtaining and maintaining FDA approval or clearance of our products and products in development;
- costs associated with any expansion;
- the costs associated with capital expenditures; and
- the number and timing of any acquisitions or other strategic transactions.

As a result of these factors, we may need to raise additional funds, and these funds may not be available on favorable terms, or at all. Furthermore, if we issue equity or debt securities to raise additional funds, our existing stockholders may experience dilution, and the new equity or debt securities may have rights, preferences and privileges senior to those of our existing stockholders. In addition, if we raise additional funds through collaboration, licensing or other similar arrangements, it may be necessary to relinquish valuable rights to our potential products or proprietary technologies, or grant licenses on terms that are not favorable to us. If we cannot raise funds on acceptable terms, we may not be able to develop or enhance our products, execute our business plan, take advantage of future opportunities, or respond to competitive pressures or unanticipated customer requirements. If any of these events occurs, our ability to achieve our development and commercialization goals would be adversely affected.

If we choose to acquire or invest in new businesses, products or technologies, instead of developing them ourselves, these acquisitions or investments could disrupt our business and could result in the use of significant amounts of equity, cash or a combination of both.

From time to time we may seek to acquire or invest in businesses, products or technologies, instead of developing them ourselves. Acquisitions and investments involve numerous risks, including:

- the inability to complete the acquisition or investment;
- disruption of our ongoing businesses and diversion of management attention;
- difficulties in integrating the acquired entities, products or technologies;
- difficulties in operating the acquired business profitably;
- the inability to achieve anticipated synergies, cost savings or growth;
- potential loss of key employees, particularly those of the acquired business;
- difficulties in transitioning and maintaining key customer, distributor and supplier relationships;
- risks associated with entering markets in which we have no or limited prior experience; and

- unanticipated costs.

In addition, any future acquisitions or investments may result in one or more of the following:

- issuances of dilutive equity securities, which may be sold at a discount to market price;
- the use of significant amounts of cash;
- the incurrence of debt;
- the assumption of significant liabilities;
- increased operating costs or reduced earnings;
- financing obtained on unfavorable terms;
- large one-time expenses; and
- the creation of certain intangible assets, including goodwill, the write-down of which may result in significant charges to earnings.

Any of these factors could materially harm our stock price, our business or our operating results.

If we expand, or attempt to expand, into foreign markets, we will be affected by new business risks that may adversely impact our financial condition or results of operations.

If we expand, or attempt to expand, into foreign markets, we will be subject to new business risks, including:

- failure to fulfill foreign regulatory requirements to market the NC-stat System or other future products;
- availability of, and changes in, reimbursement within prevailing foreign health care payment systems;
- adapting to the differing business practices and laws in foreign countries;
- difficulties in managing foreign relationships and operations, including any relationships that we establish with foreign distributors or sales or marketing agents;
- limited protection for intellectual property rights in some countries;
- difficulty in collecting accounts receivable and longer collection periods;
- costs of enforcing contractual obligations in foreign jurisdictions;
- recessions in economies outside of the United States;
- political instability and unexpected changes in diplomatic and trade relationships;
- currency exchange rate fluctuations; and
- potentially adverse tax consequences.

If we are successful in introducing our products into foreign markets, we will be affected by these additional business risks, which may adversely impact our financial condition or results of operations. In addition, expansion into foreign markets imposes additional burdens on our executive and administrative personnel, research and sales departments, and general managerial resources. Our efforts to introduce our products into foreign markets may not be successful, in which case we may have expended significant resources without realizing the expected benefit. Ultimately, the investment required for expansion into foreign markets could exceed the revenues generated from this expansion.

Our operating results may fluctuate due to various factors and, as a result, period-to-period comparisons of our results of operations will not necessarily be meaningful.

Factors relating to our business make our future operating results uncertain and may cause them to fluctuate from period to period. These factors include:

- changes in the availability of third-party reimbursement in the United States or other countries;
- the timing of new product announcements and introductions by us or our competitors;
- market acceptance of new or enhanced versions of our products;
- changes in manufacturing costs or other expenses;
- competitive pricing pressures;
- the gain or loss of significant distribution outlets or customers;
- increased research and development expenses;
- the timing of any future acquisitions; or
- general economic conditions.

Because our operating results may fluctuate from quarter to quarter, it may be difficult for us or our investors to predict our future performance by viewing our historical operating results.

Risks Related to this Offering

Our principal stockholders have significant voting power and may take actions that may not be in the best interests of our other stockholders.

After this offering, our officers, directors and principal stockholders will together control approximately % of our outstanding common stock or % if the over-allotment option is exercised in full. If some or all of these stockholders act together, they will be able to control our management and affairs in all matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions. This concentration of ownership may have the effect of delaying or preventing a change in control and might adversely affect the market price of our common stock. In addition, this significant concentration of share ownership may adversely affect the trading price of our common stock because investors often perceive disadvantages to owning stock in companies with controlling stockholders.

The sale or expected sale of a substantial number of shares of our common stock may cause the price of our common stock to decline.

Sales or the expectation of sales of a substantial number of shares of our common stock in the public market following this offering could harm the market price of our common stock. As additional shares of our common stock become available for resale in the public market, the supply of our common stock will increase, which could decrease the price. There will be approximately additional shares of common stock, excluding shares issuable upon exercise of outstanding options and an outstanding warrant, eligible for sale beginning 180 days after the effective date of this prospectus upon the expiration of lock-up agreements between our stockholders and Punk, Ziegel & Company. These shares could be eligible for sale sooner if these shares are released from these lock-up agreements earlier. Moreover, after this offering, the holders of 7,488,758 shares of our common stock, comprising of shares issued upon conversion of our preferred stock, and the holder of a warrant to purchase 100,000 shares of common stock, will have rights, subject to various conditions and limitations, to require us to file registration statements covering their shares or to include their shares in registration statements that we may file for ourselves or other stockholders. We also intend to register

all common stock that we may issue under our existing Amended and Restated 1998 Equity Incentive Plan and our 2004 Stock Option and Incentive Plan and 2004 Employee Stock Purchase Plan adopted in connection with this offering. Once we register these shares, and in some cases sooner, they can be freely sold in the public market upon issuance, subject to the lock-up agreements described in "Underwriting." If any of these holders cause a large number of securities to be sold in the public market, the sales could reduce the trading price of our common stock. These sales also could impede our ability to raise future capital. Please see "Shares Eligible for Future Sale" for a description of sales that may occur in the future.

Our common stock has not been publicly traded, and we expect that the price of our common stock will fluctuate substantially.

Prior to this offering, there has been no public market for shares of our common stock. An active public trading market may not develop following completion of this offering or, if developed, may not be sustained. The price of the shares of common stock sold in this offering will be determined by negotiation between the underwriters and us. This price will not necessarily reflect the market price of our common stock following this offering. The market price of our common stock following this offering will be affected by a number of factors, including:

- changes in the availability of third-party reimbursement in the United States or other countries;
- volume and timing of orders for our products;
- developments in administrative proceedings or litigation related to intellectual property rights;
- issuance of patents to us or our competitors;
- the announcement of new products or product enhancements by us or our competitors;
- the announcement of technological or medical innovations in the treatment or diagnosis of neuropathies;
- changes in governmental regulations or in the status of our regulatory approvals or applications;
- developments in our industry;
- publication of clinical studies relating to our products or a competitor's product;
- quarterly variations in our or our competitors' results of operations;
- changes in earnings estimates or recommendations by securities analysts; and
- general market conditions and other factors, including factors unrelated to our operating performance or the operating performance of our competitors.

New investors will experience immediate and substantial dilution in the net tangible book value of their common stock following this offering.

If you purchase shares of our common stock in this offering, you will incur immediate and substantial dilution of $ per share, because the price you pay, assuming an initial public offering price of $, would be substantially greater than the net tangible book value per share of common stock that you acquire. This dilution is due in large part to the fact that our existing investors paid substantially less than the assumed initial public offering price for their shares of our capital stock. If the holders of outstanding options or warrants exercise their rights to acquire common stock, you will incur further dilution.

Our management team may invest or spend the proceeds of this offering in ways with which you may not agree or in ways which may not yield a return.

Our management will have considerable discretion in the application of the net proceeds of this offering. We expect to use some of the net proceeds from this offering to expand our sales and marketing activities, to fund research and development relating to potential new products and to repay outstanding debt obligations of approximately $3.3 million. We cannot specify with certainty how we will use all of the net proceeds of this offering or our existing cash balance. The net proceeds may be used for corporate purposes that do not increase our operating results or market value. Until the net proceeds are used, they may be placed in investments that do not produce income or that lose value.

We will incur increased expenses as a result of recently enacted laws and regulations affecting public companies.

Recently enacted laws and regulations affecting public companies, including the provisions of the Sarbanes-Oxley Act of 2002 and rules adopted by the Securities and Exchange Commission and by the National Association of Securities Dealers, Inc., will result in increased expenses to us. The new rules could make it more difficult or more costly for us to obtain some types of insurance, including directors' and officers' liability insurance, and we may be forced to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. The impact of these events also could make it more difficult for us to attract and retain qualified persons to serve on our board of directors, on our board committees or as executive officers. We will incur increased expenses in order to comply with these new rules, and we may not be able to accurately predict the timing or amount of these expenses.

Anti-takeover provisions in our organizational documents and Delaware law may discourage or prevent a change of control, even if an acquisition would be beneficial to our stockholders, which could affect our stock price adversely and prevent attempts by our stockholders to replace or remove our current management.

Our restated certificate of incorporation and restated bylaws to be in effect upon completion of this offering contain provisions that could delay or prevent a change of control of our company or changes in our board of directors that our stockholders might consider favorable. Some of these provisions:

- authorize the issuance of preferred stock which can be created and issued by the board of directors without prior stockholder approval, with rights senior to those of our common stock;
- provide for a classified board of directors, with each director serving a staggered three-year term;
- prohibit our stockholders from filling board vacancies, calling special stockholder meetings, or taking action by written consent;
- provide for the removal of a director only with cause and by the affirmative vote of the holders of 75% or more of the shares then entitled to vote at an election of our directors; and
- require advance written notice of stockholder proposals and director nominations.

In addition, we are subject to the provisions of Section 203 of the Delaware General Corporation Law, which may prohibit certain business combinations with stockholders owning 15% or more of our outstanding voting stock. These and other provisions in our restated certificate of incorporation, restated bylaws and Delaware law could make it more difficult for stockholders or potential acquirors to obtain control of our board of directors or initiate actions that are opposed by our then-current board of directors, including a merger, tender offer, or proxy contest involving our company. Any delay

or prevention of a change of control transaction or changes in our board of directors could cause the market price of our common stock to decline.

We do not intend to pay cash dividends.

We have never declared or paid cash dividends on our capital stock. We currently intend to retain all available funds and any future earnings for use in the operation and expansion of our business and do not anticipate paying any cash dividends in the foreseeable future. In addition, the terms of any future debt or credit facility may preclude us from paying any dividends. As a result, capital appreciation, if any, of our common stock will be your sole source of potential gain for the foreseeable future.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

The statements contained in this prospectus, including under the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and other sections of this prospectus that are not purely historical, are forward-looking statements including, without limitation, statements regarding our or our management's expectations, hopes, beliefs, intentions or strategies regarding the future. The words "believe," "may," "will," "estimate," "continue," "anticipate," "intend," "expect," "plan" and similar expressions may identify forward-looking statements, but the absence of these words does not mean that a statement is not forward-looking. Forward-looking statements in this prospectus may include, for example, statements about:

- the expected rate and degree of market acceptance of the NC-stat System;
- the expected size and growth of the market for nerve conduction studies and procedures using the NC-stat System;
- our estimates regarding revenues, expenses, capital requirements and needs for additional financing;
- implementation of our business strategies, including the expansion of our sales and marketing efforts;
- our research, development, commercialization and other activities and projected expenditures;
- the advantages of the NC-stat System as compared to other products, and our ability to compete with our competitors;
- our ability to obtain regulatory approvals for any future products;
- our intellectual property position;
- our use of proceeds from this offering;
- our cash needs; and
- our financial performance.

The forward-looking statements contained in this prospectus are based on our current expectations and beliefs concerning future developments and their potential effects on us. There can be no assurance that future developments affecting us will be those that we have anticipated. These forward-looking statements involve a number of risks, uncertainties (some of which are beyond our control) or other assumptions that may cause actual results or performance to be materially different from those expressed or implied by these forward-looking statements. These risks and uncertainties include, but are not limited to, those factors described under the heading "Risk Factors." Should one or more of these risks or uncertainties materialize, or should any of our assumptions prove incorrect, actual results may vary in material respects from those projected in these forward-looking statements. We undertake no obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise, except as may be required under applicable securities laws.

USE OF PROCEEDS

We estimate that the net proceeds from the sale of shares of common stock we are offering will be approximately $ million, based on an assumed initial public offering price of $ per share and after deducting the estimated underwriting discount and estimated offering expenses payable by us. If the underwriters' over-allotment option is exercised in full, we estimate that we will receive net proceeds of approximately $ million.

We intend to use the proceeds from this offering for:

- the expansion of our sales and marketing activities, including an increase in our direct sales force;
- research and development activities relating to potential new products, including the design of a drug development system for the minimally invasive treatment of neuropathies;
- the repayment of outstanding debt obligations to Lighthouse Capital Partners IV, L.P. of approximately $3.3 million; and
- general corporate purposes, including potential acquisitions of complementary products, technologies or businesses, as described below.

Our debt obligations to Lighthouse Capital Partners were incurred in several advances between August 2003 and December 2003 under a secured line of credit, which we entered into in May 2003. The total amount of our borrowings was $3.0 million and these borrowings bear interest at a nominal rate of 11% per annum. We used the proceeds from these borrowings for general corporate purposes. Under the terms of the agreement governing this secured line of credit, we must repay each advance, plus outstanding interest, in equal monthly installments beginning approximately six months after the date of the advance and continuing for a period of 30 months, or until the full amount of the principal is repaid. Upon the final maturity date or the earlier prepayment of each advance, we also must pay Lighthouse Capital Partners an additional amount equal to 11% of the advance. Also in May 2003, we granted Lighthouse Capital Partners a seven-year warrant to purchase up to 400,000 shares of our Series E-1 preferred stock at an exercise price of $1.50 per share as additional payment for the secured credit line. As of June 21, 2004, we had approximately $2.9 million in advances outstanding under this secured line of credit, with final maturity dates ranging from August 2006 to December 2006.

Although we have no current plans, agreements or commitments with respect to any acquisition, we may, if the opportunity arises, use an unspecified portion of the net proceeds to acquire or invest in new products, technologies or businesses.

As of the date of this prospectus, we cannot specify with certainty all of the particular uses for the net proceeds to be received upon the completion of this offering. The amounts and timing of our actual expenditures will depend on numerous factors, including the status of our product development efforts, our sales and marketing activities, the amount of cash generated or used by our operations and competition. Accordingly, our management will have broad discretion in the application of the net proceeds and investors will be relying on the judgment of our management regarding the application of the net proceeds of this offering.

Until we use the net proceeds of this offering for the above purposes, we intend to invest the funds in short-term, investment grade, interest-bearing securities. We cannot predict whether these investments will yield a favorable return.

DIVIDEND POLICY

We have never declared or paid any cash dividends on our common stock. For the foreseeable future, we intend to retain any earnings in our business, and we do not anticipate paying any cash dividends. Whether or not to declare any dividends will be at the discretion of our board of directors, considering then-existing conditions, including our financial condition and results of operations, capital requirements, business prospects and other factors that our board of directors considers relevant.

CAPITALIZATION

The following table sets forth our capitalization as of March 31, 2004:

- on an actual basis;
- on an as adjusted basis to reflect (a) the conversion of all of our outstanding shares of redeemable convertible preferred stock into an aggregate of 7,488,758 shares of common stock upon the closing of this offering, and (b) the issuance and sale of shares of common stock in this offering at an assumed price of $ per share, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

You should read this table together with our financial statements and related notes appearing at the end of this prospectus and the "Management's Discussion and Analysis of Financial Condition and Results of Operations" section of this prospectus.

	As of March 31, 2004	
	Actual	As Adjusted
	(in thousands, except share data)	
Long-term debt, net of current portion	$ 1,732	$
Warrants for redeemable convertible preferred stock	450	
Redeemable convertible preferred stock, $0.01 par value; 27,615,630 shares authorized, actual; no shares authorized, as adjusted; 24,548,870 shares issued and outstanding, actual; no shares issued and outstanding, as adjusted	66,623	
Stockholders' deficit:		
Common stock, $0.001 par value; 37,000,000 shares authorized, actual; shares authorized, as adjusted; 1,042,990 shares issued and outstanding, actual; shares issued and outstanding, as adjusted	—	
Additional paid-in capital	—	
Subscription receivable	(2)	
Deferred compensation	(635)	
Accumulated deficit	(53,974)	
Total stockholders' deficit	(54,611)	
Total capitalization	$ 14,194	$

The number of shares of common stock outstanding after this offering is based on 1,042,990 shares outstanding as of March 31, 2004 on an actual basis and excludes:

- 444,430 shares of common stock issuable upon the exercise of outstanding stock options as of March 31, 2004 at a weighted average exercise price per share of $1.82; and
- 100,000 shares of common stock issuable upon the exercise of an outstanding warrant as of March 31, 2004 at an exercise price per share of $6.00, assuming the automatic conversion of the existing warrant to purchase 400,000 shares of our Series E-1 preferred stock into a warrant to purchase 100,000 shares of common stock, which is to occur upon the closing of this offering.

DILUTION

If you invest in our common stock, your interest will be diluted immediately to the extent of the difference between the public offering price per share you will pay in this offering and the pro forma net tangible book value per share of our common stock immediately after this offering.

Our net tangible book value as of March 31, 2004 was approximately $(54.6) million, or $(52.36) per share of common stock. Net tangible book value per share is equal to our total tangible assets minus total liabilities, all divided by the number of shares of common stock outstanding as of March 31, 2004.

Our pro forma net tangible book value per share as of March 31, 2004 was approximately $1.41 per share. Pro forma net tangible book value per share gives effect to the conversion of all outstanding preferred stock, into 7,488,758 shares of common stock, which is to occur upon the closing of this offering, the automatic conversion of a warrant to purchase 400,000 shares of our Series E-1 preferred stock into a warrant to purchase 100,000 shares of common stock upon the closing of this offering and the repayment of outstanding debt obligations to Lighthouse Capital Partners IV, L.P. of approximately $3.3 million.

After giving effect to the sale of the shares of common stock we are offering at an assumed initial public offering price of $ per share, and after deducting the estimated underwriting discount and our estimated offering expenses, our pro forma as adjusted net tangible book value as of March 31, 2004 would have been approximately $ million, or $ per share. This represents an immediate increase in pro forma net tangible book value of $ per share and an immediate dilution of $ per share to new investors. The following table illustrates this calculation on a per share basis:

Assumed initial public offering price per share		$
Net tangible book value per share as of March 31, 2004	$ (52.36)	
Increase in net tangible book value per share attributable to conversion of preferred stock	53.77	
Pro forma net tangible book value per share of common stock as of March 31, 2004	1.41	
Increase per share attributable to this offering		
Pro forma as adjusted net tangible book value per share of common stock after this offering		
Pro forma dilution per share to new investors		$

If the underwriters exercise their over-allotment option in full, pro forma as adjusted net tangible book value will increase to $ per share, representing an increase to existing holders of $ per share, and there will be an immediate dilution of $ per share to new investors.

The following table summarizes, on a pro forma as adjusted basis as of March 31, 2004, after giving effect to this offering at an assumed initial public offering price of $ per share, and the pro forma adjustments referred to above, the total number of shares of our common stock purchased from

us and the total consideration and average price per share paid by existing stockholders and by new investors:

	Shares Purchased		Total Consideration		
	Number	Percentage	Amount	Percentage	Average Price per Share
Existing Stockholders	8,531,748	%	$ 43,498,315	%	$5.10
New Investors					
		100%		100%	

If the underwriters exercise their over-allotment option in full, the following will occur:

- the pro forma as adjusted percentage of shares of our common stock held by existing stockholders will decrease to approximately % of the total number of pro forma as adjusted shares of our common stock outstanding after this offering; and
- the pro forma as adjusted number of shares of our common stock held by new public investors will increase to , or approximately % of the total pro forma as adjusted number of shares of our common stock outstanding after this offering.

The tables and calculations above are based on 1,042,990 shares of our common stock outstanding as of March 31, 2004, on an actual basis, and exclude:

- 444,430 shares of common stock issuable upon the exercise of outstanding stock options as of March 31, 2004 at a weighted average exercise price per share of $1.82, and
- 100,000 shares of common stock issuable upon the exercise of an outstanding warrant as of March 31, 2004 at an exercise price per share of $6.00, assuming the automatic conversion of the existing warrant to purchase 400,000 shares of our Series E-1 preferred stock into a warrant to purchase 100,000 shares of common stock, which is to occur upon the closing of this offering.

If all of our outstanding options and our outstanding warrant as of March 31, 2004 had been exercised as of that date, the pro forma as adjusted net tangible book value per share after this offering would be $ per share and total dilution to new investors would be $ per share.

SELECTED FINANCIAL DATA

The selected financial data shown below for the years ended December 31, 2001, 2002 and 2003 and as of December 31, 2002 and 2003 have been derived from our financial statements audited by PricewaterhouseCoopers LLP, independent auditors, and included elsewhere in this prospectus. The selected financial data shown below for the years ended December 31, 1999 and 2000 and as of December 31, 1999, 2000 and 2001 have been derived from our financial statements not included in this prospectus. The selected financial data shown below for the three months ended March 31, 2003 and 2004 have been derived from our unaudited financial statements included elsewhere in this prospectus. The selected financial data should be read in conjunction with our financial statements and related notes, "Capitalization" and "Management's Discussion and Analysis of Financial Condition and Results of Operations," which are included elsewhere in this prospectus.

	Year Ended December 31,					Three Months Ended March 31,	
	1999	2000	2001	2002	2003	2003	2004
	(Unaudited)	(Unaudited)				(Unaudited)	
	(in thousands, except share and per share data)						
Statement of Operations Data:							
Revenues	$ 112	$ 979	$ 3,464	$ 4,225	$ 9,168	$ 1,621	$ 3,030
Cost of revenues	133	634	1,424	1,370	2,707	477	827
Gross margin	(21)	345	2,040	2,855	6,461	1,144	2,203
Operating expenses:							
Research and development (1)	1,483	1,984	2,561	2,146	2,397	541	650
Sales and marketing (1)	1,331	3,477	5,304	2,870	4,768	1,047	1,335
General and administrative (1)	1,492	2,325	3,228	2,673	2,850	597	855
Total operating expenses	4,306	7,786	11,093	7,689	10,015	2,185	2,840
Loss from operations	(4,327)	(7,441)	(9,053)	(4,834)	(3,554)	(1,041)	(637)
Interest income (loss), net	476	459	335	40	(113)	(0)	(143)
Net loss	(3,851)	(6,982)	(8,717)	(4,793)	(3,667)	(1,041)	(780)
Accretion of dividend on redeemable convertible preferred stock	(1,058)	(1,104)	(1,757)	(1,893)	(2,009)	(502)	(534)
Deemed dividend on redeemable convertible preferred stock	—	—	—	(6,873)	—	—	(788)
Beneficial conversion feature associated with redeemable convertible preferred stock	—	—	—	—	—	—	(7,051)
Net loss attributable to common stockholders	$ (4,909)	$ (8,086)	$ (10,474)	$ (13,559)	$ (5,676)	$ (1,543)	$ (9,153)
Net loss per common share:							
Basic and diluted	$ (5.33)	$ (8.36)	$ (10.47)	$ (13.17)	$ (5.46)	$ (1.49)	$ (8.78)
Weighted average basic and diluted common shares outstanding	921,494	967,435	1,000,323	1,029,210	1,038,817	1,037,007	1,042,990
Pro forma basic and diluted net loss per common share (2)					$ (0.53)		$ (1.03)
Shares used in computing pro forma basic and diluted net loss per common share					6,802,711		8,861,748

(1) Non-cash stock-based compensation expense included in these amounts as follows:

Research and development	$ 1	$ 5	$ 8	$ 7	$ 35	$ 4	$ 16
Sales and marketing	4	10	15	6	37	7	17
General and administrative	58	37	33	37	24	3	12
Total non-cash stock-based compensation	$ 63	$ 52	$ 56	$ 50	$ 96	$ 14	$ 45

(2) Pro forma basic and diluted net loss per common share is calculated assuming the conversion of all then-outstanding shares of redeemable convertible preferred stock into shares of common stock and assuming the repayment of outstanding debt obligations to Lighthouse Capital Partners IV, L.P. of approximately $3.3 million.

	As of December 31,					As of March 31,
	1999	2000	2001	2002	2003	2004
	(Unaudited)	(Unaudited)	(Unaudited)			(Unaudited)
	(in thousands)					
Balance Sheet Data:						
Cash and cash equivalents	$ 11,305	$ 5,389	$ 5,396	$ 2,701	$ 1,623	$ 10,900
Working capital	11,084	4,996	6,380	3,724	2,754	12,179
Total assets	12,242	7,158	9,899	7,053	7,218	17,079
Long-term debt and other long-term liabilities	18	964	331	124	2,232	1,933
Warrants for redeemable convertible preferred stock	—	—	—	—	450	450
Redeemable convertible preferred stock	19,712	20,816	34,995	45,684	47,694	66,623
Accumulated deficit	(8,098)	(15,851)	(26,321)	(39,860)	(44,901)	(53,974)
Total stockholders' deficit	(7,983)	(16,014)	(26,431)	(39,928)	(45,502)	(54,611)

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion of our financial condition and results of operations in conjunction with our selected financial data, our financial statements and the accompanying notes to those financial statements included elsewhere in this prospectus. This discussion contains forward-looking statements that involve risks and uncertainties. As a result of many factors, such as those set forth under the section entitled "Risk Factors" and elsewhere in this prospectus, our actual results may differ materially from those anticipated in these forward-looking statements.

Overview

NEUROMetrix was founded in June 1996. We design, develop and sell proprietary medical devices used to diagnose neuropathies. Our proprietary technology provides physicians with an in-office diagnostic system, the NC-stat System, that enables the physicians to make rapid and accurate diagnoses of neuropathies. The NC-stat System is comprised of: (1) disposable NC-stat biosensors that are placed on the patient's body; (2) the NC-stat monitor and related components; and (3) the NC-stat docking station, an optional device that enables the physician's office to transmit data to our onCall Information System. Each component of the NC-stat System is also sold separately. The sensitivity of the nervous system to metabolic and mechanical damage, compounded by its limited regenerative ability, creates a robust market opportunity for a medical device that can assist in point-of-service diagnoses of neuropathies in a manner that is cost-effective for the patient and third-party payer. We believe the ease of use, accuracy and convenience provided by the NC-stat System position it to become a standard of care for the assessment of neuropathies at the point of service.

From our inception until May 1999, we had devoted substantially all of our efforts to designing and developing the NC-stat System and other potential products, raising capital and recruiting personnel. We believe that one of our strengths is our ability to develop and commercialize innovative products for neurological applications. In May 1999, we shipped our first NC-stat System. At that time we sold one type of biosensor, for the testing of the median motor nerve. In 2000, we introduced an additional biosensor for the testing of the ulnar motor nerve. In 2002, we introduced our second-generation NC-stat System, as well as two additional biosensors. In 2003, we added to our product line two biosensors with higher functionality that have the ability to test both motor and sensory nerves. In 2003, we more than doubled our revenues from the prior year, generating $9.2 million in revenues, of which 85.8% was attributable to sales of NC-stat biosensors. Our gross margin percentage in 2003 was 70.5%. In the first quarter of 2004, we generated total revenues of $3.0 million, of which 89.0% was attributable to sales of NC-stat biosensors. Our gross margin percentage in the first quarter of 2004 was 72.7%. In 2004, we introduced a new biosensor to test the ulnar nerve at the elbow, as well as components for the NC-stat monitor to utilize this biosensor.

We derive our revenues from the sale of NC-stat biosensors, monitors and docking stations directly to end users, which are generally physicians. The NC-stat monitor is an electronic instrument that is used with the NC-stat biosensors to perform nerve conduction studies for the purpose of diagnosing neuropathies. The NC-stat monitor displays the pertinent results of nerve conduction studies on an LCD screen immediately at the conclusion of each study. Our NC-stat biosensors are disposable products that are used once and inactivated after use. The NC-stat docking station is an optional device that is used to transmit to the onCall Information System data generated by the nerve conduction study performed with the NC-stat monitor. The onCall Information System formulates the data it receives for each test into a detailed report that is provided to the customer through facsimile or e-mail.

Diagnostic device revenues include revenues derived from the sale of our NC-stat monitors and NC-stat docking stations. Biosensor revenues include the sale of various types of disposable biosensors used to perform nerve conduction studies with the NC-stat monitor. Our revenue recognition policy is

to recognize revenue from our monitors and biosensors upon shipment if the fee is fixed and determinable, persuasive evidence of an arrangement exists, collection of the resulting receivables is probable and product returns are reasonably estimable. Revenues from our docking station are deferred and recognized over the shorter of the estimated customer relationship period or the estimated useful life of the product, currently three years.

Reimbursement from third-party payers is an important element of success for medical products companies. To date, we believe nearly all of the nerve conduction studies performed by our customers with the NC-stat System have been satisfactorily covered by third-party payers. However, widespread adoption of the NC-stat System by the medical community is unlikely to occur if physicians do not continue to receive satisfactory reimbursement from third-party payers for procedures performed with the NC-stat System.

One of the primary challenges we face in our business is successfully expanding the market for nerve conduction studies. A successful market expansion will depend upon, in part, our ability to alter physicians' practices relating to the diagnosis of neuropathies and our targeting of primary care physicians who traditionally have not been targeted by companies selling equipment used to perform nerve conduction studies. In order to successfully implement this growth strategy, we plan on significantly increasing our sales force and our total headcount subsequent to this offering and participating in various industry conferences in order to accelerate the market awareness and adoption of our products. These efforts, as well as the overall expansion of our business, will provide challenges to our organization and may strain our management and operations. We are focused on monitoring our business as it grows and appropriately acquiring and allocating resources to address these issues, with a goal of achieving and sustaining profitability.

Since our inception in 1996, we have incurred losses every quarter. We incurred net losses of approximately $8.7 million in 2001, $4.8 million in 2002 and $3.7 million in 2003. In the first quarter of 2004, we incurred a net loss of $780,000. We do not know whether or when we will become profitable. At March 31, 2004, we had an accumulated deficit of approximately $54.0 million. We have financed our operations through the private placement of equity and debt securities. At March 31, 2004, we had $3.0 million of secured debt outstanding. As of March 31, 2004, we had received net proceeds of $43.5 million from the issuance of redeemable convertible preferred stock.

Our financial objective is to achieve profitable growth. Our efforts in 2004 will be focused primarily on expanding our sales and marketing for the NC-stat System and continuing our ongoing program of making enhancements and improvements to the NC-stat System, including the introduction of new biosensors. We are also in the early stages of designing a drug delivery system for the minimally invasive treatment of neuropathies by both primary care and specialist physicians. We are also focusing our efforts on the management of accounts receivable and control of inventory balances. Executing these objectives is expected to require the hiring of additional sales and administrative personnel, additional investments in research and development and the introduction of new and enhanced product offerings, with the goal of increasing our market penetration. We believe that the accomplishment of these combined efforts will have a positive impact on our cash flow from operations.

Results of Operations

The following table presents certain statement of operations information stated as a percentage of total revenues:

	Year Ended December 31,			Three Months Ended March 31,	
	2003	2002	2001	2004	2003
Revenues:					
Diagnostic device	14.2%	17.1%	22.6%	11.0%	17.7%
Biosensor	85.8	82.9	77.4	89.0	82.3
Total revenues	100.0	100.0	100.0	100.0	100.0
Cost of revenues	29.5	32.4	41.1	27.3	29.4
Gross margin	70.5	67.6	58.9	72.7	70.6
Operating expenses:					
Research and development	26.1	50.8	73.9	21.5	33.4
Sales and marketing	52.0	67.9	153.1	44.0	64.5
General and administrative	31.1	63.3	93.2	28.2	36.8
Total operating expenses	109.2	182.0	320.2	93.7	134.8
Loss from operations	-38.8	-114.4	-261.3	-21.0	-64.2
Interest income (expense), net	-1.2	1.0	9.7	-3.5	0.0
Net loss	-40.0%	-113.5%	-251.6%	-24.5%	-64.2%

Comparison of Three Months Ended March 31, 2004 and March 31, 2003

Revenues

The following tables present a breakdown of our customers, biosensor units used and revenues:

	12 Month Period Ended March 31,			
	2004	2003	Change	% Change
Customers	1,815	1,419	397	28.0%

	Three Months Ended March 31,			
	2004	2003	Change	% Change
Biosensor units	70,300	40,200	30,100	74.9%

	(in thousands)			
Revenues:				
Diagnostic device	$ 334.1	$ 286.6	$ 47.5	16.6
Biosensor	2,696.2	1,334.4	1,361.7	102.0
Total revenues	$ 3,030.3	$ 1,621.0	$ 1,409.3	86.9

Diagnostic device revenues were $334,100 and $286,600 for the three months ended March 31, 2004 and March 31, 2003, respectively, representing a year-over-year increase of $47,500, or 16.6%. This increase is primarily attributable to an increase in the list price of our NC-stat monitors and docking stations, which resulted in a higher average sale price during the three months ended March 31, 2004 as compared to the same period in 2003. Diagnostic device revenues accounted for 11.0% and 17.7% of our total revenues for the three months ended March 31, 2004 and March 31, 2003, respectively.

Biosensor revenues were $2.7 million and $1.3 million for the three months ended March 31, 2004 and March 31, 2003, respectively, representing a year-over-year increase of $1.4 million, or 102.0%. The increase was primarily due to an increased customer base for our biosensors, increased frequency of testing by our customers, and the introduction in May 2003 of higher functionality biosensors that test both motor and sensory nerve conduction. These higher functionality biosensors have an average selling price 60-80% higher than motor-only biosensors. Biosensor revenues accounted for 89.0% and 82.3% of our total revenues for the three months ended March 31, 2004 and March 31, 2003, respectively.

Our customers used 70,300 biosensor units in the three months ended March 31, 2004, compared to 40,200 units for the same period in 2003, an increase of 30,100 units, or 74.9%.

Our total revenues were $3.0 million and $1.6 million for the three months ended March 31, 2004 and March 31, 2003 respectively, representing a year-over-year increase of $1.4 million, or 86.9%. During the 12-month period ending March 31, 2004, a total of 1,815 customers used our NC-stat System compared to 1,419 customers for the same period ending March 31, 2003. This represents a 28% year-over-year increase in the number of customers that used our NC-stat System.

Costs and expenses

The following table presents our costs and expenses and net loss:

	Three Months Ended March 31,			
	2004	2003	$ Change	% Change
	(in thousands)			
Cost of revenues:				
Diagnostic devices	$ 132.6	$ 143.5	$ (10.9)	-7.6%
Biosensors	694.6	333.1	361.5	108.5
Total costs of revenues	827.2	476.6	350.6	73.5
Gross margin:				
Diagnostic devices	201.5	143.0	58.5	40.9
Biosensors	2,001.6	1,001.4	1,000.2	99.9
Total gross margin	2,203.1	1,144.4	1,058.7	92.5
Gross Margin %:				
Diagnostic devices	60.3%	49.9%		
Biosensors	74.2	75.0		
Total gross margin	72.7	70.6		
Operating expenses:				
Research and development(1)	650.4	541.2	109.2	20.2
Sales and marketing(1)	1,334.6	1,046.2	288.4	27.6
General and administrative(1)	854.5	597.2	257.4	43.1
Total operating expenses	2,839.6	2,184.5	655.0	30.0
Loss from operations	(636.5)	(1,040.2)	403.7	-38.8
Interest income	4.9	9.9	(5.0)	-50.5
Interest expense	(148.4)	(10.1)	(138.3)	1375.6
Net loss	(780.0)	(1,040.4)	260.4	-25.0
Accretion of dividend on preferred stock	(534.4)	(502.4)	(32.0)	6.4
Deemed dividend and beneficial conversion feature on redeemable convertible preferred stock	(7,838.6)	—	(7,838.6)	—
Net loss available to common stockholders	$ (9,153.1)	$ (1,542.7)	$ (7,610.4)	493.3

(1) Includes non-cash stock-based compensation of:

Research and development	$ 15.8	$ 3.9
Sales and marketing	17.4	6.7
General and administrative	11.4	13.3
Total non-cash stock-based compensation	$ 44.6	$ 13.9

Gross Margin

Diagnostic device gross margin percentage was 60.3% and 49.9% for the three months ended March 31, 2004 and March 31, 2003, respectively. The increase in the gross margin percentage in the first three months of 2004 compared to the same period in 2003 is attributable partially to an increase in the list price of our NC-stat monitor and docking station, and partially to a decrease in the price paid to our third-party manufacturers resulting from a change in our supplier.

Biosensor gross margin percentage decreased to 74.2% for the three months ended March 31, 2004 from 75.0% for the same period in 2003. The small decrease in biosensor gross margin percentage is primarily due to a less favorable mix towards higher sales volume of lower margin biosensors in the first three months of 2004 when compared to the same period in 2003.

Our overall gross margin percentage was 72.7% for the three months ended March 31, 2004 compared to 70.6% for the same period in 2003.

At the beginning of 2004, we significantly raised the list price of our diagnostic devices. The list price increase should continue to result in a higher diagnostic device gross margin percentage in 2004 when compared to 2003. We anticipate our overall gross margin percentage will remain relatively consistent for the remainder of 2004. However, if sales volumes do not increase, if biosensor revenues as a percent of total revenues do not increase, or if pricing pressures increase, then gross margin may not increase or may be negatively impacted in future quarters.

Research and Development

Our research and development, or R&D, expenses include expenses from research, product development, clinical, regulatory and quality assurance departments.

R&D expenses increased $109,200, or 20.2%, to $650,400 for the three months ended March 31, 2004 from $541,200 for the same period in 2003. As a percentage of revenues, R&D expenses were 21.5% and 33.4% for the three months ended March 31, 2004 and March 31, 2003, respectively. The increase in expenses was primarily due to an increase of $129,300 in employee compensation and benefit costs resulting from the hiring of three additional employees in our R&D department, partially offset by a decrease of $11,600 in outside consulting costs.

For the remainder of 2004, we expect our spending on R&D will increase due to the hiring of additional employees. We expect R&D expenses, as a percentage of total revenues, to continue to decrease slightly. This percentage may vary, however, depending primarily on our revenues for the remainder of 2004.

Sales and Marketing

Sales and marketing expenses increased $288,400, or 27.6%, to $1.3 million for the three months ended March 31, 2004 from $1.0 million for the same period in 2003. As a percentage of revenues, sales and marketing expenses were 44.0% and 64.5% for the three months ended March 31, 2004 and March 31, 2003, respectively. The increase in expenses was primarily due to an increase of $169,300 in sales commissions paid to our independent regional sales agencies, which were directly related to our higher revenues in the first quarter of 2004, and increases of $157,500 and $39,900 in employee compensation and benefit costs and recruiting costs, respectively, which resulted from the addition of five employees in our sales and marketing department. The increase was also partially due to an increase of $26,400 in outside consulting service expense. These increases were partially offset by a reduction of $147,700 in costs for advertising, promotional materials and trade shows.

We expect to hire additional sales and marketing personnel during the remainder of 2004. For 2004, we expect sales and marketing expense, as a percentage of total revenues, to remain relatively

consistent with its current level. This percentage may vary, however, depending primarily on our revenues for the remainder of 2004.

General and Administrative

Our general and administrative expenses include expenses from the executive, finance, administrative, customer services and information technology departments.

General and administrative expenses increased $257,400, or 43.1%, to $854,500 for the three months ended March 31, 2004, from $597,200 for the same period in 2003. As a percentage of revenues, general and administrative expenses were 28.2% and 36.8% for the three months ended March 31, 2004 and March 31, 2003, respectively. The increase in expenses was primarily due to a write-off of accounts receivable of $112,800, an increase of $40,800 in our insurance costs, an increase of $36,700 in employee compensation and benefit costs, resulting from an increase to current employee salaries, and an increase of $21,600 in outside consulting services expense.

We expect our general and administrative expenses to increase during the remainder of 2004 as a result of our expected growth and the additional requirements that we will need to fulfill as a publicly traded company, although these expenses, as a percentage of total revenues, are likely to continue to decrease as revenues increase. This percentage may vary, however, depending primarily on our revenues for the remainder of 2004.

Interest Income

Interest income was $4,900 and $9,900 during the three months ended March 31, 2004 and March 31, 2003, respectively. Interest income was earned from investments in cash equivalents and short-term investments (with original maturities of 90 days or less). Interest income decreased during the three months ended March 31, 2004 compared to the same period in 2003 because of lower average cash balances available for investment and lower yields on outstanding investment balances. Our sale of Series E-1 redeemable convertible preferred stock in March 2004 provided net proceeds of approximately $10.6 million. Based on this higher available balance of funds for investment, we expect interest income to increase in 2004 as compared to 2003.

Interest Expense

Interest expense was $148,400 and $10,100 during the three months ended March 31, 2004 and 2003, respectively, representing an increase of $138,300. The increase in interest expense was primarily due to increased borrowing under our credit line entered into in May 2003 with Lighthouse Capital Partners.

We expect interest expense to remain consistent for the remainder of 2004 until we repay our current credit line. We intend to use a portion of the proceeds from this offering to repay this credit line.

Deemed Dividend and Beneficial Conversion Feature on Redeemable Convertible Preferred Stock

In the first quarter of 2004, we recorded a $787,900 deemed dividend as a result of the March 2004 Series E-1 redeemable convertible preferred stock financing. The deemed dividend resulted from an adjustment to the conversion ratios as a result of anti-dilution protection associated with the Series D redeemable convertible preferred stock. The company also recorded a charge of $7.1 million for a beneficial conversion feature embedded within the Series E-1 redeemable convertible preferred stock issued in March 2004. There was no deemed dividend or beneficial conversion charge in 2003.

Comparison of Years Ended December 31, 2003 and December 31, 2002

Revenues

The following table presents a breakdown of our customers, biosensor units used and revenues:

	Year Ended December 31,			
	2003	2002	$ Change	% Change
Customers	1,736	1,390	346	24.9%
Biosensor units	203,000	116,200	86,800	74.7
	(in thousands)			
Revenues:				
Diagnostic device	$ 1,302.3	$ 722.6	$ 579.7	80.2
Biosensor	7,865.3	3,502.4	4,362.8	124.6
Total revenues	$ 9,167.6	$ 4,225.0	$ 4,942.5	117.0

Diagnostic device revenues were $1.3 million and $722,600 in 2003 and 2002, respectively, representing a year-over-year increase of $579,700, or 80.2%. Of this increase, approximately $240,000 is attributable to a greater number of units sold, primarily as a result of an increase in the number of our regional sales managers and expanded clinical uses for the NC-stat System, and $285,000 is attributable to an increase in the list price of our NC-stat monitors and docking stations. Diagnostic device revenues accounted for 14.2% and 17.1% of our total revenues in 2003 and 2002, respectively.

Biosensor revenues were $7.9 million and $3.5 million in 2003 and 2002, respectively, representing a year-over-year increase of $4.4 million, or 124.6%. The increase was primarily due to an increased customer base for our biosensors, increased frequency of testing by our customers, and the introduction in May 2003 of higher functionality biosensors that test both motor and sensory nerve conduction. These biosensors have an average selling price that is 60-80% higher than our comparable motor-only biosensors. Biosensor revenues accounted for 85.8% and 82.9% of our total revenues in 2003 and 2002, respectively.

Our customers used 203,000 biosensor units in 2003, compared to 116,200 units in 2002, an increase of 86,800 units, or 74.7%.

Our total revenues were $9.2 million and $4.2 million in 2003 and 2002, respectively, representing a year-over-year increase of $4.9 million, or 117.0%. During 2003, a total of 1,736 customers used our NC-stat System, compared to 1,390 customers during 2002. This represents a 24.9% year-over-year increase in the number of customers that used our NC-stat System.

We expect revenues in 2004 to continue to increase as we expand our sales and marketing efforts and our customer base and make enhancements and improvements to our NC-stat System, including the introduction of new biosensors, but we expect revenues to increase at a slower rate than in 2003. We also expect that an increasing percentage of our revenues will be generated from sales of our biosensors in 2004, as our customer base continues to expand. In January 2004, we increased the list price of our NC-stat monitor and docking station by approximately 40%, which we expect to contribute to an increase in diagnostic device revenues in 2004. Our revenues could be negatively impacted by a variety of factors, including the level of demand for nerve conduction studies, potential for changes in third-party reimbursement for nerve conduction studies, the overall economy and competitive factors.

Costs and expenses

The following table presents our costs and expenses and net loss:

	Year Ended December 31,			
	2003	2002	$ Change	% Change
	(in thousands)			
Cost of revenues:				
Diagnostic device	$ 658.1	$ 420.1	$ 238.0	56.7%
Biosensor	2,048.4	950.0	1,098.4	115.6
Total cost of revenues	2,706.5	1,370.1	1,336.4	97.5
Gross margin:				
Diagnostic device	644.2	302.5	341.7	113.0
Biosensor	5,816.8	2,552.4	3,264.4	127.9
Total gross margin	6,461.0	2,854.9	3,606.1	126.3
Gross margin %:				
Diagnostic device	49.5%	41.9%		
Biosensor	74.0	72.9		
Total gross margin %	70.5	67.6		
Operating expenses:				
Research and development (1)	$ 2,396.8	$ 2,146.1	$ 250.7	11.7
Sales and marketing (1)	4,767.6	2,869.7	1,897.9	66.1
General and administrative (1)	2,850.5	2,672.7	177.8	6.7
Total operating expenses	10,014.9	7,688.5	2,326.4	30.3
Loss from operations	(3,553.9)	(4,833.6)	1,279.7	-26.5
Interest income	23.5	80.3	(56.8)	-70.7
Interest expense	(136.3)	(40.2)	(96.1)	239.1
Net loss	(3,666.7)	(4,793.5)	1,126.8	-23.5
Accretion on redeemable convertible preferred stock	(2,009.5)	(1,892.7)	(116.8)	6.2
Deemed dividend on redeemable convertible preferred stock	—	(6,872.9)	6,872.9	—
Net loss available to common stockholders	$ (5,676.2)	$ (13,559.1)	$ 7,882.9	-58.1

(1) Includes non-cash stock-based compensation of:

Research and development	$ 35.1	$ 7.7
Sales and marketing	36.8	5.8
General and administrative	24.5	36.7
Total non-cash stock-based compensation	$ 96.4	$ 50.2

Gross Margin

Diagnostic device gross margin percentage was 49.5% and 41.9% in 2003 and 2002, respectively. The increase in the gross margin percentage in 2003 compared to 2002 is partially attributed to an increase in the list price of our NC-stat monitor and docking station, and partially to a decrease in the price paid to our third-party manufacturers resulting from a change in our supplier.

Biosensor gross margin percentage increased to 74.0% in 2003 from 72.9% in 2002. Our higher functionality biosensors, introduced in 2003, provide improved performance, resulting in lower overall warranty costs and higher gross margin. We believe that, as an increasing portion of our revenues are generated from these higher functionality biosensors, it will continue to have a positive impact on our overall biosensor margin in 2004.

Our overall gross margin percentage was 70.5% in 2003 compared to 67.6% in 2002. A favorable mix towards higher gross margin biosensor revenues in 2003 contributed to this increase in overall gross margin percentage, along with those factors discussed above.

In January 2004, we raised the list price of our NC-stat monitor and docking station by approximately 40%. We anticipate that our overall gross margin percentage will continue to improve in 2004 as compared to 2003. However, if sales volumes do not increase, if biosensor revenues as a percent of total revenues do not increase, or if pricing pressures increase, then gross margin may not increase or may be negatively impacted in 2004.

Research and Development

R&D expenses increased $250,700, or 11.7%, to $2.4 million in 2003 from $2.1 million in 2002. As a percentage of revenues, R&D expenses were 26.1% and 50.8% in 2003 and 2002, respectively. The increase in expenses was primarily due to increases of $21,600 and $33,800 in compensation expense and recruiting expense, respectively, which resulted from the hiring of two additional employees in our R&D department, an increase of $58,800 in outside consulting expense, and an increase of $56,800 in prototype costs related to new product development, including the development of two biosensors introduced in 2003 and one biosensor introduced in the first half of 2004.

For 2004, we expect our spending on R&D will increase due to the hiring of additional personnel. We expect R&D expenses, as a percentage of total revenues, to continue to decrease slightly as revenues increase. This percentage may vary, however, depending primarily on our 2004 revenues.

Sales and Marketing

Sales and marketing expenses increased $1.9 million, or 66.1%, to $4.8 million in 2003 from $2.9 million in 2002. As a percentage of revenues, sales and marketing expenses were 52.0% and 67.9% in 2003 and 2002, respectively. The increase in expenses was primarily due to an increase of $610,600 in sales commissions paid to our regional sales managers and an increase of $469,500 in sales commissions to our independent regional sales agencies, both of which were directly related to our higher revenues in 2003, and an increase of $479,700 in compensation and bonus expense, which resulted from the hiring of two additional employees in our sales and marketing department, including our chief operating officer in July 2002. Because our independent regional sales agencies are compensated exclusively on a commission basis, their compensation is linked directly to our revenues. The compensation of our internal sales force is predominately based upon meeting internal performance goals and, therefore, also linked to our revenues. Also contributing to the increase in sales and marketing expense was an increase of $149,700 in advertising and product promotion expense and an increase of $127,500 in travel and lodging expense.

We expect to hire additional sales and marketing personnel during 2004. For 2004, we expect sales and marketing expenses, as a percentage of total revenues, to remain reasonably consistent with 2003 levels. This percentage may vary, however, depending primarily on our 2004 revenues.

General and Administrative

General and administrative expenses increased $177,800, or 6.7%, to $2.9 million in 2003 from $2.7 million in 2002. As a percentage of revenues, general and administrative expenses were 31.1% and 63.3% in 2003 and 2002, respectively. The increase in expenses was primarily due to an increase of $115,500 in general recruiting costs and an increase of $33,800 in insurance costs. General and administrative staffing levels remained consistent during 2003 and 2002.

We expect our general and administrative expenses to increase during 2004 as a result of our expected growth and the additional requirements that we will need to fulfill as a publicly traded company, although these expenses as a percentage of total revenues are likely to continue to decrease as revenues increase. This percentage may vary, however, depending primarily on our 2004 revenues.

Interest Income

Interest income was $23,500 and $80,300 in 2003 and 2002, respectively. Interest income was earned from investments in cash equivalents and short-term investments (with maturities of 90 to 180 days). Interest income decreased in 2003 compared to 2002 because of lower average cash balances available for investment and lower yields on outstanding investment balances.

Interest Expense

Interest expense was $136,300 and $40,200 in 2003 and 2002, respectively, representing an increase of $96,100 or 239.1%. The increase in interest expense was primarily due to increased borrowing under a new credit line obtained in May 2003.

As a result of applying part of the proceeds from this offering to repayment of the current credit line, we expect interest expense to be lower in 2004 as compared to 2003.

Deemed Dividend on Redeemable Convertible Preferred Stock

In 2002, we recorded a $6.9 million deemed dividend as a result of the December 2002 Series E-1 redeemable convertible preferred stock financing and the anti-dilution provisions associated with the Series D and Series E redeemable convertible preferred stock. The $6.9 million deemed dividend resulted from an adjustment to the conversion ratios as a result of anti-dilution protection associated with the Series D and Series E redeemable convertible preferred stock. There was no deemed dividend in 2003.

Comparison of Years Ended December 31, 2002 and December 31, 2001

Revenues

The following table presents a breakdown of our customers, biosensor units used and revenues:

	Year Ended December 31,			
	2002	2001	$ Change	% Change
Customers	1,390	1,225	165	13.5%
Biosensor Units	116,200	73,900	42,300	57.2
	(in thousands)			
Revenues:				
Diagnostic device	$ 722.6	$ 782.5	$ (59.9)	-7.7
Biosensor	3,502.4	2,681.9	820.5	30.6
Total revenues	$ 4,225.0	$ 3,464.4	$ 760.6	22.0

Diagnostic device revenues were $722.6 and $782.5 in 2002 and 2001, respectively, representing a year-over-year decrease of $59.9, or 7.7%. The decrease was due to a reduction in the volume of unit sales to new customers resulting from an approximately 50% reduction in the number of regional sales managers in 2002 compared to 2001. This volume decrease was offset by an increase in the average selling price in 2002. During 2002, on average we had 8 regional sales manager positions per month compared to an average of 18 regional sales manager positions per month in 2001. This represents a decrease of 10 regional sales manager positions from 2001 to 2002. The reduction in regional sales manager positions was primarily the result of attrition. We allowed these sales manager positions to decrease in order to improve cost efficiencies, productivity and individual contribution and performance. Diagnostic device revenues contributed 17.1% and 22.6%, respectively, of our total revenues in 2002 and 2001.

Biosensor revenues were $3.5 million and $2.7 million in 2002 and 2001, respectively, representing a year-over-year increase of $820,500, or 30.6%. The increase was mainly due to the expansion in our customer base and the increased frequency of testing by our customers, and partially due to the introduction of two new biosensors to our product line in July 2002. Biosensor revenues contributed 82.9% and 77.4%, respectively, of our total revenues in 2002 and 2001.

Our customers used 116,200 biosensor units in 2002, compared to 73,900 units in 2001, an increase of 42,300 units, or 57.2%.

Our total revenues were $4.2 million and $3.5 million in 2002 and 2001 respectively, representing an increase of $760,700, or 22.0%. During 2002, a total of 1,390 customers used our NC-stat System, compared to 1,225 customers during 2001. This represents a 13.5% year-over-year increase in the number of customers that used our NC-stat System.

Costs and expenses

The following table presents our costs and expenses and net loss:

	Year Ended December 31,			
	2002	2001	$ Change	% Change
	(in thousands)			
Cost of revenues:				
Diagnostic device	$ 420.1	$ 643.3	$ (223.2)	-34.7%
Biosensor	950.0	781.0	169.0	21.6
Total cost of revenues	1,370.1	1,424.3	(54.2)	-3.8
Gross margin:				
Diagnostic device	302.5	139.2	163.3	117.3
Biosensor	2,552.4	1,900.8	651.6	34.3
Total gross margin	2,854.9	2,040.0	814.9	39.9
Gross margin %:				
Diagnostic device	41.9%	17.8%		
Biosensor	72.9	70.9		
Total gross margin %	67.6	58.9		
Operating expenses:				
Research and development (1)	$ 2,146.1	$ 2,561.0	$ (414.9)	-16.2
Sales and marketing (1)	2,869.7	5,304.4	(2,434.7)	-45.9
General and administrative (1)	2,672.7	3,227.6	(555.0)	-17.2
Total operating expenses	7,688.5	11,093.0	(3,404.6)	-30.7
Loss from operations	(4,833.6)	(9,053.0)	4,219.5	-46.6
Interest income	80.3	388.7	(308.4)	- -79.3
Interest expense	(40.2)	(53.3)	13.1	-24.6
Net loss	(4,793.5)	(8,717.6)	3,924.2	-45.0
Accretion on redeemable convertible preferred stock	(1,892.7)	(1,756.7)	(136.0)	7.7
Deemed dividend on redeemable convertible preferred stock	(6,872.9)	—	(6,872.9)	—
Net loss available to common stockholders	$ (13,559.1)	$ (10,474.3)	$ (3,084.7)	29.5

(1) Includes non-cash stock-based compensation of:

Research and development	$ 7.7	$ 8.6
Sales and marketing	5.8	14.8
General and administrative	36.7	32.7
Total non-cash stock-based compensation	$ 50.2	$ 56.1

Gross Margin

Diagnostic device gross margin percentage was 41.9% and 17.8% in 2002 and 2001, respectively. The increase in the gross margin percentage in 2002 compared to 2001 is primarily attributed to a 44.2% increase in the average selling price of our NC-stat monitor and docking station.

Biosensor gross margin percentage increased to 72.9% in 2002 from 70.9% in 2001. This increase was primarily due to a reduction in the price paid to our third-party manufacturers for our biosensors during 2002, resulting from purchase volume discounts.

Our overall gross margin percentage was 67.6% in 2002 compared to 58.9% in 2001. A favorable mix towards higher gross margin biosensor revenues in 2002 contributed to the increase in overall gross margin, along with those factors discussed above.

Research and Development

In 2002 and 2001, our research and development expenses included expenses from research, product development, clinical, regulatory and quality assurance departments.

R&D expenses decreased $414,900, or 16.2%, to $2.1 million in 2002 from $2.6 million in 2001. As a percentage of revenues, R&D expenses were 50.8% and 73.9% in 2002 and 2001, respectively. The decrease in R&D expenses was due to a decrease of $282,100 in compensation expense, as a result of fewer personnel in our R&D functions. In 2001 we hired five people primarily in the first half of the year. However, we also had seven people who either terminated their employment with us or were terminated in 2001, the majority of which were in the second half of 2001. We did not replace these seven people in 2001 or 2002, which resulted in lower compensation in 2002 compared to 2001. Also contributing to the decrease was a decrease of $79,200 in clinical study expenses and a decrease of $60,800 in lab and development supplies expense.

Sales and Marketing

Sales and marketing expenses decreased $2.4 million, or 45.9%, to $2.9 million in 2002 from $5.3 million in 2001. As a percentage of revenues, sales and marketing expenses were 67.9% and 153.1% in 2002 and 2001, respectively. The decrease in expenses was primarily due to a decrease of $1.5 million in compensation expense, as a result of fewer sales and marketing personnel in 2002 compared to 2001. In 2001 we hired 13 people primarily in the first half of the year. However, we also had 18 people who either terminated their employment with us or were terminated in 2001; the majority of these departures were related to performance and occurred in the second half of 2001. We did not replace these 18 people in 2001 or 2002, and, on a monthly basis, had an average of 10 fewer sales and marketing personnel in 2002 compared to 2001. This personnel reduction resulted in lower compensation in 2002 compared to 2001. Also contributing to the decrease in expenses was a decrease of $335,300 in travel expense included in the sales and marketing expenses, a decrease of $236,100 in advertising and promotional expenses and a decrease of $110,600 in commission expense paid to our independent regional sales agencies.

General and Administrative

General and administrative expenses decreased $555,000, or 17.2%, to $2.7 million in 2002 from $3.2 million in 2001. As a percentage of revenues, general and administrative expenses were 63.3% and 93.2% in 2002 and 2001, respectively. The decrease in expenses was primarily due to decreases of $201,200 and $37,600 in compensation expense and recruiting expense, respectively, as a result of fewer general and administrative personnel in 2002 as compared to 2001. In 2001 we hired nine people primarily in the first half of the year. However, we also had eight people who either terminated their employment with us or were terminated in 2001, the majority of which were in the second half of 2001. We did not replace these eight people in 2001 or 2002, therefore resulting in lower compensation in 2002 compared to 2001. Also contributing to the decrease in general and administrative expenses was a net reduction of approximately $100,000 in bad debt expense.

Interest Income

Interest income was $80,300 and $388,700 in 2002 and 2001, respectively. Interest income was earned from investments in cash equivalents and short-term investments (with maturities of 90 to 180 days). Interest income decreased in 2002 compared to 2001 because of lower average cash balances available for investment and lower yields on outstanding investment balances.

Interest Expense

Interest expense was $40,200 and $53,300 in 2002 and 2001, respectively, representing a decrease of $13,100 or 24.6%. The decrease in interest expense was primarily due to a decrease in borrowing.

Deemed Dividend on Redeemable Convertible Preferred Stock

In 2002, we recorded a $6.9 million deemed dividend as a result of the December 2002 Series E-1 redeemable convertible preferred stock financing and the anti-dilution provisions associated with the Series D and Series E redeemable convertible preferred stock. The $6.9 million deemed dividend resulted from an adjustment to the conversion ratios as a result of anti-dilution protection associated with the Series D and Series E redeemable convertible preferred stock. There was no deemed dividend in 2001.

Liquidity and Capital Resources

We commenced operations in June 1996 and have financed our operations since inception through the private placement of equity and debt. As of March 31, 2004, we have received aggregate net proceeds of $43.5 million from the issuance of redeemable convertible preferred stock. As of March 31, 2004, we had $3.0 million of secured debt outstanding. As of March 31, 2004, we had $10.9 million in cash and cash equivalents.

In March 2004, we sold 7,050,771 shares of our Series E-1 redeemable convertible preferred stock to existing preferred stockholders for net proceeds of $10.6 million. These shares will convert into shares of common stock upon the closing of this offering. These shares contain a beneficial conversion feature, as the estimated fair value of our common stock at the date of the sale was in excess of the conversion price associated with Series E-1 redeemable convertible preferred stock share price. The total value of the beneficial conversion feature of approximately $7.1 million was recognized in the form of a preferred stock dividend in the first quarter of 2004. In addition, we recognized a deemed dividend of approximately $787,900 in the first quarter of 2004 as a result of an adjustment in the conversion rate of the Series D redeemable convertible preferred stock associated with anti-dilution provisions in connection with the March 2004 Series E-1 redeemable convertible preferred stock sale.

In managing our working capital, two of the financial measurements that we monitor are days' sales outstanding, or DSO, and inventory turnover rate, which are presented in the table below for the years ended December 31, 2003 and December 31, 2002 and the three months ended March 31, 2004 and March 31, 2003:

	Year Ended December 31,		Three Months Ended March 31,	
	2003	2002	2004	2003
Days' sales outstanding (days)	53	59	57	51
Inventory turnover rate (times per year)	2.8	1.4	2.8	2.4

Our customer payment terms are generally 30 days from invoice date. At March 31, 2004, our DSO was at 57 days, an increase of six days as compared to March 31, 2003. This increase in DSO resulted from a corresponding increase in accounts receivable balances aging greater than 60 days from invoice. We continue to focus our efforts on reducing our accounts receivable balances over 60 days old.

Accounts payable are normally paid 30 days from receipt of a vendor's invoice.

During the fourth quarter of 2002, we purchased approximately six months of device inventory in anticipation of a change in manufacturer. We have since sold through this inventory buildup and, as a result, our inventory turnover in 2003 and the first three months of 2004 increased. We continue to monitor inventory turnover as we adjust our inventory levels in anticipation of the expansion of our sales distribution channels.

Cash and cash equivalents were $10.9 million at March 31, 2004, $1.6 million at December 31, 2003, and $2.7 million at December 31, 2002.

Cash used in operating activities was $3.9 million in 2003 and $4.6 million in 2002. The major use of cash was to fund operating losses of $3.7 million in 2003 and $4.8 million in 2002. In 2003, cash was also used to fund an increase of $1.1 million in accounts receivable resulting from the significant growth in revenues, and an increase of $216,000 in inventories to support our anticipated sales volume increase and new products introduced during the year. These uses of cash in 2003 were partially offset by increases in accounts payable and accrued expenses of $329,000 and $334,000, respectively. Cash used in operating activities was $1.1 million during the three months ended March 31, 2004. The major use of cash in the three months ended March 31, 2004 was to fund operating losses of $780,000. Cash was also used to fund an increase in inventory, resulting from our new product introductions, an increase in accounts receivable, and a decrease in accounts payable.

Cash used in investing activities was $203,600 and $29,900 in 2003 and 2002, respectively. Cash used in investing activities was $161,600 in the three months ended March 31, 2004. Cash was used for the purchase of fixed assets, and, in 2003 and 2004, primarily represented tooling costs for the new manufacturer of our NC-stat monitor and docking station. Cash provided by financing activities was $3.0 million and $1.9 million in 2003 and 2002, respectively. The cash from financing activities in 2003 primarily represented proceeds from the issuance of long-term debt provided by Lighthouse Capital Partners, as described below. The cash from financing activities in 2002 was primarily generated from the issuance of preferred stock. Cash provided by financing activities was $10.5 million in the three month period ended March 31, 2004, and primarily represented proceeds received from the issuance of preferred stock financing.

In May 2003, we entered into a loan and security agreement with Lighthouse Capital Partners that provided us with a secured line of credit of up to $3.0 million. This line of credit is secured by all of our tangible and intangible assets and was available to us through December 31, 2003. On December 31, 2003, we had a total outstanding balance of $3.0 million under this secured line of credit as a result of several advances made between August 2003 and December 2003. We initially paid a $10,000 commitment fee to obtain this line of credit and, in addition, we paid a facility fee of 1% of each advance on the date the advance was made. Our borrowings under this line of credit bear interest at a rate of 11% per annum. Under the terms of the loan and security agreement, we must repay each advance in equal monthly installments beginning approximately six months after the date of the advance and continuing for a period of 30 months, or until the full amount of the principal is repaid. Upon the final maturity date or the earlier prepayment of each advance, we also must pay the lender an additional amount equal to 11% of the advance. Additionally, in May 2003, we granted the lender a seven-year warrant to purchase up to 400,000 shares of our Series E-1 preferred stock at an exercise price of $1.50 per share as additional payment for the secured credit line. The warrant automatically converts into a warrant to purchase common stock at a one-for-one basis upon the closing of this offering. We intend to use a portion of the proceeds from this offering to prepay all amounts owed under this secured credit line.

In connection with our lease that we entered into with a term beginning January 1, 2001, we are required to maintain, for the benefit of the lessor, an irrevocable standby letter of credit stating the lessor as the beneficiary in the amount of $1,860,000 over the term of the lease, which is secured by a

certificate of deposit in an amount equal to 102% of the letter of credit. The certificate of deposit is renewable in 30-day increments. The amount is classified as restricted cash in the balance sheet.

During 2004, we will be expending funds in connection with our efforts to expand our sales and marketing for the NC-stat System and continue our ongoing program of making enhancements and improvements to the NC-stat System, including the introduction of new biosensors. We will also expend funds on the design of a drug delivery system, which is in its early stages, for the minimally invasive treatment of neuropathies by both primary care and specialist physicians. We believe that the combination of funds available and funds expected to be secured from the sale of equity in this offering will be adequate to finance our ongoing operations for at least two years, including the expenditures anticipated for 2004 described above.

As of December 31, 2003, we have federal and state net operating loss carryforwards available to offset future taxable income of $28.6 million and $28.0 million, respectively, and federal and state research and development credits of $302,000 and $226,000, respectively, available to offset future taxes. The net operating loss and research and development credit carryforwards expire at various dates beginning in 2011 for federal and 2003 for state. Ownership changes in our company, as defined in the Internal Revenue Code, may limit the amount of net operating loss and research and development credit carryforwards that can be utilized annually to offset future taxable income and taxes. Subsequent changes in our ownership could further affect the limitation in future years.

To date, inflation has not had a material impact on our financial operations.

Off-Balance Sheet Arrangements, Contractual Obligation and Contingent Liabilities and Commitments

As of December 31, 2003, we did not have any off-balance sheet financing arrangements.

The following table summarizes our principal contractual obligations as of December 31, 2003 and the effects such obligations are expected to have on our liquidity and cash flows in future periods.

	Payments due in				
Contractual Obligations	**Total**	**2004**	**2005 and 2006**	**2007 and 2008**	**After 2008**
Short- and long-term debt	$ 3,540,000	$ 949,000	$ 2,591,000	—	—
Operating lease obligations	4,762,500	810,000	1,860,000	$ 1,860,000	$ 232,500
Total contractual cash obligations	$ 8,302,500	$ 1,759,000	$ 4,451,000	$ 1,860,000	$ 232,500

In addition to the above-listed items, we have entered into two separate license agreements. The first license agreement is with the Massachusetts Institute of Technology, or M.I.T. We have obtained a right to use certain technology through the term of the M.I.T.'s patent rights on such technology, which is exclusive for a period of 15 years from the date of the license agreement. In exchange, we issued shares of common stock to M.I.T. and are required to pay royalties of 2.15% of net sales of products incorporating the licensed technology. In addition, we are required to pay royalties ranging from 25% to 50% of payments received from sublicensees, depending on the degree to which the licensor's technology was incorporated into the products sublicensed by us. In addition, we are obligated to pay M.I.T. annual license maintenance fees. On or before December 31, 2002, we have paid M.I.T. annual license maintenance fees totaling $50,000 in the aggregate. For each year after 2004, we are obligated to pay M.I.T. annual license maintenance fees of $75,000 if minimum sales requirements are not met. All annual license maintenance fees that we pay can be used to offset future royalties payable under the agreement. As of December 31, 2003, we were obligated to pay M.I.T. license maintenance fees of $175,000 in 2004 covering 2002 through 2004. We have the right to terminate this license agreement at any time upon six months' notice. Through the year ended December 31, 2003, we have not incorporated this licensed technology into our products.

The second license agreement is with an unrelated third party. We obtained the right to use certain proprietary technology of this third party. This technology is used in the manufacture of our NC-stat biosensors. The term of this agreement is perpetual, subject to rights of termination. In exchange, we are required to pay the licensor $50,000 every year for the first three years of the agreement. In subsequent years, we are required to pay $10,000 per year as long as we continue to use the licensed technology. We paid $10,000 during the year ended December 31, 2003. We have the right to terminate this license agreement upon written notice not later than 30 days prior to any anniversary date.

Critical Accounting Policies

Our financial statements are based on the selection and application of generally accepted accounting principles, which require us to make estimates and assumptions about future events that affect the amounts reported in our financial statements and the accompanying notes. Future events and their effects cannot be determined with certainty. Therefore, the determination of estimates requires the exercise of judgment. Actual results could differ from those estimates, and any such differences may be material to our financial statements. We believe that the policies set forth below may involve a higher degree of judgment and complexity in their application than our other accounting policies and represent the critical accounting policies used in the preparation of our financial statements. If different assumptions or conditions were to prevail, the results could be materially different from our reported results. Our significant accounting policies are presented within Note 2 to our Financial Statements.

Revenue Recognition

Our revenue recognition policy is to recognize revenues from our monitor and biosensors upon shipment if the fee is fixed and determinable, persuasive evidence of an arrangement exists, collection of the resulting receivables is probable and product returns are reasonably estimable. Revenues from our docking station are deferred and recognized over the shorter of the estimated customer relationship period or the estimated useful life of the product, currently three years.

Revenue recognition involves judgments, including assessments of expected returns, allowance for doubtful accounts and expected customer relationship periods. We analyze various factors, including a review of specific transactions, our historical returns, average customer relationship periods, and market and economic conditions. Changes in judgments or estimates on these factors could materially impact the timing and amount of revenues and costs recognized. Should market or economic conditions deteriorate, our actual return or bad debt experience could exceed our estimate.

Warranty Costs

We accrue for device and biosensor warranty costs at the time of sale. While we engage in extensive product quality programs and processes, our warranty obligation is affected by product failure rates, user error, variability in physiology and anatomy of customers' patients, material usage and delivery costs. Should actual product failure and user error rates, material usage or delivery costs differ from our estimates, the amount of actual warranty costs could materially differ from our estimates.

Asset Valuation

Asset valuation includes assessing the recorded value of certain assets, including accounts receivable, inventories and fixed assets. We use a variety of factors to assess valuation, depending upon the asset. Accounts receivable are evaluated based upon our historical experience, the age of the receivable and current market and economic conditions. Should current market and economic conditions deteriorate, our actual bad debt experience could exceed our estimate. The recoverability of inventories is based upon the types and levels of inventory held, forecasted demand, pricing,

competition and changes in technology. Should current market and economic conditions deteriorate, our actual recovery could be less than our estimate.

Accounting for Income Taxes

As part of the process of preparing our financial statements, we are required to estimate our income taxes in each of the jurisdictions in which we operate. This process involves estimating our actual current tax exposure, including assessing the risks associated with tax audits, together with assessing temporary differences resulting from the different treatment of items for tax and accounting purposes. These differences result in deferred tax assets and liabilities, which are included within our balance sheet. We assess the likelihood that our deferred tax assets will be recovered from future taxable income and to the extent we believe that recovery is more likely than not, do not establish a valuation allowance. In the event that actual results differ from these estimates, our provision for income taxes could be materially impacted.

New Accounting Pronouncements

In January 2003, the Financial Accounting Standards Board issued FIN No. 46, *Consolidation of Variable Interest Entities, an Interpretation of ARB No. 51* (FIN No. 46). The primary objectives of FIN No. 46 are to provide guidance on the identification of entities for which control is achieved through means other than through voting rights (variable interest entities) and to determine when and which business enterprise should consolidate the variable interest entities. The new model for consolidation applies to an entity which either (1) the equity investors (if any) do not have a controlling financial interest or (2) the equity investment at risk is insufficient to finance the entity's activities without receiving additional subordinated financial support from the other parties. FIN No. 46 also requires enhanced disclosures for variable interest entities. FIN No. 46 applies immediately to variable interest entities created after January 31, 2003, and to variable interest entities in which an enterprise obtains an interest after that date. The standard as amended by FIN 46R, applies to the first fiscal year or interim period beginning after March 15, 2004 to variable interest entities in which an enterprise holds a variable interest that it acquired before February 1, 2003. We do not expect the adoption of FIN No. 46 to have a material impact on our financial position, results of operations, or cash flows.

In March 2004, the Emerging Issues Task Force (EITF) reached a consensus on EITF No. 03-06, *Participating Securities and Two-Class Method under FASB Statement No. 128, Earning per Share*. EITF No. 03-06 addresses a number of questions regarding the computation of earnings per share (EPS) by companies that have issued securities other than common stock that contractually entitle the holder to participate in dividends and earnings of the company when, and if, it declares dividends on its common stock. The issue also provides further guidance in applying the two-class method of calculating EPS. It clarifies what constitutes a participating security and how to apply the two class method of computing EPS once it is determined that a security is participating, including how to allocate undistributed earnings to such a security. The consensuses reached on EITF No. 03-06 is effective for fiscal periods beginning after March 31, 2004. Prior period earnings per share amounts will be restated to conform to the consensuses to ensure comparability year over year. We are still evaluating the impact, if any, the adoption of EITF No. 03-06 would have on our results of operations or financial condition.

Quantitative and Qualitative Disclosures about Market Risk

We do not use derivative financial instruments in our investment portfolio and have no foreign exchange contracts. Our financial instruments consist of cash, cash equivalents, short-term investments, accounts receivable, accounts payable, accrued expenses and long-term obligations. We consider investments that, when purchased, have a remaining maturity of 90 days or less to be cash equivalents. The primary objectives of our investment strategy are to preserve principal, maintain proper liquidity to meet operating needs and maximize yields. To minimize our exposure to an adverse shift in interest rates, we invest mainly in cash equivalents and short-term investments and maintain an average maturity of six months or less. We do not believe that a 10% change in interest rates would have a material impact on the fair value of our investment portfolio or our interest income.

BUSINESS

We design, develop and sell proprietary medical devices used to diagnose neuropathies. Neuropathies are diseases of the peripheral nerves and parts of the spine that frequently are caused by or associated with diabetes, low back pain and carpal tunnel syndrome, as well as other clinical disorders. We believe that our neuropathy diagnostic system, the NC-stat System, improves the quality and efficiency of patient care by offering all physicians the ability to diagnose patients with neuropathies at the point of service; that is, in the physician's office at the time the patient is examined; resulting in earlier and more accurate detection, greater patient comfort and convenience, and improved clinical and economic outcomes.

Neuropathies traditionally have been evaluated by simple clinical examination by the primary care physician, and, in some cases, subsequently diagnosed by a nerve conduction study and needle electromyography, or NCS/nEMG procedure, performed by a neurologist or physician in a related specialty. We estimate that there are approximately two million traditional NCS/nEMG procedures currently performed each year in the United States. We believe that use of traditional NCS/nEMG procedures is limited by the referral process and the resulting delay in availability of diagnostic information, the inconvenience and discomfort of these procedures for the patient, and the expense to the patient and third-party payer. We anticipate that the advantages and increased availability of the NC-stat System will significantly increase the number of nerve conduction studies performed. Based on our analysis of current data, we estimate that the potential market size for the NC-stat System in diabetes, low back pain and carpal tunnel syndrome markets in the aggregate could be as great as approximately 9.5 million annual patient tests, or over $1.0 billion annually for our disposable biosensors, in the United States.

Our goal is to become the leading provider of innovative, proprietary, high margin medical devices that provide comprehensive solutions for the diagnosis and treatment of patients with neuropathies. To date, our primary focus has been on the diagnosis of neuropathies. We also believe that our core technology can be adapted and extended to provide minimally invasive approaches to treating neuropathies. We are in the early stages of designing a drug delivery system for the minimally invasive treatment of neuropathies by both primary care and specialist physicians.

All of our current products have received 510(k) clearance by the FDA. The NC-stat System has been on the market since May 1999 and is presently used in over 1,800 physician's offices, clinics and other health care facilities. We hold issued utility patents covering a number of important aspects of our NC-stat System. In 2003, we more than doubled our revenues from the prior year, generating $9.2 million in revenues. In the first quarter of 2004, we generated total revenues of $3.0 million, compared to $1.5 million in the first quarter of 2003. Our gross margin percentage in the first quarter of 2004 was 72.7%, and 89.0% of our revenues were attributable to sales of the disposable biosensors that physicians use to perform tests with our NC-stat System. We incurred net losses of approximately $4.8 million in 2002 and $3.7 million in 2003. In the first quarter of 2004, we incurred a net loss of $780,000. Since our inception, more than 230,000 patients have been tested with the NC-stat System.

Disorders of the Peripheral Nerves and Spine

The Nervous System

The nervous system is a collection of interconnected specialized cells called neurons, supported by other complementary cells. The basic function of the nervous system is to convert physical stimuli into neural signals, to process these neural signals, and to generate an appropriate motor response. The classic reflex obtained by tapping on the knee and eliciting a mild kick is a simple example of this function.

The nervous system is divided into the central nervous system, or CNS, and the peripheral nervous system, or PNS. The CNS is comprised of the neurons in the brain and spine, while the PNS consists of neurons and related elements outside the spine and within the extremities, such as the hands or feet. Neurons, which are the primary components of the nervous system, typically have three elements: (1) the dendrites, or input region; (2) the cell body, where the cell nucleus resides; and (3) the axon, or output region. The dendrites and the cell body of most neurons reside within the CNS (*e.g.*, in the spine), while the axons may reside within the CNS, the PNS or both. The axon carries information from one neuron to another or to a muscle. Axons can exceed one meter in length yet represent the same cell. The term "nerve" generally refers to a collection of axons encased within a common sheath. Axons combine into nerves in the extremities that are considered part of the PNS.

All neurons, and particularly their axons, are highly susceptible to metabolic or mechanical damage and have limited regenerative ability. Disorders of the nervous system lead to symptoms which can range from numbness and weakness in the extremities if confined to the PNS, to changes in cognition, speech and personality if the CNS is involved.

Neuropathies

Disorders of the nerves are broadly described by the term neuropathies. There are two basic types of neuropathies, those that are focal in nature and those that are systemic. Focal neuropathies are typically caused by a compression of one or more specific nerves. Systemic neuropathies are typically caused by a metabolic disturbance that results in widespread damage to nerves throughout the body. The most common clinical conditions associated with neuropathies include:

- *Diabetes.* Diabetes is a disease in which the body either does not produce or does not properly use insulin. Insulin is a hormone that is needed to convert sugar, starches and other food into energy needed for daily body function. Diabetes often results in a high level of glucose in the blood, called hyperglycemia. Chronic hyperglycemia is associated with complications of diabetes including nerve, eye and kidney disease. The most common form of diabetes-related nerve disease is a systemic neuropathy called diabetic peripheral neuropathy, or DPN. The symptoms of DPN include impaired sensation or pain in the feet and hands. The American Diabetes Association currently estimates that 60% to 70% of people with diabetes are affected by DPN, although a majority of these individuals are unaware of their nerve disease because they have no symptoms. Clinical studies have demonstrated that nerve conduction studies can detect DPN in cases where symptoms are not present. DPN, if left undiagnosed and unmanaged, can result in the development of lower extremity ulcers and, in severe cases, amputation.

- *Low back pain.* Low back pain can have many causes. When low back pain has a neurological source, it is often focal in nature and associated with pain that radiates from the lower back region into the leg, called sciatica. In some cases, the patient may also experience loss of sensation and weakness in the lower leg. In advanced cases, these symptoms can become disabling. The symptoms result from pressure on the nerve roots, the precursors of the nerve, as they exit the spine. The source of the pressure is usually part of an intervertebral disc that is displaced from its normal location between the vertebral bodies. These disorders are often called herniated or ruptured discs.

- *Carpal tunnel syndrome.* Carpal tunnel syndrome, or CTS, is caused by swelling of the tendons that traverse the wrist alongside the median nerve. The swollen tendons compress the median nerve, resulting in damage to the nerve that leads to numbness in the first three fingers of the hand, weakness in the thumb, and occasionally wrist and hand pain. CTS is the most common focal neuropathy.

- *Other medical conditions associated with neuropathies.* Common chronic disorders such as obesity; rheumatoid arthritis; and spinal stenosis, or narrowing of the spinal canal; are commonly

associated with neuropathies. In these complicated cases, it is particularly important to confirm or exclude neuropathies in order to develop effective treatment programs.

- *Nerve damage caused by chemotherapy.* A number of widely used chemotherapeutic agents are toxic to nerves. Unfortunately, by the time patients report symptoms, significant nerve damage has often already occurred.

Market Opportunity

The sensitivity of the nervous system to metabolic and mechanical damage, compounded by its limited regenerative ability, creates a robust market opportunity for a medical device that can assist in point-of-service diagnoses of neuropathies in a manner that is cost-effective for the patient and third-party payer. We believe the ease of use, accuracy and convenience provided by the NC-stat System position it to become a standard of care for the assessment of neuropathies at the point of service. We believe that the availability of point-of-service nerve conduction studies, through the NC-stat System, will result in earlier detection of neuropathies, leading to earlier therapeutic intervention and improved clinical and economic outcomes. We believe that use of traditional NCS/nEMG procedures is limited by the referral process and the resulting delay in availability of diagnostic information, the inconvenience and discomfort of these methods for the patient, and the expense to the patient and third-party payer. Our policy is to promote and support the utilization of nerve conduction studies in a manner strictly consistent with prevailing guidelines on the medically appropriate use of this diagnostic procedure. We estimate that there are approximately two million traditional NCS/nEMG procedures currently performed each year in the United States. We anticipate that the advantages and increased availability of the NC-stat System will significantly increase the number of nerve conduction studies performed. Although the largest indication for which the NC-stat System has been used historically is carpal tunnel syndrome, we have since expanded our marketing efforts to include DPN and low back pain, as well as other indications. We anticipate that our future growth will be generated mainly from this expanded focus. Based on our analysis of current patient data, we estimate that the potential market size for the NC-stat System in the diabetes, low back pain and carpal tunnel syndrome markets in the aggregate could be as great as approximately 9.5 million annual patient tests, or over $1.0 billion annually for our disposable biosensors, in the United States. However, market size is difficult to predict, and we cannot assure you that our estimates will prove to be correct. We believe that additional applications of the NC-stat System, including the clinical assessment of patients with neuropathies caused by or associated with other clinical disorders, could further increase this potential market size. Additionally, although we have not yet quantified the size of the market, we believe a significant international market opportunity exists for the NC-Stat System.

Assessment and Treatment Methods for Neuropathies

Traditional Methods for Detecting Neuropathies

Neuropathies traditionally have been evaluated using clinical and diagnostic methods. The clinical examination of a patient with a potential neuropathy focuses on the nature, location and duration of the symptoms. The physician will also perform a physical examination of the patient to corroborate and qualify the patient's symptoms. In many cases, the physician will use simple instruments such as a reflex hammer or a tuning fork. Although the clinical examination is essential to the evaluation of the patient with a potential neuropathy, it has a number of important disadvantages, including the following:

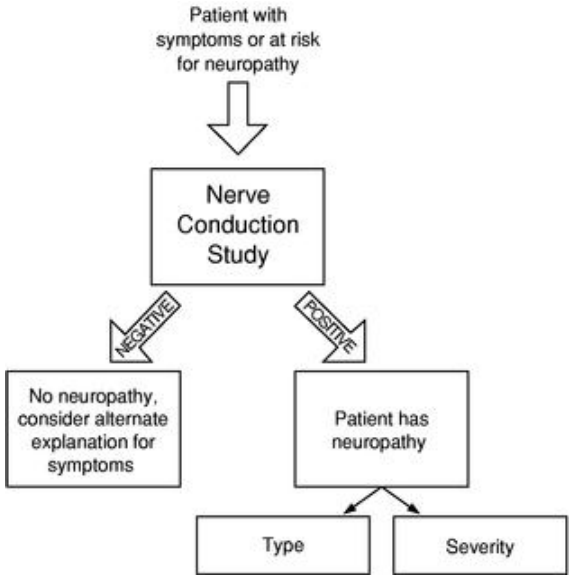
- *It is qualitative.* A clinical examination provides qualitative rather than quantitative information, and results can vary greatly depending on the physician performing the examination. In this respect, it has limited use as an objective and repeatable measure of disease.

- *It is subjective.* Much of the clinical examination relies on the patient experiencing and reporting symptoms or perceptions. As a result, it depends greatly on the investigative efforts of the

physician in interviewing the patient, is highly variable because of individual differences in recollection and discomfort thresholds, and requires an alert, cooperative patient. Because of the subjective nature of the clinical examination, the results must be interpreted cautiously.

- *It often does not detect pre-clinical or early stage disease.* Because the clinical examination relies on the patient reporting symptoms or physical signs of disease, the physician typically cannot detect early stage disease with this evaluation. The progressive nature of neurological damage is such that pre-clinical or early detection creates the optimal opportunity for intervention and successful clinical outcomes.

The limitations of the clinical examination in detecting and monitoring neuropathies suggest that an objective and quantitative diagnostic procedure would be of value for many patients. The role of an objective diagnostic procedure in a patient at risk for a neuropathy or experiencing common symptoms of a neuropathy, such as numbness, unusual sensations, pain and weakness, is shown in the diagram below.



The cause of symptoms in many of these patients will not be disorders of the nervous system, but rather arthritic pain, musculo-skeletal disturbances, inflammatory conditions, psychiatric disorders and others. The importance of an objective diagnostic procedure in this type of patient is to determine if the patient does in fact have a neuropathy, and if so, of what type and severity. Only with this information can appropriate therapy be determined.

The principal diagnostic method used today to assess patients with or at risk for neuropathies is a traditional nerve conduction study and a needle electromyography, or nEMG. Traditional nerve conduction studies and nEMGs are distinct studies and can be performed independently, but are collectively described as traditional NCS/nEMG procedures. In a traditional nerve conduction study, electrodes are placed on the patient's skin surface and the physician performing the study electrically stimulates the nerve, evoking a neural impulse that travels along the nerve, thereby enabling the physician to measure a series of nerve conduction parameters. In an nEMG, recording needles are inserted through the skin's surface into a muscle and the physician performing the study reviews the electrical activity of those muscles. From these data, the physician can determine whether or not the patient has a neuropathy, and if so, its characteristics and severity. The traditional nerve conduction

study, in some cases combined with an nEMG, is considered by most physicians to be the "gold standard" in terms of diagnostic accuracy for most neuropathies.

Limitations of Traditional Diagnostic Methods

Traditional NCS/nEMG procedures have a number of limitations, which together have generally resulted in these procedures not being performed until late in patients' care episodes. These limitations include the following:

- *Referral process.* Traditional NCS/nEMG procedures typically are performed under a referral from a primary care physician to a neurologist. This process may lead to loss of control of the patient's care by the primary care physician, higher expense for the patient and third-party payer, and the likely delay and inconvenience for the patient associated with a separate office visit to a new physician.

- *Expense.* When the patient visits a new physician under a referral for the purpose of a traditional NCS/nEMG procedure, the physician is less familiar with the patient's medical history and condition than the primary care physician. Therefore, these physicians may need to perform more extensive testing consisting of multiple nerves and muscles. Because of the breadth of these studies, the cost per study can exceed $1,000 per patient, which leads to greater expense for the patient and third-party payer.

- *Equipment.* The equipment used to perform a traditional NCS/nEMG procedure is a complex and expensive electromedical apparatus that typically ranges in cost from $15,000 to $40,000. For this reason, it is generally only purchased by neurologists and physicians in related specialties, who expect high utilization to offset this cost.

- *Complexity.* Traditional procedures require familiarity with equipment and engineering principles that most physicians do not acquire during their medical training. This fact, combined with high equipment cost, has meant that only a small number of physicians, such as neurologists and physicians in related specialties, perform testing under traditional methods, making this type of testing not generally widely available.

- *Discomfort.* The traditional NCS/nEMG procedure is considered uncomfortable or painful by most patients. In particular, the nEMG component can be very painful because it involves a physician inserting needles into specific muscles of the patient, often in close proximity to the site of pain. Patients are sometimes therefore reluctant to undergo these procedures, and neuropathies may go undiagnosed.

Current Methods for Treating Neuropathies

Addressing the limitations of traditional methods for detecting neuropathies is important because of the expanding number of treatments for common neuropathies currently under development. We believe earlier and more accurate detection of neuropathies would allow more patients to benefit from these treatments, which include the following:

- *Diabetic Peripheral Neuropathy.* Optimal clinical management of DPN is based on earliest possible detection so as to limit the degree of nerve damage. At the present time, most people with diabetes are evaluated for DPN with simple clinical procedures that generally do not identify the disease in its early stages. Although treatment options for DPN are presently limited, there are interventions designed to slow down the progression of nerve degeneration and to minimize the complications of the nerve disease. Current interventions consist primarily of increased attention to the individual's blood glucose through monitoring and administration of insulin and other medications. In addition, greater attention to the existence and progression of foot ulcers that are often triggered by nerve disease has been shown to be valuable in preventing

amputation. A number of pharmaceutical companies and researchers are investigating and developing drugs specifically designed to treat DPN. The following table summarizes the leading drug development programs in DPN known to us, as described, for each company, in current publicly available information released by that company.

Company Name	Drug Name	Status
Eli Lilly and Company	ruboxistaurin mesylate	U.S. Phase III clinical trial
Sanwa Kagaku Kenkyusho Co., Ltd., Sankyo Co., Ltd., and NK Curex	fidarestat	U.S. Phase II clinical trial
Dainippon Pharmaceutical Co., Ltd.	AS-3201	U.S. Phase II clinical trial
Johnson & Johnson	topiramate	Approved in the United States as anticonvulsant; studies being conducted to determine efficacy in the treatment of DPN
Vitaris GmbH	a-lipoic acid	Approved in Germany; studies being conducted to determine efficacy in the treatment of DPN

- *Sciatica.* The widespread incidence of low back pain and intense discomfort associated with the condition makes the detection of true sciatica difficult. However, treatment decisions require a clear delineation between those patients that have non-neuropathic back pain, such as muscle strains or spasms, and those that have underlying neuropathies. Mild sciatica may be treated with non-steroidal anti-inflammatory drugs, or NSAIDs, rest and physical therapy. More advanced sciatica is often treated with steroid injections and eventually a minimally invasive or more involved surgical procedure may be required.

- *Carpal Tunnel Syndrome.* Mild CTS is treated conservatively using wrist splints, NSAIDs, and physical and occupational therapy. Moderate to severe CTS is treated by injecting steroids into the carpal tunnel in the immediate vicinity of the median nerve, or ultimately by a surgical procedure called a carpal tunnel release, or CTR. Most physicians and third-party payers require confirmation of median nerve damage by a nerve conduction study, like that performed using the NC-stat System, prior to performing CTR. According to the Centers for Disease Control and Prevention, or CDC, over 350,000 CTR procedures were performed in 1997.

NEUROMetrix Solution

Recognizing the opportunity created by the limitations of traditional diagnostic methods coupled with the availability of current and potential new treatments for certain neuropathies, NEUROMetrix has developed the NC-stat System for the performance of non-invasive nerve conduction studies at the point of service. Our proprietary technology provides physicians with an in-office diagnostic system that enables physicians to make rapid and accurate diagnoses that are cost-effective for the patient and third-party payer. We believe that the NC-stat System represents a significant advance in neurological diagnostics and offers an improvement over traditional diagnostic procedures with the following benefits:

- *Facilitates performance of nerve conduction studies at the point of service.* The complexity and high capital cost of traditional diagnostic methods generally has limited their use to neurologists and physicians in related specialties. We believe the features of the NC-stat System facilitate the performance of nerve conduction studies within the offices of a wide range of physicians. By moving nerve conduction studies to the primary care physician's office, the patient can avoid the

expense and inconvenience of a referral visit to a neurologist. Additionally, the NC-stat System enables primary care physicians to retain greater control over their patients by eliminating the need to refer them out for a traditional NCS/nEMG procedure.

- *Provides a cost-effective diagnostic tool.* We believe that the NC-stat System should reduce the cost to the patient and the third-party payer of many nerve conduction studies. This belief is based on our observation that when these procedures are performed by the physician with primary clinical responsibility for the patient, the study is more directed so that generally fewer nerves are tested without compromising the accuracy of the diagnosis. As the cost to third-party payers for nerve conduction studies is typically based on the number of nerves tested, use of the NC-stat System can result in lower costs to patients and third-party payers. For example, a nerve conduction study for DPN using the NC-stat System would typically be performed by testing three nerves, whereas a nerve conduction study for the same indication performed by a neurologist using traditional NCS/nEMG equipment upon referral could involve the testing of six nerves or more.

- *Requires minimal capital investment.* We sell the NC-stat System, which has equivalent technical specifications to the more expensive traditional instruments, for under $5,000, which is less than a third of the cost of traditional NCS/nEMG equipment. We believe the lower capital cost of the NC-stat System will aid in the expansion of nerve conduction studies beyond neurologist offices.

- *Simple to operate.* The NC-stat biosensors are designed for ease in placement, which allows a wide range of physician office personnel to administer the technical parts of the study under supervision of a physician. The NC-stat monitor utilizes software algorithms that perform each step of a nerve conduction study in a reliable manner, with embedded automation technology that addresses and minimizes the technical training requirements for performing nerve conduction studies, while also ensuring that the end diagnostic result is accurate and reliable. We believe that, in combination, these features allow accurate and reliable nerve conduction studies to be performed in 10 to 20 minutes on average.

- *Patient-friendly, non-invasive procedure.* The NC-stat System allows for reduced patient discomfort during the nerve conduction study by minimizing the magnitude of the electrical stimulus to the nerve via a proprietary patient-specific calibration procedure. In most cases, the sophisticated signal processing and automation capabilities of the NC-stat System provide sufficient diagnostic information to eliminate the need for an nEMG procedure. This saves the patient the discomfort, stress and risk of this invasive procedure. The non-invasive nature and convenient features of the NC-stat System also facilitate repeat testing in patients to demonstrate response to treatment interventions.

We believe point-of-service testing will expand the use of nerve conduction studies to include at-risk individuals who may have early-stage neuropathies but may not be experiencing symptoms, a population that would be unlikely to be tested under the current inconvenient, expensive referral system. Because traditional NCS/nEMG procedures are typically not performed until late in patients' care episodes, permanent nerve damage may have already occurred, which may limit treatment options. We believe that more widespread use of nerve conduction studies would lead to earlier detection of neuropathies. Clinical studies published in peer-reviewed medical journals have demonstrated that nerve conduction studies conducted with the NC-stat System result in comparable accuracy to traditional NCS/nEMG procedures, as described below in "—Clinical Studies." By incorporating nerve conduction studies early in patients' care episodes through the use of the NC-stat System, we expect better long-term clinical and economic outcomes will emerge because of the ability to implement available preventive care based on accurate early diagnostic results.

The NC-stat System

The NC-stat System is comprised of: (1) disposable NC-stat biosensors that are placed on the patient's body; (2) the NC-stat monitor and related components; and (3) the NC-stat docking station, an optional device that enables the physician to transmit data to our onCall Information System. The onCall Information System formulates the data it receives for each test into a detailed report that is sent to the physician via facsimile or e-mail in three to four minutes on average and aids in the physician's diagnosis. The NC-stat System enables the physician to make rapid and accurate diagnoses that are cost-effective for the patient and third-party payer.

- *NC-stat biosensors.* The NC-stat biosensors are single use, self-adhesive, nerve-specific, patch-like devices that are placed on the body and connected to the NC-stat monitor. Through the use of a specialized gel and a temperature sensor, both of which are contained within the biosensor, NC-stat biosensors convert nerve signals to electronic data that can be received and displayed by the NC-stat monitor. Currently we sell seven different types of biosensors:

  - Median motor;
  - Median motor and sensory;
  - Ulnar motor at wrist;
  - Ulnar motor and sensory;
  - Combination ulnar motor and sensory at wrist and ulnar at elbow;
  - Peroneal; and
  - Tibial.

  The biosensors are designed to be positioned according to common anatomical landmarks with a configuration that facilitates correct placement. We designed the sensors so that they could be easily applied with minimal training by members of a physician's office staff. The biosensors are encoded with a unique electronic serial number, which allows us to track each biosensor throughout the manufacturing, shipping and end-use stages. The biosensors also are electronically inactivated after use, thus preventing re-use. This inactivation is essential since prior use of the biosensor adhesive and specialized gel would significantly degrade the quality of the measurements. In a typical nerve conduction study, multiple nerves are evaluated and multiple biosensors are used according to general guidelines established by CMS and physician associations.

  The table below provides sample testing protocols for several common clinical indications.

Clinical Indication	Specific Biosensors Utilized	Total Number of Biosensors Utilized	Aggregate Price of Biosensors Utilized
Diabetic peripheral neuropathy	Peroneal Motor (2) Median Motor/Sensory (1)	3	$ 110
Low back pain with bilateral sciatica	Peroneal Motor (2) Tibial Motor (2)	4	$ 120
Bilateral carpal tunnel syndrome	Median Motor/Sensory (2) Ulnar Motor/Sensory (2)	4	$ 180

- *NC-stat monitor.* The NC-stat monitor is designed for efficient and easy use by the physician or a member of the physician's clinical staff. The NC-stat monitor can only be operated with our NC-stat biosensors. This instrument, which is lightweight and slightly larger than a cordless telephone, customizes and calibrates the test for each patient, analyzes neurophysiological signals collected from the biosensor and displays the pertinent results on an LCD screen immediately at

the conclusion of each nerve conduction study. It also stores data from multiple patients for optional transmission to the onCall Information System. We also sell optional related components that allow for the testing of long nerve segments, such as those between the elbow and wrist or the knee and foot. The monitor is powered for several months by two AA batteries. The NC-stat monitor contains software that performs all the control and analysis algorithms necessary to carry out a nerve conduction study. A complete nerve conduction study may be performed with just the monitor and the biosensors.

- *NC-stat docking station and onCall Information System.* The NC-stat docking station is an optional device that automatically transmits data from the NC-stat monitor via any available telephone line, such as those used by facsimile machines, to the onCall Information System that we maintain. The docking station has its own data storage so it does not lose data if the telephonic connection to the onCall Information System cannot be established for some time or is disrupted during transmission.

  The data is processed and analyzed by the onCall Information System and stored in a central database, and a detailed report is generated for each patient that is then sent to the physician via facsimile or e-mail in three to four minutes on average. The report includes the raw waveform data, comparisons to an age- and height-adjusted normal range population, study reference table and text summaries of the study, which facilitate rapid and accurate diagnosis by the physician examining the patient. Although the study data presented in the onCall report can be generated manually by the physician using the numerical measurements displayed by the NC-stat monitor, the report is a convenient and fast alternative. Whether using the information from the onCall report or the NC-stat monitor display, the actual clinical interpretation of the NC-stat results is always performed by the physician ordering the study. The onCall Information System can also provide daily, monthly and quarterly reports to customers. These reports provide assistance in correct submission for third-party reimbursement and assist in tracking overall clinical utilization. The onCall Information System generally is available 24 hours per day, seven days per week. Although purchase of the NC-stat docking station and utilization of the onCall Information System are entirely optional, we believe substantially all of our customers use this system in all studies they conduct with the NC-stat System. We currently have a record of over 550,000 individual nerve studies within the onCall information system database. We believe that this information provides us with the ability to continually improve our products and provide our customers with a very high level of customer service and value.

Strategy

Our goal is to become the leading provider of innovative, proprietary, high margin medical devices that provide comprehensive solutions for the diagnosis and treatment of patients with neuropathies. To achieve this objective, we are pursuing the following business strategies:

- *Establish the NC-stat System as a Standard of Care.* Our primary objective is to establish the NC-stat System as the standard of care for point-of-service assessment of neuropathies. To accomplish this goal, we dedicate significant efforts to the development of marketing and educational materials that encourage the medically appropriate use of the NC-stat System by a broad range of physicians. We also support clinical studies that are designed to demonstrate the clinical accuracy and cost-effectiveness of the NC-stat System.

- *Expand Sales and Marketing Efforts.* We currently sell our products through 15 regional managers who are our direct employees. We invest significant amounts of time and money in technical, clinical and business practices training for our regional managers. We also have established a sales network with more than 50 independent regional sales agencies employing a total of more than 250 sales representatives. Our regional managers utilize sales agencies to identify selling

opportunities and to assist in the ongoing servicing of our customers, in order to enhance and leverage their selling efforts. We intend to hire more direct regional managers and expand the number of independent sales agencies and representatives selling our products, in order to increase the market penetration of our products. Based on our experience, there has been a direct relationship between the number of regional managers we employ and the number of NC-stat Systems we sell.

- *Focus on Primary Care Market.* We intend to capitalize on the trend towards the utilization of more sophisticated diagnostic and therapeutic procedures by primary care physicians. To achieve this goal, we have expended and are continuing to expend significant resources to establish a physician office distribution channel. This channel focuses on primary care physicians, comprising general internists, family practice physicians, rheumatologists and endocrinologists. By offering our system to primary care physicians, we are also capitalizing on the trend towards convenient and efficient medical care created by having multiple clinical services provided within one facility.

- *Strengthen Our Presence within Selected Specialty Markets.* We intend to continue to strengthen our presence within specific physician specialty markets that are complementary to our major focus on the primary care market. These markets provide both revenue opportunities and additional product validation within the marketplace. We believe that the orthopedic, neurology, pain medicine and occupational medicine markets represent the most suitable specialty markets for expansion.

- *Continue to Introduce New Products.* We believe that one of our strengths is our ability to develop and commercialize innovative products for neurological applications. We have an ongoing program of making enhancements and improvements to the NC-stat System, including the introduction of new biosensors. We also are in the early stages of designing a drug delivery system for the minimally invasive treatment of neuropathies by both primary care and specialist physicians. These potential new products build upon our mission of enhancing the clinical and business practices of our customers. We believe that these potential new products will improve patient care, allowing us to generate more revenues at attractive margins from our existing customer base, as well as to attract new customers.

Market Size

We estimate that there are approximately two million traditional NCS/nEMG procedures currently performed each year in the United States. This estimate is based on (1) data from a CDC report in 1996 regarding NCS/nEMG procedures ordered or performed during ambulatory patient visits and (2) data from a 2001 CMS report regarding Medicare reimbursement under Current Procedural Terminology codes for nerve conduction studies and assumptions that Medicare represents 30% of the total existing nerve conduction study market and that the average number of CPT codes used per nerve conduction study is eight. We anticipate that the advantages and increased availability of the NC-stat System will significantly increase the number of nerve conduction studies performed.

- *We estimate the potential diabetic peripheral neuropathy, or DPN, market could be as great as six million annual NC-stat patient tests.* The number of individuals with diabetes in the United States was estimated to be 18.2 million, or 6.3% of the population, in 2002. Among this group, 5.2 million were undiagnosed. According to the CDC, there are about 26 million annual patient visits to office-based physicians for diabetes. We anticipate that the increasing focus on early detection and prevention of the chronic complications of diabetes will lead to increased nerve conduction studies for DPN. We believe that the estimated 50% rate of annual foot exams in patients known to have diabetes is a reasonable estimate for the addressable testing market in diabetes. If these examinations were replaced by a nerve conduction study, or a nerve

conduction study were added to the examination, the diabetes arena would represent an opportunity for over six million annual NC-stat patient tests.

The number of Americans with diabetes is projected to more than double over the next 40 to 50 years. At the present time, there are no treatments targeted specifically at DPN, and therefore nerve conduction studies are performed on a selective basis in order to address specific clinical issues. If a targeted therapy for DPN were successfully developed and marketed, we believe the rate of testing would further increase. Based on current clinical trial activity, we anticipate that drugs for the treatment of DPN will become increasingly available in the marketplace over the next few years, accelerating the need to detect DPN at its earliest stages to allow for earlier therapeutic intervention and a decrease in the adverse clinical and economic outcomes associated with DPN. We believe that the NC-stat System is uniquely suited to provide physicians with this diagnostic capability.

- *We estimate the potential low back pain market could be as great as three million annual NC-stat patient tests.* Low back pain is one of the most common medical conditions in the United States. Over 63 million people report experiencing at least one day of serious low back pain in the prior three months. Furthermore, back disorders account for over one quarter of all nonfatal occupational injuries and illnesses that result in days away from work. According to the CDC, there are about nine million annual patient visits to office-based physicians specifically for low back symptoms. The CDC further estimates that about one-third of office visits are initial visits, at which time we believe utilization of the NC-stat System is most likely. We thus anticipate that there may be as many as approximately three million testing opportunities for the NC-stat System related to low back pain. We believe that the number of testing opportunities may be even higher, as there are many patients that visit physicians for symptoms and medical conditions that must be differentiated from sciatica, such as leg and foot symptoms, rheumatoid arthritis and diabetes.

- *We estimate the potential carpal tunnel syndrome market could be as great as 650,000 annual NC-stat patient tests.* CTS is a significant occupational issue, as the disorder results in the most days away from work among all major disabling workplace injuries and illnesses. In a recent health care survey published in the Journal of the American Medical Association, approximately 14% of adults reported symptoms characteristic of CTS. It was further estimated that 2.5% of adults have true CTS, which could be confirmed by clinical examination and nerve conduction studies. This is equivalent to approximately five million individuals in the United States. Over 350,000 surgeries are performed annually for CTS. The surgical procedure is called a carpal tunnel release, or CTR. Most third-party payers require a nerve conduction study prior to authorizing the surgery. According to the CDC, there are more than two million annual visits to office-based physicians for which CTS is the primary diagnosis. The CDC further estimates that about one third of CTS-related office visits are initial visits, at which time we believe utilization of the NC-stat System is most likely. We thus anticipate that there may be as many as 650,000 testing opportunities for the NC-stat System related to CTS. We further believe that this estimate is conservative, as there are many patients that visit physicians for hand and wrist pain, or medical conditions with a high association with CTS such as rheumatoid arthritis, diabetes and obesity. We also anticipate that the high costs of CTS-related workers' compensation claims could motivate employers to increasingly use the NC-stat System to pre-screen and monitor employees for CTS.

Based on the data outlined above, we estimate that the potential market size for the NC-stat System in the diabetes, low back pain and CTS markets in the aggregate could be as great as approximately 9.5 million annual patient tests in the United States. The NC-stat biosensor revenue generated per patient test typically exceeds $110, with variations depending on the specific clinical application. Using this conservative revenue estimate of $110 per patient test, we estimate that the potential market for

NC-stat biosensors could be over $1.0 billion annually in the United States. However, market size is difficult to predict, and we cannot assure you that our estimates will prove to be correct. We believe that additional applications of the NC-stat System, including the clinical assessment of patients with neuropathies caused by or associated with other clinical disorders, could further increase this market size. Additionally, although we have not yet quantified the size of the market, we believe a significant international market opportunity exists for the NC-stat System.

Clinical Studies

The performance of the NC-stat System has been substantiated in clinical studies that we have supported, the results of which have been published in peer-reviewed medical journals or presented at major medical conferences.

- In studies published in the April 2000 issue of the *Journal of Occupational & Environmental Medicine*, the September 2000 issue of *Neurology and Clinical Neurophysiology*, and the May 2004 issue of the *Journal of Hand Surgery*, the correlation between the results generated by the NC-stat System and traditional nerve conduction studies in measuring nerve function of 198 patients was examined. The correlation was equivalent to that found between different neurologists performing traditional nerve conduction studies.

- Two abstracts to be presented at the American Diabetes Association Meeting in June 2004 outline the results of a study of 1,000 patients with diabetes. In this study, the NC-stat System was found to detect DPN at the same level and stage as would have been expected from traditional NCS/nEMG procedures.

- A study published in the December 2002 issue of *Spine* evaluated the ability of the NC-stat System to detect neurological impairment in 25 patients with sciatica, confirmed by MRI and clinical examination. The diagnostic accuracy of the NC-stat System was equivalent to traditional NCS/nEMG procedures as documented in several other published studies.

We continue to support well-designed clinical research studies utilizing the NC-stat System that are designed to demonstrate its clinical accuracy and cost-effectiveness. In addition, several clinical studies and trials have been performed, and others are underway, in which the NC-stat System is used to measure changes in nerve function.

Products Under Development

Devices for the Treatment of Neuropathy

In pursuit of our objective to develop medical devices that provide comprehensive solutions for the diagnosis and treatment of patients with neuropathies, we are seeking to expand our product base beyond the diagnostic and into the treatment arena. We believe that our core technology can be adapted and extended to provide minimally invasive approaches to treating neuropathies. In particular, we believe that neuropathies that are focal in nature can be safely and effectively treated if drugs can be delivered near the disease site without damaging the nerve in the process. Some of these types of treatments are performed today, but they are performed manually by a limited number of physicians. Our product development program includes the design of a product that we believe will reduce the risk involved in providing these treatments. We are in the early stages of designing this product to enable a broad base of physicians to provide this type of minimally invasive neuropathy therapy at the point of service.

NC-stat System

We have an ongoing program of making enhancements and improvements to the NC-stat System. We are developing new NC-stat biosensors and associated software for the medically appropriate testing of additional nerves, including a biosensor for the sural nerve that we expect to introduce by the end of 2004. We also are developing our third generation NC-stat monitor and docking station with an improved user interface, along with new features for the onCall Information System, that allow our customers to perform more complex analyses of diagnostic data. In addition, we continually seek ways to reduce the manufacturing costs and improve the performance of the NC-stat biosensors.

Sales, Marketing & Distribution

Our sales team is led by our Chief Operating Officer. We presently employ 15 regional sales managers who lead more than 50 independent regional sales agencies employing a total of more than 250 independent sales representatives. At present, our products are marketed and distributed solely within the United States. We select our sales agencies and representatives based on their expertise and experience calling on primary care or specialty physicians, their reputation within the targeted physician community and their sales coverage. Each sales agency is assigned a sales territory for the NC-stat System and is subject to periodic performance reviews. Our current operating practice is to limit coverage overlap within most regions. Through this, we believe we gain a more focused sales approach and more dedicated sales agency organization.

We invest significant efforts in technical, clinical and business practices training for our regional managers. We work closely with our sales agencies and their sales representatives in order to provide them with the information and assistance that they need in order to successfully sell our products. We also require each sales representative to attend periodic sales and product training programs. The efforts of our regional sales managers and independent sales representatives are enhanced by proprietary software tools that are accessed via a secure website, which we refer to as the sales and sales partner portals respectively. These portals give our sales personnel access to real time customer sales and product usage information, various applications to help identify and close new business, and marketing materials. The portals also provide customer relationship management functions. Our corporate management and reimbursement team has access to the same information, as well as portal usage information by all sales personnel.

We market our products directly to physicians. The NC-stat System provides primary care physicians, who previously were not performing a nerve conduction study at the point of service or were referring these patients to a neurologist for a traditional NCS/nEMG procedure, with a potential new source of revenues. We believe that this potential revenue stream is an essential marketing advantage of the NC-stat System. We also market our products at various industry conferences in order to accelerate the market awareness of our products, our customer accrual efforts and market adoption for our products.

We invoice products directly to physician offices and other customers, typically at list prices. The independent regional sales agencies and their sales representatives are compensated by commissions that we pay directly to them. Our regional managers are compensated by a combination of base salary, commission and goal-based bonus compensation.

As we launch new products and increase our marketing efforts with respect to existing products, we intend to expand the reach of our marketing and sales force. We plan to accomplish this by increasing the number of direct regional managers and independent sales agencies and representatives. The establishment and development of a broader sales force will be expensive and time consuming. Because of the intense competition for their services, we may be unable to enter into agreements with additional qualified independent sales agencies and representatives on commercially reasonable terms or at all. Even if we are able to enter into agreements with additional independent sales agencies, these

parties may not commit the necessary resources to effectively market and sell our products or ultimately be successful in selling our products. Promotion and sales of medical devices are also highly regulated not only by the FDA, but also by the Federal Trade Commission, and are subject to federal and state fraud and abuse enforcement activities.

Manufacturing and Supply

We rely on outside contractors for the manufacture and servicing of our products and their components and we do not currently maintain alternative manufacturing sources for the NC-stat monitor, docking station or biosensors or any other finished goods products. In outsourcing, we target companies that meet FDA, International Organization for Standardization, or ISO, and other quality standards supported by internal policies and procedures. Supplier performance is maintained and managed through a corrective action program ensuring all product requirements are met or exceeded. We believe these manufacturing relationships minimize our capital investment, provide us with manufacturing expertise and help control costs.

Following the receipt of products or product components from our third-party manufacturers, we conduct the necessary inspection and packaging and labeling at our corporate headquarters facility. We may consider manufacturing certain products or product components internally, if and when demand or quality requirements make it appropriate to do so. We currently have no plans to manufacture any products or product components internally.

We seek to obtain products from our manufacturers in order to maintain sufficient inventory to satisfy our customer obligations. We did not experience any inventory shortages on any established products in 2003. We occasionally experience transient inventory shortages, typically lasting less than one month, on new products during the initial production ramp-up phase. We are currently working with our third-party manufacturers to increase manufacturing capabilities to meet the demand we expect as we increase our sales efforts. Manufacturers often experience difficulties in scaling-up production, including problems with production yields and quality control and assurance. If our third-party manufacturers are unable to manufacture our products to keep up with demand, we would not meet expectations for growth of our business.

Polyflex Circuits, Inc., a wholly owned subsidiary of the Parlex Corporation, has been manufacturing NC-stat biosensors under general purchase orders since early 1999. While our relationship with Polyflex Circuits is good, we have no supply agreement in place with Polyflex, and it could cease manufacturing NC-stat biosensors at any time. We have identified alternative suppliers capable of manufacturing NC-stat biosensors should this become necessary. However, if we are forced to engage an alternative supplier, we may incur additional expense, higher cost per unit, delays in delivery and quality control problems.

Advanced Electronics, Inc., or AEI, has been manufacturing our NC-stat monitors and docking stations since November 2002. In October 2003, we entered into a one-year contract manufacturing agreement with AEI that automatically renews each year unless either party elects not to renew the agreement upon 90 days' prior written notice. The current term of the agreement expires in November 2004. Both AEI and NEUROMetrix have been performing to the terms of the agreement; however, AEI could cease manufacturing NC-stat monitors and docking stations for us when the current term of the agreement expires. We have identified alternative suppliers capable of manufacturing the NC-stat monitor and docking station should this become necessary. However, if we are forced to engage an alternative supplier, we may incur additional expense, higher cost per unit, delays in delivery and quality control problems.

We and our third-party manufacturers are registered with the FDA and subject to compliance with FDA quality system regulations. We are also ISO registered and undergo frequent quality system audits by European agencies. Our products are cleared for market within the United States and Canada, and

are also approved for distribution in the European Union, although to date we have sales only in the United States. Our facility and the facilities of our manufacturers are subject to periodic unannounced inspections by regulatory authorities, and may undergo compliance inspections conducted by the FDA and corresponding state agencies. We experienced an FDA inspection in May 2003. During its inspection, the FDA issued a Form 483, which is a notice of inspection observations. Two minor items were identified and the corrective action for both were initiated prior to the completion of the audit. The responses provided to the FDA were deemed adequate and no further action has been requested. As a registered device manufacturer, we and our manufacturers will undergo regularly scheduled FDA quality system inspections; however, additional FDA inspections may occur if deemed necessary by the FDA.

Information Technology Infrastructure

Our information technology infrastructure is designed to support the requirements of our onCall Information System. The onCall Information System employs a high performance, scalable platform consisting of standard hardware, off-the-shelf system software components, database servers, proprietary application servers, a modem bank and desktop applications. The in-bound infrastructure consists of telephone lines and proprietary communications gateway software to collect data from the remote NC-stat Systems. The gateway assembles the data sent from each remote NC-stat System, stores it and queues it for processing by our proprietary software. The processing infrastructure consists of proprietary software to process each nerve conduction study. The out-bound infrastructure consists of a proprietary report server application and a fax and email server that is an off-the shelf product.

The onCall Information System utilizes sophisticated expert system technology to provide real-time quality control monitoring and reporting of nerve conduction study results. onCall's applications include:

- a communications gateway for receiving test files and updating the software of remote NC-stat Systems;
- a relational database server to store and retrieve nerve conduction studies;
- an application server to analyze and maintain the nerve conduction study data;
- an application server to format and produce nerve conduction reports;
- a fax and email server to send reports to remote users; and
- a client application that is designed to monitor quality and service customer requests.

The application servers and client applications use a common set of software components that form the onCall class library.

The onCall Information System is physically secured in our restricted-access computer room at our facilities in Waltham, Massachusetts. Our computer facility's electrical power is backed up with auxiliary power in the event of a power outage. Automated backups of the databases and computer files are maintained both on- and off-site. We also maintain a lock box at an off-site location that contains copies of the business continuity plan and application server software vital to the operation of the onCall Information System that will be needed in a disaster recovery situation.

Research and Development

Our research and development efforts are focused in the near term on further enhancing our existing products and developing the third generation NC-stat monitor and docking station and new NC-stat biosensors, as well as designing a drug delivery system for the minimally invasive treatment of neuropathies by both primary care and specialist physicians. Our research and development staff

consists of 16 people, including four who hold Ph.D. degrees. Our research and development group has extensive experience in neurophysiology, biomedical instrumentation, signal processing, biomedical sensors and information systems. These individuals work closely with our marketing group, our clinical support group (led by a board-certified neurologist), our scientific advisors and our customers to design products that are intended to improve clinical and economic outcomes.

Customer Service and Clinical Support

Our customer service group consists of four representatives. These representatives are available by telephone 12 hours per day, five days per week to address a wide range of technical questions from customers on the use of the NC-stat System, respond to customer requests for product and clinical materials that have been released by our marketing department, take orders, and provide customers with order status information. Our customer service representatives receive specialized ongoing product and clinical training. We also maintain a clinical support group consisting of three individuals. Our clinical support group is available to address questions from our customers relating to test results and use of our products. This group is led by a board-certified neurologist, who is a full-time employee of ours.

Intellectual Property

We rely on a combination of patents, trademarks, copyrights, trade secrets and other intellectual property laws, nondisclosure agreements and other measures to protect our proprietary technology, intellectual property rights and know-how. We hold issued utility patents covering a number of important aspects of our NC-stat System. We believe that in order to have a competitive advantage, we must develop and maintain the proprietary aspects of our technologies. Currently, we require our employees, consultants and advisors to execute confidentiality agreements in connection with their employment, consulting or advisory relationships with us, where appropriate. We also require our employees, consultants and advisors who we expect to work on our products to agree to disclose and assign to us all inventions conceived during the work day, developed using our property or which relate to our business. Despite any measures taken to protect our intellectual property, unauthorized parties may attempt to copy aspects of our products or to obtain and use information that we regard as proprietary.

Patents

As of June 21, 2004, we had 11 issued U.S. patents, one issued Australian patent and 17 pending patent applications, including 10 U.S. applications and seven foreign national applications. We also hold an exclusive license to two issued U.S. patents and two foreign national applications. The issued and pending patents that we own and license cover, among other things:

- Nerve conduction biosensors and related methods;
- Nerve conduction hardware;
- Algorithms for performing and analyzing nerve conduction studies; and
- NC-stat System industrial design.

Our issued design patents begin to expire in 2015, and our issued utility patents begin to expire in 2017. In particular, seven of our issued U.S. utility patents covering important aspects of our current products will expire on the same date in 2017. Although the patent protection for material aspects of our products covered by the claims of the patents will be lost at that time, we have additional patents and patent applications directed to other novel inventions that will have patent terms extending beyond 2017.

In general terms, a utility patent protects the way an article is used or works, while a design patent protects the way an article looks. More particularly, utility patents are provided for a new, nonobvious and useful process, machine, article of manufacture, composition of matter or improvement of any of the foregoing. Design patents are provided for a new, nonobvious and useful ornamental design of an article of manufacture. In a design patent application, the subject matter which is claimed is the design embodied in or applied to an article of manufacture, or a portion thereof, and not the article itself. Both design and utility patents may be obtained on an article if invention resides both in its utility and ornamental appearance.

The medical device industry is characterized by the existence of a large number of patents and frequent litigation based on allegations of patent infringement. Patent litigation can involve complex factual and legal questions, and its outcome is uncertain. Any claim relating to infringement of patents that is successfully asserted against us may require us to pay substantial damages. Even if we were to prevail, any litigation could be costly and time-consuming and would divert the attention of our management and key personnel from our business operations. Our success will also depend in part on our not infringing patents issued to others, including our competitors and potential competitors. If our products are found to infringe the patents of others, our development, manufacture and sale of these potential products could be severely restricted or prohibited. In addition, our competitors may independently develop similar technologies. Because of the importance of our patent portfolio to our business, we may lose market share to our competitors if we fail to protect our intellectual property rights.

As the number of entrants into our market increases, the possibility of a patent infringement claim against us grows. Although we have not received notice of any claims, and are not aware, that our products infringe other parties' patents and proprietary rights, our products and methods may be covered by U.S. patents held by our competitors. In addition, our competitors may assert that future products we may market infringe their patents.

A patent infringement suit brought against us may force us or any strategic partners or licensees to stop or delay developing, manufacturing or selling potential products that are claimed to infringe a third party's intellectual property, unless that party grants us rights to use its intellectual property. In such cases, we may be required to obtain licenses to patents or proprietary rights of others in order to continue to commercialize our products. However, we may not be able to obtain any licenses required under any patents or proprietary rights of third parties on acceptable terms, or at all. Even if we were able to obtain rights to the third party's intellectual property, these rights may be non-exclusive, thereby giving our competitors access to the same intellectual property. Ultimately, we may be unable to commercialize some of our potential products or may have to cease some of our business operations as a result of patent infringement claims, which could severely harm our business.

Trademarks

We hold domestic and certain foreign trademark registrations for the marks NEUROMETRIX and NC-STAT. The U.S. registration for NEUROMETRIX is on the Supplemental Register. We also use onCall as a trademark but have not sought its registration in the United States or any foreign countries.

Competition

We consider the primary competition for our products to be traditional NCS/nEMG procedures. Our success depends in large part on convincing physicians to adopt the NC-stat System in order to perform nerve conduction studies at the point of service.

There are a number of companies that sell traditional NCS/nEMG equipment, typically to neurologists. These companies include the Nicolet Biomedical division of Viasys Healthcare Inc., the Functional Diagnostics division of Medtronic, Inc., Oxford Instruments, Plc., and Cadwell

Laboratories, Inc. Viasys Healthcare, Medtronic and Oxford Instruments have substantially greater financial resources than we do, and they have established reputations as worldwide distribution channels for medical instruments to neurologists and other physicians. We do not know if these companies are engaged in research and development efforts to develop products to perform point-of-service nerve conduction studies that would be competitive with the NC-stat System. We are aware of one company, Neumed Inc., that markets a nerve conduction study system to the point-of-service market.

We believe that among systems marketed for performance of nerve conduction studies today, only the NC-stat System provides both the level of diagnostic accuracy and the ease of use required for successful penetration of the point-of-service market. We also believe that the reporting and data repository functions provided by the onCall Information System, although entirely optional, provide our customers who use this service with significant added clinical and economic value that is not matched by other currently marketed products. We further believe that the expanding database of nerve conduction study data captured by the onCall Information System facilitates our ability to improve the performance of the NC-stat System. We anticipate that the size of our database and ongoing improvements provide us with a significant competitive advantage.

Third-Party Reimbursement

We anticipate that sales volumes and prices of our products will continue to be dependent in large part on the availability of reimbursement from third-party payers. Third-party payers include governmental programs such as Medicare and Medicaid, private insurance plans, and workers' compensation plans. These third-party payers may deny reimbursement for a diagnostic procedure if they determine that the diagnostic test was not medically appropriate or necessary. The third-party payers may also place limitations on the types of physicians that can perform specific types of diagnostic procedures. Also, third-party payers are increasingly challenging the prices charged for medical products and services. In international markets, reimbursement and healthcare payment systems vary significantly by country, and many countries have instituted price ceilings on specific product lines and procedures. There can be no assurance that procedures using our products will be considered medically reasonable and necessary for a specific indication, that our products will be considered cost-effective by third-party payers, that procedures performed using our products will be reimbursed as separate procedures under existing Current Procedural Terminology, or CPT, codes, that an adequate level of reimbursement will be available or that the third-party payers' reimbursement policies will not adversely affect our ability to sell our products profitably.

A key component in the reimbursement decision by most private insurers and CMS, which administers Medicare, is the assignment of a CPT code. This code is used in the submission of claims to insurers for reimbursement for medical services. CPT codes are assigned, maintained and revised by the CPT Editorial Board administered by the American Medical Association, or AMA. According to present Medicare guidelines, nerve conduction studies may be performed by medical doctors, or M.D.s, and doctors of osteopathic medicine, or D.O.s, and are reimbursable under the three CPT codes: 95900, 95903, and 95904. We believe that the nerve conduction measurements performed by the NC-stat System meet the requirements stipulated in the code descriptions published by the AMA and that these codes are currently used by physicians performing nerve conduction studies with the NC-stat System. If the CPT codes that apply to the procedures performed using our products are changed, reimbursement for performances of these procedures may be adversely affected.

In the United States, some insured individuals are receiving their medical care through managed care programs, which monitor and often require pre-approval of the services that a member will receive. Some managed care programs are paying their providers on a per capita basis, which puts the providers at financial risk for the services provided to their patients by paying these providers a predetermined payment per member per month, and consequently, may limit the willingness of these providers to use our products.

We believe that the overall escalating cost of medical products and services has led to, and will continue to lead to, increased pressures on the healthcare industry to reduce the costs of products and services. There can be no assurance that third-party reimbursement and coverage will be available or adequate, or that future legislation, regulation, or reimbursement policies of third-party payers will not adversely affect the demand for our products or our ability to sell these products on a profitable basis. The unavailability or inadequacy of third-party payer coverage or reimbursement could have a material adverse effect on our business, operating results and financial condition.

FDA and Other Governmental Regulation

FDA Regulation

Our products are medical devices subject to extensive regulation by the FDA under the U.S. Food, Drug, and Cosmetic Act, as well as other regulatory bodies. FDA regulations govern, among other things, the following activities that we or our contract manufacturers perform and will continue to perform to ensure that medical devices distributed domestically or exported internationally are safe and effective for their intended use:

- product design and development;
- product testing;
- product manufacturing;
- product labeling;
- product safety;
- product storage;
- pre-market clearance or approval;
- advertising and promotion;
- production; and
- product sales and distribution.

The FDA classifies medical devices into one of three classes on the basis of the controls deemed necessary to reasonably ensure their safety and effectiveness:

- Class I, requiring general controls, including labeling, device listing, reporting and, for some products, adherence to good manufacturing practices through the FDA's quality system regulations and pre-market notification;
- Class II, requiring general controls and special controls, which may include performance standards and post-market surveillance; and
- Class III, requiring general controls and pre-market approval.

Before being introduced into the market, our products must obtain market clearance through either the 510(k) pre-market notification process, the *de novo* review process or the pre-market approval process.

510(k) Pre-Market Notification Process

To obtain 510(k) clearance, we must submit a pre-market notification demonstrating that the proposed device is substantially equivalent in intended use, safety and effectiveness to a legally marketed Class I or II medical device or to a Class III device marketed prior to May 28, 1976 for which the FDA has not yet required the submission of a pre-market approval application. In some cases, we may be required to perform clinical trials to support a claim of substantial equivalence. It generally takes from three to 12 months from the date of submission to obtain 510(k) clearance, but it may take longer.

After a medical device receives 510(k) clearance, any modification that could significantly affect its safety or effectiveness, or that would constitute a significant change in its intended use, requires a new 510(k) clearance or could require *de novo* classification or pre-market approval. The FDA allows each company to make this determination, but the FDA can review the decision. If the FDA disagrees with a company's decision not to seek FDA authorization, the FDA may retroactively require the company to seek 510(k) clearance, *de novo* classification or pre-market approval. The FDA also can require the company to cease marketing until 510(k) clearance, *de novo* classification or pre-market approval is obtained or take other action.

De Novo Review Process

If a previously unclassified medical device does not qualify for the 510(k) pre-market notification process because there is no predicate device to which it is substantially equivalent, and if the device may be adequately regulated through general controls or special controls, the device may be eligible for *de novo* classification through what is called the *de novo* review process. In order to use the *de novo* review process, a company must receive a letter from the FDA stating that, because the device has been found not substantially equivalent to a legally marketed Class I or II medical device or to a Class III device marketed prior to May 28, 1976 for which the FDA has not yet required the submission of a pre-market approval application, it has been placed into Class III. After receiving this letter, the company, within 30 days, must submit to the FDA a request for *de novo* classification into Class I or II. The FDA then has 60 days in which to approve or deny the *de novo* classification request. If the FDA grants *de novo* classification, the device will be placed into either Class I or Class II, and allowed to be marketed. If a product is classified into Class I or II through the *de novo* review process, then that device may serve as a predicate device for subsequent 510(k) pre-market notifications.

Pre-Market Approval Process

If a medical device does not qualify for the 510(k) pre-market notification process and is not eligible for clearance through the *de novo* review process, a company must file a pre-market approval application. The pre-market approval process generally requires more extensive pre-filing testing than is required in the 510(k) pre-market notification process and is more costly, lengthy and uncertain. The pre-market approval process can take one to three years or longer. The pre-market approval process requires the company to prove the safety and effectiveness of the device to the FDA's satisfaction through extensive submissions, including pre-clinical and clinical trial data, and information about the device, its design, manufacture, labeling and components. Before granting pre-market approval, the FDA generally also performs an on-site inspection of manufacturing facilities for the product to ensure compliance with the FDA's quality system regulations. After any pre-market approval, a new pre-market approval application or application supplement may be required in the event of modifications to the device, its labeling, intended use or indication, or its manufacturing process.

Clinical Studies

A clinical study is almost always required to support a pre-market approval application and is sometimes required to obtain 510(k) clearance. These trials generally require submission to the FDA of an application for an investigational device exemption, or IDE, if a medical device presents a

"significant risk" as defined by the FDA. The IDE application must be supported by appropriate data, such as animal and laboratory testing results, showing that it is safe to test the device in humans and that the testing protocol is scientifically sound. If a medical device is considered a "non-significant" risk, an IDE application to the FDA is not required. Instead, only approval from the Institutional Review Board overseeing the clinical trial is required. The IDE application must be approved in advance by the FDA for a specified number of patients, unless the product is deemed a non-significant risk device and eligible for more abbreviated investigational device exemption requirements. Clinical trials for a significant risk device may begin once the investigational device exemption application is approved by the FDA and the appropriate institutional review boards at the clinical study sites. All clinical studies must be conducted in accordance with FDA regulations and federal regulations concerning human subject protection and healthcare privacy. The results of our clinical testing may not support or may not be sufficient to obtain approval of our product.

NC-stat System

The NC-stat System has received four 510(k) clearances as a Class II medical device, the first of which was received in 1998, and the most recent (K013459) in January 2002. The NC-stat System has the following intended use:

> *The NEUROMetrix NC-stat is intended to measure neuromuscular signals that are useful in diagnosing and evaluating systemic and entrapment neuropathies.*

We believe that this intended use is consistent with the manner in which the NC-stat System is marketed and used by our customers. Since we received our most recent 510(k) clearance for the NC-stat System in January 2002, we have enhanced the NC-stat System by making changes to the software it employs. We do not believe that these changes require new 510(k) clearances. We further believe that the addition of new indications and enhancements to the NC-stat System in the future either will not require new FDA authorization or will be able to be cleared using the 510(k) pre-market notification process.

Post-Market Regulation

After a device is placed on the market, numerous regulatory requirements apply. These include:

- quality system regulations, which require manufacturers to follow design, testing, control, documentation and other quality assurance procedures during the manufacturing process;
- labeling regulations, which prohibit the promotion of products for unapproved or "off-label" uses and impose other restrictions on labeling; and
- medical device reporting regulations, which require that manufacturers, which term includes companies such as us that create the specifications for the regulated products, report to the FDA if their device may have caused or contributed to a death or serious injury or malfunctioned in a way that would likely cause or contribute to a death or serious injury if it were to recur.

Also, we are subject to unannounced inspections by the FDA, and these inspections may include the manufacturing facilities of our contractor manufacturers.

Failure to comply with applicable regulatory requirements can result in enforcement action by the FDA, which may include any of the following sanctions:

- warning letters, fines, injunctions, consent decrees and civil penalties;
- repair, replacement, refund, recall or seizure of our products;
- operating restrictions, suspension or shutdown of production;

- refusing our request for 510(k) clearance or pre-market approval of new products, new intended uses, or modifications to existing products;
- withdrawing 510(k) clearance or pre-market approvals that already have been granted; and
- criminal prosecution.

International Regulations

International sales of medical devices are subject to foreign governmental regulations, which vary substantially from country to country. The time required to obtain approval by a foreign country may be longer or shorter than that required for FDA approval, and the requirements may differ.

The primary regulatory environment in Europe is that of the European Union, which consists of 25 countries encompassing most of the major countries in Europe. Other countries, such as Switzerland, have voluntarily adopted laws and regulations that mirror those of the European Union with respect to medical devices. The European Union has adopted numerous directives and standards regulating the design, manufacture, clinical trials, labeling, and adverse event reporting for medical devices. Devices that comply with the requirements of a relevant directive are entitled to bear CE conformity marking, indicating that the device conforms with the essential requirements of the applicable directives and, accordingly, can be commercially distributed throughout Europe. The method of assessing conformity varies depending on the class of the product, but may involve self-assessment by the manufacturer, a third-party assessment by a Notified Body, which is a third-party organization appointed by a member of the European Union, or some combination thereof. This third-party assessment may consist of an audit of the manufacturer's quality system and specific testing of the manufacturer's product. An assessment by a Notified Body in one country within the European Union generally is required in order for a manufacturer to distribute the product commercially throughout the European Union. In 2000, we were certified by TUV Product Service, a Notified Body, under the European Union Medical Device Directive allowing the CE conformity marking to be applied to the NC-stat System. We had a successful renewal audit in 2003.

U.S. Anti-Kickback and False Claims Laws

In the United States, there are federal and state anti-kickback laws that prohibit the payment or receipt of kickbacks, bribes or other remuneration intended to induce the purchase or recommendation of healthcare products and services. Violations of these laws can lead to civil and criminal penalties, including exclusion from participation in federal healthcare programs. These laws are potentially applicable to manufacturers of medical devices, such as us, and hospitals, physicians and other potential purchasers of medical devices. Other provisions of state and federal law provide civil and criminal penalties for presenting, or causing to be presented, to third-party payers for reimbursement, claims that are false or fraudulent, or which are for items or services that were not provided as claimed. Although we plan to structure our future business relationships with purchasers of our products to comply with these and other applicable laws, it is possible that some of our business practices in the future could be subject to scrutiny and challenge by federal or state enforcement officials under these laws. This type of challenge could have a material adverse effect on our business, financial condition and results of operations.

Health Insurance Portability and Accountability Act of 1996 and Related Laws

Federal and state laws protect the confidentiality of certain patient health information, including patient records, and restrict the use and disclosure of that protected information. In particular, the U.S. Department of Health and Human Services promulgated patient privacy rules under HIPAA. These privacy rules protect medical records and other personal health information by limiting their use and disclosure, giving individuals the right to access, amend and seek accounting of their protected health

information and limiting most use and disclosures of health information to the minimum amount reasonably necessary to accomplish the intended purpose. Although we do not believe that we are subject to the HIPAA rules because we receive patient data in our onCall Information System on an anonymous basis, we nevertheless seek to comply with a number of these rules. We believe that we are not in violation of federal or state health information privacy or confidentiality statutes or regulations. However, if we are found to have violated any of these laws, we could be subject to civil or criminal penalties. Additionally, changes in these laws could adversely affect our business.

Employees

We currently employ 54 people, of which eight are employed in operations, 16 in research and development, 24 in sales and marketing and 14 in general and administrative. Two employees hold both M.D. and Ph.D. degrees, four additional employees hold Ph.D. degrees and one additional employee holds an M.D. degree. None of our employees is represented by a labor union and we believe our employee relations are good.

Facilities

Our operations are headquartered in an approximately 30,000 square foot facility in Waltham, Massachusetts that is leased to us until March 31, 2009. We believe that our existing facility is adequate for our current needs.

Legal Proceedings

We are not currently party to any material legal proceedings.

SCIENTIFIC ADVISORY BOARD

Our scientific advisory board provides specific expertise in the areas of research and development, clinical applications and physician education relevant to our business. Scientific advisory board members meet with our scientific, clinical and marketing management personnel from time to time to discuss our present and long-term activities in these areas. Our scientific advisory board members include:

Joseph C. Arezzo, Ph.D. is Professor, Departments of Neuroscience and Neurology at Albert Einstein College of Medicine. Dr. Arezzo is a leading neurophysiologist and an internationally recognized thought leader in the use of nerve conduction studies to track systemic and toxic neuropathies. He has extensive experience in the evaluation of new treatments to prevent or reverse the progression of neuropathic disease.

Gerald D. Fischbach, M.D. is Executive Vice President for Health and Biomedical Sciences, Dean of the Faculties of Health Sciences and Dean of the Faculty of Medicine at the College of Physicians and Surgeons of Columbia University. Dr. Fischbach pioneered the use of cultured neurons and muscle cells to characterize the biochemical, cellular, and electrophysiological mechanisms underlying development and function of the neuromuscular junction. His current focus is on trophic factors that influence synaptic efficacy and nerve cell survival.

Robert L. Goldberg, M.D. is Associate Clinical Professor of Medicine at University of California, San Francisco, Division of Occupational and Environmental Medicine. Dr. Goldberg is a past President of the American College of Occupational and Environmental Medicine. Dr. Goldberg's work in the UC Ergonomics Program is currently focused on research and education in ergonomics and the prevention and medical management of work-related musculoskeletal disorders (MDSs). He is a Co-Principal Investigator of a four-year NIOSH-supported study on Upper Extremity MSDs in the workplace.

Thomas J. Graham, M.D. is Chief, Hand Surgery; Vice Chairman, Orthopaedics; and Director at The Curtis National Hand Center. Dr. Graham is also Vice-Chairman of Orthopaedic Surgery at Union Memorial Hospital, Clinical Associate Professor of both Orthopaedic and Plastic Surgery at Johns Hopkins University, and the Medical Director of the Washington Redskins. Dr. Graham's expertise includes surgery of the hand, wrist and elbow, with a concentration on difficult reconstructions.

James W. Strickland, M.D. is Clinical Professor of Orthopaedic Surgery at Indiana University School of Medicine. Dr. Strickland is a past President of the American Society for Surgery of the Hand and of the American Academy of Orthopaedic Surgeons. He has authored or edited nine hand surgery textbooks and published over 170 scientific articles. His research interests include nerve compression disorders, tendon reconstruction and restoration following arthritic conditions.

Mark Upfal, M.D. is Corporate Medical Director at Detroit Medical Center, Department of Occupational Health Services and Associate Professor at Wayne State University, where he developed its residency training program in occupational medicine. Dr. Upfal is board certified in Occupational Medicine and serves on the Board of Directors of the American College of Occupational and Environmental Medicine (ACOEM). He chairs the ACOEM Academic Council, as well as the Examination Development Committee for the Medical Review Officer Certification Council.

Dr. Aaron I. Vinik, M.D., Ph.D., FCP, FACP is Professor of Internal Medicine and Pathology/Neurobiology, Director, Strelitz Diabetes Research Institutes, Eastern Virginia Medical School. Dr. Vinik is an internationally acclaimed expert on diabetic neuropathy and is the author of numerous papers on this subject. Dr. Vinik is actively involved in basic research on the molecular basis of diabetic neuropathy and also in the clinical management of patients with diabetes.

MANAGEMENT

The following table shows information about our executive officers and directors as of June 21, 2004.

Name	Age	Position
Shai N. Gozani, M.D, Ph.D.	40	President, Chief Executive Officer and Director
Gary L. Gregory	41	Chief Operating Officer
Guy Daniello	59	Senior Vice President of Information Technology
Michael Williams, Ph.D.	48	Senior Vice President of Engineering
Nicholas J. Alessi	33	Director of Finance
David E. Goodman, M.D.	48	Director
Charles E. Harris	61	Director
William Laverack, Jr.	47	Director
W. Mark Lortz	52	Director

Shai N. Gozani, M.D., Ph.D. founded our company in 1996 and currently serves as Chairman of our board of directors and as our President and Chief Executive Officer. Since founding our company in 1996, Dr. Gozani has served in a number of positions at our company including Chairman since 1996, President from 1996 to 1998 and from 2002 to the present and Chief Executive Officer since 1997. Dr. Gozani holds a B.S. degree in Computer Science, an M.S. degree in Biomedical Engineering and a Ph.D. in Neurobiology, from the University of California, Berkeley. He also received an M.D. from Harvard Medical School and the Harvard-M.I.T. Division of Health Sciences at M.I.T. Prior to forming our company, Dr. Gozani completed a neurophysiology research fellowship in the laboratory of Dr. Gerald Fischbach at Harvard Medical School. Dr. Gozani has published articles in the areas of basic and clinical neurophysiology, biomedical engineering and computational chemistry.

Gary L. Gregory has served as our Chief Operating Officer since July 2003 and, prior to that time, as our Executive Vice President, Worldwide Sales since July 2002. From 2001 to 2002, Mr. Gregory served as Senior Vice President of Sales & Marketing for PrimeSource Healthcare, Inc., a manufacturer and distributor of specialty medical devices. From 1994 to 2001, Mr. Gregory held a number of senior roles within Johnson & Johnson and its Cordis Divisions, including Director of Strategic Marketing for its Corporate Division which represents all of its Medical Device businesses, Director of Sales where he co-directed its Cardiology Sales organization, and Director of Corporate Accounts where he built the Corporate Account Department and business spanning all of the Cordis Divisions. From 1989 to 1994, Mr. Gregory held a number of management positions at Baxter Healthcare, within Baxter's CardioVascular Group where he advanced from Sales to Marketing to Corporate Accounts to Sales Management. Mr. Gregory holds a B.S. degree in Economics from the Pennsylvania State University.

Guy Daniello has served as our Senior Vice President of Information Technology since July 2003, and prior to that time, as our Vice President of Information Technology and Director of Information Technology since 1998. Prior to joining Neurometrix, Mr. Daniello was an independent software consultant, the Senior Vice President of Engineering at Shiva Corporation from 1996 to 1997, and the Chief Technology Officer & Vice President of Product Development at Gandalf Technologies from 1993 to 1996. In 1991 he founded Network Architects, a software company. Prior to starting Network Architects, he served as President and CEO of Datamedia Corp. and the Director of Small Systems Development at Honeywell Information Systems. Mr. Daniello holds a B.S. in business administration from Northeastern University.

Michael Williams, Ph.D. has served as our Senior Vice President of Engineering since July 2003 and, prior to that time, as our Vice President of Engineering since May 2000. From March 1996 to January 2000, Dr. Williams served as Division President at Radionics, where he was responsible for all software-based products, including treatment planning and image-guided surgery. Prior to Radionics, he served as an engineer at Hughes Aircraft Space & Communications Group. Dr. Williams received a B.S. from University of Puget Sound and M.S. and Ph.D. degrees in Physics from Brown University.

Nicholas J. Alessi has served as our Director of Finance and Treasurer since June 2004, our Director of Finance since March 2004 and, prior to that time, as our Corporate Controller since November 2000. From 1999 to 2000, Mr. Alessi worked as Controller for TriPath Imaging, Inc. (formerly AutoCyte, Inc.), a publicly traded manufacturer of medical devices and related consumables. From 1995 to 1999, Mr. Alessi worked as a certified public accountant with Ernst & Young, LLP in its Entrepreneurial Services group, where he specialized in emerging and growth-stage companies in the high-tech, healthcare and software industries. Mr. Alessi received a B.A. from the College of the Holy Cross, and an M.S. in Accounting and an M.B.A. from the Graduate School of Professional Accounting at Northeastern University.

David E. Goodman, M.D. has served as a member of our board of directors since June 2004. Since 2004, Dr. Goodman has served as President and Chief Executive Officer of Implantable Drug Delivery Systems. Dr. Goodman has been an independent consultant providing product design, regulatory and analytical consulting services to corporations within the medical device, biopharmaceutical and health and services markets from 2003 to 2004 as well as from 2001 to 2002. From 2002 to 2003, Dr. Goodman served as Chairman, President and Chief Executive Officer of Pherin Pharmaceuticals, a pharmaceutical discovery and development company. From 1994 to 2001, Dr. Goodman held various positions, including Chief Executive Officer, Chief Medical Officer and director, for LifeMasters Supported SelfCare, Inc., a disease management services company that Dr. Goodman founded. Dr. Goodman holds a B.A.S. in Applied Science and Bioengineering and a M.S.E. in Bioengineering from the University of Pennsylvania. He also received an M.D. from Harvard Medical School and the Harvard-M.I.T. Division of Health Sciences and Technology.

Charles E. Harris has served as a member of our board of directors since 1997. Since 1984, Mr. Harris has served as Chairman and Chief Executive Officer of Harris & Harris Group, Inc., a publicly traded venture capital company. Prior to 1984, he served as Chairman of Wood, Struthers and Winthrop Management Corp., the investment advisory subsidiary of Donaldson, Lufkin & Jenrette. Mr. Harris currently serves as a Trustee and Chairman of the Audit Committee of Cold Spring Harbor Laboratory, a private not-for-profit institution that conducts research and education programs in the fields of molecular biology and genetics, and as a Trustee and Chairman of the Audit Committee of the Nidus Center, a life sciences business incubator, and he is a life-sustaining fellow of the Massachusetts Institute of Technology and a Shareholder of its Entrepreneurship Center. Mr. Harris received an A.B. from Princeton University and an M.B.A. from the Columbia University Graduate School of Business.

William Laverack, Jr. has served as a member of our board of directors since 1998. Mr. Laverack is a Managing Partner of Whitney & Co., LLC, which he joined in 1993. Mr. Laverack is also a director of Knology, Inc., Grande Communications, Inc. and several private companies. Mr. Laverack holds a B.A. from Harvard College and an M.B.A. from Harvard Business School.

W. Mark Lortz has served as a member of our board of directors since June 2004. Mr. Lortz served as President and Chief Executive Officer of TheraSense, Inc., a medical device company, from 1997, and as Chairman of TheraSense from 1998, until Abbott Laboratories' acquisition of TheraSense in April 2004. From 1991 to 1997, Mr. Lortz held various positions, including Group Vice President for Worldwide Operations and International Franchise Development, Group Vice President for Worldwide Business Operations and Vice President of Operations, for LifeScan, Inc., a division of Johnson & Johnson that specializes in medical device technology. Mr. Lortz currently serves as a director of

Cutera, Inc., a medical device company that designs and develops laser and other light-based aesthetic systems, and IntraLase Corp., a manufacturer of lasers for ophthalmology applications. Mr. Lortz holds a B.S. in Engineering Science from Iowa State University and an M.B.A. in Management from Xavier University.

Board of Directors

Our amended and restated certificate of incorporation, which will be in effect upon the effectiveness of this offering, will provide for a classified board of directors consisting of three staggered classes of directors (Class I, Class II and Class III). The members of each class of our board of directors will serve for staggered three-year terms, with the terms of our Class I, Class II and Class III directors expiring upon the election and qualification of directors at the annual meetings of stockholders held in 2005, 2006 and 2007, respectively. Effective upon the closing of this offering:

- our Class I directors will be Messrs. Harris and Laverack;
- our Class II directors will be Dr. Gozani; and
- our Class III director will be Messrs. Goodman and Lortz.

Our board of directors has determined that Messrs. Goodman, Harris, Laverack and Lortz are independent directors for purposes of the recently adopted corporate governance rules contained in the Marketplace Rules of the National Association of Securities Dealers, Inc., or the Nasdaq rules.

Currently, each of our directors serves on our board of directors pursuant to a stockholders' agreement. The provisions of the stockholders' agreement relating to the nomination and election of directors will terminate upon the closing of this offering.

Board Committees

Upon the effectiveness of this offering, our board of directors will have an audit committee, a compensation committee and a nominating committee.

Audit Committee

Upon the effectiveness of this offering, our board of directors will have an audit committee consisting of Messrs. Goodman, Harris and Lortz. The audit committee will operate pursuant to a charter that was approved by our Board of Directors on April 8, 2004. The purposes of the audit committee will be to, among other functions, (1) oversee our accounting and financial reporting processes and the audits of our financial statements, (2) take, or recommend that our board of directors take, appropriate action to oversee the qualifications, independence and performance of our independent auditors, and (3) prepare the audit committee report required to be included in our annual proxy statements. Upon the effectiveness of this offering, we expect that only Messrs. Goodman and Lortz will be "independent" as that term is defined in the rules of the SEC and the applicable Nasdaq rules. We plan to appoint at least one new independent director to the audit committee upon his or her appointment to the board of directors to replace any non-independent member, as required by applicable law. Within one year after the effectiveness of the registration statement of which this prospectus is a part, we intend to appoint one new independent director to the audit committee to replace Mr. Harris unless Mr. Harris then qualifies as independent under SEC rules. At that time, all three members of the audit committee will be independent. Our board of directors has determined that Mr. Lortz qualifies as an "audit committee financial expert" as such term is defined in the rules of the SEC.

Compensation Committee

Upon the effectiveness of this offering, our board of directors will have a compensation committee consisting of Messrs. Harris and Laverack. The compensation committee will operate pursuant to a charter that was approved by our board of directors on April 8, 2004. The purposes of the compensation committee will be to, among other functions, (1) discharge our board of directors' responsibilities relating to compensation of our directors and executives, (2) oversee our overall compensation programs and (3) be responsible for producing an annual report on executive compensation for inclusion in our annual proxy statement.

Nominating Committee

Upon the effectiveness of this offering, our board of directors will have a nominating committee consisting of Messrs. Goodman and Lortz. The nominating committee will operate pursuant to a charter that was approved by our board of directors on April 8, 2004. The purposes of the nominating committee will be to, among other functions, identify individuals qualified to become board members, consistent with criteria approved by our board of directors, and recommend that our board of directors select the director nominees for election at each annual meeting of stockholders.

Directors' Compensation

Currently, the non-employee members of our board of directors are not compensated for serving as directors, although we do reimburse these directors for all reasonable out-of-pocket expenses incurred by them in attending board or committee meetings. Dr. Gozani, the only employee member of our board of directors, is not separately compensated for his service on our board of directors. The non-employee members of our board of directors, other than those affiliated with venture capital firms that are our stockholders as of the effective date of this offering (i.e., currently Messrs. Harris and Laverack), will receive annual cash compensation in the amount of $5,000 for service as a member of our board of directors, which will be paid following each annual meeting of our stockholders. In addition, these non-employee directors will receive the sum of $1,000 for each board or committee meeting that they attend, provided that they will not be entitled to additional compensation for attending committee meetings that occur on the same day as a board meeting at which they attend. This cash compensation will be in addition to any stock options or other equity compensation that we determine to grant to our directors on a case by case basis. In June 2004, we granted each of Messrs. Lortz and Goodman an option to purchase 36,000 shares of our common stock at an exercise price of $6.00 per share, provided that if we complete this offering on or before December 31, 2004 and the offering price per share in this offering is greater than $6.00, the exercise price will be automatically increased to equal the price per share in this offering. Each of these options vests 25% on June 7, 2005 with the remainder vesting ratably over the following three years on a quarterly basis.

Compensation Committee Interlocks and Insider Participation

Upon the effectiveness of this offering, none of our executive officers will serve as a member of the board of directors or compensation committee, or other committee serving an equivalent function, of any other entity that has one or more of its executive officers serving as a member of our board of directors or compensation committee. None of the persons who will be members of our compensation committee upon the effectiveness of this offering will have ever been employed by NEUROMetrix.

Executive Compensation

Summary of Cash and Certain Other Compensation

The following table sets forth the compensation paid to our Chief Executive Officer and each of our four other most highly compensated executive officers whose total compensation exceeded $100,000 for the year ended December 31, 2003. We refer to these individuals as our "named executive officers."

Summary Compensation Table

		Annual Compensation			Long-Term Compensation Awards	
Name and Principal Position	Year	Salary	Bonus	Other Annual Compensation	Securities Underlying Options Granted	All Other Compensation
Shai N. Gozani, M.D., Ph.D. President and Chief Executive Officer	2003	$ 206,250	—	$ 7,200 (1)	—	—
Gary L. Gregory Chief Operating Officer	2003	200,000	$ 100,000	7,200 (1)	22,000	$ 45,364(2)
Guy Daniello Senior Vice President of Information Technology	2003	150,000	28,875	—	2,715	—
Michael Williams, Ph.D. Senior Vice President of Engineering	2003	160,000	2,880	—	19,550	—
Nicholas J. Alessi Director of Finance and Treasurer	2003	95,000	5,700	—	11,073	—

(1) Represents automobile allowance.

(2) Represents moving expenses of $20,364 and cost of living adjustment of $25,000.

Stock Option Grants in 2003

The following table sets forth information concerning the individual grants of stock options to each of the named executive officers who received grants during fiscal 2003.

Option Grants In Year Ended December 31, 2003

	Individual Grants				Potential realizable value at assumed annual rates of stock price appreciation for option term (2)	
Name	**Number of securities underlying options granted**	**Percent of total options granted to employees in fiscal year (1)**	**Exercise price per share**	**Expiration Date**	**5%**	**10%**
Shai N. Gozani, M.D., Ph.D.	—	—	—	—	—	—
Gary L. Gregory	22,000 (3)	18.3%	$ 2.25	1/1/2013	$	$
Guy Daniello	2,715 (3)	2.3	2.25	1/1/2013		
Michael Williams, Ph.D	4,550 (3)	3.8	2.25	1/1/2013		
	15,000 (4)	12.5	2.25	9/18/2001		
Nicholas J. Alessi	1,073 (3)	0.9	2.25	1/1/2013		
	10,000 (5)	8.3	2.25	9/18/2013		

(1) Based on the grant to employees of options to purchase an aggregate of 120,215 shares of common stock in 2003.

(2) The potential realizable value is calculated based on the term of the stock option at the time of grant. Stock price appreciation of 5% and 10% is assumed pursuant to rules promulgated by the SEC and does not represent our prediction of our stock price performance. The potential realizable values at 5% and 10% appreciation are calculated by:

- multiplying the number of shares of common stock subject to a given stock option by the assumed initial public offering price per share of $;
- assuming that the aggregate stock value derived from that calculation compounds at the annual 5% or 10% rate shown in the table until the expiration of the option; and
- subtracting from that result the aggregate option exercise price.

(3) This option was granted on September 18, 2003. This option becomes exercisable in four equal annual installments beginning on January 1, 2004 as long as the executive officer is employed by us. If the executive officer's employment is terminated on or after January 1, 2004, the option may be exercised for one forty-eighth of the total option for each full calendar month the executive officer has been employed by us since January 1, 2003.

(4) This option was granted on September 18, 2003. This option becomes exercisable in four equal annual installments beginning on May 1, 2005 as long as the executive officer is employed by us. If the executive officer's employment is terminated on or after May 1, 2005, the option may be exercised for one forty-eighth of the total option for each full calendar month the executive officer has been employed by us since May 1, 2004.

(5) This option was granted on September 18, 2003. This option becomes exercisable in four equal annual installments beginning on November 1, 2005 as long as the executive officer is employed by us. If the executive officer's employment is terminated on or after November 1, 2005, the option may be exercised for one forty-eighth of the total option for each full calendar month the executive officer has been employed by us since November 1, 2004.

2003 Stock Option Exercises and Values

The table below sets forth information with respect to our named executive officers concerning the exercise of options during the year ended December 31, 2003 and unexercised options held as of December 31, 2003. There was no public trading market for our common stock as of December 31, 2003. Accordingly, the values of the unexercised in-the-money options have been calculated based on an assumed initial public offering price of $ per share, less the applicable exercise price

multiplied by the number of shares which may be acquired on exercise. None of the executive officers listed in the Summary Compensation Table exercised any stock options in 2003.

Aggregated Option Exercises in the Last Fiscal Year and Fiscal Year-End Option Values

	Number of Securities Underlying Unexercised Options at December 31, 2003		Value of Unexercised In-the-Money Options at December 31, 2003	
Name	**Exercisable**	**Unexercisable**	**Exercisable**	**Unexercisable**
Shai N. Gozani, M.D., Ph.D.	—	—	—	—
Gary L. Gregory	44,524	87,476	$	$
Guy Daniello	12,784	15,243		
Michael Williams, Ph.D.	18,071	21,541		
Nicholas J. Alessi	4,005	12,224		

Employment Agreements

We entered into an employment agreement with Dr. Gozani, effective as of June 21, 2004. Under the terms of the employment agreement, Dr. Gozani will be paid an annual base salary to be determined by our compensation committee but not less than $250,000. Dr. Gozani will be also eligible to receive an annual cash performance bonus of up to 50% of his annual salary if certain performance objectives determined by Dr. Gozani and our compensation committee are met. In addition, in connection with this employment agreement we have granted Dr. Gozani stock options to purchase 375,000 shares of common stock at an exercise price of $6.00 per share, provided that if we complete this offering on or before December 31, 2004 and the offering price per share is greater than $6.00, then the exercise price per share will be automatically increased to equal the price per share in this offering. This stock option has a term of ten years and vests over four years with 25% of the total award vesting after one year and the remainder vesting ratably over the following three years on a quarterly basis.

The employment agreement may be terminated by us with or without cause or by Dr. Gozani. Under the terms of the agreement, if (1) we terminate Dr. Gozani for any reason other than willful non-performance of his duties under the employment agreement, intentional fraud or dishonesty with respect to our business or conviction of a felony, or (2) Dr. Gozani resigns as a result of a reduction in his responsibilities with us, reduction in his status with us, reduction of his salary, relocation of our corporate offices more than 35 miles from their current location or breach by us of the agreement (each such termination hereafter referred to as a "severance termination"), Dr. Gozani will be entitled to his full base salary at his then current annual rate of pay, plus benefits and applicable bonus payments, through the date of his severance termination. In addition, we will continue to pay Dr. Gozani his then current annual base salary for one year following the severance termination. Additionally, in the event of a severance termination, Dr. Gozani will be entitled to acceleration of one year of vesting under his option agreement. Additionally, Dr. Gozani will be entitled to his full annual cash performance bonus in the year that any of the following sale transactions occurs:

- a sale of substantially all of our assets;
- a merger or combination with another entity, unless the merger or combination does not result in a change in ownership of our voting securities of more than 50%; or
- the sale or transfer of more than 50% of our voting securities.

If a sale transaction occurs within the first year of vesting under his option agreement, Dr. Gozani's stock option will vest as to 50% of the total award. If a sale transaction occurs on or after

the first year of vesting, Dr. Gozani will be entitled to acceleration of vesting for 25% of the total award. If a sale transaction occurs within nine months after a severance termination or the termination of Dr. Gozani's employment as a result of his death or disability, the stock option will become fully vested as to the total award. Pursuant to the terms of the agreement, Dr. Gozani will enter into, and be bound by the terms of, a noncompetition, nondisclosure and inventions agreement that will be effective during the term of the employment agreement and for one year thereafter.

We entered into a letter agreement with Gary L. Gregory effective July 1, 2002, which provides for our employment of Mr. Gregory on an at-will basis. Under the letter agreement, Mr. Gregory's initial annual salary was $200,000, subject to subsequent increases in the discretion of our Chief Executive Officer or our board of directors. Mr. Gregory's current salary is $210,000. Under the letter agreement, Mr. Gregory also is eligible to receive annual incentive cash compensation of up to 50% of his annual salary if certain performance objectives determined by us, primarily related to quarterly and annual sales revenue targets, are met. We have granted Mr. Gregory stock options to purchase 110,000 shares of common stock and 20,000 shares of common stock at a price of $2.25 per share. These stock options each have a term of ten years and vest over three and one-half years with approximately two-sevenths of the total award vesting after one year and the remainder vesting in 30 equal monthly installments thereafter. Under the terms of the letter agreement, if (1) we terminate Mr. Gregory's employment for any reason other than willful misconduct or (2) Mr. Gregory resigns as a result of our material breach of the terms of the letter agreement (each such termination hereafter referred to as a "severance termination"), then Mr. Gregory will be entitled to receive his base salary for a period of nine months from the date of the severance termination. Additionally, in the event of a severance termination of Mr. Gregory, Mr. Gregory will be entitled to the acceleration of nine months of vesting under the option agreements described above. Additionally, in the event of a change of control which results in either a severance termination of Mr. Gregory's employment or Mr. Gregory's resignation as a result of a required relocation to a worksite more than 50 miles from our worksite prior to the change of control, Mr. Gregory will be entitled to receive his base salary for a period of nine months from the date of the termination of employment and Mr. Gregory's options described above will vest in full. In June 2004, we granted Mr. Gregory a stock option to purchase 62,500 shares of common stock at an exercise price of $6.00 per share, provided that if we complete this offering on or before December 31, 2004 and the offering price per share is greater than $6.00, then the exercise price per share will be automatically increased to equal the price per share in this offering. This stock option has a term of ten years and vests over four years with 25% of the total award vesting after one year and the remainder vesting ratably over the following three years on a quarterly basis. In the event of a severance termination with Mr. Gregory, Mr. Gregory will be entitled to acceleration of nine months of vesting.

Mr. Gregory, Mr. Daniello, Mr. Williams and Mr. Alessi have each entered into a confidentiality and non-competition agreement with us, which provides for protection of our confidential information, assignment to us of intellectual property developed by the executive officer and non-compete and non-solicitation obligations that are effective for 12 months following termination of the executive officer's employment.

Employee Benefit Plans

Amended and Restated 1996 Stock Option/Restricted Stock Plan

Our Amended and Restated 1996 Stock Option/Restricted Stock Plan, or 1996 stock plan, was initially adopted by our board of directors and stockholders in June 1996. As of June 21, 2004, 156,250 shares of common stock were authorized for issuance under the 1996 stock plan, of which 6,250 shares were subject to outstanding options at a weighted average exercise price of $0.20 per share, 127,962 shares had been issued under the 1996 stock plan and no shares were available for future grant. All of the shares authorized for our 1996 stock plan were initially shares owned by Dr. Gozani, our President and Chief Executive Officer and founder. Upon the exercise of options granted under our 1996 stock

plan, the exercise price is paid to us, and we, in turn, pay this amount to Dr. Gozani. Dr. Gozani, upon receiving the exercise price for an option, transfers the number of shares for which the option was exercised to us, and we, in turn, issue these shares to the person exercising the option. Dr. Gozani is entitled to retain shares underlying options granted under the 1996 stock plan that are not exercised prior to their termination, and these shares will cease to be subject to the 1996 stock plan. As of June 21, 2004, of the initial 156,250 shares of Dr. Gozani that were subject to transfer under the 1996 stock plan, 127,962 shares had been transferred back to us for issuance under the 1996 stock plan and Dr. Gozani owned 28,288 shares, of which 6,250 shares were subject to outstanding options and 22,038 shares were no longer subject to the 1996 stock plan. All of the outstanding options under the 1996 stock plan are fully vested and terminate 10 years after the grant date, or earlier if the option holder is no longer an executive officer, employee, consultant, advisor or director, as applicable, of our company.

Amended and Restated 1998 Equity Incentive Plan

Our Amended and Restated 1998 Equity Incentive Plan, or 1998 equity plan, was initially adopted by our board of directors in April 1998 and first approved by our stockholders in January 1999. As of June 21, 2004, 1,250,000 shares of common stock were authorized for issuance under the 1998 equity plan, of which 170,623 shares had been issued, 1,012,426 shares were subject to outstanding options at a weighted average exercise price of $4.14 per share and 66,951 shares were available for future grant. Outstanding options under the 1998 equity plan generally vest over three or four years and terminate 10 years after the grant date, or earlier if the option holder is no longer an executive officer, employee, consultant, advisor or director, as applicable, of our company. We will not make any additional grants under our 1998 equity plan after the completion of this offering.

2004 Stock Option and Incentive Plan

Our 2004 Stock Option and Incentive Plan, or 2004 stock plan, was adopted by our board of directors in May 2004 and will be submitted to our stockholders for approval prior to this offering. Our 2004 stock plan will become effective upon the closing of this offering. Our 2004 stock plan permits us to make grants of incentive stock options, non-qualified stock options, stock appreciation rights, deferred stock awards, restricted stock awards, unrestricted stock awards and dividend equivalent rights. We have reserved 825,000 shares of our common stock for the issuance of awards under our 2004 stock plan. Also, on December 31 of each year an additional number of shares equal to 15% of the annual net increase in the total number of our outstanding shares of common stock during the year will be added to the shares available for the issuance of awards under the 2004 stock plan. In the first year after this offering, this increase will be measured from the number of shares of common stock outstanding immediately after the closing of this offering. The number of shares of our common stock reserved under the plan is subject to adjustment in the event of a stock split, stock dividend or other change in our capitalization. Generally, shares that are forfeited or canceled from awards under our 2004 stock plan will be available for future awards.

Our 2004 stock plan is administered by either a committee of at least two non-employee directors appointed by our board of directors, or by our full board of directors. The administrator of our 2004 stock plan has full power and authority to select the participants to whom awards will be granted, to make any combination of awards to participants, to accelerate the exercisability or vesting of any award and to determine the specific terms and conditions of each award, subject to the provisions of our 2004 stock plan. The administrator may delegate to the Chief Executive Officer the authority to grant awards to employees, other than our executive officers, provided that the administrator fixes the maximum number of shares that may be awarded and guidelines regarding the exercise price or conversion ratio or price, as applicable, and the vesting criteria.

All full-time and part-time officers, employees, non-employee directors and other key persons are eligible to participate in our 2004 stock plan, subject to the discretion of the administrator.

The exercise price of stock options awarded under our 2004 stock plan may not be less than the fair market value of the common stock on the date of the option grant in the case of incentive stock options and no less than 85% of the fair market value of the common stock on the date of the option grant in the case of non-qualified stock options. The term of each stock option may not exceed 10 years from the date of grant. The administrator will determine at what time or times each option may be exercised and, subject to the provisions of our 2004 stock plan, the period of time, if any, after retirement, death, disability or termination of employment during which options may be exercised.

To qualify as incentive stock options, stock options must meet additional federal tax requirements, including a $100,000 limit on the value of shares subject to incentive stock options which first become exercisable in any one calendar year, and a shorter term and higher minimum exercise price in the case of certain large stockholders.

In the event of a merger, sale or dissolution of our company, or a similar "sale event," all outstanding awards under our 2004 stock plan, unless otherwise provided for in a particular award, will terminate unless the parties to the transaction, in their discretion, provide for assumption, continuation or appropriate substitutions or adjustments of these awards. In the event that the outstanding awards under our 2004 stock plan terminate in connection with a sale event, all stock options and stock appreciation rights granted under our 2004 stock plan will automatically become fully exercisable and all other awards granted under our 2004 stock plan will become fully vested and non-forfeitable as of the effective time of the sale event.

No awards may be granted under our 2004 stock plan after May 2014. In addition, our board of directors may amend or discontinue our 2004 stock plan at any time, and the administrator may amend or cancel any outstanding award for the purpose of satisfying changes in law or for any other lawful purpose. No such amendment may adversely affect the rights under any outstanding award without the holder's consent. Other than in the event of a necessary adjustment in connection with a change in our stock or a merger or similar transaction, the administrator may not "reprice" or otherwise reduce the exercise price of outstanding stock options. Further, material amendments to our 2004 stock plan will be subject to approval by our stockholders including amendments to (1) increase the number of shares available for issuance under our 2004 stock plan, (2) expand the types of awards available under, the eligibility to participate in, or the duration of, our 2004 stock plan, or (3) materially change the method of determining fair market value for purposes of our 2004 stock plan. Additionally, stockholder approval will be required to amend the 2004 stock plan if the administrator determines that this approval is required to ensure that incentive stock options qualify as such under the Internal Revenue Code, and that compensation earned under awards qualifies as performance-based compensation under the Internal Revenue Code.

2004 Employee Stock Purchase Plan

Our 2004 Employee Stock Purchase Plan, or 2004 purchase plan, was adopted by our board of directors in May 2004 and will be submitted to our stockholders for approval prior to this offering. Our 2004 purchase plan will become effective upon the closing of this offering. Our 2004 purchase plan authorizes the issuance of up to a total of 375,000 shares of our common stock to participating employees.

All of our employees, including employees of any participating subsidiaries, who have been employed by us for at least 60 days and whose customary employment is for more than 20 hours a week and for more than five months in any calendar year, are eligible to participate in our 2004 purchase plan. Any employee who owns 5% or more of the voting power or value of our stock is not eligible to participate in our 2004 purchase plan.

We will make one or more offerings to our employees to purchase stock under our 2004 purchase plan. The first offering will begin on the date of the closing of this offering and will end on

December 31, 2004. Subsequent offerings will usually begin on each January 1 and July 1 and will continue for a six-month period, referred to as an offering period. Each employee eligible to participate on the date of the closing of this offering shall automatically be deemed to be a participant in the initial offering period.

Each employee who is a participant in our 2004 purchase plan may purchase shares by authorizing payroll deductions of up to 10% of his or her cash compensation during an offering period. Unless the participating employee has previously withdrawn from the offering, his or her accumulated payroll deductions will be used to purchase common stock on the last business day of the offering period at a price equal to 85% of the fair market value of the common stock on the first or last day of the offering period, whichever is lower. For purposes of the initial offering period, the fair market value of the common stock on the first day of the offering period will be the offering price to the public in this offering. Under applicable tax rules, an employee may purchase no more than $25,000 worth of common stock, valued at the start of the purchase period, under our 2004 purchase plan in any calendar year.

The accumulated payroll deductions of any employee who is not a participant on the last day of an offering period will be refunded. An employee's rights under our 2004 purchase plan terminate upon voluntary withdrawal from our 2004 purchase plan or when the employee ceases employment for any reason.

Our 2004 purchase plan may be terminated or amended by our board of directors at any time. An amendment that increases the number of shares of our common stock that is authorized under our 2004 purchase plan and certain other amendments require the approval of our stockholders. Under our 2004 Purchase Plan, our board of directors may, in its discretion, choose a different offering period for each subsequent offering and may prospectively change the method for determining the purchase price for shares of common stock under our 2004 purchase plan.

401(k) Plan

We have established and maintained a retirement savings plan under Section 401(k) of the Internal Revenue Code to cover our eligible employees. The Internal Revenue Code allows eligible employees to defer a portion of their compensation, within prescribed limits, on a tax deferred basis through contributions to our 401(k) plan. Our 401(k) plan is intended to constitute a qualified plan under Section 401(a) of the Internal Revenue Code and its associated trust is intended to be exempt from federal income taxation under Section 501(a) of the Internal Revenue Code. Our 401(k) plan permits us to make discretionary matching contributions on behalf of eligible employees, although to date we have not done so.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

Issuances of Preferred Stock

Since January 2001, we have engaged in transactions regarding sales of our preferred stock to certain of our stockholders that beneficially own at least 5% of our voting securities and are affiliated with certain of our directors. In February 2001, we sold an aggregate of 4,444,445 shares of our Series E preferred stock at a purchase price of $2.8125 per share. In December 2002, we sold an aggregate of 1,333,334 shares of our Series E-1 preferred stock at a purchase price of $1.50 per share. In March 2004, we sold an aggregate of 7,050,771 shares of our Series E-1 preferred stock at a purchase price of $1.50 per share.

In June 2000, we borrowed $750,000 from, and issued a convertible note for that amount to, Harris & Harris Group, Inc. The note bore interest at 8% per annum and had a stated maturity of March 31, 2001. The note, in accordance with its terms, was converted into 266,665 shares of Series E preferred stock in February 2001, which shares are listed in the table below. We also made a cash payment of $40,000 to Harris & Harris Group, Inc. in interest upon the conversion of the note.

The following table summarizes the shares of our preferred stock purchased in the transactions described above by our 5% stockholders and entities affiliated with our directors. Each share of Series E preferred stock listed below will convert at the closing of this offering into 0.46875 shares of common stock and each share of Series E-1 preferred stock listed below will convert at the closing of this offering into 0.25 shares of common stock. In connection with the sale of our preferred stock in each of these transactions, we entered into agreements with the purchasers of our preferred stock, that provided for, among other things, registration rights, participation rights, rights of first refusal, co-sale rights, agreements regarding the number and election of our directors and various reporting obligations. Upon the completion of this offering, our ongoing obligations under these agreements, except for our obligations regarding registration rights, which are described in "Description of Capital Stock—Registration Rights," will terminate.

Investor	Series E Preferred Stock	Series E-1 Preferred Stock (December 2002)	Series E-1 Preferred Stock (March 2004)
Delphi Ventures IV, L.P. (1)	435,465	175,935	326,599
Delphi BioInvestments IV, L.P. (1)	8,980	3,627	6,733
Whitney Strategic Partners III, L.P. (2)	50,195	13,034	73,725
J.H. Whitney III, L.P. (2)	2,083,140	540,914	3,059,607
Whitney & Co., LLC (2)	—	—	383,858
Harris & Harris Group, Inc. (3)	266,665	235,521	1,166,666
Massachusetts Institute of Technology	355,555	102,142	500,251
Commonwealth Capital Ventures II L.P. (4)	338,805	95,818	952,891
CCV II Associates L.P. (4)	16,750	4,737	47,108
BancBoston Ventures Inc.	888,890	161,606	533,333

(1) Mr. Douglass is a managing member of Delphi Management Partners IV, LLC, which is the general partner of both Delphi Ventures IV, L.P. and Delphi BioInvestments IV, L.P.

(2) Mr. Laverack is a managing member of J.H. Whitney Equity Partners III, L.L.C., which is the general partner of both J.H. Whitney III, L.P. and Whitney Strategic Partners III, L.P. Mr. Laverack is also a managing partner of Whitney & Co., LLC.

(3) Mr. Harris is chairman and chief executive officer of Harris & Harris Group, Inc.

(4) Commonwealth Venture Partners II L.P. is the general partner of both Commonwealth Capital Ventures II L.P. and CCV II Associates L.P.

License Agreement

In June 1996, we entered into a license agreement with the Massachusetts Institute of Technology, which beneficially owns more than 5% of our common stock, last amended on February 25, 1998, under which we obtained a right to use certain technology through the term of the patent rights on this technology, which is exclusive for a period of 15 years from the date of the license agreement. In exchange, we issued shares of common stock to M.I.T. and are required to pay royalties of 2.15% of net sales of products incorporating the licensed technology. In addition, we are required to pay royalties ranging from 25% to 50% of payments received from sublicensees, depending on the degree to which the licensed technology is incorporated into the products that we sublicense. As of June 21, 2004, we have not incorporated this licensed technology into any of our products and therefore, no royalties have been paid.

In addition, under this license agreement we paid M.I.T. annual license maintenance fees totaling $25,000 in 2001. Additionally, we have paid $28,000, and agreed to pay an additional $150,000, to M.I.T. in 2004 for current and prior year annual license maintenance fees and patent fees. Also, we are obligated to pay M.I.T. $75,000 in annual license maintenance fees for each year after 2004, if certain minimum net sales requirements are not met. Payments of annual license maintenance fees can be used to offset future royalties payable under the agreement. We have the right to terminate this license agreement at any time upon six months' notice to M.I.T.

PRINCIPAL STOCKHOLDERS

The following table sets forth certain information concerning beneficial ownership as of June 21, 2004 of our common stock by:

- each person known by us to beneficially own 5% or more of our common stock;
- each of our directors;
- each of our named executive officers; and
- all of our directors and executive officers as a group.

The number of common shares "beneficially owned" by each stockholder is determined under rules issued by the SEC regarding the beneficial ownership of securities. This information is not necessarily indicative of beneficial ownership for any other purpose. Under these rules, beneficial ownership of common stock includes (1) any shares as to which the person or entity has sole or shared voting power or investment power and (2) any shares as to which the person or entity has the right to acquire beneficial ownership within 60 days after June 21, 2004, including any shares that could be purchased by the exercise of options or warrants at or within 60 days after June 21, 2004. Each stockholder's percentage ownership before this offering is based on 8,568,466 shares of our common stock outstanding as of June 21, 2004 (as adjusted to reflect at that date the conversion into common stock of all shares of our preferred stock outstanding) plus the number of shares of common stock that may be acquired by such stockholder upon exercise of options that are exercisable at or within 60 days after June 21, 2004. Each stockholder's percentage ownership after this offering is based on shares of our common stock to be outstanding immediately after the completion of this offering plus the number of shares of common stock that may be acquired by such stockholder upon exercise of options that are exercisable at or within 60 days after June 21, 2004. We have granted the underwriters an option to purchase up to additional shares of our common stock to cover over-allotments, if any, and the table below assumes no exercise of that option.

Unless otherwise indicated below, to our knowledge, all persons named in the table have sole voting and investment power with respect to their shares of common stock, except to the extent authority is shared by spouses under community property laws.

Name and Address (1)	Number of Shares Beneficially Owned	Percentage of Shares Beneficially Owned Before Offering	Percentage of Shares Beneficially Owned After Offering
Directors and Executive Officers			
Shai N. Gozani, M.D., Ph.D. (2)	684,538	8.0%	%
Gary L. Gregory (3)	80,851	*	
Guy Daniello (4)	18,813	*	
Michael Williams, Ph.D. (5)	22,751	*	
Nicholas J. Alessi (6)	5,445	*	
David E. Goodman, M.D.	—	*	
Charles E. Harris (7)	1,137,570	13.3	
William Laverack, Jr. (8)	3,333,811	38.9	
W. Mark Lortz	—	*	
All Directors and Executive Officers as a group (9 persons) (9)	5,283,779	60.8	
Beneficial Owner of 5% or More Other than Directors and Executive Officers			
J.H. Whitney Equity Partners III L.L.C. (10)	3,237,847	37.8%	%
J.H. Whitney III, L.P. (11)	3,161,664	36.9	
Delphi Management Partners IV, L.L.C. (12)	889,380	10.4	
Delphi Ventures IV, L.P. (13)	871,415	10.2	
BancBoston Ventures Inc. (14)	935,916	10.9	
Massachusetts Institute of Technology (15)	557,944	6.5	
Harris & Harris Group, Inc. (16)	1,137,570	13.3	
Commonwealth Venture Partners II L.P. (17)	718,215	8.4	
Commonwealth Capital Ventures II L.P. (18)	684,382	8.0	

* Represents less than 1% of the outstanding shares of common stock

(1) Unless otherwise indicated, the address of each stockholder is c/o NeuroMetrix, Inc., 62 Fourth Avenue, Waltham, Massachusetts 02451.

(2) Includes 6,250 shares that Dr. Gozani may be required to transfer back to us upon the exercise of options granted under our Amended and Restated 1996 Stock Option/Restricted Stock Plan.

(3) Includes 80,851 shares of common stock issuable upon the exercise of options exercisable on or within 60 days after June 21, 2004.

(4) Includes 18,813 shares of common stock issuable upon the exercise of options exercisable on or within 60 days after June 21, 2004.

(5) Includes 22,751 shares of common stock issuable upon the exercise of options exercisable on or within 60 days after June 21, 2004.

(6) Includes 5,445 shares of common stock issuable upon the exercise of options exercisable on or within 60 days after June 21, 2004.

(7) Includes 1,137,570 shares of common stock issuable upon conversion of outstanding shares of preferred stock held by Harris & Harris Group, Inc., of which Mr. Harris is chairman and chief executive officer.

(8) Includes 76,183 shares of common stock beneficially owned by Whitney Strategic Partners III, L.P. and 3,161,664 shares of common stock beneficially owned by J.H. Whitney III, L.P. issuable upon conversion of outstanding shares of preferred stock held by these entities. J.H. Whitney Equity Partners III, L.L.C. is the general partner of Whitney Strategic Partners III, L.P. and J.H. Whitney III, L.P. Mr. Laverack is a member of J.H. Whitney Equity Partners III, L.L.C. Also includes 95,964 shares held by Whitney & Co., LLC, of which Mr. Laverack is a managing partner. Mr. Laverack disclaims beneficial ownership of the shares held by Whitney Strategic Partners III, L.P., J.H. Whitney III, L.P. and Whitney & Co., LLC, except to the extent of his pecuniary interests therein.

(9) See Notes (2)—(8) above.

(10) Includes 76,183 shares of common stock beneficially owned by Whitney Strategic Partners III, L.P. and 3,161,664 shares of common stock beneficially owned by J.H. Whitney III, L.P. issuable upon conversion of outstanding preferred stock held by these entities. J.H. Whitney Equity Partners III L.L.C. is the general partner of Whitney Strategic Partners III, L.P. and J.H. Whitney III, L.P. In addition to Mr. Laverack, Peter M. Castleman, Michael R. Stone, Daniel J. O'Brien and James H. Fordyce are members of J.H. Whitney Equity Partners III, L.L.C. Accordingly, they may be deemed to share beneficial ownership of the shares beneficially owned by J.H. Whitney III, L.P. and Whitney Strategic Partners III, L.P., although each of them disclaims beneficial ownership of such shares, except to the extent of his pecuniary interest therein. The address of J.H. Whitney Equity Partners III, L.L.C. is 177 Broad Street, Stamford, Connecticut 06901.

(11) Represents shares of common stock issuable upon conversion of outstanding shares of preferred stock held by J.H. Whitney III, L.P. The address of J.H. Whitney III, L.P. is 177 Broad Street, Stamford, Connecticut 06901.

(12) Represents shares of common stock issuable upon conversion of outstanding shares of preferred stock beneficially owned by Delphi Management Partners IV, L.L.C. Includes 871,415 shares held by Delphi Ventures IV, L.P. and 17,965 shares held by Delphi BioInvestments IV, L.P. Delphi Management Partners IV, LLC is the general partner of Delphi Ventures IV, L.P. and Delphi BioInvestments IV, L.P. David L. Douglass, James Bochnowski and Donald Lothrop are the managing members of Delphi Management Partners IV, LLC. Accordingly, they may be deemed to share beneficial ownership of the shares beneficially owned by Delphi Ventures IV, L.P. and Delphi BioInvestments IV, L.P., although each of them disclaims beneficial ownership of these shares, except to the extent of his pecuniary interest therein. The address of Delphi Management Partners IV, L.L.C. is 3000 Sand Hill Road, Building 1, Suite 135, Menlo Park, California 94025.

(13) Represents shares of common stock issuable upon conversion of outstanding shares of preferred stock held by Delphi Ventures IV, L.P. The address of Delphi Ventures IV, L.P. is 3000 Sand Hill Road, Building 1, Suite 135, Menlo Park, California 94025.

(14) Represents shares of common stock issuable upon conversion of outstanding shares of preferred stock held by BancBoston Ventures, Inc. The address of BancBoston Ventures Inc. is 175 Federal Street, Boston, Massachusetts 02110.

(15) Represents 96,578 shares of common stock held by the Massachusetts Institute of Technology and 461,366 shares of common stock issuable upon conversion of outstanding shares of preferred stock held by the Massachusetts Institute of Technology. The address of the Massachusetts Institute of Technology is c/o Office of the Treasurer, 238 Main Street, Suite 200, Cambridge, Massachusetts 02142.

(16) Represents shares of common stock issuable upon conversion of outstanding shares of preferred stock held by Harris & Harris Group, Inc. The address of Harris & Harris Group, Inc. is 111 West 57th Street, Suite 1100, New York, New York 10019.

(17) Includes 684,382 shares of common stock beneficially owned by Commonwealth Capital Ventures II L.P. and 33,833 shares of common stock beneficially owned by CCV II Associates L.P. issuable upon conversion of outstanding preferred stock held by these entities. Commonwealth Venture Partners II L.P. is the general partner of Commonwealth Capital Ventures II L.P. and CCV II Associates L.P. Michael T. Fitzgerald, Jeffrey M. Hurst, R. Stephen McCormack and Justin J. Perreault are the general partners of Commonwealth Venture Partners II, L.P. Accordingly, they may be deemed to share beneficial ownership of the shares beneficially owned by Commonwealth Capital Ventures II, L.P. and CCV II Associates, L.P., although each of them disclaims beneficial ownership of such shares, except to the extent of his pecuniary interest therein. The address of Commonwealth Venture Partners II L.P. is 20 William Street, Wellesley, Massachusetts 02181.

(18) Represents shares of common stock issuable upon conversion of outstanding shares of preferred stock held by Commonwealth Capital Ventures II, L.P. The address of Commonwealth Capital Ventures II L.P. is 20 William Street, Wellesley, Massachusetts 02181.

DESCRIPTION OF CAPITAL STOCK

Immediately following the closing of this offering, our authorized capital stock will consist of 50,000,000 shares of common stock, $0.0001 par value, and 5,000,000 shares of undesignated preferred stock, $0.001 par value. The following description of our capital stock, immediately following the closing of this offering, does not purport to be complete and is subject to, and qualified in its entirety by, our Third Amended and Restated Certificate of Incorporation and Second Amended and Restated By-Laws, which are exhibits to the registration statement of which this prospectus forms a part, and by applicable law. We refer in this section to our Third Amended and Restated Certificate of Incorporation as our certificate of incorporation, and we refer to our Second Amended and Restated By-Laws as our by-laws. Our Third Amended and Restated Certificate of Incorporation will become effective immediately following the closing of this offering.

Common Stock

As of June 21, 2004, there were 8,568,466 shares of our common stock outstanding held by 35 stockholders of record. This amount assumes the conversion of all outstanding shares of our preferred stock into common stock, which will occur immediately upon the closing of this offering. In addition, as of June 21, 2004, 1,012,426 shares of our common stock were issuable by us upon the exercise of outstanding options and 100,000 shares of our common stock were subject to an outstanding warrant. Upon the closing of this offering, shares of our common stock will be outstanding (assuming no exercise of the underwriters' over-allotment option). Subject to the rights of the holders of preferred stock then outstanding, holders of common stock will have exclusive voting rights for the election of our directors and all other matters requiring stockholder action, except with respect to amendments to our certificate of incorporation that alter or change the powers, preferences, rights or other terms of any outstanding preferred stock if the holders of such affected series of preferred stock are entitled to vote on such an amendment. Holders of common stock will be entitled to one vote per share on matters to be voted on by stockholders and also will be entitled to receive such dividends, if any, as may be declared from time to time by our board of directors in its discretion out of funds legally available therefor. Upon our liquidation or dissolution, the holders of common stock will be entitled to receive pro rata all assets remaining available for distribution to stockholders after payment of all liabilities and provision for the liquidation of any shares of preferred stock at the time outstanding. The common stock will have no preemptive or other subscription rights, and there will be no conversion rights or redemption or sinking fund provisions with respect to such stock. The payment of dividends on the common stock will be subject to the prior payment of dividends on any outstanding preferred stock.

Preferred Stock

Upon the closing of this offering, all previously outstanding shares of our preferred stock will be converted into our common stock and no preferred stock will be outstanding. Our certificate of incorporation will provide that shares of preferred stock may be issued from time to time in one or more series. Our board of directors will be authorized to fix the voting rights, if any, designations, powers, preferences, the relative, participating, optional or other special rights and any qualifications, limitations and restrictions thereof, applicable to the shares of each series. Our board of directors will be able to, without stockholder approval, issue preferred stock with voting and other rights that could adversely affect the voting power and other rights of the holders of the common stock and could have anti-takeover effects. We have no present plans to issue any shares of preferred stock after the closing of this offering. The ability of our board of directors to issue preferred stock without stockholder approval could have the effect of delaying, deferring or preventing a change of control of us or the removal of existing management.

Warrant

In connection with the financing arrangement that we entered into with Lighthouse Capital Partners IV, L.P. in May 2003, we issued Lighthouse a warrant to purchase 400,000 shares of our Series E-1 preferred stock at an exercise price of $1.50 per share. The warrant may be exercised at the option of the holder as of the date of issuance either by delivery of the exercise price in cash or by a cashless exercise. The warrant is exercised automatically on a cashless basis in connection with specified triggering events, including (1) a sale of all or substantially all of our assets to an unaffiliated entity or (2) the merger, consolidation or acquisition of us with, into or by an unaffiliated entity, other than a merger or consolidation for the principle purpose of changing our domicile or a bona fide round of preferred stock equity financing that results in the transfer of 50% or more of our outstanding voting power. The warrant expires upon the earlier of May 21, 2010 or two years after the completion of an underwritten initial public offering of our common stock that results in our common stock being listed on either a stock exchange or the Nasdaq National Market. In addition, if, for any reason, all outstanding shares of our preferred stock are converted into shares of our common stock prior to the exercise in full of the warrant, then, effective upon such conversion, the warrant will automatically become a warrant for the purchase of shares of our common stock. Lighthouse Capital Partners will thereafter have the right to purchase that number of shares of common stock equal to the number of shares of common stock that would have been receivable by Lighthouse Capital Partners if it had exercised the warrant for shares of Series E-1 preferred stock immediately prior to the conversion of the Series E-1 preferred stock into common stock. Upon the closing of this offering, this warrant will be exercisable for 100,000 shares of common stock at an exercise price of $6.00 per share and will expire two years after the date of the closing of this offering.

Registration Rights

Beginning 180 days after the closing of this offering the holders of 7,488,758 shares of our common stock, comprising the shares issued upon conversion of our preferred stock, and the holder of a warrant to purchase 100,000 shares of common stock, will be entitled to cause us to register the resale of these shares under the Securities Act. These rights are provided under the terms of a stock purchase agreement between us and the holders of our preferred stock and a warrant between us and the holder of the warrant. Under these registration rights, holders of registrable shares with a value of $2 million or more may require on two occasions that we register their shares for public resale. In addition, holders of a majority of the registrable shares may require that we register their shares for public resale on Form S-3 or similar short-form registration on one or more occasions, if we are eligible to use Form S-3 or similar short form registration and the value of the securities to be registered is at least $2 million. If we elect to register any of our equity securities for any public offering, other than on a Form S-4, Form S-8 or an equivalent form, the holders of registrable shares are entitled to include their registrable shares in the registration. However, we may reduce the number of the shares of these holders proposed to be registered in an underwritten offering if a limit is imposed by the underwriters in order to effect an orderly public distribution. We generally will pay all expenses in connection with any registration, other than underwriting discounts and commissions.

Certain Anti-takeover Provisions of Delaware Law and our Certificate of Incorporation and By-Laws

Upon the closing of this offering, we will elect to be governed by the provisions of Section 203 of the Delaware General Corporation Law, which generally will have an anti-takeover effect for transactions not approved in advance by our board of directors, including discouraging attempts that might result in a premium over the market price for the shares of common stock held by stockholders. In general, Section 203 prohibits a publicly held Delaware corporation from engaging in a "business combination" with an "interested stockholder" for a three-year period following the time that such stockholder becomes an interested stockholder, unless the business combination is approved in a

prescribed manner. A "business combination" includes, among other things, a merger, asset or stock sale or other transaction resulting in a financial benefit to the interested stockholder. An "interested stockholder" is a person who, together with affiliates and associates, owns, or did own within three years prior to the determination of interested stockholder status, 15% or more of the corporation's voting stock. Under Section 203, a business combination between a corporation and an interested stockholder is prohibited unless it satisfies one of the following conditions:

- before the stockholder became interested, the board of directors approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder; or

- upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding, shares owned by:

- persons who are directors and also officers, and

- employee stock plans, in some instances; or

- at or after the time the stockholder became interested, the business combination was approved by the board of directors of the corporation and authorized at an annual or special meeting of the stockholders by the affirmative vote of at least two-thirds of the outstanding voting stock which is not owned by the interested stockholder.

Staggered Board of Directors

Our certificate of incorporation and by-laws will provide that our board of directors will be classified into three classes of directors of approximately equal size. As a result, in most circumstances, a person can gain control of our board only by successfully engaging in a proxy contest at two or more annual meetings.

Stockholder Action; Special Meeting of Stockholders

Our certificate of incorporation will provide that our stockholders may not take any action by written consent, but only take action at duly called annual or special meetings of stockholders. Our by-laws will further provide that special meetings of our stockholders may be only called by our board of directors with a majority vote of our board of directors.

Advance Notice Requirements for Stockholder Proposals and Director Nominations

Our by-laws will provide that stockholders seeking to bring business before our annual meeting of stockholders, or to nominate candidates for election as directors at our annual meeting of stockholders, must provide timely notice of their intent in writing. To be timely, a stockholder's notice will need to be delivered to our principal executive offices not later than the close of business on the 90th day nor earlier than the close of business on the 120th day prior to the first anniversary of the preceding year's annual meeting of stockholders. For the first annual meeting of stockholders after the closing of this offering, a stockholder's notice shall be timely if delivered to our principal executive offices not later than the 90th day prior to the scheduled date of the annual meeting of stockholders or the 10th day following the day on which public announcement of the date of our annual meeting of stockholders is first made or sent by us. Our by-laws will also specify certain requirements as to the form and content of a stockholders' meeting. These provisions may preclude our stockholders from bringing matters before our annual meeting of stockholders or from making nominations for directors at our annual meeting of stockholders.

Authorized But Unissued Shares

Our authorized but unissued shares of common stock and preferred stock will be available for future issuances without stockholder approval and could be utilized for a variety of corporate purposes, including future offerings to raise additional capital, corporate acquisitions and employee benefit plans. The existence of authorized but unissued and unreserved common stock and preferred stock could render more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

Removal of Directors

Our certificate of incorporation will provide that a director on our board of directors may be removed from office only for cause and only by the affirmative vote of the holders of 75% or more of the shares then entitled to vote at an election of our directors.

Limitation on Liability and Indemnification of Directors and Officers

Our by-laws will provide that our directors and officers will be indemnified by us to the fullest extent authorized by Delaware law as it now exists or may in the future be amended, against all expenses and liabilities reasonably incurred in connection with their service for or on our behalf. In addition, our certificate of incorporation will provide that our directors will not be personally liable for monetary damages to us for breaches of their fiduciary duty as directors, unless they violated their duty of loyalty to us or our stockholders, acted in bad faith, knowingly or intentionally violated the law, authorized unlawful payments of dividends, unlawful stock purchases or unlawful redemptions or derived an improper personal benefit from their actions as directors.

We also will enter into agreements with our directors to provide contractual indemnification in addition to the indemnification that will be provided in our certificate of incorporation and by-laws. We believe that these provisions and agreements are necessary to attract qualified directors. Our by-laws will also permit us to secure insurance on behalf of any officer, director or employee for any liability arising out of his or her actions, regardless of whether Delaware law would permit indemnification. We intend to obtain insurance which insures our directors and officers against certain losses and insures us against our obligations to indemnify the directors and officers.

These provisions may discourage stockholders from bringing a lawsuit against our directors for breach of their fiduciary duty. These provisions may also have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit us and our stockholders. Furthermore, a stockholder's investment may be adversely affected to the extent we pay the costs of settlement and damage awards against directors and officers pursuant to these indemnification provisions. We believe that these provisions, the insurance and the indemnity agreements are necessary to attract and retain talented and experienced directors and officers.

At present, there is no pending litigation or proceeding involving any of our directors or officers where indemnification by us would be required or permitted. We are not aware of any threatened litigation or proceeding that might result in a claim for such indemnification.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is American Stock Transfer & Trust Company.

Listing

We have applied for the listing of our common stock on the Nasdaq National Market under the symbol "NURO."

SHARES ELIGIBLE FOR FUTURE SALE

We cannot predict what effect, if any, market sales of shares of common stock or the availability of shares of common stock for sale will have on the market price of our common stock. Nevertheless, sales of substantial amounts of common stock, including shares issued upon the exercise of outstanding options, in the public market, or the perception that these sales could occur, could materially and adversely affect the market price of our common stock and could impair our future ability to raise capital through the sale of our equity or equity-related securities at a time and price that we deem appropriate.

Prior to this offering, there has been no public market for our common stock. Although we have applied to list our common stock on the Nasdaq National Market, we cannot assure you that there will be an active public market for our common stock. Immediately after this offering, we will have shares of common stock outstanding, including shares of common stock sold by us in this offering, but not including:

- shares of common stock issuable by us upon exercise of the underwriters' over-allotment option;
- 1,012,426 shares of common stock issuable upon the exercise of outstanding stock options as of June 21, 2004;
- 100,000 shares of common stock issuable upon the exercise of an outstanding warrant as of June 21, 2004;
- 825,000 shares of common stock to be reserved for future issuance upon the exercise of options available for future grant under our 2004 Stock Option and Incentive Plan; and
- 375,000 shares of common stock to be reserved for future issuance under our 2004 Employee Stock Purchase Plan.

Of the outstanding number of shares after this offering, all of the shares of our common stock to be sold in this offering (shares, or shares if the underwriters' over-allotment option is exercised in full) will be freely tradable without restriction or further registration under the Securities Act of 1933, except for any shares purchased by "affiliates," as that term is defined in Rule 144 under the Securities Act of 1933.

Shares acquired by affiliates and all of the remaining shares held by existing stockholders (8,568,466 shares, as of June 21, 2004, assuming the conversion of all outstanding preferred stock into 7,488,758 shares of common stock) are "restricted securities" as that term is defined in Rule 144. Restricted securities may be sold in the public market only if registered or if they qualify for an exemption from registration, including an exemption under Rule 144 or 701 under the Securities Act, which rules are summarized below.

The 8,568,466 shares of our common stock that were outstanding on June 21, 2004 will, assuming that no shares are released from the lock-up agreements described below prior to 180 days after the

date of this prospectus, become eligible for sale pursuant to Rule 144 or Rule 701 without registration approximately as follows:

Number of Shares Outstanding After the Initial Public Offering	Date Eligible for Resale
	March 2005 under Rule 144, subject to the volume limitations thereunder.
	180 days from the date of this prospectus under Rule 144, subject to the volume limitations thereunder.
	180 days from the date of this prospectus under Rule 144, subject to the volume limitations thereunder, assuming that our affiliates remain affiliates at that time.
	180 days from the date of this prospectus under Rule 144(k), without volume limitations.
	Immediately after the closing of the initial public offering under Rule 144(k), without volume limitations.
	180 days from the date of this prospectus.
	180 days from the date of this prospectus under Rule 701, subject to the volume limitations thereunder.

At our request, the underwriters have reserved for sale, at the initial public offering price, up to shares of common stock, or approximately 5% of our common stock being offered by this prospectus, at the discretion of our management, to our employees, suppliers, consultants, friends, family, other business associates and other related persons through a directed share program. Any shares purchased through the directed share program will not be subject to the lock-up agreement referred to above.

Rule 144

In general, under Rule 144 as currently in effect, a person (or persons whose shares are required to be aggregated), including an affiliate, who has beneficially owned shares of our common stock for at least one year, including the holding period of any prior owner other than an affiliate, is entitled to sell in any three-month period a number of shares that does not exceed the greater of:

- 1% of then-outstanding shares of common stock, which will equal approximately shares immediately after the closing of this offering (approximately shares if the underwriter exercises the over-allotment option in full); or
- the average weekly trading volume in the common stock on the Nasdaq National Market during the four calendar weeks preceding the date on which notice of sale is filed, subject to restrictions.

Sales under Rule 144 are also subject to manner of sale provisions and notice requirements and to the availability of current public information about us.

Rule 144(k)

In addition, a person who is not deemed to have been an affiliate of ours at any time during the 90 days preceding a sale and who has beneficially owned the shares proposed to be sold for at least two

years, including the holding period of any prior owner other than an affiliate, would be entitled to sell those shares under Rule 144(k) without regard to the manner of sale, public information, volume limitation or notice requirements of Rule 144. To the extent that our affiliates sell their shares, other than pursuant to Rule 144 or a registration statement, the purchaser's holding period for the purpose of effecting a sale under Rule 144 commences on the date of transfer from the affiliate.

Rule 701

In general, under Rule 701 of the Securities Act as currently in effect, any of our employees, consultants or advisors who purchase shares from us in connection with a compensatory stock plan or other written agreement is eligible to resell such shares 90 days after the effective date of this offering in reliance on Rule 144, but without compliance with certain restrictions, including the public information, volume limitation, notice and holding period provisions, contained in Rule 144.

Lock-Up Agreements

Our executive officers and certain holders of our outstanding capital stock, who in the aggregate own over 99% of our capital stock outstanding prior to this offering, have agreed with Punk, Ziegel & Company that, for a period of 180 days following the date of this prospectus, they will not offer, sell, assign, transfer, pledge, contract to sell or otherwise dispose of or hedge any shares of our common stock or any securities convertible into or exchangeable for shares of common stock. However, so long as the transferee agrees to be bound by the terms of the lock-up agreement, a director, executive officer or other holder may transfer his or her securities by gift or for estate planning purposes and in some other circumstances. Punk, Ziegel & Company may, in its sole discretion, release all or any portion of the shares from the restrictions in any such agreement at any time without prior notice. We have entered into a similar agreement with the underwriters. Currently, we are not aware of any agreements between Punk, Ziegel & Company and any of our stockholders, option holders, warrant holders or affiliates releasing them from these lock-up agreements prior to the expiration of the 180-day period.

Stock Options

Following the closing of this offering, we intend to file registration statements on Form S-8 with the SEC covering shares of common stock reserved for issuance under our Amended and Restated 1998 Equity Incentive Plan, 2004 Stock Option and Incentive Plan and 2004 Employee Stock Purchase Plan. These registration statements are expected to become effective upon filing. Shares covered by these registration statements will then be eligible for sale in the public markets, subject to any applicable lock-up agreements and to Rule 144 limitations applicable to affiliates.

Registration Rights

As described above in "Description of Capital Stock—Registration Rights," upon completion of this offering, the holders of 7,488,758 shares of our common stock, including shares issued upon conversion of our preferred stock, and the holder of a warrant to purchase 100,000 shares of common stock will have rights, subject to various conditions and limitations, to require us to file registration statements covering their shares or to include their shares in registration statements that we may file for ourselves or other stockholders, subject to the 180 day lock-up arrangement described above. By exercising their registration rights and causing a large number of shares to be registered and sold in the public market, these holders could cause the price of the common stock to fall. In addition, any demand to include such shares in our registration statements could have a material adverse effect on our ability to raise needed capital.

MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES TO NON-U.S. HOLDERS

General

The following is a general discussion of the material U.S. federal income and estate tax consequences of the ownership and disposition of common stock that may be relevant to you if you are a non-U.S. Holder. In general, a "non-U.S. Holder" is any person or entity that is, for U.S. federal income tax purposes, a foreign corporation, a nonresident alien individual, a foreign partnership or a foreign estate or trust. This discussion is based on current law, which is subject to change, possibly with retroactive effect, or different interpretations that could affect the tax consequences described herein. This discussion is limited to non-U.S. Holders who hold their shares of common stock as capital assets. Moreover, this discussion is for general information only and does not their address all the tax consequences that may be relevant to you in light of your personal circumstances, nor does it discuss special tax provisions that may apply to you if you relinquished U.S. citizenship or residence.

If you are an individual, you may, in many cases, be deemed to be a resident alien, as opposed to a nonresident alien, by virtue of being present in the United States for at least 31 days in the current calendar year and for an aggregate of at least 183 days during a three-year period ending in the current calendar year. For the aggregate days test, all of the days present in the current year, one-third of the days present in the immediately preceding year, and one-sixth of the days present in the second preceding year are counted. Resident aliens generally are subject to U.S. federal income tax in the same manner as U.S. citizens.

EACH PROSPECTIVE PURCHASER OF COMMON STOCK IS ADVISED TO CONSULT A TAX ADVISOR WITH RESPECT TO CURRENT AND POSSIBLE FUTURE TAX CONSEQUENCES OF PURCHASING, OWNING AND DISPOSING OF OUR COMMON STOCK AS WELL AS ANY TAX CONSEQUENCES THAT MAY ARISE AS A RESULT OF YOUR PARTICULAR SITUATION OR UNDER THE LAWS OF ANY U.S. STATE, MUNICIPALITY, FOREIGN OR OTHER TAXING JURISDICTION.

Dividends

If dividends are paid on the common stock, as a non-U.S. Holder, you generally will be subject to withholding of U.S. federal income tax at a 30% rate or at a lower rate as may be specified by an applicable income tax treaty, unless you are a foreign government or other foreign organization exempt from U.S. withholding. To claim the benefit of a lower rate under an income tax treaty, you must properly file with the payer an Internal Revenue Service Form W-8BEN, or successor form, claiming an exemption from or reduction in withholding under the applicable tax treaty. In addition, where dividends are paid to a non-U.S. Holder that is a partnership or other flow-through entity, the entity must properly file an Internal Revenue Service Form W-8IMY, or successor form, and persons holding an interest in the entity may need to provide certification claiming an exemption or reduction in withholding under the applicable treaty.

If dividends are considered effectively connected with the conduct of a trade or business by you within the United States and, where a tax treaty applies, are attributable to a U.S. permanent establishment of yours, those dividends generally will not be subject to withholding tax, but instead will be subject to U.S. federal income tax on a net basis at applicable graduated individual or corporate rates, provided you file an Internal Revenue Service Form W-8ECI, or successor form, with the payer. If you are a foreign corporation, any effectively connected dividends may, under certain circumstances, be subject to an additional "branch profits tax" at a rate of 30% or at a lower rate as may be specified by an applicable income tax treaty.

If you are a foreign government, foreign tax-exempt organization or other foreign organization exempt from U.S. withholding, you must properly file an Internal Revenue Service Form W-8EXP with the payer.

You must comply with either the certification procedures described above, or, in the case of payments made outside the United States with respect to an offshore account, certain documentary evidence procedures, directly or under certain circumstances through an intermediary, to obtain the benefits of a reduced rate under an income tax treaty with respect to dividends paid with respect to your common stock. In addition, if you are required to provide an Internal Revenue Service Form W-8ECI or successor form, as discussed above, you must also provide your tax identification number.

If you are eligible for a reduced rate of U.S. withholding tax pursuant to an income tax treaty, you may obtain a refund of any excess amounts withheld by filing an appropriate claim for refund with the Internal Revenue Service.

Gain on Disposition of Common Stock

As a non-U.S. Holder, you generally will not be subject to U.S. federal income tax on any gain recognized on the sale or other disposition of common stock unless:

- the gain is considered effectively connected with the conduct of a trade or business by you within the United States and, where a tax treaty applies, is attributable to a U.S. permanent establishment of yours (and, in which case, if you are a foreign corporation, you may be subject to an additional branch profits tax at a rate of 30% or at a lower rate as may be specified by an applicable income tax treaty).

- you are an individual who holds the common stock as a capital asset and you are present in the United States for 183 or more days in the taxable year of the sale, or certain other disposition and other conditions are met; or

- we are or have been a "U.S. real property holding corporation," or a "USRPHC," for U.S. federal income tax purposes. We believe that we are not currently, and are not likely to become, a USRPHC. If we were to become a USRPHC, then gain on the sale or other disposition of common stock by you generally would not be subject to U.S. federal income tax provided:

    - the common stock was "regularly traded on an established securities market;" and

    - you do not actually or constructively own more than 5% of the common stock at any time during the shorter of the five-year period preceding the disposition or your holding period.

Federal Estate Tax

If you are an individual, common stock held at the time of your death will be included in your gross estate for U.S. federal estate tax purposes, and may be subject to U.S. federal estate tax, unless an applicable estate tax treaty provides otherwise. You should consult your tax advisor for a full discussion of U.S. federal estate tax treatment.

Information Reporting and Backup Withholding Tax

We must report annually to the Internal Revenue Service and to you the amount of dividends paid to you and the tax withheld with respect to those dividends, regardless of whether withholding was required. Copies of the information returns reporting those dividends and withholding may also be made available to the tax authorities in the country in which you reside under the provisions of an applicable income tax treaty or other applicable agreements.

Backup withholding is currently imposed at a rate of 28% on certain payments to persons that fail to furnish identifying information to the payer. As a non-U.S. Holder, you generally will not be subject to backup withholding assuming you properly certify your non-U.S. status. If you fail to provide such certification, you may be subject to the greater of the backup withholding rate and any other withholding rate that would otherwise apply to dividends paid on your common stock as described above. In addition, if you fail to provide such certification, backup withholding may apply to proceeds from a disposition of your common stock. However, backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules generally may be refunded (or allowed as a credit against your U.S. federal income tax liability), provided certain required information is provided in a timely manner to the Internal Revenue Service.

UNDERWRITING

We and Punk, Ziegel & Company, L.P. and WR Hambrecht+Co, LLC, as representatives of the underwriters, intend to enter into an underwriting agreement with respect to the shares being offered. Subject to the terms and conditions of the underwriting agreement, the underwriters have agreed to purchase from us the number of shares of our common stock set forth on the cover page of this prospectus at the public offering price, less the underwriting discount, set forth on the cover page of this prospectus. Subject to the terms and conditions stated in the underwriting agreement, each underwriter has agreed to purchase, and we have agreed to sell to that underwriter, the number of shares of our common stock set forth opposite each underwriter's name below.

Underwriter	Number of Shares
Punk, Ziegel & Company, L.P.	
WR Hambrecht+Co, LLC	
Total	

The underwriting agreement provides that the obligations of the underwriters to purchase the shares of common stock offered hereby are conditional and may be terminated upon the occurrence of certain events specified in the underwriting agreement, including a material adverse change affecting our business. The underwriters are committed to purchase all of the shares of common stock being offered by us if any shares are purchased.

The underwriter proposes to offer the shares of common stock to the public at the public offering price set forth on the cover page of this prospectus. The underwriters may offer the common stock to securities dealers at the price to the public less a concession not in excess of $ per share. Securities dealers may reallow a concession not in excess of $ per share to other dealers. After the shares of common stock are released for sale to the public, the underwriters may vary the offering price and other selling terms from time to time.

We have granted to the underwriters an option, exercisable not later than 30 days after the date of this prospectus, to purchase up to an aggregate of additional shares of common stock at the public offering price set forth on the cover page of this prospectus, less the underwriting discount. The underwriters may exercise this option only to cover over-allotments, if any, made in connection with the sale of common stock offered hereby.

The following table summarizes the compensation to be paid to the underwriters by us and the proceeds, before expenses, payable to us.

		Total	
	Per Share	Without Over-Allotment	With Over-Allotment
Public Offering Price	$	$	$
Underwriting Discount	$	$	$
Proceeds to Us (before expenses)	$	$	$

We estimate that the total expenses of this offering, excluding the underwriting discount, will be approximately $.

We have agreed to indemnify the underwriters against certain civil liabilities, including liabilities under the Securities Act of 1933, and to contribute to payments the underwriters may be required to make in respect of any such liabilities.

Our executive officers and certain holders of our outstanding capital stock, who in the aggregate own over 99% of our capital stock outstanding prior to this offering, have agreed with Punk, Ziegel & Company that, for a period of 180 days following the date of this prospectus, they will not offer, sell, assign, transfer, pledge, contract to sell or otherwise dispose of or hedge any shares of our common

stock or any securities convertible into or exchangeable for shares of common stock. However, so long as the transferee agrees to be bound by the terms of the lock-up agreement, a director, executive officer or other holder may transfer his or her securities by gift or for estate planning purposes and in some other circumstances. Punk, Ziegel & Company may, in its sole discretion, release all or any portion of the shares from the restrictions in any such agreement at any time without prior notice. We have entered into a similar agreement with the underwriters. Currently, we are not aware of any agreements between Punk, Ziegel & Company and any of our stockholders, option holders or affiliates releasing them from these lock-up agreements prior to the expiration of the 180-day period. In considering any request to release shares subject to a lock-up agreement, Punk, Ziegel & Company will consider the facts and circumstances relating to a request at the time of that request.

At our request, the underwriters have reserved for sale, at the initial public offering price, up to shares of our common stock, or approximately 5% of our common stock being offered by this prospectus, at the discretion of our management, to our employees, suppliers, consultants, friends, family, other business associates and other related persons. The number of shares available for sale to the general public in this offering will be reduced to the extent these persons purchase reserved shares. Any reserved shares not so purchased will be offered by the underwriters to the general public on the same terms as the other shares.

The underwriters have informed us that they will not confirm sales to accounts over which they exercise authority, without prior written approval of the customer.

The underwriters may engage in over-allotment, stabilizing transactions, syndicate-covering transactions and passive market making in accordance with Regulation M under the Securities Exchange Act of 1934. Over-allotment involves syndicate sales in excess of the offering size, which creates a syndicate short position. Covered short sales are sales made in an amount not greater than the number of shares available for purchase by the underwriters under the over-allotment option. The underwriters may close out a covered short sale by exercising their over-allotment option or purchasing shares in the open market. Naked short sales are sales made in an amount in excess of the number of shares available under the over-allotment option. The underwriters must close out any naked short sale by purchasing shares in the open market. Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum. Syndicate-covering transactions involve purchases of the shares of common stock in the open market after the distribution has been completed in order to cover syndicate short positions. In passive market making, market makers in the shares of common stock who are underwriters or prospective underwriters may, subject to certain limitations, make bids for or purchases of the shares of common stock until the time, if any, at which a stabilizing bid is made. These stabilizing transactions and syndicate-covering transactions may cause the price of the shares of common stock to be higher than it would otherwise be in the absence of these transactions. These transactions may be commenced and discontinued at any time.

A prospectus in electronic format will be available on the websites maintained by Punk, Ziegel & Company and WR Hambrecht+Co, underwriters of this offering, and may also be made available on the websites maintained by additional underwriters or selling group members, if any, participating in this offering. The underwriters may agree to allocate a number of shares to selling group members for sale to their online brokerage account holders. Additionally, the underwriters participating in this offering may distribute prospectuses electronically to prospective investors, including prospective investors in the reserved shares. Other than the prospectus in electronic format, the information on these websites is not part of this prospectus or the registration statement of which this prospectus forms a part, has not been approved or endorsed by us or any underwriter in its capacity as underwriter, and should not be relied upon by investors.

Prior to this offering, there has been no public market for shares of our common stock. Consequently, the initial public offering price has been determined by negotiations between us and the

underwriters. The various factors considered in these negotiations included prevailing market conditions, the market capitalizations and the states of development of other companies that we and the underwriters believed to be comparable to us, estimates of our business potential, our results of operations in recent periods, the present state of our development, and other factors deemed relevant.

LEGAL MATTERS

The validity of the shares of common stock offered by this prospectus will be passed upon by Goodwin Procter LLP, Boston, Massachusetts. The underwriters have been represented by Morrison & Foerster LLP, New York, New York.

EXPERTS

The financial statements as of December 31, 2002 and 2003 and for each of the three years in the period ended December 31, 2003 included in this prospectus have been so included in reliance on the report of PricewaterhouseCoopers LLP, independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the Securities and Exchange Commission a registration statement on Form S-1 (File No. 333-115440) under the Securities Act of 1933, as amended, with respect to the shares of common stock we are offering by this prospectus. This prospectus does not contain all of the information included in the registration statement. For further information about us and our common stock, you should refer to the registration statement and the exhibits and schedules filed with the registration statement. Whenever we make reference in this prospectus to any of our contracts, agreements or other documents, the references are not necessarily complete, and you should refer to the exhibits attached to the registration statement for copies of the actual contract, agreement or other document.

On the closing of this offering, we will be subject to the information requirements of the Securities Exchange Act of 1934 and will file annual, quarterly and current reports, proxy statements and other information with the SEC. You can read our SEC filings, including the registration statement, over the Internet at the SEC's website at www.sec.gov. You may also read and copy any document we file with the SEC at its public reference facility at 450 Fifth Street, N.W., Washington, D.C. 20549.

You may also obtain copies of the documents at prescribed rates by writing to the Public Reference Section of the SEC at 450 Fifth Street, N.W., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference facilities.

INDEX TO FINANCIAL STATEMENTS

NEUROMetrix, Inc.
Years ended December 31, 2001, 2002 and 2003
and the unaudited three months ended March 31, 2003 and 2004

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders of
NeuroMetrix, Inc.

The reverse stock split described in Note 1 to the financial statements has not been consummated at June 21, 2004. When it has been consummated, we will be in a position to furnish the following report:

"In our opinion, the accompanying balance sheets and the related statements of operations, of changes in redeemable convertible preferred stock and stockholders' deficit and of cash flows present fairly, in all material respects, the financial position of NeuroMetrix, Inc. at December 31, 2002 and 2003, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2003, in conformity with accounting principles generally accepted in the United States of America. In addition, in our opinion, the accompanying financial statement schedule presents fairly, in all material respects, the information set forth therein when read in conjunction with the related financial statements. These financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and financial statement schedule based on our audits. We conducted our audits of these statements in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion."

/s/ PricewaterhouseCoopers LLP
Boston, Massachusetts
May 11, 2004

NeuroMetrix, Inc.

Balance Sheets

	December 31,		March 31, 2004	
	2002	2003	Actual	As Adjusted
			(Unaudited)	
Assets				
Current assets:				
Cash and cash equivalents	$ 2,700,659	$ 1,622,516	$ 10,900,118	
Accounts receivable, net of allowance for doubtful accounts of $200,000, $300,000 and $300,000 at December 31, 2002 and 2003, and March 31, 2004 respectively	830,399	1,851,983	1,971,786	
Inventory	862,312	1,078,390	1,311,954	
Prepaid expenses and other current assets	183,191	217,165	339,994	
Current portion of deferred costs	139,962	115,978	110,091	
Total current assets	4,716,523	4,886,032	14,633,943	
Restricted cash	1,897,200	1,897,200	1,897,200	
Fixed assets, net	350,202	339,224	454,510	
Deferred costs	89,081	95,325	93,796	
Total assets	$ 7,053,006	$ 7,217,781	$ 17,079,449	$
Liabilities, Redeemable Convertible Preferred Stock and Stockholders' Deficit				
Current liabilities:				
Accounts payable	$ 104,984	$ 434,385	$ 275,321	
Accrued expenses	602,800	937,075	1,084,119	
Current portion of long-term debt	7,139	515,236	851,224	
Current portion of deferred revenue	277,569	245,447	244,746	
Total current liabilities	992,492	2,132,143	2,455,410	
Long-term debt	—	2,046,986	1,731,796	
Deferred revenue	181,077	211,676	229,031	
Other long-term liabilities	123,636	185,454	200,909	
Total liabilities	1,297,205	4,576,259	4,617,146	
Commitments and contingencies (Note 11)				
Warrants for redeemable convertible preferred stock	—	450,100	450,100	
Redeemable convertible preferred stock (liquidation preference $55,657,459 and $74,887,693 at December 31, 2003 and March 31, 2004, respectively) (Note 8)	45,684,292	47,693,742	66,622,975	
Stockholders' deficit				
Common stock, $0.0001 par value; 30,000,000 authorized at December 31, 2002 and 2003 and 37,000,000 authorized at March 31, 2004; 1,036,142, 1,042,990 and 1,042,990 shares issued and outstanding at December 31, 2002 and 2003 and March 31, 2004 respectively	104	104	104	
Additional paid-in capital	—	—	—	
Subscriptions receivable	(2,143)	(2,143)	(2,143)	
Deferred compensation	(66,534)	(598,933)	(634,550)	
Accumulated deficit	39,859,918	(44,901,348)	(53,974,183)	
Total stockholders' deficit	(39,928,491)	(45,502,320)	(54,610,772)	
Total liabilities, warrants for redeemable convertible preferred stock, redeemable convertible preferred stock and stockholders' deficit	$ 7,053,006	$ 7,217,781	$ 17,079,449	$

The accompanying notes are an integral part of these financial statements.

NeuroMetrix, Inc.

Statements of Operations

	Year Ended December 31,			For the Three Months Ended March 31,	
	2001	2002	2003	2003	2004
				(Unaudited)	
Revenues:					
Diagnostic device	$ 782,592	$ 722,645	$ 1,302,306	$ 286,567	$ 334,107
Biosensor	2,681,787	3,502,362	7,865,251	1,334,438	2,696,160
Total revenues	3,464,379	4,225,007	9,167,557	1,621,005	3,030,267
Cost of revenues	1,424,287	1,370,159	2,706,539	476,646	827,207
Gross margin	2,040,092	2,854,848	6,461,018	1,144,359	2,203,060
Operating expenses:					
Research and development (1)	2,560,961	2,146,060	2,396,772	541,169	650,417
Sales and marketing (1)	5,304,414	2,869,737	4,767,640	1,046,210	1,334,610
General and administrative (1)	3,227,610	2,672,661	2,850,455	597,161	854,540
Total operating expenses	11,092,985	7,688,458	10,014,867	2,184,540	2,839,567
Loss from operations	(9,052,893)	(4,833,610)	(3,553,849)	(1,040,181)	(636,507)
Interest income	388,725	80,322	23,481	9,878	4,924
Interest expense	(53,326)	(40,175)	(136,340)	(10,058)	(148,411)
Net loss	(8,717,494)	(4,793,463)	(3,666,708)	(1,040,361)	(779,994)
Accretion of redeemable convertible preferred stock	(1,756,664)	(1,892,747)	(2,009,450)	(502,361)	(534,422)
Deemed dividend on redeemable convertible preferred stock	—	(6,872,920)	—	—	(787,885)
Beneficial conversion feature associated with redeemable convertible preferred stock				—	(7,050,771)
Net loss attributable to common stockholders	$ (10,474,158)	$ (13,559,130)	$ (5,676,158)	$ (1,542,722)	$ (9,153,072)
Net loss per common share (basic and diluted)	$ (10.47)	$ (13.17)	$ (5.46)	$ (1.49)	$ (8.78)
Weighted average shares used to compute basic and diluted net loss per common share	1,000,323	1,029,210	1,038,817	1,037,007	1,042,990
Unaudited pro forma net loss per common share (basic and diluted)			$ (0.53)		$ (1.03)
Shares used to compute unaudited pro forma basic and diluted net loss per common share			6,802,771		8,861,748

(1) Non-cash stock-based compensation expense included in these amounts are as follows:

$_$_DATA_CELL,1,1,1

Research and development $_$_DATA_CELL,1,2,1 $8,649 $_$_DATA_CELL,1,3,1 $7,733 $_$_DATA_CELL,1,4,1 $35,125 $_$_DATA_CELL,1,5,1 $3,946 $_$_DATA_CELL,1,6,1 $15,761 $_$_DATA_CELL,2,1,1

Sales and marketing $_$_DATA_CELL,2,2,1 14,751 $_$_DATA_CELL,2,3,1 5,759 $_$_DATA_CELL,2,4,1 36,790 $_$_DATA_CELL,2,5,1 6,651 $_$_DATA_CELL,2,6,1 17,407 $_$_DATA_CELL,3,1,1

General and administrative $_$_DATA_CELL,3,2,1 32,742 $_$_DATA_CELL,3,3,1 36,754 $_$_DATA_CELL,3,4,1 24,535 $_$_DATA_CELL,3,5,1 3,339 $_$_DATA_CELL,3,6,1 11,452 $_$_DATA_CELL,4,1,1

$_$_DATA_CELL,4,2,1

$_$_DATA_CELL,4,3,1

$_$_DATA_CELL,4,4,1

$_$_DATA_CELL,4,5,1

$_$_DATA_CELL,4,6,1

$_$_DATA_CELL,5,1,1

Total non-cash stock-based compensation $_$_DATA_CELL,5,2,1 $56,142 $_$_DATA_CELL,5,3,1 $50,246 $_$_DATA_CELL,5,4,1 $96,450 $_$_DATA_CELL,5,5,1 $13,936 $_$_DATA_CELL,5,6,1 $44,620 $_$_DATA_CELL,6,1,1

$_$_DATA_CELL,6,2,1

$_$_DATA_CELL,6,3,1

$_$_DATA_CELL,6,4,1

$_$_DATA_CELL,6,5,1

$_$_DATA_CELL,6,6,1

$_$_DATA_CELL,7,1,1

The accompanying notes are an integral part of these financial statements.

NeuroMetrix, Inc.
Statements of Changes in Redeemable Convertible Preferred Stock and Stockholders' Deficit
Years Ended December 31, 2001, 2002 and 2003

	Redeemable Convertible Preferred Stock		Common Stock						
	Number of Shares	Amount	Number of Shares	Amount	Additional Paid-In Capital	Subscriptions Receivable	Deferred Compensation	Accumulated Deficit	Total
Balance at December 31, 2000	11,720,320	$ 20,815,632	1,025,584	$ 103	$ —	$ (1,018)	$ (162,344)	$ (15,850,808)	$ (16,014,067)
Issuance of common stock upon exercise of stock options	—	—	10,140	1	1,891	(1,125)	—	—	767
Purchase of treasury shares	—	—	(8,296)	(1)	(65)	—	—	—	(66)
Issuance of Series E redeemable convertible preferred stock, net of issuance costs of $77,365	4,444,445	12,422,641	—	—	—	—	—	—	—
Accretion of redeemable convertible preferred stock to redemption	—	1,756,664	—	—	(4,151)	—	—	(1,752,513)	(1,756,664)
Adjustment to deferred compensation associated with terminated employees	—	—	—	—	(24,535)	—	24,535	—	—
Deferred compensation associated with stock options	—	—	—	—	26,860	—	(26,860)	—	—
Amortization of deferred compensation	—	—	—	—	—	—	56,142	—	56,142
Net loss	—	—	—	—	—	—	—	(8,717,494)	(8,717,494)
Balance at December 31, 2001	16,164,765	$ 34,994,937	1,027,428	$ 103	$ —	$ (2,143)	$ (108,527)	$ (26,320,815)	$ (26,431,382)
Issuance of common stock upon exercise of stock options	—	—	9,964	1	11,784	—	—	—	11,785
Purchase of treasury shares	—	—	(1,250)	—	(10)	—	—	—	(10)
Issuance of Series E-1 redeemable preferred stock, net of issuance costs of $76,312	1,333,334	1,923,688	—	—	—	—	—	—	—
Deemed dividend on Series D and E redeemable convertible preferred stock	—	6,872,920	—	—	—	—	—	(6,872,920)	(6,872,920)
Compensation expense associated with stock options	—	—	—	—	21,445	—	—	—	21,445
Accretion of redeemable convertible preferred stock to redemption	—	1,892,747	—	—	(20,027)	—	—	(1,872,720)	(1,892,747)
Adjustment to deferred compensation associated with terminated employees	—	—	—	—	(13,192)	—	13,192	—	—
Amortization of deferred compensation	—	—	—	—	—	—	28,801	—	28,801
Net loss	—	—	—	—	—	—	—	(4,793,463)	(4,793,463)
Balance at December 31, 2002	17,498,099	$ 45,684,292	1,036,142	$ 104	$ —	$ (2,143)	$ (66,534)	$ (39,859,918)	$ (39,928,491)
Issuance of common stock upon exercise of stock options	—	—	8,723	—	5,894	—	—	—	5,894
Purchase of treasury shares	—	—	(1,875)	—	(15)	—	—	—	(15)
Accretion of redeemable convertible preferred stock to redemption	—	2,009,450	—	—	(634,728)	—	—	(1,374,722)	(2,009,450)
Adjustment to deferred compensation associated with terminated employees	—	—	—	—	(2,051)	—	2,051	—	—
Deferred compensation associated with stock options	—	—	—	—	630,900	—	(630,900)	—	—
Amortization of deferred compensation	—	—	—	—	—	—	96,450	—	96,450
Net loss	—	—	—	—	—	—	—	(3,666,708)	(3,666,708)
Balance at December 31, 2003	17,498,099	$ 47,693,742	1,042,990	$ 104	$ —	$ (2,143)	$ (598,933)	$ (44,901,348)	$ (45,502,320)

The accompanying notes are an integral part of these financial statements.

	Redeemable Convertible Preferred Stock		Common Stock						
	Number of Shares	Amount	Number of Shares	Amount	Additional Paid-In Capital	Subscriptions Receivable	Deferred Compensation	Accumulated Deficit	Total
Balance at December 31, 2003	17,498,099	$ 47,693,742	1,042,990	$ 104	$ —	$ (2,143)	$ (598,933)	$ (44,901,348)	$ (45,502,320)
Issuance of Series E-I redeemable preferred stock net of issuance costs of $20,000 (unaudited)	7,050,771	10,556,155	—	—	—	—	—	—	—
Deferred compensation associated with stock options (unaudited)	—	—	—	—	80,237	—	(80,237)	—	—
Accretion of redeemable convertible preferred stock to redemption (unaudited)	—	534,422	—	—	(80,237)	—	—	(454,185)	(534,422)
Beneficial conversion feature associated with redeemable convertible preferred stock (unaudited)	—	7,050,771	—	—	—	—	—	(7,050,771)	(7,050,771)
Deemed dividend on Series D redeemable convertible preferred stock (unaudited)	—	787,885	—	—	—	—	—	(787,885)	(787,885)
Amortization of deferred compensation (unaudited)	—	—	—	—	—	—	44,620	—	44,620
Net loss (unaudited)	—	—	—	—	—	—	—	(779,994)	(779,994)
Balance at March 31, 2004 (unaudited)	24,548,870	$ 66,622,975	1,042,990	$ 104	$ —	$ (2,143)	$ (634,550)	$ (53,974,183)	$ (54,610,772)

The accompanying notes are an integral part of these financial statements.

NeuroMetrix, Inc.

Statements of Cash Flows

	Year Ended December 31,			For the Three Months Ended March 31,	
	2001	2002	2003	2003	2004
				(Unaudited)	
Cash flows for operating activities:					
Net loss	$ (8,717,494)	$ (4,793,463)	$ (3,666,708)	$ (1,040,361)	$ (779,994)
Adjustments to reconcile net loss to net cash used in operating activities:					
Depreciation and amortization	344,731	261,222	214,589	59,302	46,333
Compensation expense associated with stock options	56,142	50,246	96,450	13,937	44,620
Accrued payments on long-term debt	—	—	12,222	—	27,500
Allowance (recoveries) for doubtful accounts	200,000	(100,000)	100,000	—	—
Loss on disposal of fixed assets	3,728	2,773	—	—	—
Accretion of debt issuance discount				—	37,500
Changes in operating assets and liabilities:					
Accounts receivable	(236,354)	(166,253)	(1,121,584)	(170,959)	(119,803)
Inventory	(748,859)	186,470	(216,078)	165,696	(233,564)
Prepaid expenses and other current assets	(39,587)	(32,982)	(33,974)	(29,931)	(122,829)
Other assets	4,503	215	—	—	—
Accounts payable	(208,910)	(237,352)	329,401	28,995	(159,064)
Accrued expenses	(197,506)	222,244	334,275	59,984	147,044
Other long-term liabilities	61,818	61,818	61,818	15,455	15,455
Deferred revenue and costs	15,091	(14,918)	16,217	(7,050)	24,070
Net cash used in operating activities	(9,462,697)	(4,559,980)	(3,873,372)	(904,932)	(1,072,732)
Cash flows for investing activities:					
Restricted cash	(1,897,200)	—	—	—	—
Purchases of fixed assets	(280,993)	(29,922)	(203,611)	(58,976)	(161,619)
Proceeds from disposal of fixed assets	18,286	—	—	—	—
Net cash used in investing activities	(2,159,907)	(29,922)	(203,611)	(58,976)	(161,619)
Cash flows from financing activities:					
Proceeds from exercise of stock options	700	11,776	5,879	—	—
Proceeds from issuance of redeemable convertible preferred stock	11,672,641	1,923,688	—	—	10,556,155
Proceeds from long-term debt and related warrants	—	—	3,000,100	—	—
Payments on long-term debt	(43,901)	(40,420)	(7,139)	(7,139)	(44,202)
Net cash provided by (used in) financing activities	11,629,440	1,895,044	2,998,840	(7,139)	10,511,953
Net increase (decrease) in cash and cash equivalents	6,836	(2,694,858)	(1,078,143)	(971,047)	9,277,602
Cash and cash equivalents, beginning of year	5,388,681	5,395,517	2,700,659	2,700,659	1,622,516
Cash and cash equivalents, end of year	$ 5,395,517	$ 2,700,659	$ 1,622,516	$ 1,729,612	$ 10,900,118
Supplemental disclosure of cash flow information:					
Cash paid for interest	$ 83,326	$ 40,175	$ 152,992	$ 10,058	$ 81,290
Relative fair value of warrant issued in connection with note payable	$ —	$ —	$ 450,100	$ —	$ —
Accretion of redeemable convertible preferred stock	$ 1,756,664	$ 1,892,747	$ 2,009,450	$ 502,361	$ 534,422
Deemed dividend on redeemable convertible preferred stock	$ —	$ 6,872,970	$ —	$ —	$ 787,885
Conversion of note payable to redeemable	$ 750,000	$ —	$ —	$ —	$ —

convertible preferred stock					
Beneficial conversion feature associated with redeemable convertible preferred stock	$ —	$ —	$ —	$ —	$ 7,050,771

The accompanying notes are an integral part of these financial statements.

1. Nature of the Business and Basis of Presentation

NeuroMetrix, Inc. (the "Company"), a Massachusetts corporation, was formed in June 1996 to utilize proprietary or licensed biomedical engineering and neurophysiology technology developed in the Harvard-M.I.T. Division of Health Sciences and Technology. In May 2001, the Company reincorporated in Delaware.

The Company designs, develops and sells proprietary medical devices used to diagnose neuropathies. Neuropathies are diseases of the peripheral nerves and parts of the spine that frequently are caused by or are associated with diabetes, low back pain and carpal tunnel syndrome, as well as other clinical disorders.

The Company has been successful in completing several rounds of private equity financing with its last round totaling $10,576,157 during March 2004, which the Company believes will provide sufficient funding for operations through December 31, 2004. However, the Company has incurred substantial losses and negative cash flow from operations in every fiscal period since inception. For the year ended December 31, 2003, the Company incurred a loss from operations of $3,666,708 and negative cash flow from operations of approximately $3,873,372. As of December 31, 2003, the Company had accumulated deficits of approximately $44,901,661. Failure to generate sufficient revenues, raise additional capital or reduce certain discretionary spending could have a material adverse effect on the Company's ability to continue as a going concern and to achieve its business objectives.

Reverse Stock Split

On June 2, 2004, the Company's Board of Directors approved a 1-for-4 reverse stock split of the Company's issued common stock, subject to stockholder approval, to be effected prior to the Company's proposed initial public offering. On June 18, 2004, the Company's stockholders approved this reverse stock split. Common share and common share-equivalents have been restated to reflect this split for all periods presented.

Unaudited Interim Financial Statements

The unaudited financial statements as of March 31, 2004 and for the three months ended March 31, 2003 and 2004 have been prepared in accordance with generally accepted accounting principles for interim financial information and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments, consisting only of normal recurring accruals, considered necessary for a fair presentation of the results of these interim periods have been included. The results of operations for the three months ended March 31, 2003 and 2004 are not necessarily indicative of the results that may be expected for the full year.

Unaudited Balance Sheet As Adjusted at March 31, 2004

The unaudited balance sheet as adjusted as of March 31, 2004 gives effect to (a) the conversion of all outstanding shares of redeemable convertible preferred stock into shares of common stock on the effectiveness of the Company's proposed initial public offering and the satisfaction of the conditions for conversion, as described in Note 8, and (b) the receipt of the net proceeds from the sale of the shares of common stock in the Company's proposed initial public offering.

2. Summary of Significant Accounting Policies

Significant accounting policies applied by the Company in the preparation of its financial statements are as follows:

Cash and Cash Equivalents

The Company considers all highly liquid investments with an original maturity of three months or less to be cash equivalents. Cash equivalents are classified at cost, plus accrued interest, which approximates fair value. The Company invests excess cash primarily in a money market investment which management believes is subject to minimal credit and market risk.

Restricted Cash

At December 31, 2002 and 2003 and March 31, 2004, the Company maintained restricted cash in the amount of $1,897,200 associated with a facility lease. See Note 11.

Concentration of Credit Risk

Financial instruments that potentially expose the Company to concentrations of credit risk consist primarily of cash and cash equivalents in bank deposit accounts and trade receivables. The Company has not experienced significant losses related to cash and cash equivalents and trade receivables and does not believe it is exposed to any significant credit risks relating to its cash and cash equivalents and trade receivables.

The Company distributes its products through its own regional sales managers who lead independent sales agencies. At December 31, 2002 and 2003 and for the years ended December 31, 2001, 2002 and 2003, no single customer accounted for more than 10% of accounts receivable or revenue.

Inventories

Inventories, consisting of finished goods and purchased components, are stated at the lower of cost or market. Cost is determined using the first-in, first-out method.

Fair Value of Financial Instruments

The carrying amounts of the Company's financial instruments, which include cash and cash equivalents, accounts receivable, accounts payable, accrued expenses, and long-term debt, approximate their fair value at December 31, 2002 and 2003 and March 31, 2004.

The fair value of the Company's long-term debt is estimated based on quoted market prices for similar issues, or on current rates offered to the Company for debt with similar remaining maturities.

Revenue Recognition

The Company recognizes revenue when the following criteria have been met: persuasive evidence of an arrangement exists, delivery has occurred and risk of loss has passed, the seller's price to the buyer is fixed or determinable and collectibility is reasonably assured.

When multiple elements are contained in a single arrangement, the Company allocates revenue between the elements based on their relative fair value, provided that each element meets the criteria

for treatment as a separate unit of accounting. An item is considered a separate unit of accounting if it has value to the customer on a stand-alone basis and there is objective and reliable evidence of the fair value of the undelivered items. Fair value is determined based upon the price charged when the element is sold separately.

Diagnostic device revenues consist of sales of NC-stat monitors and NC-stat docking stations. Revenues associated with the sale of the NC-stat monitors are recognized upon shipment provided that the fee is fixed and determinable, evidence of a persuasive arrangement exists, collection of receivables is probable, product returns are reasonably estimable and no continuing obligations exist. The sale of a NC-stat docking station and access to the onCall Information System are deferred and recognized on a straight line basis over the estimated period of time the Company provides the service associated with the onCall Information System which is the shorter of the estimated customer relationship period or the estimated useful life of the docking station, currently 3 years. The deferred revenue and costs are presented as separate line items on the accompanying balance sheet.

Biosensor revenues consist of sales of the disposable NC-stat biosensors. Revenues associated with the sale of the NC-stat disposable biosensors are recognized upon shipment provided that the fee is fixed and determinable, evidence of a persuasive arrangement exists, collection of receivables is probable and product returns are reasonably estimable.

Software upgrades are delivered through automated processes over data lines and are sold separately. Revenue is recognized upon delivery since no post-delivery obligations exist.

The Company recognizes revenues associated with any service arrangements including installation, training and warranty over the period of service. The Company determines the fair value of installation and training based on hourly service billing rates and installation hours. The Company determines the fair value of warranties based on extended warranties sold separately.

Certain product sales are made with a thirty-day right of return. Since the Company can reasonably estimate future returns, the Company recognizes revenues associated with product sales that contain a right of return upon shipment and at the same time reduces revenue by the amount of estimated returns under the provisions of Financial Accounting Standards Board Statement No. 48, *Revenue Recognition When Right of Return Exists*.

Proceeds received in advance of product shipment are recorded as deferred revenues. Shipping and handling costs are included in cost of revenues net of amounts invoiced to the customer since the amounts are immaterial for all periods presented. Discounts on list prices are recorded as a reduction of revenues.

Income Taxes

The Company uses the liability method of accounting for income taxes. Under the liability method, deferred tax assets and liabilities reflect the impact of temporary differences between amounts of assets and liabilities for financial reporting purposes and such amounts as measured under enacted tax laws. A valuation allowance is required to offset any net deferred tax assets if, based upon the available evidence, it is more likely than not that some or all of the deferred tax asset will not be realized.

Research and Development Costs

Cost incurred in the research and development of the Company's products are expensed as incurred. Included in research and development costs are wages, benefits and other operating costs such as facilities, supplies and overhead directly related to the Company's research and development function.

Product Warranty Costs

The Company accrues estimated product warranty costs at the time of sale which are included in cost of sales in the statements of operations. The amount of the accrued warranty liability is based on historical information such as past experience, user error, variability in physiology and anatomy of customers' patients, product failure rates, number of units repaired and estimated cost of material and labor. The liability is reviewed for reasonableness at least quarterly.

The following is a rollforward of the Company's accrued warranty liability for the years ended December 31, 2002 and 2003 and for the three months ended March 31, 2004:

	Balance at Beginning of Period	Accruals for Warranties	Settlements Made	Balance at End of Period
Accrued warranty liability:				
2002	$ —	$ 78,341	$ (75,630)	$ 2,711
2003	$ 2,711	$ 117,695	$ (98,255)	$ 22,151
Three months ended March 31, 2004 (unaudited)	$ 22,151	$ 35,732	$ (27,600)	$ 30,283

Fixed Assets and Long-Lived Assets

Fixed assets are recorded at cost and depreciated using the straight-line method over the estimated useful life of each asset. Expenditures for repairs and maintenance are charged to expense as incurred. On disposal, the related assets and accumulated depreciation are eliminated from the accounts and any resulting gain or loss is included in income. Leasehold improvements are amortized over the shorter of the useful life of the improvement or the remaining term of the lease.

The Company evaluates the recoverability of its fixed assets and other long-lived assets when circumstances indicate that an event of impairment may have occurred in accordance with the provisions of Statement of Financial Accounting Standard ("SFAS") No. 144, *Accounting for the Impairment of Disposal of Long-Lived Assets* ("SFAS No. 144"). SFAS No. 144 further refines the requirements of SFAS No. 121, *Accounting for the Impairment of Long-Lived Assets and Long-Lived Assets to be Disposed of*, that companies (1) recognize an impairment loss only if the carrying amount of a long-lived asset is not recoverable based on its undiscounted future cash flows and (2) measure an impairment loss as the difference between the carrying amount and fair value of the asset. In addition, SFAS No. 144 provides guidance on accounting and disclosure issues surrounding long-lived assets to be disposed of by sale. No impairment was required to be recognized for the years ended December 31, 2001, 2002 and 2003.

Accounting for Stock-Based Compensation

Employee stock awards granted under the Company's compensation plans are accounted for in accordance with Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees* ("APB 25"), and related interpretations. The Company has not adopted the fair value method of accounting for stock-based compensation. Accordingly, compensation expense is recorded for options issued to employees to the extent that the fair value of the Company's common stock exceeds the exercise price of the option at the date granted and all other criteria for fixed accounting have been met. All stock-based awards granted to non-employees are accounted for at their fair value in accordance with SFAS No. 123, as amended, and EITF Issue No. 96-18, *Accounting for Equity Instruments that are Issued to Other Than Employees for Acquiring, or in Conjunction with Selling, Goods or Services*, under which compensation expense is generally recognized over the vesting period of the award.

The Company provides the disclosure requirements of SFAS No. 148, *Accounting for Stock-Based Compensation—Transition and Disclosure*, an amendment of FASB Statement No. 123 ("SFAS No. 148"). If compensation expense for the Company's stock-based compensation plan had been determined based on the fair value at the grant dates as calculated in accordance with SFAS No. 123, the Company's net loss attributable to common stockholders and net loss per common share would approximate the pro forma amounts below:

	Year Ended December 31,			For the Three Months Ended March 31,	
	2001	2002	2003	2003	2004
				(Unaudited)	
Net loss attributable to common stockholders, as reported	$ (10,474,158)	$ (13,559,130)	$ (5,676,158)	$ (1,542,722)	$ (9,153,072)
Add employee stock-based compensation expense included in reported net loss attributable to common stockholders	56,142	50,246	96,450	13,936	44,620
Less stock-based compensation expense determined under fair value method	(85,866)	(81,087)	(209,329)	(31,102)	(98,761)
Net loss attributable to common stockholders—pro forma	$ (10,503,882)	$ (13,589,971)	$ (5,789,037)	$ (1,559,888)	$ (9,207,213)
Net loss per common share (basic and diluted)					
As reported	$ (10.47)	$ (13.17)	$ (5.46)	$ (1.49)	$ (8.78)
Pro forma	$ (10.50)	$ (13.20)	$ (5.57)	$ (1.50)	$ (8.83)

The Company has estimated the fair value of its granted stock options by applying a present value approach which does not consider expected volatility of the underlying stock ("minimum value method") using the following weighted average assumptions:

The Company amortizes employee stock compensation on a straight line basis over the applicable vesting period.

The Company established the fair value of common stock by reference to the previously issued redeemable convertible preferred stock and by reference to an expected IPO price. The Company expects to complete its offering in 2004 and accordingly the Company has utilized a fair value equal to the expected IPO price per share for all stock option grants and equity transactions made in 2004.

	Year Ended December 31,			Three Months Ended March 31,	
	2001	2002	2003	2003	2004
				(Unaudited)	
Risk-free interest rate	4.6%	3.9%	3.0%	3.0%	3.1%
Expected dividend yield	—	—	—	—	—
Expected option term	5 years	5 years	5 years	5 years	5 years
Volatility	0.0%	0.0%	0.0%	0.0%	0.0%
Weighted average fair value of options granted	$ 0.36	$ 0.40	$ 5.60	$ 3.84	$ 8.07

Since options vest over several years and additional option grants are expected to be made in future years, the pro forma effects of applying the fair value method may be material to reported net income or loss in future years.

Net Income (Loss) Per Common Share

The Company accounts for and discloses net income (loss) per common share in accordance with SFAS No. 128, *Earnings Per Share* ("SFAS No. 128"). Basic net income (loss) per common share is computed by dividing net income (loss) attributable to common stockholders by the weighted average number of common shares outstanding. Diluted net income per common share is computed by dividing net income attributable to common stockholders by the weighted average number of common shares and dilutive potential common share equivalents then outstanding. Potential common shares consist of shares issuable upon the exercise of stock options and warrants (using the treasury stock method) and the weighted average conversion of the redeemable convertible preferred stock into shares of common stock (using the if-converted method).

The following potentially dilutive, common share equivalents were excluded from the calculation of diluted net loss per common share because their effect was antidilutive for each of the periods presented:

	Year Ended December 31,			For the Three Months Ended March 31,	
	2001	2002	2003	2003	2004
				(Unaudited)	
Options	306,586	381,651	450,412	421,589	456,930
Warrants	—	—	100,000	—	100,000
Redeemable convertible preferred stock	4,041,191	5,647,289	5,647,289	5,647,289	7,488,758

The Company's historical capital structure is not indicative of its capital structure after the proposed initial public offering ("IPO") due to the anticipated conversion of all shares of redeemable convertible preferred stock into shares of common stock concurrent with the closing of the Company's proposed IPO. Accordingly, pro forma net loss per common share is presented for the year ended December 31, 2003 and the three months ended March 31, 2004 in the statements of operations.

Unaudited pro forma basic and diluted net loss per common share is computed by dividing the net loss attributable to common stockholders adjusted for the elimination of interest expense associated with outstanding debt obligations and for accretion of redeemable convertible preferred stock for the period by the sum of: (1) the pro forma number of common shares outstanding, assuming the conversion of the redeemable convertible preferred stock into shares of the Company's common stock which will occur upon the closing of the Company's proposed IPO, as if such conversion occurred at the date of the original issuance of the shares of redeemable convertible preferred stock and (2) the pro forma number of common shares required to be sold at the offering price per share to retire the outstanding debt obligation from the beginning of the period or the date of the issuance of debt, as applicable. Unaudited pro forma diluted net loss per common share for the year ended December 31, 2003 excludes options to purchase 450,412 shares of common stock and a warrant to purchase 400,000 shares of Series E-1 redeemable convertible preferred stock which is assumed to be converted into a warrant to purchase common stock.

Redeemable Convertible Preferred Stock

Redeemable convertible preferred stock is treated as if it is mandatorily redeemable (classified in the mezzanine section of the balance sheet) if it may be redeemed by the holder based on facts and circumstances not in the Company's control. Since there is a specified redemption date, the carrying value is accreted to its redemption value over the term. These adjustments are affected through charges first against retained earnings, then against additional paid-in capital until it is reduced to zero and then to accumulated deficit. See Note 8.

Other Comprehensive Income (Loss)

SFAS 130 *Reporting Comprehensive Income* establishes standards for reporting and displaying comprehensive income and its components in a full set of general-purpose financial statements. For the years ended December 31, 2001, 2002 and 2003, and the three months ended March 31, 2003 and 2004, the Company had no components of comprehensive income or loss.

Segments

The Company is in the business of designing, developing and selling propietary medical devices. The Company evaluates its business activities that are regularly reviewed by the Chief Executive Officer for which discrete financial information is available. As a result of this evaluation, the Company determined that it has one operating segment with operations in one geographical location which is the United States.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Risks and Uncertainties

The Company is subject to risks common to companies in the medical device industry, including, but not limited to, development by the Company or its competitors of new technological innovations, dependence on key personnel, reliance on third party manufacturers, protection of proprietary technology, and compliance with regulations of the U.S. Food and Drug Administration.

Recent Accounting Pronouncements

In January 2003, the FASB issued FIN No. 46, *Consolidation of Variable Interest Entities, an Interpretation of ARB No. 51* ("FIN No. 46"). The primary objectives of FIN No. 46 are to provide guidance on the identification of entities for which control is achieved through means other than through voting rights (variable interest entities) and to determine when and which business enterprise should consolidate the variable interest entities. The new model for consolidation applies to an entity which either (1) the equity investors (if any) do not have a controlling financial interest or (2) the equity investment at risk is insufficient to finance the entity's activities without receiving additional subordinated financial support from the other parties. FIN No. 46 also requires enhanced disclosures for variable interest entities. FIN No. 46 applies immediately to variable interest entities created after January 31, 2003, and to variable interest entities in which an enterprise obtains an interest after that date. The standard as amended by FIN 46R, applies to the first fiscal year or interim period beginning after March 15, 2004 to variable interest entities in which an enterprise holds a variable interest that it acquired before February 1, 2003. The Company does not expect the adoption of FIN No. 46 to have a material impact on the Company's financial position, results of operations, or cash flows.

In March 2004, the Emerging Issues Task Force ("EITF") reached a consensus on EITF No. 03-06, *Participating Securities and Two-Class Method under FASB Statement No. 128, Earning per Share.* EITF No. 03-06 addresses a number of questions regarding the computation of earnings per share ("EPS") by companies that have issued securities other than common stock that contractually entitle the holder to participate in dividends and earnings of the company when, and if, it declares dividends on its common stock. The issue also provides further guidance in applying the two-class method of calculating EPS. It clarifies what constitutes a participating security and how to apply the two class method of computing EPS once it is determined that a security is participating, including how to allocate undistributed earnings to such a security. The consensuses reached on EITF No. 03-06 is effective for fiscal periods beginning after March 31, 2004. Prior period earnings per share amounts will be restated to conform to the consensuses to ensure comparability year over year. The Company is still evaluating the impact, if any, the adoption of EITF No. 03-06 would have on its results of operations or financial condition.

3. Inventories

At December 31, 2002 and 2003, and March 31, 2004, inventory consists of the following:

	December 31,		
	2002	2003	March 31, 2004
			(Unaudited)
Purchased components	$ 202,118	$ 238,757	$ 299,019
Finished goods	660,194	839,633	1,012,935
Total inventories	$ 862,312	$ 1,078,390	$ 1,311,954

4. Fixed Assets

Fixed assets consist of the following:

	Estimated Useful Life (Years)	December 31,		
		2002	2003	March 31, 2004
				(Unaudited)
Computer and laboratory equipment	3	$ 791,037	$ 847,027	$ 890,910
Furniture and equipment	3	185,545	186,664	186,664
Production equipment	7	291,835	352,814	544,073
Construction in progress	—	7,546	81,069	7,546
Leasehold improvements	*	7,443	19,443	19,443
		1,283,406	1,487,017	1,648,636
Less: accumulated depreciation		(933,204)	(1,147,793)	(1,194,126)
		$ 350,202	$ 339,224	$ 454,510

* Lesser of life of lease or useful life

Depreciation expense and amortization relating to leasehold improvements was $296,433, $261,222, $214,589 and $46,333 for the years ended December 31, 2001, 2002 and 2003 and the three months ended March 31, 2004, respectively.

5. Accrued Expenses

Accrued expenses consist of the following:

	December 31, 2002	December 31, 2003	March 31, 2004 (Unaudited)
Compensation	$ 188,540	$ 492,481	$ 474,164
Licenses	25,000	100,000	150,000
Professional services	123,826	79,866	142,022
Other	265,434	264,728	317,933
	$ 602,800	$ 937,075	$ 1,084,119

6. Long-Term Debt

In March 1999, the Company obtained a commitment from a bank for a $300,000 equipment term loan facility (the "Equipment Line"). On February 28, 2000, the bank increased the Equipment Line to $400,000 and extended the maturity date to February 27, 2003. Advances under the Equipment Line were available through July 27, 2000 and are repayable in 30 equal monthly installments. Borrowings outstanding under the Equipment Line bear interest at the bank's prime rate, plus 0.75% and are collateralized by substantially all assets of the Company. Under the terms of the agreement, the Company is required to comply with certain covenant requirements and to maintain certain financial ratios. In February 2003, the Equipment Line was paid in full.

On May 21, 2003, the Company entered into an agreement with Lighthouse Capital Partners IV, L.P. (Lighthouse) to establish a line of credit for $3,000,000 ("Line of Credit"). The Company had the ability to draw down amounts under the Line of Credit through December 31, 2003 upon adherence to certain conditions. All borrowings under the Line of Credit are collateralized by the assets financed. Borrowings bear interest at nominal rate of 11% per annum. Under the terms of the Line of Credit, the Company must repay each advance, plus outstanding interest, in equal monthly installments beginning approximately six months after the date of the advance and continuing for a period of 30 months, or until the full amount of the principal is repaid. Upon the final maturity date or the earlier prepayment of each advance, the Company is required to pay, in addition to the paid principal and interest, an additional amount equal to 11% of the original principal, or $330,000. This additional amount is being accreted over the applicable borrowing period as additional interest expense.

In connection with the Line of Credit, the Company issued Lighthouse a warrant to purchase up to 400,000 shares of Series E-1 preferred stock at an exercise price of $1.50 per share, for a term of seven years. The relative fair value of the warrants was calculated using the Black-Scholes option pricing model with the following assumptions: 90% volatility, risk-free interest rate of 3.84%, no dividend yield, and a seven-year term. The relative fair value of these warrants is estimated to be $450,100 which was recorded in the mezzanine section of the accompanying balance sheet since the warrant is exercisable for a redeemable security. Accordingly, the discount on the long-term debt of $450,100 is being accreted over the repayment term of 36 months as additional interest expense. The effective interest rate on the long-term debt issued by Lighthouse is 22.45% per annum.

As of December 31, 2003, future cash payments under the long-term debt arrangements are as follows:

2004	$	949,043
2005		1,365,480
2006		1,213,760
Final payment		12,222
		3,540,505
Less: amounts representing interest		528,183
Less: discount associated with warrant		450,100
Less: current portion		515,236
	$	2,046,986

7. Note Payable to Shareholder

The note payable to shareholder consists of a $750,000 convertible note issued on June 30, 2000 to one shareholder of the Company. The note bears interest at 8% and all principal and accrued interest was payable in full on March 31, 2001. In February 2001, the aggregate of the outstanding principal of the note was converted into 266,665 fully paid and nonassessable shares of the Company's Series E redeemable convertible preferred stock at a conversion price of $2.81 per share. The Company made a cash payment of $39,616 in interest upon conversion of the note payable.

8. Redeemable Convertible Preferred Stock

As of December 31, 2003, the Company has 21,164,763 authorized shares of preferred stock, of which 875,000 shares are designated as Series A redeemable convertible preferred stock ("Series A preferred stock"), 625,000 shares are designated as Series B redeemable convertible preferred stock ("Series B preferred stock"), 3,998,100 shares are designated as Series C redeemable convertible preferred stock ("Series C preferred stock"), of which 2,850,000 shares are designated as Series C-1 redeemable convertible preferred stock ("Series C-1 preferred stock") and 1,148,100 shares were designated as Series C-2 non-voting redeemable convertible preferred stock ("Series C-2 preferred stock"), 6,222,220 shares are designated as Series D redeemable convertible preferred stock ("Series D preferred stock"), 7,111,110 shares are designated as Series E redeemable convertible preferred stock ("Series E preferred stock") and 2,333,333 shares are designated as Series E-1 redeemable convertible preferred stock ("Series E-1 preferred stock") (collectively, the "redeemable convertible preferred stock").

The Company's redeemable convertible preferred stock, $0.001 par value, consists of the following as of December 31, 2002, 2003 and March 31, 2004 (unaudited):

	2002	2003	March 31, 2004
			(Unaudited)
Series A redeemable convertible preferred stock; 875,000 shares authorized, issued and outstanding (liquidation preference of $2,126,250 at December 31, 2003 and $2,187,500 at March 31, 2004)	$ 291,894	$ 305,894	$ 309,394
Series B redeemable convertible preferred stock; 625,000 shares authorized, issued and outstanding (liquidation preference of $1,518,750 at December 31, 2003 and $1,562,500 at March 31, 2004)	256,806	266,806	269,306
Series C-1 redeemable convertible preferred stock; 2,850,000 shares authorized, issued and outstanding (liquidation preference of $6,925,500 at December 31, 2003 and $7,125,000 at March 31, 2004)	3,678,565	3,849,556	3,892,304
Series C-2 nonvoting redeemable convertible preferred stock; 1,148,100 shares authorized, issued and outstanding (liquidation preference of $2,789,883 at December 31, 2003 and $2,870,250 at March 31, 2004)	1,482,161	1,551,056	1,568,280
Series D redeemable convertible preferred stock; 6,222,220 shares authorized, issued and outstanding (liquidation preference of $18,807,085 at December 31, 2003 and $19,348,850 at March 31, 2004)	18,936,905	19,776,905	20,774,788
Series E redeemable convertible preferred stock; 7,111,110 shares authorized, 4,444,445 issued and outstanding (liquidation preference of $20,249,989 at December 31, 2003 and $20,833,323 at March 31, 2004)	19,109,506	19,869,633	20,059,665
Series E-1 redeemable convertible preferred stock; 2,333,333 and 8,784,200 shares authorized at December 31, 2003 and March 31, 2004, 1,333,334 and 8,384,105 issued and outstanding at December 31, 2003 and March 31, 2004, respectively (liquidation preference of $3,240,002 at December 31, 2003 and $20,960,263 at March 31, 2004)	1,928,455	2,073,892	19,749,238
	$ 45,684,292	$ 47,693,742	$ 66,622,975

In February 2001, the Company sold 4,444,445 shares of Series E preferred stock, at a price of $2.8125 per share, resulting in gross proceeds of approximately $12,500,000.

In December 2002, the Company sold 1,333,334 shares of Series E-1 preferred stock at a price of $1.50 per share, resulting in gross proceeds of approximately $2,000,000.

As a result of the December 2002 Series E-1 preferred stock financing and the anti-dilution provisions associated with the Series D and Series E preferred stock, the Company recorded a charge in the form of a deemed dividend of $6,872,920 in the year ended December 31, 2002. This charge resulted from an adjustment to the conversion prices as a result of anti-dilution protection associated with the Series D and Series E preferred stock, described above.

In March 2004, the Company sold 7,050,771 shares of Series E-1 preferred stock at a price of $1.50 per share, resulting in gross proceeds of $10,576,157. The conversion rate associated with Series E-1 preferred stock results in a 1-for-4 exchange or a conversion price of $6.00 per share. The

Series E-1 preferred stock contains a beneficial conversion feature as the estimated fair value of the Company's common stock is in excess of the $1.50 per share conversion price. Accordingly, the Company recorded a charge of $7,050,771 as a beneficial conversion feature in March 2004. Also, as a result of this Series E-1 preferred stock financing and the anti-dilution provisions associated with the Series D preferred stock, the Company recorded a charge in the form of a deemed dividend of $787,885 in March 2004. This charge resulted from an adjustment to the conversion price as a result of anti-dilution protection associated with the Series D preferred stock.

As of December 31, 2003, the rights, preferences, and privileges of the Company's redeemable convertible preferred stock are listed below:

Conversion

Each share of redeemable convertible preferred stock is convertible, at the option of the holder, into common stock of the Company. The conversion rate is adjusted for antidilution provisions. At December 31, 2003, the conversion rate for Series A, B, C-1, C-2 and E-1 preferred stock would result in a 1-for-4 exchange. At December 31, 2003, the conversion rate for Series D preferred stock would result in a 1-for-3.2158 exchange. At December 31, 2003, the conversion rate for Series E preferred stock would result in a 1-for-2.1333 exchange. Each share of the redeemable convertible preferred stock will automatically convert into common stock upon the closing of an initial public offering of the Company's common stock from which aggregate net proceeds to the Company exceed $25,000,000 and in which the per share price is not less than $6.00. Additionally, at any time, the holders of a majority of the outstanding shares of each series of redeemable convertible preferred stock may elect to convert all of the shares of such series into common stock.

Dividends

The redeemable convertible preferred stockholders are entitled to receive cumulative dividends, when and if declared by the Company's Board of Directors, at an annual rate of $0.016 per share for the Series A and Series B preferred stock, $0.06 per share for the Series C-1 and Series C-2 preferred stock, $0.135 per share for the Series D preferred stock, $0.16875 per share for the Series E preferred stock, and $0.09 per share for the Series E-1 preferred stock.

Voting Rights

The redeemable convertible preferred stockholders, except for Series C-2 preferred stockholders, generally vote together with all other classes and series of stock as a single class on all matters and are entitled to a number of votes equal to the number of shares of common stock into which each share of such stock is convertible. With respect to the number of directors, the holders of the Series A preferred stock and Series B preferred stock are entitled to elect one director voting together as a single class, holders of Series C preferred stock and Series D preferred stock, each voting as a separate class, are entitled to elect one director of the Company for each class. The holders of the Series E preferred stock and Series E-1 preferred stock are entitled to elect one director voting together as a single class.

Liquidation Preferences

In the event of liquidation, dissolution, merger, sale or winding-up of the Company, the holders of the Series A, Series B, Series C-1, Series C-2, Series D, Series E, and Series E-1 preferred stock are

entitled to receive the greater of (i) prior to and in preference to the holders of common stock, an amount equal to $0.2285714, $0.32, $1.00, $1.00, $2.25, $2.8125 and $1.50 per share (subject to certain antidilutive adjustments), respectively, plus any accrued but unpaid dividends, or (ii) such amount per share as would have been payable had each such share been converted into common stock immediately prior to such liquidation, dissolution, merger, sale or winding-up of the Company. Upon liquidation, dissolution or winding-up of the Company, common stock ranks junior to the Series A and B preferred stock which ranks junior to the Series C-1 and Series C-2 preferred stock which ranks junior to the Series D preferred stock which ranks junior to the Series E and E-1 preferred stock.

Redemption

Each holder of redeemable convertible preferred stock may require the Company to redeem in December 2005, 2006 and 2007, each a Mandatory Redemption Date, up to the percentage of Series A, Series B, Series C-1 and Series C-2, Series D, Series E and Series E-1 preferred stock held by such holder, as listed in the following table, at a price per share equal to $0.2285714, $0.32, $1.00, $1.00, $2.25, $2.8125 and $1.50 per share (subject to certain anti-dilution adjustments), respectively, plus all accrued but unpaid dividends, whether or not declared.

Mandatory Redemption Date	Maximum Portion of Shares of Preferred Stock to be Redeemed
December 2005	33%
December 2006	67%
December 2007	100%

The Company initially recorded redeemable convertible preferred stock at fair value at the date of issuance. Where the carrying amount of the redeemable convertible preferred stock was less than the redemption amount, the carrying amount is increased by periodic accretion so that the carrying amount would equal the redemption amount at the first available redemption date. The carrying amount is further periodically increased by amounts representing the accrued but unpaid dividends. Accretion of the Company's redeemable convertible preferred stock during the years ended December 31, 2001, 2002 and 2003 and for the three months ended March 31, 2004, was as follows:

	December 31,			March 31,
	2001	2002	2003	2004
Accretion of Series A preferred stock	$ 14,000	$ 14,000	$ 14,000	$ 3,500
Accretion of Series B preferred stock	10,000	10,000	10,000	2,500
Accretion of Series C-1 preferred stock	171,000	171,000	171,000	42,750
Accretion of Series C-2 preferred stock	68,886	68,886	68,886	17,221
Accretion of Series D preferred stock	840,000	840,000	840,000	210,000
Accretion of Series E preferred stock	652,778	784,094	760,127	190,032
Accretion of Series E-1 preferred stock	—	4,767	145,437	68,419
	$ 1,756,664	$ 1,892,747	$ 2,009,450	$ 534,422

9. Common Stock and Stock Option Plans

As of December 31, 2003, the Company had 30,000,000 shares of common stock authorized and 1,042,990 shares issued and outstanding. As of December 31, 2003, the Company has reserved 5,647,289 shares of common stock for issuance to redeemable convertible preferred stockholders upon the conversion of the redeemable convertible preferred stock and 100,000 shares of common stock for issuance upon the conversion of 400,000 shares of Series E-1 preferred stock issuable upon exercise of a warrant. In addition, the Company has reserved 437,912 shares of common stock for future issuance upon exercise of common stock options.

Each share of common stock entitles the holder to one vote on all matters submitted to a vote of the Company's stockholders. Common stockholders are not entitled to receive dividends unless declared by the Board of Directors. Any such dividends would be subject to the preferential dividend rights of the preferred stockholders.

During 1996, the Company's Board of Directors adopted the 1996 Stock Incentive Plan (the "1996 Stock Plan"). The 1996 Stock Plan provides for the granting of incentive and non-qualified stock options and stock bonus awards to officers, directors and employees of the Company. The maximum number of options that may be issued pursuant to the 1996 Stock Plan is 156,250. If any options granted under the 1996 Stock Plan are forfeited, such shares are not available for future grant.

During 1998, the Company adopted the 1998 Equity Incentive Plan (the "1998 Stock Plan"). The 1998 Stock Plan also provides for granting of incentive and nonqualified stock option and stock bonus awards to officers, consultants and employees of the Company. The maximum number of options that may be issued under the 1998 Stock Plan is 643,750.

The exercise price of each stock option issued under the 1996 and 1998 Stock Plans shall be specified by the Board of Directors at the time of grant. However, incentive stock options may not be granted at less than the fair market value of the Company's common stock as determined by the Board of Directors at the date of grant or for a term in excess of 10 years. For holders of more than 10% of the Company's total combined voting power of all classes of stock, incentive stock options may not be granted at less than 110% of the fair market value of the Company's common stock at the date of grant and for a term not to exceed five years. All options granted under the 1996 and 1998 Stock Plans become exercisable at such time as the Board of Directors specifies and expire 10 years from the date of grant.

A summary of activity under the Company's 1996 and 1998 Stock Plans for the years ended December 31, 2001, 2002 and 2003 is presented below:

	Number of Shares	Exercise Price Range	Weighted Average Exercise Price
Stock Option Awards			
Outstanding at December 31, 2000	325,224	$ 0.008-1.350	$ 0.9806
Granted at fair value	79,020	1.350-2.250	1.7540
Exercised	(10,140)	0.008-1.350	0.1862
Forfeited	(87,518)	0.008-2.250	1.0988
Outstanding at December 31, 2001	306,586	0.008-2.250	1.1725
Granted at fair value	143,250	2.250	2.2500
Exercised	(9,964)	0.008-1.350	1.1817
Forfeited	(58,221)	0.900-2.250	1.5020
Outstanding at December 31, 2002	381,651	0.008-2.250	1.5264
Granted at fair value	120,215	2.250	2.2500
Exercised	(8,723)	0.008-1.350	0.6738
Forfeited	(42,731)	0.900-2.250	1.3952
Outstanding at December 31, 2003	450,412	$ 0.200-2.250	1.7485
Granted at fair value (unaudited)	12,000	2.250	2.2500
Exercised (unaudited)	—	—	—
Forfeited (unaudited)	(5,482)	0.900-2.250	1.2199
Outstanding at March 31, 2004 (unaudited)	456,930	$ 0.200-2.250	$ 1.7680

The following table summarizes information about stock options outstanding at December 31, 2003 and March 31, 2004:

	December 31, 2003			March 31, 2004 (Unaudited)		
Weighted Average Exercise Price	Number of Options Outstanding	Weighted average remaining contractual life (years)	Number of Options Exercisable	Number of Options Outstanding	Weighted average remaining contractual life (years)	Number of Options Exercisable
$ 0.20	12,500	3.9	12,500	12,500	2.68	12,500
$ 0.40	46,093	4.7	46,093	46,093	4.46	46,093
$ 0.90	27,525	5.6	27,525	25,025	5.40	25,025
$ 1.35	76,579	6.6	69,927	74,444	6.41	70,650
$ 1.69	10,625	7.2	7,537	10,000	6.90	7,708
$ 2.25	277,090	8.9	64,043	288,868	8.67	86,918
	450,412		227,625	456,930		248,894

The Company recorded deferred compensation of $26,860, $0, $630,900 and $80,237, in the years ended December 31, 2001, 2002 and 2003 and the three months ended March 31, 2004, respectively, related to stock option grants. The deferred compensation represents the difference between the estimated fair value of common stock on the date of grant and the exercise price associated with the

stock options. The deferred compensation is amortized to operations over the vesting period of the related stock options for which the Company recorded compensation expense for the years ended December 31, 2001, 2002 and 2003 and the three months ended March 31, 2004 of $56,142, $28,801, $96,450 and $44,620, respectively. Additionally, the Company recorded $21,445 of compensation expense in the year ended December 31, 2002 associated with the modification of certain stock options.

Unamortized deferred compensation on forfeited options is reversed through additional paid-in capital.

10. Income Taxes

The Company's deferred tax assets consist of the following:

	December 31,	
	2002	2003
Deferred tax asset:		
Net operating loss carryforwards	$ 10,172,162	$ 11,485,743
Research and development credit carryforwards	369,169	455,640
Accrued expenses	381,070	477,756
Other	73,606	30,339
Total gross deferred tax asset	10,996,007	12,449,478
Valuation allowance	10,996,007	(12,449,478)
Net deferred tax asset	$ —	$ —

The Company's effective income tax rate differs from the statutory federal income tax rate as follows for the years ended December 31, 2001, 2002 and 2003:

	Year Ended December 31,		
	2001	2002	2003
Federal tax benefit rate	(34.0)%	(34.0)%	(34.0)%
State tax benefit, net of federal benefit	(6.4)	(6.3)	(5.5)
Permanent items	0.5	0.5	1.3
Federal research and development credits	(0.4)	(1.2)	(1.5)
Valuation allowance	40.3	41.0	39.7
Effective income tax rate	0.0%	0.0%	0.0%

As of December 31, 2003, the Company has federal and state net operating loss ("NOL") of approximately $28,627,000 and $27,953,000 respectively, as well as federal and state research and development credits of approximately $302,000 and $226,000 respectively, which may be available to reduce future taxable income and taxes. Federal NOLs and research and development credits begin to expire in 2011 and state NOLs began to expire in 2003. As required by SFAS 109, the Company has evaluated the positive and negative evidence bearing upon the realizability of its deferred tax assets, which are comprised principally of NOLs. Management has determined that it is more likely than not that the Company will not recognize the benefits of federal and state deferred tax assets and, as a result, a valuation allowance of $10,996,007 and $12,449,478 has been established at December 31, 2002 and 2003, respectively.

Ownership changes, as defined in the Internal Revenue Code, may have limited the amount of net operating loss carryforwards that can be utilized annually to offset future taxable income. Subsequent ownership changes could further affect the limitation in future years.

11. Commitments and Contingencies

Operating Leases

In September 2000, the Company entered into a noncancelable operating lease, commencing January 1, 2001, for new office and laboratory space. The lease expires on March 31, 2009.

Future minimum lease payments under noncancelable operating leases as of December 31, 2003 are as follows:

2004	$	810,000
2005		930,000
2006		930,000
2007		930,000
2008		930,000
Thereafter		232,500
Total minimum lease payments	$	4,762,500

Total rent expense was $915,598, $810,000 and $810,000 for the years ended December 31, 2001, 2002 and 2003. The Company records rent expense on this lease on a straight line basis over the term. Accordingly, the Company has recorded a liability at December 31, 2002 and 2003 of $123,636 and $185,454 on the accompanying balance sheet.

Restricted Time Deposit

In connection with the Company's lease entered into with term beginning January 1, 2001, the Company is required to maintain, for the benefit of the lessor, an irrevocable standby letter of credit stating the lessor as the beneficiary in the amount of $1,860,000 over the term of the lease, which is secured by a certificate of deposit in an amount equal to 102% of the letter of credit as security. The certificate of deposit is renewable in 30-day increments. At December 31, 2002 and 2003, the Company has $1,897,200 recorded as restricted cash associated with this lease on the accompanying balance sheet.

Royalty Agreements

In June 1996, the Company entered into a license agreement with the Massachusetts Institute of Technology, ("M.I.T."), a related party, last amended on February 25, 1998, under which the Company obtained an exclusive right to use certain technology through the term of the licensor's patent rights on such technology. In exchange, the Company is required to pay royalties of 2.15% of net sales of products incorporating the licensed technology. In addition, the Company is required to pay royalties ranging from 25% to 50% of payments received from sublicensees, depending on the degree to which the licensor's technology was incorporated into the products sublicensed by the Company. Through the year ended December 31, 2003, the Company has not incorporated this licensed technology into its products and therefore, no amounts have been accrued as being owed.

In addition, the Company is obligated to pay M.I.T. annual license maintenance fees totaling $5,000 for the year ended December 31, 1998, $10,000 for each of the years ended December 31, 1999 and 2000, $25,000 for each of the years ended December 31, 2001 and 2002, and $75,000 for the year ended December 31, 2003 and each year thereafter, if certain minimum net sales requirements are not met. These payments can be used to offset future royalties payable under the agreement. Under the amended agreement, the Company has a right to terminate the agreement at anytime upon six months' written notice. The Company has recorded royalty expense totaling $25,000 for each of the years ended December 31, 2001 and 2002 and $75,000 for the year ended December 31, 2003 and has $25,000 and $100,000 recorded in accrued expenses at December 31, 2002 and 2003, respectively, relating to this license agreement. At December 31, 2001, 2002 and 2003, M.I.T. owned approximately 9.4%, 9.3% and 9.3%, respectively, of the Company's common stock outstanding and 5.4%, 5.6% and 5.6%, respectively, of the Company's redeemable convertible preferred stock outstanding.

In February 1999, the Company entered into another license agreement with an unrelated third party under which the Company obtained the right to use certain proprietary technology of this third party. This technology is used in the manufacture of our NC-stat biosensors. The term of this agreement is perpetual, subject to rights of termination. In exchange, the Company is required to pay the licensor $50,000 annually for the first three years of the agreement. In subsequent years, the Company is required to pay $10,000 annually as long as it continues to use the licensed technology. Under this agreement, the Company has a right to terminate the agreement upon written notice not later than 30 days prior to the anniversary date. During the year ended December 31, 2001 the Company paid and recorded as cost of revenues $50,000 associated with this license. During each of the years ended December 31, 2002 and 2003, $10,000 was paid and recorded as cost of revenues.

In November 2002, the FASB issued FIN No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others, an interpretation of FASB Statements No. 5, 57, and 107 and rescission of FASB Interpretation No. 34*. The Interpretation requires additional disclosures to be made by a guarantor in its annual financial statements about its obligations under certain guarantees it has issued. The accounting requirements for the initial recognition of guarantees are applicable on a prospective basis for guarantees issued or modified after December 31, 2002. The adoption of FIN No. 45 did not have a material effect on the Company's financial statements.

The Company is also a party to a number of agreements entered into in the ordinary course of business, which contain typical provisions, which obligate the Company to indemnify the other parties to such agreements upon the occurrence of certain events. Such indemnification obligations are usually in effect from the date of execution of the applicable agreement for a period equal to the applicable statute of limitations. The aggregate maximum potential future liability of the Company under such indemnification provisions is uncertain. Since its inception, the Company has not incurred any expenses as a result of such indemnification provisions. Accordingly, the Company has determined that the estimated aggregate fair value of its potential liabilities under such indemnification provisions is minimal and has not recorded any liability related to such indemnification provisions as of December 31, 2003.

12. Retirement Plan

The Company established a 401(k) defined contribution savings plan for its employees who meet certain service period and age requirements. Contributions are permitted up to the maximum allowed under the Internal Revenue Code of each covered employee's salary. The savings plan permits the Company to contribute at its discretion. For the years ended December 31, 2001, 2002 and 2003 and the three months ended March 31, 2004, the Company made no contributions to the plan.

13. Subsequent Event (Unaudited)

Between April 1, 2004 and June 21, 2004, the Company granted options to certain employees and directors to purchase 606,725 shares of common stock at an average exercise price of $5.64 per share, including options to purchase 519,500 shares with an initial exercise price of $6.00 per share, provided that if the Company closes an initial public offering of its common stock on or before December 31, 2004 in which the offering price per share is greater than $6.00 per share, then the exercise price per share will be automatically increased to equal the per share offering price of the common stock in that initial public offering.

Shares

NEUROMETRIX, INC.

Common Stock

PROSPECTUS

, 2004

PUNK, ZIEGEL & COMPANY

WR HAMBRECHT+CO

Until (the 25th day after the date of this prospectus), all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution

The following table sets forth the estimated expenses (excluding the underwriting discount) expected to be incurred in connection with the issuance and distribution of the common stock registered hereby:

Nature of Expense	Amount
SEC Registration Fee	$ 4,372
National Association of Securities Dealers, Inc.—filing fee	$ 3,950
Nasdaq National Market Listing Fee	*
Accounting Fees and Expenses	*
Legal Fees and Expenses	*
Printing Expenses	*
Blue Sky Qualification Fees and Expenses	*
Transfer Agent's Fee	*
Miscellaneous	*
TOTAL	$ *

The amounts set forth above, except for the SEC registration fee and the NASD filing fee, are estimated.

* To be completed by amendment.

Item 14. Indemnification of Directors and Officers

Section 145 of the General Corporation Law of the State of Delaware provides that a corporation has the power to indemnify a director, officer, employee, or agent of the corporation and certain other persons serving at the request of the corporation in related capacities against expenses (including attorneys' fees), judgments, fines and amounts paid in settlements actually and reasonably incurred by the person in connection with an action, suit or proceeding to which he is or is threatened to be made a party by reason of such position, if such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, in any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, except that, in the case of actions brought by or in the right of the corporation, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or other adjudicating court determines that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

As permitted by the Delaware General Corporation Law, our Third Amended and Restated Certificate of Incorporation, or certificate of incorporation, includes a provision that eliminates the personal liability of our directors for monetary damages for breach of fiduciary duty as a director, except for liability (1) for any breach of the director's duty of loyalty to us or our stockholders, (2) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (3) under section 174 of the Delaware General Corporation Law (regarding unlawful dividends and stock purchases) or (4) for any transaction from which the director derived an improper personal benefit.

As permitted by the Delaware General Corporation Law, our Second Amended and Restated by-laws, or by-laws, provide that (1) we are required to indemnify our directors and officers to the fullest extent permitted by the Delaware General Corporation Law, subject to certain very limited

exceptions, (2) we may indemnify other employees as set forth in the Delaware General Corporation Law, (3) we are required to advance expenses, as incurred, to our directors and executive officers in connection with a legal proceeding to the fullest extent permitted by the Delaware General Corporation Law, subject to certain very limited exceptions and (4) the rights conferred in our by-laws are not exclusive.

We have entered into indemnification agreements with each of our directors to give such directors additional contractual assurances regarding the scope of the indemnification set forth in our certificate of incorporation and to provide additional procedural protections. We also intend to enter into indemnification agreements with any new directors in the future. At present, there is no pending litigation or proceeding involving any of our directors, officers or employees with respect to which we may have indemnification obligations.

The indemnification provisions in our certificate of incorporation, by-laws and the indemnification agreements entered into between us and each of our directors and executive officers may be sufficiently broad to permit indemnification of our directors and executive officers for liabilities arising under the Securities Act of 1933.

We have obtained liability insurance for our officers and directors.

Item 15. Recent Sales of Unregistered Securities

Set forth below is information regarding shares of capital stock issued, warrants issued and options granted, by us within the past three years. Also included is the consideration, if any, received by us for such shares, warrants and options and information relating to the section of the Securities Act, or rules of the SEC under which exemption from registration was claimed. All share numbers below have been adjusted to reflect a planned one-for-four reverse stock split of our common stock prior to the effectiveness of this offering. Certain of the transactions described below involved directors, officers and five percent stockholders. See "Certain Relationships and Related Party Transactions."

No underwriters were involved in the following sales of securities. The securities described in paragraphs (a)(i)-(iii) and (b) below were issued to U.S. investors in reliance upon exemptions from the registration provisions of the Securities Act set forth in Section 4(2) thereof relative to sales by an issuer not involving any public offering, to the extent an exemption from such registration was required. All purchasers of shares of our preferred stock described below represented to us in connection with their purchase that they were accredited investors and were acquiring the shares for investment and not distribution, that they could bear the risks of the investment and could hold the securities for an indefinite period of time. The purchasers received written disclosures that the securities had not been registered under the Securities Act and that any resale must be made pursuant to a registration or an available exemption from registration. The issuance of stock options and the common stock issuable upon the exercise of stock options as described in paragraphs (a)(iv) and (c) below were issued pursuant to written compensatory benefit plans or arrangements with our employees, directors and consultants, in reliance on the exemption provided by Rule 701 promulgated under the Securities Act, as well as Section 4(2) of the Securities Act.

(a) Issuances of Capital Stock

(i) In February 2001, we issued an aggregate of 4,444,445 shares of our Series E Preferred Stock for an aggregate purchase price of $12,500,002, or $2.8125 per share, to the following existing stockholders:

Name of Stockholder	Shares of Series E Preferred Stock
Massachusetts Institute of Technology	355,555
Harris & Harris Group, Inc.	266,665
Whitney Strategic Partners III, L.P.	50,195
J.H. Whitney III, L.P.	2,083,140
Delphi Ventures IV, L.P.	435,465
Delphi BioInvestments IV, L.P.	8,980
Commonwealth Capital Ventures II L.P.	338,805
CCV II Associates L.P.	16,750
BancBoston Ventures Inc.	888,890

(ii) In December 2002, we issued an aggregate of 1,333,334 shares of our Series E-1 Preferred Stock for an aggregate purchase price of $2,000,001, or $1.50 per share, to the following existing stockholders:

Name of Stockholder	Shares of Series E-1 Preferred Stock
Massachusetts Institute of Technology	102,142
Harris & Harris Group, Inc.	235,521
Whitney Strategic Partners III, L.P.	13,034
J.H. Whitney III, L.P.	540,914
Delphi Ventures IV, L.P.	175,935
Delphi BioInvestments IV, L.P.	3,627
Commonwealth Capital Ventures II L.P.	95,818
CCV II Associates L.P.	4,737
BancBoston Ventures Inc.	161,606

(iii) In March 2004, we issued an aggregate of 7,050,771 shares of our Series E-1 Preferred Stock for an aggregate purchase price of $10,576,157, or $1.50 per share, to the following existing stockholders and affiliates of existing stockholders:

Name of Stockholder	Shares of Series E-1 Preferred Stock
Massachusetts Institute of Technology	500,251
Harris & Harris Group, Inc.	1,166,666
Whitney Strategic Partners III, L.P.	73,725
J.H. Whitney III, L.P.	3,059,607
Whitney & Co., LLC	383,858
Delphi Ventures IV, L.P.	326,599
Delphi BioInvestments IV, L.P.	6,733
Commonwealth Capital Ventures II L.P.	952,891
CCV II Associates L.P.	47,108
BancBoston Ventures Inc.	533,333

(iv) Since January 2001, we have issued an aggregate of 54,117 shares of common stock to our officers, directors, consultants, employees and advisors pursuant to the exercise of stock options under our Amended and Restated 1998 Equity Incentive Plan. The aggregate exercise price paid upon the exercise of these options was $48,523. Since January 2001, an aggregate of

17,671 shares of common stock have been issued to our officers, directors, consultants, employees and advisors pursuant to the exercise of stock options under our Amended and Restated 1996 Stock Option/Restricted Stock Plan. All of these shares initially were owned by Dr. Gozani prior to their issuance under our Amended and Restated 1996 Stock Option/Restricted Stock Plan. The aggregate exercise price paid upon the exercise of these options was $1,341.

(b) Grant of Warrant

On May 21, 2003, we issued a warrant to purchase 400,000 shares of our Series E-1 Preferred Stock at an exercise price of $1.50 per share to Lighthouse Capital Partners IV, L.P. in connection with the procurement of financing from this warrantholder.

(c) Grant of Stock Options

(i) As of June 21, 2004, options to purchase 6,250 shares of common stock were outstanding under our Amended and Restated 1996 Stock Option/Restricted Stock Plan all of which are fully exercisable within 60 days of such date. All such options were granted between November 1, 1996 and June 2, 1997 to our officers, directors, consultants, employees and advisors.

(ii) As of June 21, 2004, options to purchase 1,012,426 shares of common stock were outstanding under our Amended and Restated 1998 Equity Incentive Plan, of which options to purchase 270,618 shares are exercisable within 60 days of such date. All such options were granted between April 6, 1998 and April 21, 2004 to our officers, directors, consultants, employees and advisors.

Item 16. Exhibits and Financial Statement Schedules

(a) Exhibits

See the Exhibit Index on the page immediately preceding the exhibits for a list of exhibits filed as part of this registration statement on Form S-1, which Exhibit Index is incorporated herein by reference.

(b) Financial Statement Schedules

The following schedule to be filed under Item 16(b) is contained on page II-8 of this registration statement: Schedule II—Valuation and Qualifying Accounts

All other schedules are omitted because they are not applicable or the required information is shown in the Financial Statements or notes thereto.

Item 17. Undertakings

(a) The undersigned registrant hereby undertakes:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement

relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(b) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

(c) The registrant hereby undertakes to provide to the underwriter at the closing specified in the underwriting agreements, certificates in such denominations and registered in such names as required by the underwriter to permit prompt delivery to each purchaser.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant has duly caused this pre-effective amendment to the Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Waltham, Commonwealth of Massachusetts, on June 21, 2004.

NeuroMetrix, Inc.

By: /s/ SHAI N. GOZANI, M.D., PH.D.

Shai N. Gozani, M.D., Ph.D.
President and Chief Executive Officer

Pursuant to the requirement of the Securities Act of 1933, as amended, this pre-effective amendment to the Registration Statement has been signed by the following person in the capacities and on the date indicated.

Signature	Title	Date
/s/ SHAI N. GOZANI, M.D., PH.D. Shai N. Gozani, M.D., Ph.D.	President and Chief Executive Officer and Director (Principal Executive Officer)	June 21, 2004
/s/ NICHOLAS J. ALESSI Nicholas J. Alessi	Director of Finance and Treasurer (Principal Financial and Accounting Officer)	June 21, 2004
* Charles E. Harris	Director	June 21, 2004
* William Laverack, Jr.	Director	June 21, 2004

*By: /s/ SHAI N. GOZANI, M.D., PH.D.

Shai N. Gozani, M.D., Ph.D.
Attorney-in-Fact

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS that each individual whose signature appears below constitutes and appoints Shai N. Gozani, M.D., Ph.D. and Nicholas J. Alessi, and each of them, his true and lawful attorneys-in-fact and agents with full power of substitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments, including post-effective amendments, to this Registration Statement, and to sign any registration statement for the same offering covered by this Registration Statement that is to be effective upon filing pursuant to Rule 462(b) promulgated under the Securities Act, and all post-effective amendments thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, making such changes in this Registration Statement as such attorneys-in-fact and agents so acting deem appropriate, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done with respect to the offering of securities contemplated by this Registration Statement, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or his, her or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirement of the Securities Act of 1933, as amended, this pre-effective amendment to the Registration Statement has been signed by the following person in the capacities and on the date indicated.

Signature	Title	Date
/s/ DAVID E. GOODMAN, M.D.		
David E. Goodman, M.D.	Director	June 21, 2004
/s/ W. MARK LORTZ		
W. Mark Lortz	Director	June 21, 2004

Schedule II—Valuation and Qualifying Accounts

For the three years ended December 2001, 2002 and 2003:

	Balance at Beginning of Period	Additions	Deductions	Balance at End of Period
Allowance for Doubtful Accounts:				
2001	$ 100,000	$ 200,000	$ —	$ 300,000
2002	300,000	35,320	135,320	200,000
2003	200,000	200,326	100,326	300,000
Deferred Tax Asset Valuation Allowance:				
2001	$ 5,668,203	$ 3,361,305	$ —	$ 9,029,508
2002	9,029,508	1,966,499	—	10,996,007
2003	10,996,007	1,453,471	—	12,449,478

EXHIBIT INDEX

Exhibit Number	Description
**1.1	Form of Underwriting Agreement
*3.1	Amended and Restated Certificate of Incorporation of NeuroMetrix, Inc.
*3.2	Certificate of Amendment to Amended and Restated Certificate of Incorporation of NeuroMetrix, Inc.
*3.3	Form of Second Amended and Restated Certificate of Incorporation of NeuroMetrix, Inc.
*3.4	Form of Third Amended and Restated Certificate of Incorporation of NeuroMetrix, Inc.
*3.5	Amended and Restated By-laws of NeuroMetrix, Inc., as currently in effect
*3.6	Form of Second Amended and Restated By-laws of NeuroMetrix, Inc.
*3.7	Second Certificate of Amendment to the Amended and Restated Certificate of Incorporation of NeuroMetrix, Inc.
**4.1	Specimen certificate for shares of common stock
**5.1	Opinion of Goodwin Procter LLP as to the legality of the securities
*10.1	Lease Agreement dated October 18, 2000 between Fourth Avenue LLC and NeuroMetrix, Inc.
*10.2	Amended and Restated 1996 Stock Option/Restricted Stock Plan
*10.3	Amended and Restated 1998 Equity Incentive Plan
*10.4	First Amendment to Amended and Restated 1998 Equity Incentive Plan
*10.5	2004 Stock Option and Incentive Plan
*10.6	2004 Employee Stock Purchase Plan
*10.7	Series E-1 Convertible Preferred Stock Purchase Agreement by and among NeuroMetrix, Inc. and the purchasers thereto, dated as of December 20, 2002, with amendments dated as of May 21, 2003 and March 12, 2004
*10.8	Form of Indemnification Agreement
*10.9	Employment Agreement, dated June 21, 2004, by and between NeuroMetrix, Inc. and Shai N. Gozani, M.D., Ph.D.
*10.10	Letter Agreement, dated June 19, 2002, by and between NeuroMetrix, Inc. and Gary L. Gregory
*10.11	NeuroMetrix, Inc. Stock Option Agreements (1998 Plan) dated as of July 1, 2002 and April 8, 2004 by and between NeuroMetrix, Inc. and Gary L. Gregory
*10.12	NeuroMetrix, Inc. Confidentially and Non-Compete Agreement, dated as of June 28, 2002, by and between Gary L. Gregory and NeuroMetrix, Inc.
**10.13	Form of NeuroMetrix, Inc. Confidentiality & Non-Compete Agreement
*10.14	Loan and Security Agreement, dated as of May 21, 2003, by and between Lighthouse Capital Partners IV, L.P. and NeuroMetrix, Inc.
*10.15	Preferred Stock Purchase Warrant, dated May 21, 2003, issued to Lighthouse Capital Partners IV, L.P.
†+10.16	Contract Manufacturing Agreement, dated as of November 20, 2002, by and between Advanced Electronics, Inc. and NeuroMetrix, Inc.
*10.17	NeuroMetrix, Inc. Non-Statutory Stock Option Agreement (1998 Plan) dated as of June 21, 2004, by and between Shai N. Gozani M.D., Ph.D., and NeuroMetrix, Inc.
*10.18	Second Amendment to Amended and Restated 1998 Equity Incentive Plan
**10.19	NeuroMetrix, Inc. Non-Statutory Stock Option Agreement (1998 Plan) dated as of June 21, 2004 by and between Gary Gregory and NeuroMetrix, Inc.

*10.20	Indemnification Agreement dated June 21, 2004, by and between Shai N. Gozani, M.D., Ph.D., and NeuroMetrix, Inc.
**10.21	Consent, Waiver and Amendment dated as of June 18, 2004 by and among NeuroMetrix, Inc. and the parties listed on the signature pages thereto
**23.1	Consent of Goodwin Procter LLP (included in Exhibit 5.1 hereto)
*23.2	Consent of PricewaterhouseCoopers LLP
*24.1	Power of Attorney (included in signature page)

+ Previously filed.

* Filed herewith.

** To be filed by amendment.

† Portions of this exhibit have been omitted pursuant to a request for confidential treatment

QuickLinks

EXHIBIT 3.1

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION OF NEUROMETRIX, INC.

NeuroMetrix, Inc., a corporation organized and existing under the General Corporation Law of Delaware (the "Corporation"), DOES HEREBY CERTIFY:

FIRST: The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of Delaware on April 25, 2001 under the name "New NeuroMetrix, Inc."

SECOND: A Certificate of Merger was filed with the Secretary of State of Delaware on May 14, 2001 merging NeuroMetrix, Inc., a Massachusetts Corporation, with and into the Corporation under the name "NeuroMetrix, Inc."

THIRD: The Amended and Restated Certificate of Incorporation of the Corporation in the form attached hereto as EXHIBIT A has been duly adopted in accordance with the provisions of Sections 228, 245 and 242 of the General Corporation Law of Delaware by the directors and stockholders of the Corporation.

FOURTH: The Amended and Restated Certificate of Incorporation so adopted reads in full as set forth in EXHIBIT A attached hereto and is hereby incorporated herein by this reference.

IN WITNESS WHEREOF, the Corporation has caused this Certificate to be signed by the President this 19th day of December, 2002.

NEUROMETRIX, Inc.

By: /s/ Shai N. Gozani

Shai N. Gozani
President

EXHIBIT A

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF
NEUROMETRIX, INC.

FIRST: The name of the corporation (the "Corporation") is:

NeuroMetrix, Inc.

SECOND: The address of its registered office in the State of Delaware is 2711 Centerville Road Suite 400, Wilmington, New Castle County. The name of its registered agent at such address is Corporation Service Company.

THIRD: The purpose of the Corporation is:

a) To engage in all aspects of business related to the research and development, design, production and sale of medical diagnostic equipment and anything incidental to or necessary for the foregoing;

b) To undertake, conduct, manage, assist, promote, and to engage or participate in every kind of research or scientific, experimental, design or developmental work including pure or basic research;

c) To apply for, develop, exercise, obtain, register, purchase, lease or otherwise acquire and to hold, own, use, operate and introduce, and to get, assign, grant licenses or territorial rights in respect to, or otherwise to turn to account or dispose of, copyrights, trademarks, trade names, service marks, service names, brands, labels, and registrations of the foregoing, whether issued by the United States or any other country or government, patent rights, letters patent of the United States or of any other country or government, and inventions, improvements and processes, whether used in connection with or secured under such letters patent or otherwise; to supervise or otherwise exercise such control over its licensees and the business conducted by them, as may be agreed upon in its contracts with such licensees for the protection of its rights in the above-described patents or other property and rights, and to secure to it the payment of agreed royalties or other considerations; and to manufacture, buy, sell, or deal in any article produced as the result or through the use of, any such inventions, processes, or the like or under any such patent, or any

articles of any description used, or suitable to be used in connection with them;

d) In general, to carry on any other lawful business whatsoever in connection with the above purposes or which is calculated, directly or indirectly, to promote the interest of the Corporation; and

e) To engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

FOURTH: The total number of shares of capital stock which the corporation shall have authority to issue is as follows:

Without With Class of Par Value Par Value Stock No. of Shares	No. of Shares Par Value
Common Stock None	30,000,000 $ 0.0001
Series A Voting Convertible Preferred Stock None	875,000 $ 0.001
Series B Voting Convertible Preferred Stock None	625,000 $ 0.001
Series C-1 Voting Convertible Preferred Stock None	2,850,000 $ 0.001
Series C-2 Non-Voting Convertible Preferred Stock None	1,148,100 $ 0.001
Series D Voting Convertible Preferred Stock None	6,222,220 $ 0.001
Series E Voting Convertible Preferred Stock None	7,111,110 $ 0.001

Series E-1
Voting
Convertible
Preferred
Stock None
2,333,333
$ 0.001

The following is a statement of the designations and the preferences, voting powers, qualifications, and special or relative rights or privileges as to each class of stock of the corporation:

A. COMMON STOCK.

1. GENERAL. The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights of the holders of the Preferred Stock of any series as may be designated by the Board of Directors upon any issuance of the Preferred Stock of any series.

2. VOTING. The holders of the Common Stock are entitled to one vote for each share held at all meetings of stockholders (and written actions in lieu of meetings). There shall be no cumulative voting. Notwithstanding the provisions of Section 242(b)(2) of the General Corporation Law of the State of Delaware, the number of authorized shares of Common

Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of a majority of the Common Stock and Preferred Stock, voting together as a single class.

3. DIVIDENDS. Dividends may be declared and paid on the Common Stock from funds lawfully available therefor as and when determined by the Board of Directors and subject to any preferential dividend rights of any then outstanding Preferred Stock.

4. LIQUIDATION. Upon the dissolution or liquidation of the Corporation, whether voluntary or involuntary, holders of Common Stock will be entitled to receive all assets of the Corporation available for distribution to its stockholders, subject to any preferential rights of any then outstanding Preferred Stock.

B. PREFERRED STOCK.

Preferred stock may be issued from time to time in one or more series, each of such series to have such terms as stated or expressed herein and in the resolution or resolutions providing for the issue of such series adopted by the Board of Directors of the Corporation as hereinafter provided. Any shares of preferred stock which may be redeemed, purchased or acquired by the Corporation may be reissued except as otherwise provided by law or by the terms of any series of preferred stock. Different series of preferred stock shall not be construed to constitute different classes of shares for the purpose of voting by classes unless expressly provided.

Authority is hereby expressly granted to the Board of Directors from time to time to issue preferred stock in one or more series, and in connection with the creation of any such series, by resolution or resolutions providing for the issue of the shares thereof, to determine and fix such voting powers, full or limited, or no voting powers, and such designations, preferences and relative participating, optional or other special rights, and qualifications, limitations or restrictions thereof, including without limitation thereof, dividend rights, special voting rights, conversion rights, redemption privileges and liquidation preferences, as shall be stated and expressed in such resolutions, all to the full extent now or hereafter permitted by the Delaware General Corporation Law. Without limiting the generality of the foregoing, the resolutions providing for issuance of any series of preferred stock may provide that such series shall be superior or rank equally or be junior to the preferred stock of any other series to the extent permitted by law.

STATEMENT OF RIGHTS AND PREFERENCES

1. DESIGNATION AND AMOUNT. Of the 21,164,763 shares of preferred stock, par value $0.001 per share, which the Corporation is authorized to issue pursuant to Article Fourth of this Amended and Restated Certificate of Incorporation, 875,000 shares have been distinctly designated as "Series A Voting Convertible Preferred Stock" (the "SERIES A CONVERTIBLE PREFERRED STOCK"), 625,000 shares have been distinctly designated as "Series B Voting Convertible Preferred Stock" (the "SERIES B CONVERTIBLE PREFERRED STOCK"),

have been distinctly designated as "Series C-1 Voting Convertible Preferred Stock" (the "SERIES C-1 CONVERTIBLE PREFERRED STOCK"), 1,148,100 shares have been distinctly designated as Series C-2 Non-Voting Convertible Preferred Stock" (the "Series C-2 Convertible Preferred Stock" and, together with the Series C-1 Convertible Preferred Stock, the "Series C Convertible Preferred Stock"), 6,222,220 shares have been distinctly designated as "Series D Voting Convertible Preferred Stock" (the "Series D Convertible Preferred Stock"), 7,111,110 shares have been distinctly designated as "Series E Voting Convertible Preferred Stock" (the "Series E Convertible Preferred Stock") and 2,333,333 shares have been distinctly designated as "Series E-1 Voting Convertible Preferred Stock" (the "Series E-1 Convertible Preferred Stock"). The Series A Convertible Preferred Stock, the Series B Convertible Preferred Stock, the Series C Convertible Preferred Stock, the Series D Convertible Preferred Stock, the Series E Convertible Preferred Stock and the Series E-1 Convertible Preferred Stock are sometimes hereinafter collectively referred to as the "PREFERRED STOCK." The voting powers, preferences and rights (and the qualifications, limitations, or restrictions thereof) of the Preferred Stock are as set forth herein:

2. VOTING.

2A. GENERAL. The holders of Series A Convertible Preferred Stock, Series B Convertible Preferred Stock, Series C-1 Convertible Preferred Stock, Series D Convertible Preferred Stock, Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock shall have full voting rights and powers, and, except as may be otherwise provided in this Amended and Restated Certificate of Incorporation or by law, shall vote together with all other classes and series of stock of the Corporation as a single class on all actions to be taken by the stockholders of the Corporation. Except as otherwise provided by law or this Amended and Restated Certificate of Incorporation, the holders of Series C-2 Convertible Preferred Stock shall have no voting rights. Each holder of shares of Preferred Stock which are entitled to vote shall be entitled to the number of votes equal to the number of shares of Common Stock into which such shares of Preferred Stock could be converted on the record date for the vote which is being taken. Fractional votes shall not, however, be permitted and, with respect to each holder of Preferred Stock, any fractional voting rights resulting from the above (after aggregating all shares of Common Stock into which shares of Preferred Stock held by a holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward).

2B. BOARD SEATS. The holders of the Series A Convertible Preferred Stock and Series B Convertible Preferred Stock, voting together as a single series, shall be entitled to elect one director of the Corporation. The holders of the Series C Convertible Preferred Stock, voting as a separate series, shall be entitled to elect one director of the Corporation. The holders of the Series D Convertible Preferred Stock, voting as a separate series, shall be entitled to elect one director of the Corporation. The holders of the Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock, voting together as a single series, shall be entitled to elect one director of the Corporation. At any meeting (or in a written consent in lieu thereof) held for the purpose of electing directors, the presence in person or by proxy (or the written consent) of the holders of a majority of the shares of Series A Convertible Preferred Stock and Series B Convertible Preferred Stock (taken together), a majority of the shares of Series C Convertible Preferred Stock, a majority of the shares of Series D Convertible Preferred Stock, and a majority

of the shares of Series E Convertible Prefered Stock and Series E-1 Convertible Preferred Stock (taken together), then outstanding, respectively, shall constitute a quorum of the Series A Convertible Preferred Stock and Series B Convertible Preferred Stock (taken together), of the Series C Convertible Preferred Stock, of the Series D Convertible Preferred Stock, and of the Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock (taken together), respectively, for the election of the director to be elected solely by the holders of the Series A Convertible Preferred Stock and Series B Convertible Preferred Stock, voting together as a single series, for the election of the director to be elected solely by the holders of the Series C Convertible Preferred Stock, voting as a separate series, for the election of the director to be elected solely by the holders of the Series D Convertible Preferred Stock, voting as a separate series, and for the election of the director to be elected solely by the holders of the Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock, voting together as a single series, respectively. A director elected by the holders of the Series A Convertible Preferred Stock and Series B Convertible Preferred Stock may be removed only by vote or written consent of the holders of a majority of the

shares of Series A Convertible Preferred Stock and Series B Convertible Preferred Stock (voting together as a single series), a director elected by the holders of the Series C Convertible Preferred Stock may be removed only by vote or written consent of the holders of a majority of the shares of Series C Convertible Preferred Stock (voting separately as a series), a director elected by the holders of the Series D Convertible Preferred Stock may be removed only by vote or written consent of the holders of a majority of the shares of Series D Convertible Preferred Stock (voting separately as a series), and a director elected by the holders of the Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock may be removed only by vote or written consent of the holders of a majority of the shares of Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock (voting together as a single series). A vacancy in any directorship elected by the holders of the Series A Convertible Preferred Stock and Series B Convertible Preferred Stock may be filled only by vote or written consent of the holders of a majority of the shares of Series A Convertible Preferred Stock and Series B Convertible Preferred Stock (voting together as a single series), a vacancy in any directorship elected by the holders of the Series C Convertible Preferred Stock may be filled only by vote or written consent of the holders of a majority of the shares of Series C Convertible Preferred Stock (voting separately as a series), a vacancy in any directorship elected by the holders of the Series D Convertible Preferred Stock may be filled only by vote or written consent of the holders of a majority of the shares of Series D Convertible Preferred Stock (voting separately as a series), and a vacancy in any directorship elected by the holders of the Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock may be filled only vote or written consent of the holders of a majority of the shares of Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock (voting together as a single series).

3. DIVIDENDS. The holders of record of shares of the Preferred Stock shall be entitled to receive cash dividends, when and as declared by the Board of Directors, at the annual rate of $0.016 per share of Series A Convertible Preferred Stock and Series B Convertible Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting such shares), the annual rate of $0.06 per share of Series C Convertible Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting such shares), the

annual rate of $0.135 per share of Series D Convertible Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting such shares), the annual rate of $0.16875 per share of Series E Convertible Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting such shares), and the annual rate of $0.09 per share of Series E-1 Convertible Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting such shares), respectively. Whether or not declared by the Board of Directors, dividends shall be cumulative and will accrue on each share of Preferred Stock from the date of issue thereof (except that, with respect to shares of Series D Convertible Preferred Stock, dividends shall accrue on each such share from the date of January 20, 1999) and, unless declared, shall be payable solely upon (i) the liquidation, dissolution or winding up of the Corporation, or (ii) the redemption of any of such holder's Preferred Stock pursuant to Section 7 hereof. Dividends accrued or payable on the Preferred Stock for any period less than a full quarter shall be computed on the basis of a 360-day year. So long as any shares of the Preferred Stock are outstanding, the Corporation shall not declare, pay or set apart any dividend on the Common Stock or declare, make or set apart any distribution on the Common Stock unless concurrently therewith all accrued dividends on the Preferred Stock, through the date of such declaration, payment, making or setting apart of any dividend or distribution on the Common Stock, are declared, paid, made or set apart, as the case may be. Upon conversion of any share of Preferred Stock under Section 6 hereof, unless declared, all such accrued and unpaid dividends on such share to and until the date of such conversion shall be forfeited and shall not be due and payable.

4. LIQUIDATION, DISSOLUTION OR WINDING UP.

4A. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the holders of the shares of the Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock shall be entitled, before any distribution or payment is made upon any stock ranking on liquidation junior to the Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock, to be paid an amount equal to the greater of (i) $1.50 per share and $2.8125 per share (in each case subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or similar recapitalization affecting such shares), respectively,

plus, in the case of each share, an amount equal to all accrued but unpaid dividends thereon, or (ii) such amount per share as would have been payable had each such share been converted to Common Stock pursuant to Section 6 immediately prior to such liquidation, dissolution or winding up. The foregoing amount payable with respect to one share of Series E-1 Convertible Preferred Stock being sometimes referred to as the "SERIES E-1 LIQUIDATION PREFERENCE PAYMENT" and with respect to all shares of Series E-1 Convertible Preferred Stock being sometimes referred to as the "SERIES E-1 LIQUIDATION PREFERENCE PAYMENTS." The foregoing amount payable with respect to one share of Series E Convertible Preferred Stock being sometimes referred to as the "SERIES E LIQUIDATION PREFERENCE PAYMENT" and with respect to all shares of Series E Convertible Preferred Stock being sometimes referred to as the "SERIES E LIQUIDATION PREFERENCE PAYMENTS." If upon such liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed to the holders of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock shall be

insufficient to permit payment to the holders of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock of the amount distributable as aforesaid, then the entire assets of the Corporation to be so distributed shall be distributed ratably among the holders of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock. For purposes hereof, the Series E-1 Convertible Preferred Stock and the Series E Convertible Preferred Stock shall rank on liquidation, dissolution or winding up PARI PASSU to each other, and the Series A Convertible Preferred Stock, the Series B Convertible Preferred Stock, the Series C Convertible Preferred Stock, the Series D Convertible Preferred Stock and the Common Stock shall rank on liquidation, dissolution or winding up junior to the Series E-1 Convertible Preferred Stock and the Series E Convertible Preferred Stock.

4B. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, immediately after the holders of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock have been paid in full the Series E-1 Liquidation Preference Payments and the Series E Liquidation Preference Payments respectively, the holders of the shares of the Series D Convertible Preferred Stock shall be entitled, before any distribution or payment is made upon any stock ranking on liquidation junior to the Series D Convertible Preferred Stock, to be paid an amount equal to the greater of (i) $2.25 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting such shares) plus, in the case of each share, an amount equal to all accrued but unpaid dividends thereon, or (ii) such amount per share as would have been payable had each such share been converted to Common Stock pursuant to Section 6 immediately prior to such liquidation, dissolution or winding up. The foregoing amount payable with respect to one share of Series D Convertible Preferred Stock being sometimes referred to as the "SERIES D LIQUIDATION PREFERENCE PAYMENT" and with respect to all shares of Series D Convertible Preferred Stock being sometimes referred to as the "SERIES D LIQUIDATION PREFERENCE PAYMENTS." If upon such liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed to the holders of the Series D Convertible Preferred Stock shall be insufficient to permit payment to the holders of Series D Convertible Preferred Stock of the amount distributable as aforesaid, then the entire assets of the Corporation to be so distributed shall be distributed ratably among the holders of Series D Convertible Preferred Stock. For purposes hereof, the Series A Convertible Preferred Stock, the Series B Convertible Preferred Stock, the Series C Convertible Preferred Stock and the Common Stock shall rank on liquidation, dissolution or winding up junior to the Series E-1 Convertible Preferred Stock, Series E Convertible Preferred Stock, and the Series D Convertible Preferred Stock.

4C. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, immediately after the holders of the Series E-1 Convertible Preferred Stock, Series E Convertible Preferred Stock, and Series D Convertible Preferred Stock have been paid in full the Series E-1 Liquidation Preference Payments, the Series E Liquidation Preference Payments and the Series D Liquidation Preference Payments respectively, the holders of the shares of the Series C Convertible Preferred Stock shall be entitled, before any distribution or payment is made upon any stock ranking on liquidation junior to the Series C Convertible Preferred Stock, to be paid an amount equal to the greater of (i) $1.00 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar

recapitalization affecting such shares) plus, in the case of each share, an

amount equal to all accrued but unpaid dividends thereon, or (ii) such amount per share as would have been payable had each such share been converted to Common Stock pursuant to Section 6 immediately prior to such liquidation, dissolution or winding up. The foregoing amount payable with respect to one share of Series C Convertible Preferred Stock being sometimes referred to as the "SERIES C LIQUIDATION PREFERENCE PAYMENT" and with respect to all shares of Series C Convertible Preferred Stock being sometimes referred to as the "SERIES C LIQUIDATION PREFERENCE PAYMENTS." If upon such liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed to the holders of the Series C Convertible Preferred Stock shall be insufficient to permit payment to the holders of Series C Convertible Preferred Stock of the amount distributable as aforesaid, then the entire assets of the Corporation to be so distributed shall be distributed ratably among the holders of Series C Convertible Preferred Stock. For purposes hereof, the Series A Convertible Preferred Stock, the Series B Convertible Preferred Stock and the Common Stock shall rank on liquidation, dissolution or winding up junior to the Series E-1 Convertible Preferred Stock, Series E Convertible Preferred Stock, Series D Convertible Preferred Stock and the Series C Convertible Preferred Stock.

4D. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, immediately after the holders of Series E-1 Convertible Preferred Stock, Series E Convertible Preferred Stock, Series D Convertible Preferred Stock, and Series C Convertible Preferred Stock shall have been paid in full the Series E-1 Liquidation Preference Payments, Series E Liquidation Preference Payments, Series D Liquidation Preference Payments and Series C Liquidation Preference Payments, the holders of the shares of the Series B Convertible Preferred Stock and Series A Convertible Preferred Stock shall be entitled, before any distribution or payment is made upon any stock ranking on liquidation junior to the Series B Convertible Preferred Stock and Series A Convertible Preferred Stock, to be paid an amount equal to the greater of (i) $0.32 per share and $0.228571 per share (in each case subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or similar recapitalization affecting such shares), respectively, plus, in the case of each share, an amount equal to all accrued but unpaid dividends thereon, or (ii) such amount per share as would have been payable had each such share been converted to Common Stock pursuant to Section 6 immediately prior to such liquidation, dissolution or winding up. The foregoing amount payable with respect to one share of Series B Convertible Preferred Stock being sometimes referred to as the "SERIES B LIQUIDATION PREFERENCE PAYMENT" and with respect to all shares of Series B Convertible Preferred Stock being sometimes referred to as the "SERIES B LIQUIDATION PREFERENCE PAYMENTS." The foregoing amount payable with respect to one share of Series A Convertible Preferred Stock being sometimes referred to as the "SERIES A LIQUIDATION PREFERENCE PAYMENT" and with respect to all shares of Series A Convertible Preferred Stock being sometimes referred to as the "SERIES A LIQUIDATION PREFERENCE PAYMENTS." If upon such liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed to the holders of Series B Convertible Preferred Stock and Series A Convertible Preferred Stock shall be insufficient to permit payment to the holders of Series B Convertible Preferred Stock and Series A Convertible Preferred Stock of the amount distributable as aforesaid, then the entire assets of the Corporation to be so distributed shall be distributed ratably among the holders of Series B Convertible Preferred Stock and Series A Convertible Preferred Stock. For purposes

hereof, the Series B Convertible Preferred Stock and the Series A Convertible Preferred Stock shall rank on liquidation, dissolution or winding up PARI PASSU to each other, and the Common Stock shall rank on liquidation, dissolution or winding up junior to the Series E-1 Convertible Preferred Stock, Series E Convertible Preferred Stock, Series D Convertible Preferred Stock, Series C Convertible Preferred Stock, Series B Convertible Preferred Stock and the Series A Convertible Preferred Stock.

4E. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, immediately after the holders of Series E-1 Convertible Preferred Stock, Series E Convertible Preferred Stock, Series D Convertible Preferred Stock, Series C Convertible Preferred Stock, Series B Convertible Preferred Stock and Series A Convertible Preferred Stock shall have been paid in full the Series E-1 Liquidation Preference Payments, Series E Liquidation Preference Payments, the Series D Liquidation Preference Payments, the Series C Liquidation Preference Payments, the Series B Liquidation Preference Payments and the Series A Liquidation Preference Payments, respectively, the remaining net assets of the Corporation available for distribution shall be distributed ratably among the holders of the Common Stock.

4F. Written notice of the liquidation, dissolution or winding up of the Corporation, stating a payment date, the amount of the Series A Liquidation Preference Payments, the Series B Liquidation Preference Payments, the Series C

Liquidation Preference Payments, the Series D Liquidation Preference Payments, the Series E Liquidation Preference Payments and the Series E-1 Liquidation Preference Payments (collectively, the "LIQUIDATION PREFERENCE PAYMENTS"), as the case may be, and the place where said Liquidation Preference Payments shall be payable, shall be delivered in person, mailed by certified or registered mail, return receipt requested, or sent by telecopier or telex, not less than 20 days prior to the payment date stated therein, to the holders of record of such series of Preferred Stock, such notice to be addressed to each such holder at its address as shown by the records of the Corporation.

4G. The consolidation or merger of the Corporation in or with another corporation in which the stockholders of the Corporation shall own less than 50% of the voting securities of the resulting or surviving corporation or the sale, transfer or other disposition of all or substantially all of the assets of the Corporation shall be deemed to be a liquidation, dissolution or winding up of the Corporation for purposes of this Section 4 unless, prior to such transaction, the holder(s) of not less than 66 2/3% of the voting power of the then outstanding shares of Preferred Stock, by vote or written consent, determine that such transaction will not be deemed a liquidation, dissolution or winding up of the Corporation for purposes of this Section 4.

5. RESTRICTIONS. At any time when shares of Series E-1 Convertible Preferred Stock or Series E Convertible Preferred Stock (with respect to 5A below), Series D Convertible Preferred Stock (with respect to 5B below), Series C Convertible Preferred Stock (with respect to 5C below), Series B Convertible Preferred Stock (with respect to 5D below) or Series A Convertible Preferred Stock (with respect to 5E below), are outstanding, except where the vote or written consent of the holders of a greater number of shares of the Corporation is required by law or by this Amended and Restated Certificate of Incorporation, and in addition to any other vote

required by law or this Amended and Restated Certificate of Incorporation, the Corporation will not:

5A. After the date of filing of this Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware, without the approval of the holders of a majority of the then outstanding shares of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock given in writing or by vote at a meeting, consenting or voting (as the case may be) together as a single series, (i) issue or sell any Common Stock or Common Stock Equivalent (as defined herein) at a price per share (in the case of Common Stock), or as to which the Net Consideration Per Share (as defined herein) (in the case of a Common Stock Equivalent) that the Corporation may receive is, equal to or less than $0.75 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting the Series E-1 Convertible Preferred Stock, the Series E Convertible Preferred Stock or the Common Stock), other than any such issuance or sale referred to in (and which satisfies the terms and conditions of) Section 6E(6) below; (ii) create or authorize the creation of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or increase the authorized amount of the Series E-1 Convertible Preferred Stock or Series E Convertible Preferred Stock or increase the authorized amount of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or create or authorize any obligation or security convertible into shares of Series E-1 Convertible Preferred Stock, Series E Convertible Preferred Stock or into shares of any other class or series of stock unless the same ranks PARI PASSU or junior to the Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, whether any such creation, authorization or increase shall be by means of amendment to this Amended and Restated Certificate of Incorporation or by merger, consolidation or otherwise; (iii) consent to any liquidation, dissolution or winding up of the Corporation or consolidate or merge into or with any other entity or entities or sell, lease, abandon, transfer or otherwise dispose of all or substantially all its assets; (iv) amend, alter or repeal this Amended and Restated Certificate of Incorporation or the Corporation's by-laws in a manner that adversely affects the holders of the Series E-1 Convertible Preferred Stock or Series E Convertible Preferred Stock; (v) redeem or otherwise acquire any shares of Series E-1 Convertible Preferred Stock or Series E Convertible Preferred Stock, except pursuant to Section 7 below or pursuant to a purchase offer made pro rata to all holders of the shares of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock on the basis of the aggregate number of

such shares then held by each such holder, provided that, in no event may the Corporation without the aforesaid approval of the holders of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock redeem or otherwise acquire any shares of capital stock of the Corporation ranking on liquidation under Section 4A junior to the Series E-1 Convertible Preferred Stock or Series E Convertible Preferred Stock; or (vi) declare or pay any dividends, or declare or make any other distribution, in respect of capital stock of the Corporation

ranking on liquidation under Section 4A junior to the Series E-1 Convertible Preferred Stock or Series E Convertible Preferred Stock.

5B. After the date of filing of this Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware, without the approval of the holders of a majority of the then outstanding shares of Series D Convertible Preferred Stock given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a series, (i) issue or sell any Common Stock or Common Stock Equivalent (as defined herein) at a price per share (in the case of Common Stock), or as to which the Net Consideration Per Share (as defined herein) (in the case of a Common Stock Equivalent) that the Corporation may receive is, equal to or less than $1.125 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting the Series D Convertible Preferred Stock or the Common Stock), other than any such issuance or sale referred to in (and which satisfies the terms and conditions of) Section 6E(6) below; (ii) create or authorize the creation of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series D Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or increase the authorized amount of the Series D Convertible Preferred Stock or increase the authorized amount of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series D Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or create or authorize any obligation or security convertible into shares of Series D Convertible Preferred Stock or into shares of any other class or series of stock unless the same ranks PARI PASSU or junior to the Series D Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, whether any such creation, authorization or increase shall be by means of amendment to this Amended and Restated Certificate of Incorporation or by merger, consolidation or otherwise; (iii) consent to any liquidation, dissolution or winding up of the Corporation or consolidate or merge into or with any other entity or entities or sell, lease, abandon, transfer or otherwise dispose of all or substantially all its assets; (iv) amend, alter or repeal this Amended and Restated Certificate of Incorporation or the Corporation's by-laws in a manner that adversely affects the holders of the Series D Convertible Preferred Stock; (v) redeem or otherwise acquire any shares of Series D Convertible Preferred Stock, except pursuant to Section 7 below or pursuant to a purchase offer made pro rata to all holders of the shares of Series D Convertible Preferred Stock on the basis of the aggregate number of such shares then held by each such holder, provided that, in no event may the Corporation without the aforesaid approval of the holders of Series D Convertible Preferred Stock redeem or otherwise acquire any shares of capital stock of the Corporation ranking on liquidation under Section 4B junior to the Series D Convertible Preferred Stock; or (vi) declare or pay any dividends, or declare or make any other distribution, in respect of capital stock of the Corporation ranking on liquidation under Section 4B junior to the Series D Convertible Preferred Stock.

5C. After the date of filing of this Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware, without the approval of the holders of a majority of the then outstanding shares of Series C Convertible Preferred Stock

given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a series, (i) issue or sell any Common Stock or Common Stock Equivalent (as defined herein) at a price per share (in the case of Common Stock), or as to which the Net Consideration Per Share (as defined herein) (in the case of a Common Stock Equivalent) that the Corporation may receive is, equal to or less than $0.50 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting the Series C Convertible Preferred Stock or the Common Stock), other than any such issuance or sale referred to in (and which satisfies the terms and conditions of) Section 6E(6) below; (ii) create or authorize the creation of any additional class or series of shares of stock unless the same ranks PARI PASSU

or junior to the Series C Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or increase the authorized amount of the Series C Convertible Preferred Stock or increase the authorized amount of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series C Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or create or authorize any obligation or security convertible into shares of Series C Convertible Preferred Stock or into shares of any other class or series of stock unless the same ranks PARI PASSU or junior to the Series C Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, whether any such creation, authorization or increase shall be by means of amendment to this Amended and Restated Certificate of Incorporation or by merger, consolidation or otherwise; (iii) consent to any liquidation, dissolution or winding up of the Corporation or consolidate or merge into or with any other entity or entities or sell, lease, abandon, transfer or otherwise dispose of all or substantially all its assets; (iv) amend, alter or repeal this Amended and Restated Certificate of Incorporation or the Corporation's by-laws in a manner that adversely affects the holders of the Series C Convertible Preferred Stock; (v) redeem or otherwise acquire any shares of Series C Convertible Preferred Stock, except pursuant to Section 7 below or pursuant to a purchase offer made pro rata to all holders of the shares of Series C Convertible Preferred Stock on the basis of the aggregate number of such shares then held by each such holder, provided that, in no event may the Corporation without the aforesaid approval of the holders of Series C Convertible Preferred Stock redeem or otherwise acquire any shares of capital stock of the Corporation ranking on liquidation under Section 4C junior to the Series C Convertible Preferred Stock; or (vi) declare or pay any dividends, or declare or make any other distribution, in respect of capital stock of the Corporation ranking on liquidation under Section 4C junior to the Series C Convertible Preferred Stock.

5D. After the date of filing of this Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware, without the approval of the holders of a majority of the then outstanding shares of Series B Convertible Preferred Stock given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a series, (i) issue or sell any Common Stock or Common Stock Equivalent (as defined herein) at a price per share (in the case of Common Stock), or as to which the Net Consideration Per Share (as defined herein) (in the case of a Common Stock Equivalent) that the Corporation may receive is, equal to or less than $0.16 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting the Series B Convertible

Preferred Stock or the Common Stock), other than any such issuance or sale referred to in (and which satisfies the terms and conditions of) Section 6E(6) below; (ii) create or authorize the creation of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series B Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or increase the authorized amount of the Series B Convertible Preferred Stock or increase the authorized amount of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series B Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or create or authorize any obligation or security convertible into shares of Series B Convertible Preferred Stock or into shares of any other class or series of stock unless the same ranks PARI PASSU or junior to the Series B Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, whether any such creation, authorization or increase shall be by means of amendment to this Amended and Restated Certificate of Incorporation or by merger, consolidation or otherwise; (iii) consent to any liquidation, dissolution or winding up of the Corporation or consolidate or merge into or with any other entity or entities or sell, lease, abandon, transfer or otherwise dispose of all or substantially all its assets; (iv) amend, alter or repeal this Amended and Restated Certificate of Incorporation or the Corporation's by-laws in a manner that adversely affects the holders of the Series B Convertible Preferred Stock; (v) redeem or otherwise acquire any shares of Series B Convertible Preferred Stock, except pursuant to Section 7 below or pursuant to a purchase offer made pro rata to all holders of the shares of Series B Convertible Preferred Stock on the basis of the aggregate number of such shares then held by each such holder, provided that, without the aforesaid approval of the holders of Series B Convertible Preferred Stock in no event may the Corporation redeem or otherwise acquire any shares of capital stock of the Corporation ranking on liquidation under Section 4D junior to the Series B Convertible Preferred Stock; or (vi) declare or pay any dividends, or declare or make any other distribution, in respect of capital stock of the Corporation ranking on liquidation under Section 4D junior to the Series B

Convertible Preferred Stock.

5E. After the date of filing of this Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware, without the approval of the holders of a majority of the then outstanding shares of Series A Convertible Preferred Stock given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a series, (i) issue or sell any Common Stock or Common Stock Equivalent (as defined herein) at a price per share (in the case of Common Stock), or as to which the Net Consideration Per Share (as defined herein) (in the case of a Common Stock Equivalent) that the Corporation may receive is, equal to or less than $0.1142857 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting the Series A Convertible Preferred Stock or the Common Stock), other than any such issuance or sale referred to in (and which satisfies the terms and conditions of) Section 6E(6) below; (ii) create or authorize the creation of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series A Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or increase the authorized amount of the Series A Convertible Preferred Stock or increase the authorized amount of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to

the Series A Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or create or authorize any obligation or security convertible into shares of Series A Convertible Preferred Stock or into shares of any other class or series of stock unless the same ranks PARI PASSU or junior to the Series A Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, whether any such creation, authorization or increase shall be by means of amendment to this Amended and Restated Certificate of Incorporation or by merger, consolidation or otherwise; (iii) consent to any liquidation, dissolution or winding up of the Corporation or consolidate or merge into or with any other entity or entities or sell, lease, abandon, transfer or otherwise dispose of all or substantially all its assets; (iv) amend, alter or repeal this Amended and Restated Certificate of Incorporation or the Corporation's by-laws in a manner that adversely affects the holders of the Series A Convertible Preferred Stock; (v) redeem or otherwise acquire any shares of Series A Convertible Preferred Stock, except pursuant to Section 7 below or pursuant to a purchase offer made pro rata to all holders of the shares of Series A Convertible Preferred Stock on the basis of the aggregate number of such shares then held by each such holder, provided that, in no event may the Corporation without the aforesaid approval of the holders of Series A Convertible Preferred Stock redeem or otherwise acquire any shares of capital stock of the Corporation ranking on liquidation under Section 4D junior to the Series A Convertible Preferred Stock; or (vi) declare or pay any dividends, or declare or make any other distribution, in respect of capital stock of the Corporation ranking on liquidation under Section 4D junior to the Series A Convertible Preferred Stock.

6. CONVERSION RIGHTS. The holders of shares of the Preferred Stock shall have the following conversion rights:

6A. GENERAL. Subject to and in compliance with the provisions of this Section 6, any shares of Preferred Stock may, at the option of the holder, be converted at any time or from time to time into fully-paid and non-assessable shares of Common Stock. The number of shares of Common Stock to which a holder of shares of a particular series of Preferred Stock shall be entitled upon conversion shall be the product obtained by multiplying the Applicable Conversion Rate for such series of Preferred Stock (determined as provided in Section 6C hereof) by the number of shares of such series of Preferred Stock being converted.

6B. AUTOMATIC CONVERSION UPON UNDERWRITTEN PUBLIC OFFERING OR ELECTION OF PREFERRED STOCK.

6B(1). MANDATORY CONVERSION. Immediately (i) upon the closing of an underwritten public offering on a firm commitment basis pursuant to an effective registration statement on Form S-1 or Form SB-2 or their then equivalents under the Securities Act of 1933, covering the offer and sale of Common Stock for the account of the Corporation in which the aggregate net proceeds to the Corporation exceed $25 million and in which the price per share of Common Stock equals or exceeds $6.00 (such per share price to be appropriately adjusted upon the occurrence of any stock dividend, stock split, combination or similar recapitalization) (a "QUALIFIED PUBLIC OFFERING"), all outstanding shares of Preferred Stock shall be converted

automatically into the number of shares of Common Stock into which such shares of Preferred Stock are then convertible pursuant to Section 6 hereof (subject to adjustment as provided in this Section 6) as of the closing and consummation of such underwritten public offering without any further action by the holders of such shares and whether or not the certificates representing such shares of Preferred Stock are surrendered to the Corporation or its transfer agent for the Common Stock into which such shares of Preferred Stock have been converted; or (ii) upon the approval, set forth in a written notice to the Corporation, of the holders of a majority of the outstanding shares of any series of Preferred Stock of an election to convert such series of Preferred Stock into Common Stock, then all outstanding shares of such series of Preferred Stock shall be converted automatically into the number of shares of Common Stock into which such shares of Preferred Stock are then convertible pursuant to Section 6 hereof (subject to adjustment as provided in this Section 6) as of the stated date of approval of such holders of such series of Preferred Stock, without any further action by the holders of such shares and whether or not the certificates representing such shares of Preferred Stock are surrendered to the Corporation or its transfer agent for the Common Stock into which such shares of Preferred Stock have been converted.

6B(2). PROCEDURE UPON MANDATORY CONVERSION. Upon the occurrence of the conversion specified in Section 6B(1) above (the "MANDATORY CONVERSION DATE"), the holders of any shares of the Preferred Stock so converted shall surrender the certificates representing such shares at the office of the Corporation or of its transfer agent for the Common Stock. Thereupon, there shall be issued and delivered to each such holder a certificate or certificates for the number of shares of Common Stock into which the shares of such series of Preferred Stock surrendered were convertible on the Mandatory Conversion Date; cash in the amount of all declared and unpaid dividends on such shares of Preferred Stock (if any), up to and including the Mandatory Conversion Date; and cash, as provided in Section 6K, in respect of any fraction of a share of Common Stock issuable upon such conversion. Upon the Mandatory Conversion Date, the rights of the holder as holder of the converted shares of Preferred Stock shall cease and the person or persons in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such conversion shall be deemed to have become the holder or holders of record of the shares of Common Stock represented thereby. The Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless certificates evidencing such shares of Preferred Stock so converted are either delivered to the Corporation or any such transfer agent or the holder notifies the Corporation or any such transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection therewith.

6C. APPLICABLE CONVERSION RATE. The applicable conversion rate in effect at any time for each series of Preferred Stock (with respect to each such series, the "APPLICABLE CONVERSION RATE") shall be calculated with respect to each such series as follows: (i) with respect to the Series A Convertible Preferred Stock, the "APPLICABLE CONVERSION RATE" shall be the quotient obtained by dividing $0.2285714 by the Applicable Conversion Value for such series of Preferred Stock, calculated as provided in Section 6D, (ii) with respect to the Series B Convertible Preferred Stock, the "APPLICABLE CONVERSION RATE" shall be the quotient obtained by dividing $0.32 by the Applicable

Conversion Value for the Series B Convertible Preferred Stock, calculated as provided in Section 6D, (iii) with respect to the Series C Convertible Preferred Stock, the "APPLICABLE CONVERSION RATE" shall be the quotient obtained by dividing $1.00 by the Applicable Conversion Value for the Series C Convertible Preferred Stock, calculated as provided in Section 6D, (iv) with respect to the Series D Convertible Preferred Stock, the "APPLICABLE CONVERSION RATE" shall be the quotient obtained by dividing $2.25 by the Applicable Conversion Value for the Series D Convertible Preferred Stock, calculated as provided in Section 6D, (v) with respect to the Series E Convertible Preferred Stock, the "APPLICABLE CONVERSION RATE" shall be the quotient obtained by dividing $2.8125 by the Applicable Conversion Value for the Series E Convertible Preferred Stock, calculated as provided in Section 6D, and (vi) with respect to the Series E-1 Convertible Preferred Stock, the "APPLICABLE CONVERSION RATE" shall be the quotient obtained by dividing $1.50 by the Applicable Conversion Value for the Series E-1 Convertible Preferred Stock, calculated as provided in Section 6D.

6D. APPLICABLE CONVERSION VALUE. The Applicable Conversion Value in effect from time to time with respect to each series of Preferred Stock shall be determined as follows: (i) with respect to the Series A Convertible Preferred Stock, the Applicable Conversion Value shall initially be $0.2285714, subject to adjustment in accordance with Sections 6E and 6F hereof, (ii) with respect to

the Series B Convertible Preferred Stock, the Applicable Conversion Value shall initially be $0.32, subject to adjustment in accordance with Sections 6E and 6F hereof, (iii) with respect to the Series C Convertible Preferred Stock, the Applicable Conversion Value shall initially be $1.00, subject to adjustment in accordance with Sections 6E and 6F hereof, (iv) with respect to the Series D Convertible Preferred Stock, the Applicable Conversion Value shall initially be $2.25, subject to adjustment in accordance with Sections 6E and 6F hereof, and (v) with respect to the Series E Convertible Preferred Stock, the Applicable Conversion Value shall initially be $2.8125, subject to adjustment in accordance with Sections 6E and 6F hereof and (vi) with respect to the Series E-1 Convertible Preferred Stock, the Applicable Conversion Value shall initially be $1.50, subject to adjustment in accordance with Sections 6E and 6F hereof.

6E(1). ADJUSTMENTS TO APPLICABLE CONVERSION VALUE OF PREFERRED STOCK FOR DILUTIVE ISSUANCES.

(a) UPON SALE OF COMMON STOCK. Subject to Section 6E(1)(b) below solely with respect to shares of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock, if the Corporation shall, while there are any shares of Preferred Stock outstanding, issue or sell shares of its Common Stock at a price per share less than the Applicable Conversion Value with respect to one or more series of Preferred Stock, as in effect immediately prior to such issuance or sale, then in each such case, the Applicable Conversion Value with respect to such series of Preferred Stock, upon each such issuance or sale, except as hereinafter provided, shall be lowered so as to be equal to an amount determined by multiplying the Applicable Conversion Value with respect to such series of Preferred Stock, as in effect immediately prior to such issuance or sale by a fraction:

(i) the numerator of which shall be (a) the number of shares of Common Stock deemed to be outstanding immediately prior to the issuance of such additional shares of Common Stock (calculated on a fully diluted basis and assuming the

exercise or conversion of all then outstanding options, warrants, purchase rights or convertible securities), plus (b) the number of shares of Common Stock which the net aggregate consideration, if any, received by the Corporation for the total number of such additional shares of Common Stock so issued would purchase at the Applicable Conversion Value with respect to such series of Preferred Stock, as in effect immediately prior to such issuance; and

(ii) the denominator of which shall be (a) the number of shares of Common Stock deemed to be outstanding immediately prior to the issuance of such additional shares of Common Stock (calculated on a fully diluted basis and assuming the exercise or conversion of all then outstanding options, warrants, purchase rights or convertible securities) plus (b) the number of such additional shares of Common Stock so issued.

(b) SERIES E-1 CONVERTIBLE PREFERRED STOCK AND SERIES E CONVERTIBLE PREFERRED STOCK. If the Corporation shall, while there are any shares of Series E-1 Convertible Preferred Stock or Series E Convertible Preferred Stock outstanding, issue or sell shares of its Common Stock at a price per share less than the Applicable Conversion Value with respect to the Series E-1 Convertible Preferred Stock or the Series E Convertible Preferred Stock, as in effect immediately prior to such issuance or sale (a "Dilutive Issuance"), then the Applicable Conversion Value with respect to such series of Preferred Stock, upon any Dilutive Issuance, except as hereinafter provided, shall be lowered so as to be equal to such Net Consideration Per Share at which such Common Stock was issued or sold.

6E(2). ADJUSTMENTS FOR ISSUANCE OF WARRANTS, OPTIONS AND RIGHTS TO COMMON STOCK OR CONVERTIBLE SECURITIES. For the purposes of this Section 6E, the issuance, whether directly or indirectly, of any warrants, options, subscriptions or purchase rights with respect to shares of Common Stock and the issuance, whether directly or indirectly, of any securities convertible into or exchangeable for shares of Common Stock, or the issuance of any warrants, options, subscriptions or purchase rights with respect to such convertible or exchangeable securities, (collectively, "COMMON STOCK EQUIVALENTS" and individually, a "COMMON STOCK EQUIVALENT") shall be deemed an issuance at such time of such Common Stock if the Net Consideration Per Share which may be received by the Corporation for such Common Stock shall be LESS THAN the Applicable Conversion Value with respect to one or more series of Preferred Stock as in effect at the time of such issuance. Any obligation, agreement or undertaking to issue Common Stock Equivalents at any time in the future shall be deemed to be an issuance at the time such obligation, agreement or undertaking is made or arises.

No adjustment of the Applicable Conversion Value for a series of Preferred Stock shall be made under this Section 6E upon the issuance of any shares of Common Stock which are issued pursuant to the exercise, conversion or exchange of Common Stock Equivalents if any adjustment shall previously have been made with respect to such series of Preferred Stock upon the issuance of any such Common Stock Equivalents as above provided.

6E(3). DECREASES IN APPLICABLE CONVERSION VALUE; EXPIRATION OR CANCELLATION OF WARRANTS, OPTIONS OR RIGHTS WITHOUT EXERCISE. Should the Net Consideration Per Share of any such Common Stock Equivalents be decreased from time to time, then, upon the effectiveness of each such change, the Applicable Conversion Value for each series of Preferred Stock, shall be adjusted to such Applicable Conversion Value with respect to such series of Preferred Stock as would have been obtained (1) had the adjustments made upon the issuance of such Common Stock Equivalents been made upon the basis of the actual Net Consideration Per Share of such securities, and (2) had any adjustments made to the Applicable Conversion Value for such series of Preferred Stock since the date of issuance of such Common Stock Equivalents been made to the Applicable Conversion Value with respect to such series of Preferred Stock as adjusted pursuant to clause (1) above. Any adjustment of the Applicable Conversion Value with respect to any series of Preferred Stock which relates to Common Stock Equivalents shall be disregarded if, as, and when all of such Common Stock Equivalents lapse, terminate, expire or are canceled without being exercised, so that the Applicable Conversion Value for such series of Preferred Stock effective immediately upon such cancellation or expiration shall be equal to the Applicable Conversion Value with respect to such series of Preferred Stock in effect at the time of the issuance of the lapsed, terminated, expired or canceled Common Stock Equivalents, with such additional adjustments as would have been made to the Applicable Conversion Value with respect to such series of Preferred Stock had the lapsed, terminated, expired or canceled Common Stock Equivalents not been issued.

6E(4). DEFINITIONS. For purposes of this Section 6, the "NET CONSIDERATION PER SHARE" which may be received by the Corporation shall be determined as follows:

(a) The "NET CONSIDERATION PER SHARE" shall mean the amount equal to the total amount of consideration, if any, received by the Corporation for the issuance of such Common Stock Equivalents plus the minimum amount of consideration, if any, payable to the Corporation upon exercise, conversion or exchange thereof, divided by the aggregate number of shares of Common Stock that would be issued if all such Common Stock Equivalents were exercised, exchanged or converted.

(b) The "NET CONSIDERATION PER SHARE" which may be received by the Corporation shall be determined in each instance as of the date of issuance of any Common Stock Equivalents without giving effect to any possible future upward price adjustments or rate adjustments which may be applicable with respect to such Common Stock Equivalents.

6E(5). CONSIDERATION OTHER THAN CASH. For purposes of this Section 6E, if a part of or all of the consideration received by the Corporation in connection with the issuance of shares of Common Stock or Common Stock Equivalents consists of property other than cash, such consideration shall be deemed to have a fair market value as is reasonably determined in good faith by the Board of Directors of the Corporation.

6E(6). EXCEPTIONS TO DILUTIVE ISSUANCES. This Section 6E shall not apply under any of the circumstances which would constitute an Extraordinary Common Stock Event (as hereinafter defined in Section 6F). Further, this Section 6E shall not apply to:

(a) (i) the grant or issuance to directors, officers, employees or consultants of the Company or any subsidiary of options and/or restricted stock awards with respect to up to 3,741,665 shares (equitably adjusted in the event of any stock split, stock dividend, combination, reclassification, recapitalization, reorganization or other similar event with respect to the Common Stock) of Common Stock pursuant to the NeuroMetrix, Inc. Amended and Restated 1996 Stock Option/Restricted Stock Plan, NeuroMetrix, Inc. 1998 Equity Incentive Plan, as amended, or NeuroMetrix, Inc. 1998-A Equity Incentive Plan, or the issuance (or transfer by Shai N. Gozani, M.D., Ph.D., to the optionee in the case of options granted pursuant to the NeuroMetrix, Inc.

Amended and Restated 1996 Stock Option/Restricted Stock Plan) of shares of Common Stock pursuant to the exercise of such options (which issuance shall dilute all of the Corporation's stockholders on a pro rata basis) or (ii) the grant or issuance of additional options and/or restricted stock awards to directors, officers, employees and consultants of the Corporation or any subsidiary, or the issuance of shares of Common Stock pursuant to the exercise of such options (which issuance shall dilute all of the Company's stockholders on a pro rata basis), pursuant to any qualified or non-qualified stock option plan or agreement, stock purchase plan, employee stock ownership plan, restricted stock plan, stock appreciation right (SAR) plan, stock purchase agreement, stock restriction agreement, consulting agreement or other agreements or plans approved by a majority of the members of the Board of Directors of the Corporation then in office with the concurrence of the directors elected by the holders of Preferred Stock;

(b) securities issued solely in consideration for the acquisition (whether by merger or otherwise) by the Corporation of all or substantially all of the capital stock or assets of any other corporation or entity, or securities issued solely in consideration for, or in connection with, the grant by or to the Corporation of marketing rights, distribution rights, license rights or similar rights to proprietary technology, whether of the Corporation to any other entity or of any other entity to the Corporation; PROVIDED, HOWEVER, the issuance of such securities is approved by a majority of the members of the Board of Directors of the Corporation then in office and which must include the approval of a majority of the directors elected by the holders of Preferred Stock;

(c) shares of Common Stock issuable upon conversion of any shares of the Preferred Stock.

6F. UPON EXTRAORDINARY COMMON STOCK EVENT. Upon the happening of an Extraordinary Common Stock Event (as hereinafter defined), the Applicable Conversion Value with respect to each series of Preferred Stock shall, simultaneously with the happening of such Extraordinary Common Stock Event, be adjusted by multiplying the then effective Applicable Conversion Value for such series of Preferred Stock by a fraction, (1) the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such Extraordinary Common Stock Event; and (2) the denominator of which shall be the number of shares of Common Stock outstanding immediately after such Extraordinary Common Stock Event, and the product so obtained shall

thereafter be the Applicable Conversion Value for such series of Preferred Stock. The Applicable Conversion Value with respect to each series of Preferred Stock, as so adjusted, shall be readjusted in the same manner upon the happening of any successive Extraordinary Common Stock Event or Events.

An "EXTRAORDINARY COMMON STOCK EVENT" shall mean: (i) the issuance of additional shares of Common Stock as a dividend or other distribution on the outstanding shares of Common Stock, (ii) the subdivision of outstanding shares of Common Stock into a greater number of shares of Common Stock, or (iii) the combination of the outstanding shares of Common Stock into a smaller number of shares of Common Stock.

6G. CAPITAL REORGANIZATION OR RECLASSIFICATION. If the shares of Common Stock issuable upon the conversion of the Preferred Stock shall be changed into the same or a different number of shares of any class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares or stock dividend provided for in Section 6F, or a reorganization, merger, consolidation or sale of assets provided for in Section 6H), then and in each such event the holder of shares of Preferred Stock shall have the right thereafter to convert such shares into the kind and amount of shares of stock and other securities and property receivable upon such reorganization, reclassification or other change by the holders of the number of shares of Common Stock into which such shares of Preferred Stock might have been converted immediately prior to such reorganization, reclassification or change, all subject to further adjustment as provided herein.

6H. REORGANIZATION, MERGER OR SALE OF ASSETS. If at any time or from time to time there shall be a capital reorganization of the capital stock (other than a subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 6), merger or consolidation of the Corporation with or into another corporation, or the sale of all or substantially all of the Corporation's properties and assets to any other person or entity (a "REORGANIZATION"), then, unless such Reorganization is deemed to be a liquidation, dissolution or winding up of the Corporation pursuant to Section 4G above (in which case the provisions of Section 4 shall apply), as a part of such Reorganization, provision shall be made so that each holder of Preferred Stock shall thereafter be entitled to receive upon conversion of such shares of

Preferred Stock, the number of shares of stock or other securities or property of the Corporation, or of the successor corporation resulting from or in such Reorganization, to which a holder of the number of shares of Common Stock into which such holder's shares of Preferred Stock were convertible immediately prior to such Reorganization would have been entitled upon consummation of such Reorganization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 6 with respect to the rights of the holders of Preferred Stock after the Reorganization to the end that the provisions of this Section 6 (including adjustment of the Applicable Conversion Value then in effect for the Preferred Stock and the number of shares of Common Stock issuable upon conversion of the Preferred Stock) shall be applicable after that event in as nearly equivalent a manner as may be practicable.

The provisions of this Section 6H shall not apply to any reorganization, merger or consolidation involving (1) only a change in the state of incorporation of the Corporation, (2) a

merger of the Corporation with or into a wholly-owned subsidiary of the Corporation that is incorporated in the United States of America, or (3) an acquisition by merger, reorganization or consolidation of another corporation that is engaged in a business similar or related to, or complementary with, the business of the Corporation in which transaction the Corporation is the surviving corporation and operates as a going concern, provided in the case of (1), (2), or (3), that such transaction does not involve a recapitalization or reorganization or other change or any exchange of the Preferred Stock or Common Stock.

6I. CERTIFICATE AS TO ADJUSTMENTS. In each case of an adjustment or readjustment of the Applicable Conversion Rate with respect to any series of Preferred Stock, the Corporation will furnish each holder of such series of Preferred Stock with a certificate, prepared by the Chief Financial Officer or Treasurer of the Corporation, showing such adjustment or readjustment, and stating in detail the facts upon which such adjustment or readjustment is based. All adjustments shall be rounded upward or downward to the nearest fifth decimal place. All adjustments which represent a change in the Applicable Conversion Rate of less than one percent (1%) shall be cumulated and carried forward and added to the next adjustment. The Corporation agrees to maintain its stock transfer and registry books so as to reflect accurately the Applicable Conversion Value and conversion rates with respect to each holder of shares of Preferred Stock.

6J. EXERCISE OF CONVERSION PRIVILEGE. To exercise his conversion privilege, a holder of the Preferred Stock shall surrender the certificates representing the shares being converted to the Corporation at its principal office, and shall give written notice to the Corporation at that office that such holder elects to convert such shares. Such notice shall also state the name or names (with address or addresses) in which the certificates for shares of Common Stock issuable upon such conversion shall be issued. The certificates for shares of Preferred Stock surrendered for conversion shall be accompanied by proper assignment thereof to the Corporation or in blank. The date when such written notice is received by the Corporation, together with the certificates representing the shares of Preferred Stock being converted, shall be deemed the "CONVERSION DATE." As promptly as practicable after the Conversion Date, the Corporation shall issue and deliver certificates to each holder of shares of any series of Preferred Stock so converted, or on its written order, such certificates as it may request, for the number of whole shares of Common Stock issuable upon the conversion of such shares of Preferred Stock in accordance with the provisions of this Section 6, cash in the amount of all declared and unpaid dividends on such shares of Preferred Stock (if any), up to and including the Conversion Date, and cash, as provided in Section 6K, in respect of any fraction of a share of Common Stock issuable upon such conversion. Such conversion shall be deemed to have been effected immediately prior to the close of business on the Conversion Date, and at such time the rights of the holder as holder of the converted shares of the Preferred Stock shall cease and the person or persons in whose name or names any certificates for shares of Common Stock shall be issuable upon such conversion shall be deemed to have become the holder or holders of record of the shares of Common Stock represented thereby.

6K. CASH IN LIEU OF FRACTIONAL SHARES. No fractional shares of Common Stock or scrip representing fractional shares shall be issued upon the conversion of shares of Preferred Stock. Instead of any fractional shares of Common Stock which would otherwise be issuable

upon conversion of shares of Preferred Stock, the Corporation shall pay to the holder of shares of Preferred Stock which were converted a cash adjustment in

respect of such fractional shares in an amount equal to the same fraction of the market price per share of the Common Stock (as determined in a reasonable manner prescribed in good faith by the Board of Directors) at the close of business on the Conversion Date. The determination as to whether or not any fractional shares are issuable shall be based upon the total number of shares of such series of Preferred Stock so converted at any one time by any holder thereof, and not upon each share of such series of Preferred Stock so converted.

6L. PARTIAL CONVERSION. In the event some but not all of the shares of any series of Preferred Stock represented by a certificate surrendered by a holder are converted, the Corporation shall execute and deliver to or on the order of the holder, at the expense of the Corporation, a new certificate representing the number of shares of such series of Preferred Stock which were not converted.

6M. RESERVATION OF COMMON STOCK. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of shares of the Preferred Stock, such number of shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Preferred Stock, and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

6N. OTHER NOTICES. In case at any time:

(1) the Corporation shall declare any dividend upon its Common Stock payable or make any other distribution to the holders of its Common Stock;

(2) the Corporation shall offer for subscription PRO RATA to the holders of its Common Stock any additional shares of stock of any class or other rights;

(3) there shall be any capital reorganization or reclassification of the capital stock of the Corporation, or a consolidation or merger of the Corporation with or into another entity or entities, or a sale, lease, abandonment, transfer or other disposition of all or substantially all its assets; or

(4) there shall be a voluntary or involuntary dissolution, liquidation or winding up of the Corporation;

then, in any one or more of said cases, the Corporation shall give, by delivery in person, certified or registered mail, return receipt requested, telecopier or telex, addressed to each holder of any shares of Preferred Stock at the address of such holder as shown on the books of the Corporation, (a) at least 20 days prior written notice of the date on which the books of the Corporation shall

close or a record shall be taken for such dividend, distribution or subscription rights or for determining rights to vote in respect of any such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up and (b) in the case of any such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up, at least 20 days prior written notice of the date when the same shall take place. Such notice in accordance with the foregoing clause (a) shall also specify, in the case of any such dividend, distribution or subscription rights, the date on which the holders of Common Stock shall be entitled thereto and such notice in accordance with the foregoing clause (b) shall also specify the date on which the holders of Common Stock shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up, as the case may be.

6O. NO REISSUANCE OF PREFERRED STOCK. Shares of Preferred Stock which are converted into shares of Common Stock as provided herein shall not be reissued.

6P. ISSUE TAX. The issuance of certificates for shares of Common Stock upon conversion of any of shares of Preferred Stock shall be made without charge to the holders thereof for any issuance tax in respect thereof; provided that the Corporation shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the holder of the Preferred Stock which is being converted.

6Q. CLOSING OF BOOKS. The Corporation will at no time close its transfer books against the transfer of any shares of Preferred Stock or of any shares of Common Stock issued or issuable upon the conversion of any shares of Preferred Stock in any manner which interferes with the timely conversion of such shares of Preferred Stock, except as may otherwise be required to comply with applicable securities laws or that certain Fourth Amended and Restated Stockholders Agreement, dated as of December 20, 2002, as amended from time to time, by and among the Massachusetts Corporation and the Stockholders referred to therein.

6R. DEFINITION OF COMMON STOCK. As used in this Section 6, the term "COMMON STOCK" shall mean and include the Corporation's authorized Common Stock, no par value per share, as constituted on the date of filing of this Certificate of Incorporation, and shall also include any capital stock of any class of the Corporation thereafter authorized which shall not be limited to a fixed sum or percentage in respect of the rights of the holders thereof to participate in dividends or in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation; provided that the shares of Common Stock receivable upon conversion of shares of Preferred Stock shall include only shares designated as Common Stock of the Corporation on the date of filing of this instrument, or in case of any reorganization or reclassification of the outstanding shares thereof, the stock, securities or assets provided for in subparagraph 6H.

7. REDEMPTION

7A. REDEMPTION DATES AND PRICE. On December 20 of each of 2005, 2006 and 2007 (each such date being referred to hereinafter as a "Redemption Date"; and December 20 of 2005 also being referred to hereinafter as the "Initial Redemption Date"), the Corporation will redeem from each holder of shares of Preferred Stock, at a price equal to $0.2285714 per share of Series A Convertible Preferred Stock, $0.32 per share of Series B Convertible Preferred Stock, $1.00 per share of Series C Convertible Preferred Stock, $2.25 per share of Series D Convertible Preferred Stock, $2.8125 per share of Series E Convertible Preferred Stock and $1.50 per share of Series E-1 Convertible Preferred Stock, in each case, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization affecting such shares, plus all accrued but unpaid dividends thereon (with respect to each such series of Preferred Stock, the "Applicable Redemption Price"), up to one-third of the shares of each such series of Preferred Stock outstanding immediately prior to the Initial Redemption Date as such holder may request in a written notice to the Corporation specifying the number of shares to be redeemed and the date on which such stock is to be redeemed (a "Redemption Notice"), which date shall not be less than 20 nor more than 90 days from the date of such Redemption Notice. The right of redemption shall be cumulative so that if the holder does not elect to have the Corporation redeem any or all of the maximum portion of such holder's Preferred Stock, the holder shall have such right with respect to all such shares on the next Redemption Date, as set forth in a Redemption Notice.

7B. PAYMENT OF REDEMPTION PRICE. Payment of the Applicable Redemption Price shall be made by the Corporation by the delivery of a check in the amount of the Applicable Redemption Price, payable to the record holder of the shares of Preferred Stock which have been redeemed, mailed to such holder by first class or registered mail, postage prepaid, to such holder at such holder's address last shown on the records of the Corporation's transfer agent for the Preferred Stock (or records of the Corporation if it serves as its own transfer agent).

7C. PRIORITY. If, at any time that shares of Preferred Stock are required to be redeemed pursuant to this Section 7, the funds of the Corporation legally available for redemption of the Preferred Stock, as determined under the Delaware General Corporation Law, are insufficient to redeem the number of shares required to be redeemed, those funds which are so legally available shall be used first, to redeem PRO RATA based on the respective aggregate Applicable Redemption Price for the Series E-1 Convertible Preferred Stock and the Series E Convertible Preferred Stock the maximum possible number of such shares of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock required to be redeemed at such time pursuant to this Section 7; second, to redeem the maximum possible number of such shares of Series D Convertible Preferred Stock required to be redeemed at such time pursuant to this Section 7; third, to redeem the maximum possible number of such shares of Series C Convertible Preferred Stock required to be redeemed at such time pursuant to this Section 7; and thereafter, to redeem PRO RATA based on the respective aggregate Applicable Redemption Price for the Series B Convertible Preferred Stock and the Series A Convertible Preferred Stock the maximum possible number of shares of Series B Convertible Preferred Stock and Series A Convertible Preferred Stock required to be redeemed at such time pursuant to this Section 7.

At

any time thereafter when additional funds of the Corporation become legally available for the redemption of shares of Preferred Stock, such funds shall, at the end of each succeeding fiscal quarter, be used first, to redeem PRO RATA based on the respective aggregate Applicable Redemption Price for the Series E-1 Convertible Preferred Stock and the Series E Convertible Preferred Stock the maximum possible number of such shares of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock which the Corporation has become obligated to redeem pursuant to this Section 7, but which it has not redeemed; second, to redeem the maximum possible number of such shares of Series D Convertible Preferred Stock which the Corporation has become obligated to redeem pursuant to this Section 7, but which it has not redeemed; third, to redeem the maximum possible number of such shares of Series C Convertible Preferred Stock which the Corporation has become obligated to redeem pursuant to this Section 7, but which it has not redeemed; and thereafter, to redeem PRO RATA based on the respective aggregate Applicable Redemption Price for the Series B Convertible Preferred Stock and the Series A Convertible Preferred Stock the maximum number of such shares of Series B Convertible Preferred Stock and Series A Convertible Preferred Stock which the Corporation has become obligated to redeem pursuant to this Section 7, but which it has not redeemed.

7D. CESSATION OF RIGHTS. Unless there shall have been a default in payment of the Applicable Redemption Price, no share of Preferred Stock is entitled to any dividends declared after the Applicable Redemption Date on which such share is to be redeemed pursuant to this Section 7, and on such applicable Redemption Date, all rights of the holder of such share as a stockholder of the Corporation by reason of the ownership of such share will cease, except the right to receive the Applicable Redemption Price of such share, without interest, upon presentation and surrender of the certificate representing such share, and such share will not from and after such applicable Redemption Date be deemed to be outstanding of any purpose whatsoever.

8. AMENDMENTS. Except as provided in Section 5 above, which shall control with respect to the requisite votes or consents required thereby, these terms of the Preferred Stock may be amended, modified or waived with the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Preferred Stock.

FIFTH: The following provisions are inserted for the management of the business and for the conduct of the affairs of the Corporation and for defining and regulating the powers of the Corporation and its directors and stockholders and are in furtherance and not in limitation of the powers conferred upon the Corporation by statute:

(a) The election of directors need not be by written ballot.

(b) The Board of Directors shall have the power and authority:

(1) to adopt, amend or repeal by-laws of the Corporation, subject only to such limitation, if any, as may be from time to time imposed by law or by the by-laws; and

(2) to the full extent permitted or not prohibited by law, and without the consent of or other action by the stockholders, to authorize or create mortgages, pledges or other liens or encumbrances upon any or all of the assets, real, personal or mixed, and franchises of the Corporation, including after-acquired property, and to exercise all of the powers of the Corporation in connection therewith; and

(3) subject to any provision of the by-laws, to determine whether, to what extent, at what times and places and under what conditions and regulations the accounts, books and papers of the Corporation (other than the stock ledger), or any of them, shall be open to the inspection of the stockholders, and no stockholder shall have any right to inspect any account, book or paper of the Corporation except as conferred by statute or authorized by the by-laws or by the Board of Directors.

SIXTH: No director of the Corporation shall be personally liable to the Corporation or to any of its stockholders for monetary damages for breach of fiduciary duty as a director, notwithstanding any provision of law imposing such liability; provided, however, that to the extent required from time to time by applicable law, this Article Sixth shall not eliminate or limit the liability of a director, to the extent such liability is provided by applicable law, (i) for

any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of Title 8 of the Delaware Code, or (iv) for any transaction from which the director derived an improper personal benefit. No amendment to or repeal of this Article Seventh shall apply to or have any effect on the liability or alleged liability of any director for or with respect to any acts or omissions of such director occurring prior to the effective date of such amendment or repeal.

EXHIBIT 3.2

CERTIFICATE OF AMENDMENT

TO THE

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

NEUROMETRIX, INC.

NeuroMetrix, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), pursuant to Section 242 of the General Corporation Law of the State of Delaware (the "DGCL") DOES HEREBY CERTIFY:

FIRST: That the Board of Directors of the Corporation (the "Board"), in accordance with the provisions of Section 141(f) of the DGCL duly adopted resolutions by unanimous written consent dated March 12, 2004 in accordance with Section 242 of the DGCL (i) proposing an amendment to the Amended and Restated Certificate of Incorporation of the Corporation (the "Certificate of Incorporation"), (ii) declaring such amendment to be advisable, and (iii) directing that such amendment be submitted to and be considered by the stockholders of the Corporation entitled to vote thereon for approval by the affirmative vote of such stockholders. Such resolution proposed to amend the Certificate of Incorporation in the following manner:

(i) increase the total number of shares of Common Stock which the Corporation shall have authority to issue from 30,000,000 to 37,000,000; and

(ii) increase the total number of shares of Series E-1 Voting Convertible Preferred Stock which the Corporation shall have authority to issue from 2,333,333 to 8,784,200.

SECOND: That thereafter, pursuant to the resolutions of the Board certified to in the preceding paragraph, the proposed amendment as set forth in this Certificate of Amendment was approved and duly adopted by written consent dated March 12, 2004 of the holders of outstanding shares of capital stock having not less than the minimum number of votes that would be necessary to authorize the proposed amendment at a meeting at which all shares entitled to vote thereon were present and voted, in accordance with the provisions of Sections 228 and 242 of the DGCL and the terms of the Certificate of Incorporation.

I, Shai N. Gozani, President of the Corporation, for the purpose of amending the Corporation's Certificate of Incorporation pursuant to the General Corporation Law of the State of Delaware, do make this Certificate of Amendment, hereby declaring and certifying that this is my act and deed on behalf of the Corporation this 12th day of March, 2004.

By: /s/ Shai N. Gozani

Name: Shai N. Gozani
Title: President

EXHIBIT 3.3

SECOND AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

NEUROMETRIX, INC.

NeuroMetrix, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

1. The name of the Corporation is NeuroMetrix, Inc. The date of the filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware was April 25, 2001 under the name "New NeuroMetrix, Inc." (the "Original Certificate").

2. A Certificate of Merger was filed with the Secretary of State of the State of Delaware on May 14, 2001 merging NeuroMetrix, Inc., a Massachusetts Corporation, with and into the Corporation under the name "NeuroMetrix, Inc." (the "Certificate of Merger").

3. The Original Certificate, as amended by the Certificate of Merger, was amended and restated by an Amended and Restated Certificate of Incorporation filed with the Secretary of State of the State of Delaware on December 19, 2002 (the "Amended and Restated Certificate").

4. The Amended and Restated Certificate was amended by Certificates of Amendment filed with the Secretary of State of the State of Delaware on March 12, 2004 and June 21, 2004 (the "Certificates of Amendment").

5. This Second Amended and Restated Certificate of Incorporation (this "Certificate") amends, restates and integrates the provisions of the Amended and Restated Certificate, as amended by the Certificates of Amendment, and was duly adopted in accordance with the provisions of Sections 228, 242 and 245 of the Delaware General Corporation Law (the "DGCL").

6. The text of the Amended and Restated Certificate, as amended by the Certificate of Amendment, is hereby amended and restated in its entirety to provide as herein set forth in full.

ARTICLE I

The name of the Corporation is NeuroMetrix, Inc.

ARTICLE II

The address of the Corporation's registered office in the State of Delaware is 2711 Centerville Road Suite 400, Wilmington, New Castle County. The name of the Corporation's registered agent at such address is Corporation Service Company.

ARTICLE III

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

ARTICLE IV

CAPITAL STOCK

The total number of shares of capital stock which the Corporation shall have authority to issue is eighty-two million six hundred fifteen thousand six hundred thirty (82,615,630) shares, of which (i) fifty million (50,000,000) shares shall be a class designated as common stock, par value $0.0001 per share (the "Common Stock"), (ii) eight hundred seventy-five thousand (875,000) shares shall be a class designated as Series A Voting Convertible Preferred Stock, par value $0.001 per share (the "Series A Convertible Preferred Stock"), (iii) six hundred twenty-five thousand (625,000) shares shall be a class designated as Series B Voting Convertible Preferred Stock, par value $0.001 per share (the "Series B Convertible Preferred Stock"), (iv) two million eight hundred fifty thousand (2,850,000) shares shall be a class designated as Series C-1 Voting Convertible Preferred Stock, par value $0.001 per share (the "Series C-1 Convertible Preferred Stock"), (v) one million one hundred forty-eight thousand one hundred (1,148,100) shares shall be a class designated as Series C-2 Non-Voting Convertible Preferred Stock, par value $0.001 per share (the "Series

C-2 Convertible Preferred Stock" and, together with the Series C-1 Convertible Preferred Stock, the "Series C Convertible Preferred Stock"), (vi) six million two hundred twenty-two thousand two hundred twenty (6,222,220) shares shall be a class designated as Series D Voting Convertible Preferred Stock, par value $0.001 per share (the "Series D Convertible Preferred Stock"), (vii) seven million one hundred eleven thousand one hundred ten (7,111,110) shares shall be a class designated as Series E Voting Convertible Preferred Stock, par value $0.001 per share (the "Series E Convertible Preferred Stock"), (viii) eight million seven hundred eighty-four thousand two hundred (8,784,200) shares shall be a class designated as Series E-1 Voting Convertible Preferred Stock, par value $0.001 per share (the "Series E-1 Convertible Preferred Stock" and, together with the Series A Convertible Preferred Stock, the Series B Convertible Preferred Stock, the Series C Convertible Preferred Stock, the Series D Convertible Preferred Stock and the Series E Convertible Preferred Stock, the "Preferred Stock") and (ix) five million (5,000,000) shares shall be a class designated as undesignated preferred stock, par value $0.001 per share (the "Undesignated Preferred Stock").

The number of authorized shares of the class of Undesignated Preferred Stock may from time to time be increased or decreased (but not below the number of shares outstanding) by the affirmative vote of the holders of a majority of the outstanding shares of Common Stock entitled to vote, without a vote of the holders of the Preferred Stock (subject to the terms of the Preferred

Stock and except as otherwise provided in any certificate of designations of any series of Undesignated Preferred Stock).

From and after the effective time (the "Effective Time") of this Certificate each share of Common Stock issued and outstanding immediately prior to the Effective Time shall be subdivided into one-fourth (1/4) of one share of Common Stock, provided that the Corporation shall not issue fractions of a share of Common Stock and, in lieu thereof, shall pay cash in the amount of the fair value of such fractions of a share as of the Effective Time as determined by the Board of Directors of the Corporation, or a committee thereof (the "Reverse Stock Split").

Each certificate representing shares of Common Stock outstanding immediately prior to the Effective Time shall automatically and without the necessity of presenting the same for exchange represent after the Effective Time the applicable number of shares of Common Stock, or cash in lieu thereof, as provided in the Reverse Stock Split. Upon surrender to the Corporation of any such certificate(s), the Corporation shall issue to the persons entitled thereto new certificates representing the shares of Common Stock into which the shares represented by such certificate(s) have been subdivided and, to the extent provided above, cash in lieu of any fractional shares.

The powers, preferences and rights of, and the qualifications, limitations and restrictions upon, each class or series of stock shall be determined in accordance with, or as set forth below in, this Article IV.

A. COMMON STOCK

Subject to all the rights, powers and preferences of the Preferred Stock and except as provided by law or in this Article IV (or in any certificate of designations of any series of Undesignated Preferred Stock):

(a) the holders of the Common Stock shall have the exclusive right to vote for the election of directors of the Corporation (the "Directors") and on all other matters requiring stockholder action, each outstanding share entitling the holder thereof to one vote on each matter properly submitted to the stockholders of the Corporation for their vote; PROVIDED, HOWEVER, that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to this Certificate (or on any amendment to a certificate of designations of any series of Undesignated Preferred Stock) that alters or changes the powers, preferences, rights or other terms of one or more outstanding series of Undesignated Preferred Stock if the holders of such affected series are entitled to vote, either separately or together with the holders of one or more other such series, on such amendment pursuant to this Certificate (or pursuant to a certificate of designations of any series of Undesignated Preferred Stock) or pursuant to the DGCL;

(b) dividends may be declared and paid or set apart for payment upon the Common Stock out of any assets or funds of the Corporation legally available for the payment of dividends, but only when and as declared by the Board or any authorized committee thereof; and

(c) upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the net assets of the Corporation shall be distributed pro rata to the holders of the Common Stock.

B. PREFERRED STOCK

1. PREFERRED STOCK. The voting powers, preferences and rights (and the qualifications, limitations, or restrictions thereof) of the Preferred Stock are as set forth herein:

2. VOTING.

2A. GENERAL. The holders of Series A Convertible Preferred Stock, Series B Convertible Preferred Stock, Series C-1 Convertible Preferred Stock, Series D Convertible Preferred Stock, Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock shall have full voting rights and powers, and, except as may be otherwise provided in this Certificate or by law, shall vote together with all other classes and series of stock of the Corporation as a single class on all actions to be taken by the stockholders of the Corporation. Except as otherwise provided by law or this Certificate, the holders of Series C-2 Convertible Preferred Stock shall have no voting rights. Each holder of shares of Preferred Stock which are entitled to vote shall be entitled to the number of votes equal to the number of shares of Common Stock into which such shares of Preferred Stock could be converted on the record date for the vote which is being taken. Fractional votes shall not, however, be permitted and, with respect to each holder of Preferred Stock, any fractional voting rights resulting from the above (after aggregating all shares of Common Stock into which shares of Preferred Stock held by a holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward).

2B. BOARD SEATS. The holders of the Series A Convertible Preferred Stock and Series B Convertible Preferred Stock, voting together as a single series, shall be entitled to elect one director of the Corporation. The holders of the Series C Convertible Preferred Stock, voting as a separate series, shall be entitled to elect one director of the Corporation. The holders of the Series D Convertible Preferred Stock, voting as a separate series, shall be entitled to elect one director of the Corporation. The holders of the Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock, voting together as a single series, shall be entitled to elect one director of the Corporation. At any meeting (or in a written consent in lieu thereof) held for the purpose of electing directors, the presence in person or by proxy (or the written consent) of the holders of a majority of the shares of Series A Convertible Preferred Stock and Series B Convertible Preferred Stock (taken together), a majority of the shares of Series C Convertible Preferred Stock, a majority of the shares of Series D Convertible Preferred Stock, and a majority of the shares of Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock (taken together), then outstanding, respectively, shall constitute a quorum of the Series A Convertible Preferred Stock and Series B Convertible Preferred Stock (taken together), of the Series C Convertible Preferred Stock, of the Series D Convertible Preferred Stock, and of the Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock (taken together), respectively, for the election of the director to be elected solely by the holders of the

Series A Convertible Preferred Stock and Series B Convertible Preferred Stock, voting together as a single series, for the election of the director to be elected solely by the holders of the Series C Convertible Preferred Stock, voting as a separate series, for the election of the director to be elected solely by the holders of the Series D Convertible Preferred Stock, voting as a separate series, and for the election of the director to be elected solely by the holders of the Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock, voting together as a single series, respectively. A director elected by the holders of the Series A Convertible Preferred Stock and Series B Convertible Preferred Stock may be removed only by vote or written consent of the holders of a majority of the shares of Series A Convertible Preferred Stock and Series B Convertible Preferred Stock (voting together as a single series), a director elected by the holders of the Series C Convertible Preferred Stock may be removed only by vote or written consent of the holders of a majority of the shares of Series C Convertible Preferred Stock (voting separately as a series), a director elected by the holders of the Series D Convertible Preferred Stock may be removed only by vote or written consent of the holders of a majority of the shares of Series D Convertible Preferred Stock (voting separately as a series), and a director elected by the holders of the Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock may be removed only by vote or written consent of the holders of a majority of the shares of Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock (voting together as a single series). A vacancy in any directorship elected by the holders of the Series A Convertible Preferred Stock

and Series B Convertible Preferred Stock may be filled only by vote or written consent of the holders of a majority of the shares of Series A Convertible Preferred Stock and Series B Convertible Preferred Stock (voting together as a single series), a vacancy in any directorship elected by the holders of the Series C Convertible Preferred Stock may be filled only by vote or written consent of the holders of a majority of the shares of Series C Convertible Preferred Stock (voting separately as a series), a vacancy in any directorship elected by the holders of the Series D Convertible Preferred Stock may be filled only by vote or written consent of the holders of a majority of the shares of Series D Convertible Preferred Stock (voting separately as a series), and a vacancy in any directorship elected by the holders of the Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock may be filled only vote or written consent of the holders of a majority of the shares of Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock (voting together as a single series).

3. DIVIDENDS. The holders of record of shares of the Preferred Stock shall be entitled to receive cash dividends, when and as declared by the Board of Directors, at the annual rate of $0.016 per share of Series A Convertible Preferred Stock and Series B Convertible Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting such shares), the annual rate of $0.06 per share of Series C Convertible Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting such shares), the annual rate of $0.135 per share of Series D Convertible Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting such shares), the annual rate of $0.16875 per share of Series E Convertible Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting such shares), and the annual rate of $0.09 per share of Series E-1 Convertible Preferred Stock (subject to appropriate adjustment in the event of

any stock dividend, stock split, combination or similar recapitalization affecting such shares), respectively. Whether or not declared by the Board of Directors, dividends shall be cumulative and will accrue on each share of Preferred Stock from the date of issue thereof (except that, with respect to shares of Series D Convertible Preferred Stock, dividends shall accrue on each such share from the date of January 20, 1999) and, unless declared, shall be payable solely upon (i) the liquidation, dissolution or winding up of the Corporation, or (ii) the redemption of any of such holder's Preferred Stock pursuant to Section 7 hereof. Dividends accrued or payable on the Preferred Stock for any period less than a full quarter shall be computed on the basis of a 360-day year. So long as any shares of the Preferred Stock are outstanding, the Corporation shall not declare, pay or set apart any dividend on the Common Stock or declare, make or set apart any distribution on the Common Stock unless concurrently therewith all accrued dividends on the Preferred Stock, through the date of such declaration, payment, making or setting apart of any dividend or distribution on the Common Stock, are declared, paid, made or set apart, as the case may be. Upon conversion of any share of Preferred Stock under Section 6 hereof, unless declared, all such accrued and unpaid dividends on such share to and until the date of such conversion shall be forfeited and shall not be due and payable.

4. LIQUIDATION, DISSOLUTION OR WINDING UP.

4A. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the holders of the shares of the Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock shall be entitled, before any distribution or payment is made upon any stock ranking on liquidation junior to the Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock, to be paid an amount equal to the greater of (i) $1.50 per share and $2.8125 per share (in each case subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or similar recapitalization affecting such shares), respectively, plus, in the case of each share, an amount equal to all accrued but unpaid dividends thereon, or (ii) such amount per share as would have been payable had each such share been converted to Common Stock pursuant to Section 6 immediately prior to such liquidation, dissolution or winding up. The foregoing amount payable with respect to one share of Series E-1 Convertible Preferred Stock being sometimes referred to as the "SERIES E-1 LIQUIDATION PREFERENCE PAYMENT" and with respect to all shares of Series E-1 Convertible Preferred Stock being sometimes referred to as the "SERIES E-1 LIQUIDATION PREFERENCE PAYMENTS." The foregoing amount payable with respect to one share of Series E Convertible Preferred Stock being sometimes referred to as the "SERIES E LIQUIDATION PREFERENCE PAYMENT" and with respect to all shares of Series E Convertible Preferred Stock being sometimes referred to as the "SERIES E LIQUIDATION

PREFERENCE PAYMENTS." If upon such liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed to the holders of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock shall be insufficient to permit payment to the holders of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock of the amount distributable as aforesaid, then the entire assets of the Corporation to be so distributed shall be distributed ratably among the holders of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock. For purposes hereof, the Series E-1 Convertible Preferred Stock and the Series E Convertible Preferred Stock shall rank on liquidation, dissolution or winding up PARI PASSU to each other, and the Series A Convertible Preferred Stock, the Series B Convertible Preferred Stock, the Series C Convertible

Preferred Stock, the Series D Convertible Preferred Stock and the Common Stock shall rank on liquidation, dissolution or winding up junior to the Series E-1 Convertible Preferred Stock and the Series E Convertible Preferred Stock.

4B. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, immediately after the holders of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock have been paid in full the Series E-1 Liquidation Preference Payments and the Series E Liquidation Preference Payments respectively, the holders of the shares of the Series D Convertible Preferred Stock shall be entitled, before any distribution or payment is made upon any stock ranking on liquidation junior to the Series D Convertible Preferred Stock, to be paid an amount equal to the greater of (i) $2.25 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting such shares) plus, in the case of each share, an amount equal to all accrued but unpaid dividends thereon, or (ii) such amount per share as would have been payable had each such share been converted to Common Stock pursuant to Section 6 immediately prior to such liquidation, dissolution or winding up. The foregoing amount payable with respect to one share of Series D Convertible Preferred Stock being sometimes referred to as the "SERIES D LIQUIDATION PREFERENCE PAYMENT" and with respect to all shares of Series D Convertible Preferred Stock being sometimes referred to as the "SERIES D LIQUIDATION PREFERENCE PAYMENTS." If upon such liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed to the holders of the Series D Convertible Preferred Stock shall be insufficient to permit payment to the holders of Series D Convertible Preferred Stock of the amount distributable as aforesaid, then the entire assets of the Corporation to be so distributed shall be distributed ratably among the holders of Series D Convertible Preferred Stock. For purposes hereof, the Series A Convertible Preferred Stock, the Series B Convertible Preferred Stock, the Series C Convertible Preferred Stock and the Common Stock shall rank on liquidation, dissolution or winding up junior to the Series E-1 Convertible Preferred Stock, Series E Convertible Preferred Stock, and the Series D Convertible Preferred Stock.

4C. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, immediately after the holders of the Series E-1 Convertible Preferred Stock, Series E Convertible Preferred Stock, and Series D Convertible Preferred Stock have been paid in full the Series E-1 Liquidation Preference Payments, the Series E Liquidation Preference Payments and the Series D Liquidation Preference Payments respectively, the holders of the shares of the Series C Convertible Preferred Stock shall be entitled, before any distribution or payment is made upon any stock ranking on liquidation junior to the Series C Convertible Preferred Stock, to be paid an amount equal to the greater of (i) $1.00 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting such shares) plus, in the case of each share, an amount equal to all accrued but unpaid dividends thereon, or (ii) such amount per share as would have been payable had each such share been converted to Common Stock pursuant to Section 6 immediately prior to such liquidation, dissolution or winding up. The foregoing amount payable with respect to one share of Series C Convertible Preferred Stock being sometimes referred to as the "SERIES C LIQUIDATION PREFERENCE PAYMENT" and with respect to all shares of Series C Convertible Preferred Stock being sometimes referred to as the "SERIES C LIQUIDATION PREFERENCE PAYMENTS." If upon such liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary,

the assets to be distributed to the holders of the Series C Convertible Preferred Stock shall be insufficient to permit payment to the holders of Series C Convertible Preferred Stock of the amount distributable as aforesaid, then the entire assets of the Corporation to be so distributed shall be distributed ratably among the holders of Series C Convertible Preferred Stock. For purposes

hereof, the Series A Convertible Preferred Stock, the Series B Convertible Preferred Stock and the Common Stock shall rank on liquidation, dissolution or winding up junior to the Series E-1 Convertible Preferred Stock, Series E Convertible Preferred Stock, Series D Convertible Preferred Stock and the Series C Convertible Preferred Stock.

4D. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, immediately after the holders of Series E-1 Convertible Preferred Stock, Series E Convertible Preferred Stock, Series D Convertible Preferred Stock, and Series C Convertible Preferred Stock shall have been paid in full the Series E-1 Liquidation Preference Payments, Series E Liquidation Preference Payments, Series D Liquidation Preference Payments and Series C Liquidation Preference Payments, the holders of the shares of the Series B Convertible Preferred Stock and Series A Convertible Preferred Stock shall be entitled, before any distribution or payment is made upon any stock ranking on liquidation junior to the Series B Convertible Preferred Stock and Series A Convertible Preferred Stock, to be paid an amount equal to the greater of (i) $0.32 per share and $0.228571 per share (in each case subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or similar recapitalization affecting such shares), respectively, plus, in the case of each share, an amount equal to all accrued but unpaid dividends thereon, or (ii) such amount per share as would have been payable had each such share been converted to Common Stock pursuant to Section 6 immediately prior to such liquidation, dissolution or winding up. The foregoing amount payable with respect to one share of Series B Convertible Preferred Stock being sometimes referred to as the "SERIES B LIQUIDATION PREFERENCE PAYMENT" and with respect to all shares of Series B Convertible Preferred Stock being sometimes referred to as the "SERIES B LIQUIDATION PREFERENCE PAYMENTS." The foregoing amount payable with respect to one share of Series A Convertible Preferred Stock being sometimes referred to as the "SERIES A LIQUIDATION PREFERENCE PAYMENT" and with respect to all shares of Series A Convertible Preferred Stock being sometimes referred to as the "SERIES A LIQUIDATION PREFERENCE PAYMENTS." If upon such liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed to the holders of Series B Convertible Preferred Stock and Series A Convertible Preferred Stock shall be insufficient to permit payment to the holders of Series B Convertible Preferred Stock and Series A Convertible Preferred Stock of the amount distributable as aforesaid, then the entire assets of the Corporation to be so distributed shall be distributed ratably among the holders of Series B Convertible Preferred Stock and Series A Convertible Preferred Stock. For purposes hereof, the Series B Convertible Preferred Stock and the Series A Convertible Preferred Stock shall rank on liquidation, dissolution or winding up PARI PASSU to each other, and the Common Stock shall rank on liquidation, dissolution or winding up junior to the Series E-1 Convertible Preferred Stock, Series E Convertible Preferred Stock, Series D Convertible Preferred Stock, Series C Convertible Preferred Stock, Series B Convertible Preferred Stock and the Series A Convertible Preferred Stock.

4E. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, immediately after the holders of Series E-1 Convertible Preferred

Stock, Series E Convertible Preferred Stock, Series D Convertible Preferred Stock, Series C Convertible Preferred Stock, Series B Convertible Preferred Stock and Series A Convertible Preferred Stock shall have been paid in full the Series E-1 Liquidation Preference Payments, Series E Liquidation Preference Payments, the Series D Liquidation Preference Payments, the Series C Liquidation Preference Payments, the Series B Liquidation Preference Payments and the Series A Liquidation Preference Payments, respectively, the remaining net assets of the Corporation available for distribution shall be distributed ratably among the holders of the Common Stock.

4F. Written notice of the liquidation, dissolution or winding up of the Corporation, stating a payment date, the amount of the Series A Liquidation Preference Payments, the Series B Liquidation Preference Payments, the Series C Liquidation Preference Payments, the Series D Liquidation Preference Payments, the Series E Liquidation Preference Payments and the Series E-1 Liquidation Preference Payments (collectively, the "LIQUIDATION PREFERENCE PAYMENTS"), as the case may be, and the place where said Liquidation Preference Payments shall be payable, shall be delivered in person, mailed by certified or registered mail, return receipt requested, or sent by telecopier or telex, not less than 20 days prior to the payment date stated therein, to the holders of record of such series of Preferred Stock, such notice to be addressed to each such holder at its address as shown by the records of the Corporation.

4G. The consolidation or merger of the Corporation in or with another corporation in which the stockholders of the Corporation shall own less than 50% of the voting securities of the resulting or surviving corporation or the sale,

transfer or other disposition of all or substantially all of the assets of the Corporation shall be deemed to be a liquidation, dissolution or winding up of the Corporation for purposes of this Section 4 unless, prior to such transaction, the holder(s) of not less than 66 2/3% of the voting power of the then outstanding shares of Preferred Stock, by vote or written consent, determine that such transaction will not be deemed a liquidation, dissolution or winding up of the Corporation for purposes of this Section 4.

5. RESTRICTIONS. At any time when shares of Series E-1 Convertible Preferred Stock or Series E Convertible Preferred Stock (with respect to 5A below), Series D Convertible Preferred Stock (with respect to 5B below), Series C Convertible Preferred Stock (with respect to 5C below), Series B Convertible Preferred Stock (with respect to 5D below) or Series A Convertible Preferred Stock (with respect to 5E below), are outstanding, except where the vote or written consent of the holders of a greater number of shares of the Corporation is required by law or by this Certificate, and in addition to any other vote required by law or this Certificate, the Corporation will not:

5A. After the date of filing of this Certificate with the Secretary of State of the State of Delaware, without the approval of the holders of a majority of the then outstanding shares of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock given in writing or by vote at a meeting, consenting or voting (as the case may be) together as a single series, (i) issue or sell any Common Stock or Common Stock Equivalent (as defined herein) at a price per share (in the case of Common Stock), or as to which the Net Consideration Per Share (as defined herein) (in the case of a Common Stock Equivalent) that the Corporation may receive is, equal to or less than $3.00 (subject to appropriate adjustment in the event of any stock

dividend, stock split, combination or similar recapitalization affecting the Series E-1 Convertible Preferred Stock, the Series E Convertible Preferred Stock or the Common Stock, other than the Reverse Stock Split with respect to which appropriate adjustment has been made and is reflected in the foregoing amount), other than any such issuance or sale referred to in (and which satisfies the terms and conditions of) Section 6E(6) below; (ii) create or authorize the creation of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or increase the authorized amount of the Series E-1 Convertible Preferred Stock or Series E Convertible Preferred Stock or increase the authorized amount of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or create or authorize any obligation or security convertible into shares of Series E-1 Convertible Preferred Stock, Series E Convertible Preferred Stock or into shares of any other class or series of stock unless the same ranks PARI PASSU or junior to the Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, whether any such creation, authorization or increase shall be by means of amendment to this Certificate or by merger, consolidation or otherwise; (iii) consent to any liquidation, dissolution or winding up of the Corporation or consolidate or merge into or with any other entity or entities or sell, lease, abandon, transfer or otherwise dispose of all or substantially all its assets; (iv) amend, alter or repeal this Certificate or the Corporation's by-laws in a manner that adversely affects the holders of the Series E-1 Convertible Preferred Stock or Series E Convertible Preferred Stock; (v) redeem or otherwise acquire any shares of Series E-1 Convertible Preferred Stock or Series E Convertible Preferred Stock, except pursuant to Section 7 below or pursuant to a purchase offer made pro rata to all holders of the shares of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock on the basis of the aggregate number of such shares then held by each such holder, provided that, in no event may the Corporation without the aforesaid approval of the holders of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock redeem or otherwise acquire any shares of capital stock of the Corporation ranking on liquidation under Section 4A junior to the Series E-1 Convertible Preferred Stock or Series E Convertible Preferred Stock; or (vi) declare or pay any dividends, or declare or make any other distribution, in respect of capital stock of the Corporation ranking on liquidation under Section 4A junior to the Series E-1 Convertible Preferred Stock or Series E Convertible Preferred Stock.

5B. After the date of filing of this Certificate with the Secretary of State of the State of Delaware, without the approval of the holders of a majority of the then outstanding shares of Series D Convertible Preferred Stock given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a series, (i) issue or sell any Common Stock or Common Stock

Equivalent (as defined herein) at a price per share (in the case of Common Stock), or as to which the Net Consideration Per Share (as defined herein) (in the case of a Common Stock Equivalent) that the Corporation may receive is, equal to or less than $4.50 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting the Series D Convertible Preferred Stock or the Common Stock, other than the Reverse Stock Split with respect to which appropriate adjustment has been made

and is reflected in the foregoing amount), other than any such issuance or sale referred to in (and which satisfies the terms and conditions of) Section 6E(6) below; (ii) create or authorize the creation of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series D Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or increase the authorized amount of the Series D Convertible Preferred Stock or increase the authorized amount of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series D Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or create or authorize any obligation or security convertible into shares of Series D Convertible Preferred Stock or into shares of any other class or series of stock unless the same ranks PARI PASSU or junior to the Series D Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, whether any such creation, authorization or increase shall be by means of amendment to this Certificate or by merger, consolidation or otherwise; (iii) consent to any liquidation, dissolution or winding up of the Corporation or consolidate or merge into or with any other entity or entities or sell, lease, abandon, transfer or otherwise dispose of all or substantially all its assets; (iv) amend, alter or repeal this Certificate or the Corporation's by-laws in a manner that adversely affects the holders of the Series D Convertible Preferred Stock; (v) redeem or otherwise acquire any shares of Series D Convertible Preferred Stock, except pursuant to Section 7 below or pursuant to a purchase offer made pro rata to all holders of the shares of Series D Convertible Preferred Stock on the basis of the aggregate number of such shares then held by each such holder, provided that, in no event may the Corporation without the aforesaid approval of the holders of Series D Convertible Preferred Stock redeem or otherwise acquire any shares of capital stock of the Corporation ranking on liquidation under Section 4B junior to the Series D Convertible Preferred Stock; or (vi) declare or pay any dividends, or declare or make any other distribution, in respect of capital stock of the Corporation ranking on liquidation under Section 4B junior to the Series D Convertible Preferred Stock.

5C. After the date of filing of this Certificate with the Secretary of State of the State of Delaware, without the approval of the holders of a majority of the then outstanding shares of Series C Convertible Preferred Stock given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a series, (i) issue or sell any Common Stock or Common Stock Equivalent (as defined herein) at a price per share (in the case of Common Stock), or as to which the Net Consideration Per Share (as defined herein) (in the case of a Common Stock Equivalent) that the Corporation may receive is, equal to or less than $2.00 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting the Series C Convertible Preferred Stock or the Common Stock, other than the Reverse Stock Split with respect to which appropriate adjustment has been made and is reflected in the foregoing amount), other than any such issuance or sale referred to in (and which satisfies the terms and conditions of) Section 6E(6) below; (ii) create or authorize the creation of any additional class or series of shares of stock unless the same ranks PARI PASSU or

junior to the Series C Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or increase the authorized amount of the Series C Convertible Preferred Stock or increase the authorized amount of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series C Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or create or authorize any obligation or security convertible into shares of Series C Convertible Preferred Stock or into shares of any other class or series of stock unless the same ranks PARI PASSU or junior to the Series C Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, whether any such creation, authorization or increase shall be by means of amendment to this Certificate or by merger, consolidation or otherwise; (iii) consent to any

liquidation, dissolution or winding up of the Corporation or consolidate or merge into or with any other entity or entities or sell, lease, abandon, transfer or otherwise dispose of all or substantially all its assets; (iv) amend, alter or repeal this Certificate or the Corporation's by-laws in a manner that adversely affects the holders of the Series C Convertible Preferred Stock; (v) redeem or otherwise acquire any shares of Series C Convertible Preferred Stock, except pursuant to Section 7 below or pursuant to a purchase offer made pro rata to all holders of the shares of Series C Convertible Preferred Stock on the basis of the aggregate number of such shares then held by each such holder, provided that, in no event may the Corporation without the aforesaid approval of the holders of Series C Convertible Preferred Stock redeem or otherwise acquire any shares of capital stock of the Corporation ranking on liquidation under Section 4C junior to the Series C Convertible Preferred Stock; or (vi) declare or pay any dividends, or declare or make any other distribution, in respect of capital stock of the Corporation ranking on liquidation under Section 4C junior to the Series C Convertible Preferred Stock.

5D. After the date of filing of this Certificate with the Secretary of State of the State of Delaware, without the approval of the holders of a majority of the then outstanding shares of Series B Convertible Preferred Stock given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a series, (i) issue or sell any Common Stock or Common Stock Equivalent (as defined herein) at a price per share (in the case of Common Stock), or as to which the Net Consideration Per Share (as defined herein) (in the case of a Common Stock Equivalent) that the Corporation may receive is, equal to or less than $0.64 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting the Series B Convertible Preferred Stock or the Common Stock, other than the Reverse Stock Split with respect to which appropriate adjustment has been made and is reflected in the foregoing amount), other than any such issuance or sale referred to in (and which satisfies the terms and conditions of) Section 6E(6) below; (ii) create or authorize the creation of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series B Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or increase the authorized amount of the Series B Convertible Preferred Stock or increase the authorized amount of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series B Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or create or authorize any obligation or security convertible into shares of Series B Convertible Preferred Stock or into shares of any other class or series of stock unless the same ranks PARI PASSU or junior to the Series B Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, whether any such creation, authorization or increase shall be by means of amendment to this Certificate

or by merger, consolidation or otherwise; (iii) consent to any liquidation, dissolution or winding up of the Corporation or consolidate or merge into or with any other entity or entities or sell, lease, abandon, transfer or otherwise dispose of all or substantially all its assets; (iv) amend, alter or repeal this Certificate or the Corporation's by-laws in a manner that adversely affects the holders of the Series B Convertible Preferred Stock; (v) redeem or otherwise acquire any shares of Series B Convertible Preferred Stock, except pursuant to Section 7 below or pursuant to a purchase offer made pro rata to all holders of the shares of Series B Convertible Preferred Stock on the basis of the aggregate number of such shares then held by each such holder, provided that, without the aforesaid approval of the holders of Series B Convertible Preferred Stock in no event may the Corporation redeem or otherwise acquire any shares of capital stock of the Corporation ranking on liquidation under Section 4D junior to the Series B Convertible Preferred Stock; or (vi) declare or pay any dividends, or declare or make any other distribution, in respect of capital stock of the Corporation ranking on liquidation under Section 4D junior to the Series B Convertible Preferred Stock.

5E. After the date of filing of this Certificate with the Secretary of State of the State of Delaware, without the approval of the holders of a majority of the then outstanding shares of Series A Convertible Preferred Stock given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a series, (i) issue or sell any Common Stock or Common Stock Equivalent (as defined herein) at a price per share (in the case of Common Stock), or as to which the Net Consideration Per Share (as defined herein) (in the case of a Common Stock Equivalent) that the Corporation may receive is, equal to or less than $0.4571428 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting the Series A Convertible Preferred Stock or the Common Stock, other than the Reverse Stock Split with respect to which appropriate adjustment has

been made and is reflected in the foregoing amount), other than any such issuance or sale referred to in (and which satisfies the terms and conditions of) Section 6E(6) below; (ii) create or authorize the creation of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series A Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or increase the authorized amount of the Series A Convertible Preferred Stock or increase the authorized amount of any additional class or series of shares of stock unless the same ranks PARI PASSU or junior to the Series A Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or create or authorize any obligation or security convertible into shares of Series A Convertible Preferred Stock or into shares of any other class or series of stock unless the same ranks PARI PASSU or junior to the Series A Convertible Preferred Stock as to dividends, redemption and the distribution of assets on the liquidation, dissolution or winding up of the Corporation, whether any such creation, authorization or increase shall be by means of amendment to this Certificate or by merger, consolidation or otherwise; (iii) consent to any liquidation, dissolution or winding up of the Corporation or consolidate or merge into or with any other entity or entities or sell, lease, abandon, transfer or otherwise dispose of all or substantially all its assets; (iv) amend, alter or repeal this Certificate or the Corporation's by-laws in a manner that adversely affects the holders of the Series A Convertible Preferred Stock; (v) redeem or otherwise acquire any shares of Series A Convertible Preferred Stock, except pursuant to Section 7 below or pursuant to a purchase offer made pro rata to all holders of the shares of Series A Convertible Preferred Stock

on the basis of the aggregate number of such shares then held by each such holder, provided that, in no event may the Corporation without the aforesaid approval of the holders of Series A Convertible Preferred Stock redeem or otherwise acquire any shares of capital stock of the Corporation ranking on liquidation under Section 4D junior to the Series A Convertible Preferred Stock; or (vi) declare or pay any dividends, or declare or make any other distribution, in respect of capital stock of the Corporation ranking on liquidation under Section 4D junior to the Series A Convertible Preferred Stock.

6. CONVERSION RIGHTS. The holders of shares of the Preferred Stock shall have the following conversion rights:

6A. GENERAL. Subject to and in compliance with the provisions of this Section 6, any shares of Preferred Stock may, at the option of the holder, be converted at any time or from time to time into fully-paid and non-assessable shares of Common Stock. The number of shares of Common Stock to which a holder of shares of a particular series of Preferred Stock shall be entitled upon conversion shall be the product obtained by multiplying the Applicable Conversion Rate for such series of Preferred Stock (determined as provided in Section 6C hereof) by the number of shares of such series of Preferred Stock being converted.

6B. AUTOMATIC CONVERSION UPON UNDERWRITTEN PUBLIC OFFERING OR ELECTION OF PREFERRED STOCK.

6B(1). MANDATORY CONVERSION. Immediately (i) upon the closing of an underwritten public offering on a firm commitment basis pursuant to an effective registration statement on Form S-1 or Form SB-2 or their then equivalents under the Securities Act of 1933, covering the offer and sale of Common Stock for the account of the Corporation in which either (A) the registration statement registering such offering becomes effective on or before December 31, 2004 or (B) the aggregate net proceeds to the Corporation exceed $25 million and the price per share of Common Stock equals or exceeds $24.00 (such per share price to be appropriately adjusted upon the occurrence of any stock dividend, stock split, combination or similar recapitalization, other than the Reverse Stock Split with respect to which appropriate adjustment has been made and is reflected in the foregoing amount) (a "QUALIFIED PUBLIC OFFERING"), all outstanding shares of Preferred Stock shall be converted automatically into the number of shares of Common Stock into which such shares of Preferred Stock are then convertible pursuant to Section 6 hereof (subject to adjustment as provided in this Section 6) as of the closing and consummation of such underwritten public offering without any further action by the holders of such shares and whether or not the certificates representing such shares of Preferred Stock are surrendered to the Corporation or its transfer agent for the Common Stock into which such shares of Preferred Stock have been converted; or (ii) upon the approval, set forth in a written notice to the Corporation, of the holders of a majority of the outstanding shares of any series of Preferred Stock of an election to convert such series of Preferred Stock into Common Stock, then all outstanding shares of such series of Preferred Stock shall be converted automatically into the number of shares of Common Stock into which such shares of Preferred Stock are then convertible pursuant to Section 6 hereof (subject to

adjustment as provided in this Section 6) as of the stated date of approval of such holders of such series of Preferred Stock, without any further action by the holders of such shares and whether or not the certificates

representing such shares of Preferred Stock are surrendered to the Corporation or its transfer agent for the Common Stock into which such shares of Preferred Stock have been converted.

6B(2). PROCEDURE UPON MANDATORY CONVERSION. Upon the occurrence of the conversion specified in Section 6B(1) above (the "MANDATORY CONVERSION DATE"), the holders of any shares of the Preferred Stock so converted shall surrender the certificates representing such shares at the office of the Corporation or of its transfer agent for the Common Stock. Thereupon, there shall be issued and delivered to each such holder a certificate or certificates for the number of shares of Common Stock into which the shares of such series of Preferred Stock surrendered were convertible on the Mandatory Conversion Date; cash in the amount of all declared and unpaid dividends on such shares of Preferred Stock (if any), up to and including the Mandatory Conversion Date; and cash, as provided in Section 6K, in respect of any fraction of a share of Common Stock issuable upon such conversion. Upon the Mandatory Conversion Date, the rights of the holder as holder of the converted shares of Preferred Stock shall cease and the person or persons in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such conversion shall be deemed to have become the holder or holders of record of the shares of Common Stock represented thereby. The Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless certificates evidencing such shares of Preferred Stock so converted are either delivered to the Corporation or any such transfer agent or the holder notifies the Corporation or any such transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection therewith.

6C. APPLICABLE CONVERSION RATE. The applicable conversion rate in effect at any time for each series of Preferred Stock (with respect to each such series, the "APPLICABLE CONVERSION RATE") shall be calculated with respect to each such series as follows: (i) with respect to the Series A Convertible Preferred Stock, the "APPLICABLE CONVERSION RATE" shall be the quotient obtained by dividing $0.2285714 by the Applicable Conversion Value for such series of Preferred Stock, calculated as provided in Section 6D, (ii) with respect to the Series B Convertible Preferred Stock, the "APPLICABLE CONVERSION RATE" shall be the quotient obtained by dividing $0.32 by the Applicable Conversion Value for the Series B Convertible Preferred Stock, calculated as provided in Section 6D, (iii) with respect to the Series C Convertible Preferred Stock, the "APPLICABLE CONVERSION RATE" shall be the quotient obtained by dividing $1.00 by the Applicable Conversion Value for the Series C Convertible Preferred Stock, calculated as provided in Section 6D, (iv) with respect to the Series D Convertible Preferred Stock, the "APPLICABLE CONVERSION RATE" shall be the quotient obtained by dividing $2.25 by the Applicable Conversion Value for the Series D Convertible Preferred Stock, calculated as provided in Section 6D, (v) with respect to the Series E Convertible Preferred Stock, the "APPLICABLE CONVERSION RATE" shall be the quotient obtained by dividing $2.8125 by the Applicable Conversion Value for the Series E Convertible Preferred Stock, calculated as provided in Section 6D, and (vi) with respect to the Series E-1 Convertible Preferred Stock, the "APPLICABLE CONVERSION RATE" shall be the quotient obtained by dividing $1.50 by the Applicable Conversion Value for the Series E-1 Convertible Preferred Stock, calculated as provided in Section 6D.

6D. APPLICABLE CONVERSION VALUE. The Applicable Conversion Value in effect from time to time with respect to each series of Preferred Stock shall be determined as follows: (i) with

respect to the Series A Convertible Preferred Stock, the Applicable Conversion Value shall initially be $0.9142856, subject to adjustment in accordance with Sections 6E and 6F hereof, (ii) with respect to the Series B Convertible Preferred Stock, the Applicable Conversion Value shall initially be $1.28, subject to adjustment in accordance with Sections 6E and 6F hereof, (iii) with respect to the Series C Convertible Preferred Stock, the Applicable Conversion Value shall initially be $4.00, subject to adjustment in accordance with Sections 6E and 6F hereof, (iv) with respect to the Series D Convertible Preferred Stock, the Applicable Conversion Value shall initially be $7.2355644, subject to adjustment in accordance with Sections 6E and 6F hereof, and (v) with respect to the Series E Convertible Preferred Stock, the Applicable Conversion Value shall initially be $6.00, subject to adjustment in accordance with Sections 6E and 6F hereof and (vi) with respect to the Series E-1 Convertible

Preferred Stock, the Applicable Conversion Value shall initially be $6.00, subject to adjustment in accordance with Sections 6E and 6F hereof.

6E(1). ADJUSTMENTS TO APPLICABLE CONVERSION VALUE OF PREFERRED STOCK FOR DILUTIVE ISSUANCES.

(a) UPON SALE OF COMMON STOCK. Subject to Section 6E(1)(b) below solely with respect to shares of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock, if the Corporation shall, while there are any shares of Preferred Stock outstanding, issue or sell shares of its Common Stock at a price per share less than the Applicable Conversion Value with respect to one or more series of Preferred Stock, as in effect immediately prior to such issuance or sale, then in each such case, the Applicable Conversion Value with respect to such series of Preferred Stock, upon each such issuance or sale, except as hereinafter provided, shall be lowered so as to be equal to an amount determined by multiplying the Applicable Conversion Value with respect to such series of Preferred Stock, as in effect immediately prior to such issuance or sale by a fraction:

(i) the numerator of which shall be (a) the number of shares of Common Stock deemed to be outstanding immediately prior to the issuance of such additional shares of Common Stock (calculated on a fully diluted basis and assuming the exercise or conversion of all then outstanding options, warrants, purchase rights or convertible securities), plus (b) the number of shares of Common Stock which the net aggregate consideration, if any, received by the Corporation for the total number of such additional shares of Common Stock so issued would purchase at the Applicable Conversion Value with respect to such series of Preferred Stock, as in effect immediately prior to such issuance; and

(ii) the denominator of which shall be (a) the number of shares of Common Stock deemed to be outstanding immediately prior to the issuance of such additional shares of Common Stock (calculated on a fully diluted basis and assuming the exercise or conversion of all then outstanding options, warrants, purchase rights or convertible securities) plus (b) the number of such additional shares of Common Stock so issued.

(b) SERIES E-1 CONVERTIBLE PREFERRED STOCK AND SERIES E CONVERTIBLE PREFERRED STOCK. If the Corporation shall, while there are any shares of Series E-1 Convertible

Preferred Stock or Series E Convertible Preferred Stock outstanding, issue or sell shares of its Common Stock at a price per share less than the Applicable Conversion Value with respect to the Series E-1 Convertible Preferred Stock or the Series E Convertible Preferred Stock, as in effect immediately prior to such issuance or sale (a "Dilutive Issuance"), then the Applicable Conversion Value with respect to such series of Preferred Stock, upon any Dilutive Issuance, except as hereinafter provided, shall be lowered so as to be equal to such Net Consideration Per Share at which such Common Stock was issued or sold.

6E(2). ADJUSTMENTS FOR ISSUANCE OF WARRANTS, OPTIONS AND RIGHTS TO COMMON STOCK OR CONVERTIBLE SECURITIES. For the purposes of this Section 6E, the issuance, whether directly or indirectly, of any warrants, options, subscriptions or purchase rights with respect to shares of Common Stock and the issuance, whether directly or indirectly, of any securities convertible into or exchangeable for shares of Common Stock, or the issuance of any warrants, options, subscriptions or purchase rights with respect to such convertible or exchangeable securities, (collectively, "COMMON STOCK EQUIVALENTS" and individually, a "COMMON STOCK EQUIVALENT") shall be deemed an issuance at such time of such Common Stock if the Net Consideration Per Share which may be received by the Corporation for such Common Stock shall be LESS THAN the Applicable Conversion Value with respect to one or more series of Preferred Stock as in effect at the time of such issuance. Any obligation, agreement or undertaking to issue Common Stock Equivalents at any time in the future shall be deemed to be an issuance at the time such obligation, agreement or undertaking is made or arises.

No adjustment of the Applicable Conversion Value for a series of Preferred Stock shall be made under this Section 6E upon the issuance of any shares of Common Stock which are issued pursuant to the exercise, conversion or exchange of Common Stock Equivalents if any adjustment shall previously have been made with respect to such series of Preferred Stock upon the issuance of any such Common Stock Equivalents as above provided.

6E(3). DECREASES IN APPLICABLE CONVERSION VALUE; EXPIRATION OR CANCELLATION OF WARRANTS, OPTIONS OR RIGHTS WITHOUT EXERCISE. Should the Net

Consideration Per Share of any such Common Stock Equivalents be decreased from time to time, then, upon the effectiveness of each such change, the Applicable Conversion Value for each series of Preferred Stock, shall be adjusted to such Applicable Conversion Value with respect to such series of Preferred Stock as would have been obtained (1) had the adjustments made upon the issuance of such Common Stock Equivalents been made upon the basis of the actual Net Consideration Per Share of such securities, and (2) had any adjustments made to the Applicable Conversion Value for such series of Preferred Stock since the date of issuance of such Common Stock Equivalents been made to the Applicable Conversion Value with respect to such series of Preferred Stock as adjusted pursuant to clause (1) above. Any adjustment of the Applicable Conversion Value with respect to any series of Preferred Stock which relates to Common Stock Equivalents shall be disregarded if, as, and when all of such Common Stock Equivalents lapse, terminate, expire or are canceled without being exercised, so that the Applicable Conversion Value for such series of Preferred Stock effective immediately upon such cancellation or expiration shall be equal to the Applicable Conversion Value with respect to such series of Preferred Stock in effect at the time of the issuance of the lapsed, terminated, expired or canceled Common Stock Equivalents, with such additional adjustments as would have been made to the Applicable Conversion Value with

respect to such series of Preferred Stock had the lapsed, terminated, expired or canceled Common Stock Equivalents not been issued.

6E(4). DEFINITIONS. For purposes of this Section 6, the "NET CONSIDERATION PER SHARE" which may be received by the Corporation shall be determined as follows:

(a) The "NET CONSIDERATION PER SHARE" shall mean the amount equal to the total amount of consideration, if any, received by the Corporation for the issuance of such Common Stock Equivalents plus the minimum amount of consideration, if any, payable to the Corporation upon exercise, conversion or exchange thereof, divided by the aggregate number of shares of Common Stock that would be issued if all such Common Stock Equivalents were exercised, exchanged or converted.

(b) The "NET CONSIDERATION PER SHARE" which may be received by the Corporation shall be determined in each instance as of the date of issuance of any Common Stock Equivalents without giving effect to any possible future upward price adjustments or rate adjustments which may be applicable with respect to such Common Stock Equivalents.

6E(5). CONSIDERATION OTHER THAN CASH. For purposes of this Section 6E, if a part of or all of the consideration received by the Corporation in connection with the issuance of shares of Common Stock or Common Stock Equivalents consists of property other than cash, such consideration shall be deemed to have a fair market value as is reasonably determined in good faith by the Board of Directors of the Corporation.

6E(6). EXCEPTIONS TO DILUTIVE ISSUANCES. This Section 6E shall not apply under any of the circumstances which would constitute an Extraordinary Common Stock Event (as hereinafter defined in Section 6F). Further, this Section 6E shall not apply to:

(a) (i) the grant or issuance to directors, officers, employees or consultants of the Company or any subsidiary of options and/or restricted stock awards with respect to up to 1,549,167 shares (equitably adjusted in the event of any stock split, stock dividend, combination, reclassification, recapitalization, reorganization or other similar event with respect to the Common Stock other than the Reverse Stock Split with respect to which appropriate adjustment has been made and is reflected in the foregoing amount) of Common Stock pursuant to the NeuroMetrix, Inc. Amended and Restated 1996 Stock Option/Restricted Stock Plan, NeuroMetrix, Inc. 1998 Equity Incentive Plan, as amended, or NeuroMetrix, Inc. 1998-A Equity Incentive Plan, or the issuance (or transfer by Shai N. Gozani, M.D., Ph.D., to the optionee in the case of options granted pursuant to the NeuroMetrix, Inc. Amended and Restated 1996 Stock Option/Restricted Stock Plan) of shares of Common Stock pursuant to the exercise of such options (which issuance shall dilute all of the Corporation's stockholders on a pro rata basis) or (ii) the grant or issuance of additional options and/or restricted stock awards to directors, officers, employees and consultants of the Corporation or any subsidiary, or the issuance of shares of Common Stock pursuant to the exercise of such options (which issuance shall dilute all of the Company's stockholders on a pro rata basis), pursuant to any qualified or non-qualified

stock option plan or agreement, stock purchase plan, employee stock ownership plan, restricted stock plan, stock appreciation right (SAR) plan, stock purchase agreement, stock restriction agreement, consulting agreement or other agreements or plans approved by a majority of the members of the Board of Directors of the Corporation then in office with the concurrence of the directors elected by the holders of Preferred Stock;

(b) securities issued solely in consideration for the acquisition (whether by merger or otherwise) by the Corporation of all or substantially all of the capital stock or assets of any other corporation or entity, or securities issued solely in consideration for, or in connection with, the grant by or to the Corporation of marketing rights, distribution rights, license rights or similar rights to proprietary technology, whether of the Corporation to any other entity or of any other entity to the Corporation; PROVIDED, HOWEVER, the issuance of such securities is approved by a majority of the members of the Board of Directors of the Corporation then in office and which must include the approval of a majority of the directors elected by the holders of Preferred Stock;

(c) shares of Common Stock issuable upon conversion of any shares of the Preferred Stock.

6F. UPON EXTRAORDINARY COMMON STOCK EVENT. Upon the happening of an Extraordinary Common Stock Event (as hereinafter defined), other than the Reverse Stock Split with respect to which appropriate adjustment of the Applicable Conversion Value with respect to each series of Preferred Stock has already been reflected in the amount of the Applicable Conversion Value with respect to each series of Preferred Stock set forth in this Certificate, the Applicable Conversion Value with respect to each series of Preferred Stock shall, simultaneously with the happening of such Extraordinary Common Stock Event, be adjusted by multiplying the then effective Applicable Conversion Value for such series of Preferred Stock by a fraction, (1) the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such Extraordinary Common Stock Event; and (2) the denominator of which shall be the number of shares of Common Stock outstanding immediately after such Extraordinary Common Stock Event, and the product so obtained shall thereafter be the Applicable Conversion Value for such series of Preferred Stock. The Applicable Conversion Value with respect to each series of Preferred Stock, as so adjusted, shall be readjusted in the same manner upon the happening of any successive Extraordinary Common Stock Event or Events.

An "EXTRAORDINARY COMMON STOCK EVENT" shall mean: (i) the issuance of additional shares of Common Stock as a dividend or other distribution on the outstanding shares of Common Stock, (ii) the subdivision of outstanding shares of Common Stock into a greater number of shares of Common Stock, or (iii) the combination of the outstanding shares of Common Stock into a smaller number of shares of Common Stock.

6G. CAPITAL REORGANIZATION OR RECLASSIFICATION. If the shares of Common Stock issuable upon the conversion of the Preferred Stock shall be changed into the same or a different number of shares of any class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares or stock dividend provided for in Section 6F, or a reorganization, merger, consolidation or sale of assets provided for in Section 6H), then and in each such event the holder of shares of Preferred Stock shall have

the right thereafter to convert such shares into the kind and amount of shares of stock and other securities and property receivable upon such reorganization, reclassification or other change by the holders of the number of shares of Common Stock into which such shares of Preferred Stock might have been converted immediately prior to such reorganization, reclassification or change, all subject to further adjustment as provided herein.

6H. REORGANIZATION, MERGER OR SALE OF ASSETS. If at any time or from time to time there shall be a capital reorganization of the capital stock (other than a subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 6), merger or consolidation of the Corporation with or into another corporation, or the sale of all or substantially all of the Corporation's properties and assets to any other person or entity (a "REORGANIZATION"), then, unless such Reorganization is deemed to be a liquidation, dissolution or winding up of the Corporation pursuant to Section 4G above (in which case the provisions of Section 4 shall apply), as a part of such Reorganization, provision shall be made so that each holder of Preferred Stock shall thereafter be entitled to receive upon conversion of such shares of

Preferred Stock, the number of shares of stock or other securities or property of the Corporation, or of the successor corporation resulting from or in such Reorganization, to which a holder of the number of shares of Common Stock into which such holder's shares of Preferred Stock were convertible immediately prior to such Reorganization would have been entitled upon consummation of such Reorganization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 6 with respect to the rights of the holders of Preferred Stock after the Reorganization to the end that the provisions of this Section 6 (including adjustment of the Applicable Conversion Value then in effect for the Preferred Stock and the number of shares of Common Stock issuable upon conversion of the Preferred Stock) shall be applicable after that event in as nearly equivalent a manner as may be practicable.

The provisions of this Section 6H shall not apply to any reorganization, merger or consolidation involving (1) only a change in the state of incorporation of the Corporation, (2) a merger of the Corporation with or into a wholly-owned subsidiary of the Corporation that is incorporated in the United States of America, or (3) an acquisition by merger, reorganization or consolidation of another corporation that is engaged in a business similar or related to, or complementary with, the business of the Corporation in which transaction the Corporation is the surviving corporation and operates as a going concern, provided in the case of (1), (2), or (3), that such transaction does not involve a recapitalization or reorganization or other change or any exchange of the Preferred Stock or Common Stock.

6I. CERTIFICATE AS TO ADJUSTMENTS. In each case of an adjustment or readjustment of the Applicable Conversion Rate with respect to any series of Preferred Stock, the Corporation will furnish each holder of such series of Preferred Stock with a certificate, prepared by the Chief Financial Officer or Treasurer of the Corporation, showing such adjustment or readjustment, and stating in detail the facts upon which such adjustment or readjustment is based. All adjustments shall be rounded upward or downward to the nearest fifth decimal place. All adjustments which represent a change in the Applicable Conversion Rate of less than one percent (1%) shall be cumulated and carried forward and added to the next adjustment. The Corporation agrees to maintain its stock transfer and registry books so as to reflect accurately the Applicable Conversion Value and conversion rates with respect to each holder of shares of Preferred Stock.

6J. EXERCISE OF CONVERSION PRIVILEGE. To exercise his conversion privilege, a holder of the Preferred Stock shall surrender the certificates representing the shares being converted to the Corporation at its principal office, and shall give written notice to the Corporation at that office that such holder elects to convert such shares. Such notice shall also state the name or names (with address or addresses) in which the certificates for shares of Common Stock issuable upon such conversion shall be issued. The certificates for shares of Preferred Stock surrendered for conversion shall be accompanied by proper assignment thereof to the Corporation or in blank. The date when such written notice is received by the Corporation, together with the certificates representing the shares of Preferred Stock being converted, shall be deemed the "CONVERSION DATE." As promptly as practicable after the Conversion Date, the Corporation shall issue and deliver certificates to each holder of shares of any series of Preferred Stock so converted, or on its written order, such certificates as it may request, for the number of whole shares of Common Stock issuable upon the conversion of such shares of Preferred Stock in accordance with the provisions of this Section 6, cash in the amount of all declared and unpaid dividends on such shares of Preferred Stock (if any), up to and including the Conversion Date, and cash, as provided in Section 6K, in respect of any fraction of a share of Common Stock issuable upon such conversion. Such conversion shall be deemed to have been effected immediately prior to the close of business on the Conversion Date, and at such time the rights of the holder as holder of the converted shares of the Preferred Stock shall cease and the person or persons in whose name or names any certificates for shares of Common Stock shall be issuable upon such conversion shall be deemed to have become the holder or holders of record of the shares of Common Stock represented thereby.

6K. CASH IN LIEU OF FRACTIONAL SHARES. No fractional shares of Common Stock or scrip representing fractional shares shall be issued upon the conversion of shares of Preferred Stock. Instead of any fractional shares of Common Stock which would otherwise be issuable upon conversion of shares of Preferred Stock, the Corporation shall pay to the holder of shares of Preferred Stock which were converted a cash adjustment in respect of such fractional shares in an amount equal to the same fraction of the market price per share of the Common Stock (as determined in a reasonable manner prescribed in good faith by the Board of Directors) at the close of business on the Conversion Date. The determination as to whether or not any fractional shares are issuable shall be based upon the total number of shares of such series of Preferred Stock so converted at any one time by any holder thereof, and not upon each share of such

series of Preferred Stock so converted.

6L. PARTIAL CONVERSION. In the event some but not all of the shares of any series of Preferred Stock represented by a certificate surrendered by a holder are converted, the Corporation shall execute and deliver to or on the order of the holder, at the expense of the Corporation, a new certificate representing the number of shares of such series of Preferred Stock which were not converted.

6M. RESERVATION OF COMMON STOCK. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of shares of the Preferred Stock, such number of shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of

Preferred Stock, and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

6N. OTHER NOTICES. In case at any time:

(1) the Corporation shall declare any dividend upon its Common Stock payable or make any other distribution to the holders of its Common Stock;

(2) the Corporation shall offer for subscription PRO RATA to the holders of its Common Stock any additional shares of stock of any class or other rights;

(3) there shall be any capital reorganization or reclassification of the capital stock of the Corporation, or a consolidation or merger of the Corporation with or into another entity or entities, or a sale, lease, abandonment, transfer or other disposition of all or substantially all its assets; or

(4) there shall be a voluntary or involuntary dissolution, liquidation or winding up of the Corporation;

then, in any one or more of said cases, the Corporation shall give, by delivery in person, certified or registered mail, return receipt requested, telecopier or telex, addressed to each holder of any shares of Preferred Stock at the address of such holder as shown on the books of the Corporation, (a) at least 20 days prior written notice of the date on which the books of the Corporation shall close or a record shall be taken for such dividend, distribution or subscription rights or for determining rights to vote in respect of any such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up and (b) in the case of any such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up, at least 20 days prior written notice of the date when the same shall take place. Such notice in accordance with the foregoing clause (a) shall also specify, in the case of any such dividend, distribution or subscription rights, the date on which the holders of Common Stock shall be entitled thereto and such notice in accordance with the foregoing clause (b) shall also specify the date on which the holders of Common Stock shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up, as the case may be.

6O. NO REISSUANCE OF PREFERRED STOCK. Shares of Preferred Stock which are converted into shares of Common Stock as provided herein shall not be reissued.

6P. ISSUE TAX. The issuance of certificates for shares of Common Stock upon conversion of any of shares of Preferred Stock shall be made without charge to the holders thereof for any issuance tax in respect thereof; provided that the Corporation shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance

and delivery of any certificate in a name other than that of the holder of the Preferred Stock which is being converted.

6Q. CLOSING OF BOOKS. The Corporation will at no time close its transfer books against the transfer of any shares of Preferred Stock or of any

shares of Common Stock issued or issuable upon the conversion of any shares of Preferred Stock in any manner which interferes with the timely conversion of such shares of Preferred Stock, except as may otherwise be required to comply with applicable securities laws or that certain Fourth Amended and Restated Stockholders Agreement, dated as of December 20, 2002, as amended from time to time, by and among the Corporation and the Stockholders referred to therein.

6R. DEFINITION OF COMMON STOCK. As used in this Section 6, the term "COMMON STOCK" shall mean and include the Corporation's authorized Common Stock, par value $0.0001 per share, as constituted on the date of filing of this Certificate, and shall also include any capital stock of any class of the Corporation thereafter authorized which shall not be limited to a fixed sum or percentage in respect of the rights of the holders thereof to participate in dividends or in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation; provided that the shares of Common Stock receivable upon conversion of shares of Preferred Stock shall include only shares designated as Common Stock of the Corporation on the date of filing of this instrument, or in case of any reorganization or reclassification of the outstanding shares thereof, the stock, securities or assets provided for in subparagraph 6H.

7. REDEMPTION

7A. REDEMPTION DATES AND PRICE. On December 20 of each of 2005, 2006 and 2007 (each such date being referred to hereinafter as a "Redemption Date"; and December 20 of 2005 also being referred to hereinafter as the "Initial Redemption Date"), the Corporation will redeem from each holder of shares of Preferred Stock, at a price equal to $0.2285714 per share of Series A Convertible Preferred Stock, $0.32 per share of Series B Convertible Preferred Stock, $1.00 per share of Series C Convertible Preferred Stock, $2.25 per share of Series D Convertible Preferred Stock, $2.8125 per share of Series E Convertible Preferred Stock and $1.50 per share of Series E-1 Convertible Preferred Stock, in each case, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization affecting such shares, plus all accrued but unpaid dividends thereon (with respect to each such series of Preferred Stock, the "Applicable Redemption Price"), up to one-third of the shares of each such series of Preferred Stock outstanding immediately prior to the Initial Redemption Date as such holder may request in a written notice to the Corporation specifying the number of shares to be redeemed and the date on which such stock is to be redeemed (a "Redemption Notice"), which date shall not be less than 20 nor more than 90 days from the date of such Redemption Notice. The right of redemption shall be cumulative so that if the holder does not elect to have the Corporation redeem any or all of the maximum portion of such holder's Preferred Stock, the holder shall have such right with respect to all such shares on the next Redemption Date, as set forth in a Redemption Notice.

7B. PAYMENT OF REDEMPTION PRICE. Payment of the Applicable Redemption Price shall be made by the Corporation by the delivery of a check in the amount of the Applicable Redemption Price, payable to the record holder of the shares of Preferred Stock which have been redeemed, mailed to such holder by first class or registered mail, postage prepaid, to such holder at such holder's address last shown on the records of the Corporation's transfer agent for the Preferred Stock (or records of the Corporation if it serves as its own transfer agent).

7C. PRIORITY. If, at any time that shares of Preferred Stock are required to be redeemed pursuant to this Section 7, the funds of the Corporation legally available for redemption of the Preferred Stock, as determined under the Delaware General Corporation Law, are insufficient to redeem the number of shares required to be redeemed, those funds which are so legally available shall be used first, to redeem PRO RATA based on the respective aggregate Applicable Redemption Price for the Series E-1 Convertible Preferred Stock and the Series E Convertible Preferred Stock the maximum possible number of such shares of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock required to be redeemed at such time pursuant to this Section 7; second, to redeem the maximum possible number of such shares of Series D Convertible Preferred Stock required to be redeemed at such time pursuant to this Section 7; third, to redeem the maximum possible number of such shares of Series C Convertible Preferred Stock required to be redeemed at such time pursuant to this Section 7; and thereafter, to redeem PRO RATA based on the respective aggregate Applicable Redemption Price for the Series B Convertible Preferred Stock and the Series A Convertible Preferred Stock the maximum possible number of shares of Series B Convertible Preferred Stock and Series A Convertible Preferred Stock required to be redeemed at such time pursuant to this Section 7. At any time thereafter when additional funds of the Corporation become legally available for the redemption of shares of Preferred Stock, such funds shall, at the end of each succeeding fiscal quarter, be used first, to redeem PRO RATA

based on the respective aggregate Applicable Redemption Price for the Series E-1 Convertible Preferred Stock and the Series E Convertible Preferred Stock the maximum possible number of such shares of Series E-1 Convertible Preferred Stock and Series E Convertible Preferred Stock which the Corporation has become obligated to redeem pursuant to this Section 7, but which it has not redeemed; second, to redeem the maximum possible number of such shares of Series D Convertible Preferred Stock which the Corporation has become obligated to redeem pursuant to this Section 7, but which it has not redeemed; third, to redeem the maximum possible number of such shares of Series C Convertible Preferred Stock which the Corporation has become obligated to redeem pursuant to this Section 7, but which it has not redeemed; and thereafter, to redeem PRO RATA based on the respective aggregate Applicable Redemption Price for the Series B Convertible Preferred Stock and the Series A Convertible Preferred Stock the maximum number of such shares of Series B Convertible Preferred Stock and Series A Convertible Preferred Stock which the Corporation has become obligated to redeem pursuant to this Section 7, but which it has not redeemed.

7D. CESSATION OF RIGHTS. Unless there shall have been a default in payment of the Applicable Redemption Price, no share of Preferred Stock is entitled to any dividends declared after the Applicable Redemption Date on which such share is to be redeemed pursuant to this Section 7, and on such applicable Redemption Date, all rights of the holder of such share as a stockholder of the Corporation by reason of the ownership of such share will cease, except the right to receive the Applicable Redemption Price of such share, without interest, upon

presentation and surrender of the certificate representing such share, and such share will not from and after such applicable Redemption Date be deemed to be outstanding of any purpose whatsoever.

8. AMENDMENTS. Except as provided in Section 5 above, which shall control with respect to the requisite votes or consents required thereby, these terms of the Preferred Stock may be amended, modified or waived with the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Preferred Stock.

C. UNDESIGNATED PREFERRED STOCK

The Board of Directors or any authorized committee thereof is expressly authorized, to the fullest extent permitted by law, to provide for the issuance of the shares of Undesignated Preferred Stock in one or more series of such stock, and by filing a certificate pursuant to applicable law of the State of Delaware, to establish or change from time to time the number of shares of each such series, and to fix the designations, powers, including voting powers, full or limited, or no voting powers, preferences and the relative, participating, optional or other special rights of the shares of each series and any qualifications, limitations and restrictions thereof.

ARTICLE V

STOCKHOLDER ACTION

1. ACTION WITHOUT MEETING. Except as otherwise provided herein, any action required or permitted to be taken by the stockholders of the Corporation at any annual or special meeting of stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders and may not be taken or effected by a written consent of stockholders in lieu thereof.

2. SPECIAL MEETINGS. Except as otherwise required by statute and subject to the rights, if any, of the holders of any series of Undesignated Preferred Stock, special meetings of the stockholders of the Corporation may be called only by the Board of Directors acting pursuant to a resolution approved by the affirmative vote of a majority of the Directors then in office. Only those matters set forth in the notice of the special meeting may be considered or acted upon at a special meeting of stockholders of the Corporation.

ARTICLE VI

DIRECTORS

1. GENERAL. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors except as otherwise provided herein or required by law.

2. ELECTION OF DIRECTORS. Election of Directors need not be by written

ballot unless the By-laws of the Corporation (the "By-laws") shall so provide.

3. NUMBER OF DIRECTORS; TERM OF OFFICE. The number of Directors of the Corporation shall be fixed solely and exclusively by resolution duly adopted from time to time by the Board of Directors. The Directors, other than those who may be elected by the holders of any series or class of Preferred Stock, shall be classified, with respect to the term for which they severally hold office, into three classes, as nearly equal in number as reasonably possible. The Directors of the Corporation initially will be assigned to be Class I Directors, Class II Directors and Class III Directors of the Corporation in accordance with a resolution or resolutions adopted by the Board of Directors. The initial Class I Directors shall serve for a term expiring at the annual meeting of stockholders to be held in 2005, the initial Class II Directors shall serve for a term expiring at the annual meeting of stockholders to be held in 2006, and the initial Class III Directors shall serve for a term expiring at the annual meeting of stockholders to be held in 2007. At each annual meeting of stockholders, Directors elected to succeed those Directors whose terms expire shall be elected for a term of office to expire at the third succeeding annual meeting of stockholders after their election. Notwithstanding the foregoing, the Directors elected to each class shall hold office until their successors are duly elected and qualified or until their earlier resignation or removal.

Notwithstanding the foregoing, whenever, pursuant to the provisions of Article IV of this Certificate, the holders of any one or more series or class of Preferred Stock shall have the right, voting separately as a series or together with holders of other such series, to elect Directors at an annual or special meeting of stockholders, the election, term of office, filling of vacancies and other features of such directorships shall be governed by the terms of this Certificate and any certificate of designations applicable thereto.

4. VACANCIES. Subject to the rights, if any, of the holders of any series or class of Preferred Stock to elect Directors and to fill vacancies in the Board of Directors relating thereto, any and all vacancies in the Board of Directors, however occurring, including, without limitation, by reason of an increase in size of the Board of Directors, or the death, resignation, disqualification or removal of a Director, shall be filled solely and exclusively by the affirmative vote of a majority of the remaining Directors then in office, even if less than a quorum of the Board of Directors, and not by the stockholders. Any Director appointed in accordance with the preceding sentence shall hold office for the remainder of the full term of the class of Directors in which the new directorship was created or the vacancy occurred and until such Director's successor shall have been duly elected and qualified or until his or her earlier resignation or removal. Subject to the rights, if any, of the holders of any series or class of Preferred Stock to elect Directors, when the number of Directors is increased or decreased, the Board of Directors shall, subject to Article VI.3 hereof, determine the class or classes to which the increased or decreased number of Directors shall be apportioned; PROVIDED, HOWEVER, that no decrease in the number of Directors shall shorten the term of any incumbent Director.

5. REMOVAL. Subject to the rights, if any, of any series or class of Preferred Stock to elect Directors and to remove any Director whom the holders of any such stock have the right to elect, any Director (including persons elected by Directors to fill vacancies in the Board of Directors) may be removed from office (i) only with cause and (ii) only by the affirmative vote of the holders of 75% or more of the shares then entitled to vote at an election of Directors. At least forty-five (45) days prior to any meeting of stockholders at which it is proposed that any Director be removed from office, written notice of such proposed removal and the alleged grounds thereof shall be sent to the Director whose removal will be considered at the meeting.

ARTICLE VII

LIMITATION OF LIABILITY

A Director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a Director, except for liability (a) for any breach of the Director's duty of loyalty to the Corporation or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under Section 174 of the DGCL or (d) for any transaction from which the Director derived an improper personal benefit. If the DGCL is amended after the effective date of this Certificate to authorize corporate action further eliminating or limiting the personal liability of Directors, then the liability of a Director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

Any repeal or modification of this Article VII by either of (i) the stockholders of the Corporation or (ii) an amendment to the DGCL, shall not adversely affect any right or protection existing at the time of such repeal or modification with respect to any acts or omissions occurring before such repeal or modification of a person serving as a Director at the time of such repeal or modification.

ARTICLE VIII

AMENDMENT OF BY-LAWS

1. AMENDMENT BY DIRECTORS. Except as otherwise provided by law, the By-laws of the Corporation may be amended or repealed by the Board of Directors by the affirmative vote of a majority of the Directors then in office.

2. AMENDMENT BY STOCKHOLDERS. The By-laws of the Corporation may be amended or repealed at any annual meeting of stockholders, or special meeting of stockholders called for such purpose as provided in the By-laws, by the affirmative vote of at least 75% of the outstanding shares entitled to vote on such amendment or repeal, voting together as a single class; PROVIDED, HOWEVER, that if the Board of Directors recommends that stockholders approve such amendment or repeal at such meeting of stockholders, such amendment or repeal shall only require the affirmative vote of the majority of the outstanding shares entitled to vote on such amendment or repeal, voting together as a single class.

ARTICLE IX

AMENDMENT OF CERTIFICATE OF INCORPORATION

The Corporation reserves the right to amend or repeal this Certificate in the manner now or hereafter prescribed by statute and this Certificate, and all rights conferred upon stockholders herein are granted subject to this reservation. Whenever any vote of the holders of voting stock is required to amend or repeal any provision of this Certificate, and in addition to any other vote of holders of voting stock that is required by this Certificate or by law, such amendment or repeal shall require the affirmative vote of the majority of the outstanding shares entitled to vote on such amendment or repeal, and the affirmative vote of the majority of the outstanding shares of each class entitled to vote thereon as a class, at a duly constituted meeting of stockholders called expressly for such purpose; PROVIDED, HOWEVER, that the affirmative vote of not less than 75% of the outstanding shares entitled to vote on such amendment or repeal, and the affirmative vote of not less than 75% of the outstanding shares of each class entitled to vote thereon as a class, shall be required to amend or repeal any provision of Article V, Article VI, Article VII, Article VIII or Article IX of this Certificate.

[End of Text]

THIS SECOND AMENDED AND RESTATED CERTIFICATE OF INCORPORATION is executed as of this __ day of _____, ____.

NEUROMETRIX, INC.

By:

Shai N. Gozani
President and Chief Executive Officer

EXHIBIT 3.4

THIRD AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

NEUROMETRIX, INC.

NeuroMetrix, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

1. The name of the Corporation is NeuroMetrix, Inc. The date of the filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware was April 25, 2001 under the name "New NeuroMetrix, Inc." (the "Original Certificate").

2. A Certificate of Merger was filed with the Secretary of State of the State of Delaware on May 14, 2001 merging NeuroMetrix, Inc., a Massachusetts Corporation, with and into the Corporation under the name "NeuroMetrix, Inc." (the "Certificate of Merger").

3. The Original Certificate, as amended by the Certificate of Merger, was amended and restated by an Amended and Restated Certificate of Incorporation filed with the Secretary of State of the State of Delaware on December 19, 2002 (the "Amended and Restated Certificate").

4. The Amended and Restated Certificate was amended by a Certificates of Amendment filed with the Secretary of State of the State of Delaware on March 12, 2004 and June 21, 2004 (the "Certificates of Amendment").

5. The Amended and Restated Certificate, as amended by the Certificates of Amendment, was amended and restated by a Second Amended and Restated Certificate of Incorporation filed with the Secretary of State of the State of Delaware on _____, ____ (the "Second Amended and Restated Certificate").

6. This Third Amended and Restated Certificate of Incorporation (this "Certificate") amends, restates and integrates the provisions of the Second Amended and Restated Certificate, as amended by the Certificate of Amendment, and was duly adopted in accordance with the provisions of Sections 228, 242 and 245 of the Delaware General Corporation Law (the "DGCL").

7. The text of the Second Amended and Restated Certificate is hereby amended and restated in its entirety to provide as herein set forth in full.

ARTICLE I

The name of the Corporation is NeuroMetrix, Inc.

ARTICLE II

The address of the Corporation's registered office in the State of Delaware is 2711 Centerville Road Suite 400, Wilmington, New Castle County. The name of the Corporation's registered agent at such address is Corporation Service Company.

ARTICLE III

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

ARTICLE IV

CAPITAL STOCK

The total number of shares of capital stock which the Corporation shall have authority to issue is fifty-five million (55,000,000) shares, of which (i) fifty million (50,000,000) shares shall be a class designated as common stock, par value $0.0001 per share (the "Common Stock"), and (ii) five million (5,000,000) shares shall be a class designated as undesignated preferred stock, par value $0.001 per share (the "Undesignated Preferred Stock").

The number of authorized shares of the class of Undesignated Preferred Stock may from time to time be increased or decreased (but not below the number of shares outstanding) by the affirmative vote of the holders of a majority of

the outstanding shares of Common Stock entitled to vote, without a vote of the holders of the Undesignated Preferred Stock (except as otherwise provided in any certificate of designations of any series of Undesignated Preferred Stock).

The powers, preferences and rights of, and the qualifications, limitations and restrictions upon, each class or series of stock shall be determined in accordance with, or as set forth below in, this Article IV.

A. COMMON STOCK

Subject to all the rights, powers and preferences of the Undesignated Preferred Stock and except as provided by law or in this Article IV (or in any certificate of designations of any series of Undesignated Preferred Stock):

(a) the holders of the Common Stock shall have the exclusive right to vote for the election of directors of the Corporation (the "Directors") and on all other matters requiring stockholder action, each outstanding share entitling the holder thereof to one vote on each matter properly submitted to the stockholders of the Corporation for their vote; PROVIDED, HOWEVER, that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to this Certificate (or on any amendment to a certificate of designations of any series of Undesignated Preferred Stock) that alters or changes the powers, preferences, rights or other terms of one or more outstanding series of Undesignated Preferred

Stock if the holders of such affected series are entitled to vote, either separately or together with the holders of one or more other such series, on such amendment pursuant to this Certificate (or pursuant to a certificate of designations of any series of Undesignated Preferred Stock) or pursuant to the DGCL;

(b) dividends may be declared and paid or set apart for payment upon the Common Stock out of any assets or funds of the Corporation legally available for the payment of dividends, but only when and as declared by the Board or any authorized committee thereof; and

(c) upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the net assets of the Corporation shall be distributed pro rata to the holders of the Common Stock.

B. UNDESIGNATED PREFERRED STOCK

The Board of Directors or any authorized committee thereof is expressly authorized, to the fullest extent permitted by law, to provide for the issuance of the shares of Undesignated Preferred Stock in one or more series of such stock, and by filing a certificate pursuant to applicable law of the State of Delaware, to establish or change from time to time the number of shares of each such series, and to fix the designations, powers, including voting powers, full or limited, or no voting powers, preferences and the relative, participating, optional or other special rights of the shares of each series and any qualifications, limitations and restrictions thereof.

ARTICLE V

STOCKHOLDER ACTION

1. ACTION WITHOUT MEETING. Except as otherwise provided herein, any action required or permitted to be taken by the stockholders of the Corporation at any annual or special meeting of stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders and may not be taken or effected by a written consent of stockholders in lieu thereof.

2. SPECIAL MEETINGS. Except as otherwise required by statute and subject to the rights, if any, of the holders of any series of Undesignated Preferred Stock, special meetings of the stockholders of the Corporation may be called only by the Board of Directors acting pursuant to a resolution approved by the affirmative vote of a majority of the Directors then in office. Only those matters set forth in the notice of the special meeting may be considered or acted upon at a special meeting of stockholders of the Corporation.

ARTICLE VI

DIRECTORS

1. GENERAL. The business and affairs of the Corporation shall be managed

by or under the direction of the Board of Directors except as otherwise provided herein or required by law.

2. ELECTION OF DIRECTORS. Election of Directors need not be by written ballot unless the By-laws of the Corporation (the "By-laws") shall so provide.

3. NUMBER OF DIRECTORS; TERM OF OFFICE. The number of Directors of the Corporation shall be fixed solely and exclusively by resolution duly adopted from time to time by the Board of Directors. The Directors, other than those who may be elected by the holders of any series of Undesignated Preferred Stock, shall be classified, with respect to the term for which they severally hold office, into three classes, as nearly equal in number as reasonably possible. The Directors of the Corporation initially will be assigned to be Class I Directors, Class II Directors and Class III Directors of the Corporation in accordance with a resolution or resolutions adopted by the Board of Directors. The initial Class I Directors shall serve for a term expiring at the annual meeting of stockholders to be held in 2005, the initial Class II Directors shall serve for a term expiring at the annual meeting of stockholders to be held in 2006, and the initial Class III Directors shall serve for a term expiring at the annual meeting of stockholders to be held in 2007. At each annual meeting of stockholders, Directors elected to succeed those Directors whose terms expire shall be elected for a term of office to expire at the third succeeding annual meeting of stockholders after their election. Notwithstanding the foregoing, the Directors elected to each class shall hold office until their successors are duly elected and qualified or until their earlier resignation or removal.

Notwithstanding the foregoing, whenever, pursuant to the provisions of Article IV of this Certificate, the holders of any one or more series of Undesignated Preferred Stock shall have the right, voting separately as a series or together with holders of other such series, to elect Directors at an annual or special meeting of stockholders, the election, term of office, filling of vacancies and other features of such directorships shall be governed by the terms of this Certificate and any certificate of designations applicable thereto.

4. VACANCIES. Subject to the rights, if any, of the holders of any series of Undesignated Preferred Stock to elect Directors and to fill vacancies in the Board of Directors relating thereto, any and all vacancies in the Board of Directors, however occurring, including, without limitation, by reason of an increase in size of the Board of Directors, or the death, resignation, disqualification or removal of a Director, shall be filled solely and exclusively by the affirmative vote of a majority of the remaining Directors then in office, even if less than a quorum of the Board of Directors, and not by the stockholders. Any Director appointed in accordance with the preceding sentence shall hold office for the remainder of the full term of the class of Directors in which the new directorship was created or the vacancy occurred and until such Director's successor shall have been duly elected and qualified or until his or her earlier resignation or removal. Subject to the rights, if any, of the holders of any series of Undesignated Preferred Stock to elect Directors, when the number of Directors is increased or decreased, the

Board of Directors shall, subject to Article VI.3 hereof, determine the class or classes to which the increased or decreased number of Directors shall be apportioned; PROVIDED, HOWEVER, that no decrease in the number of Directors shall shorten the term of any incumbent Director. In the event of a vacancy in the Board of Directors, the remaining Directors, except as otherwise provided by law, shall exercise the powers of the full Board of Directors until the vacancy is filled.

5. REMOVAL. Subject to the rights, if any, of any series of Undesignated Preferred Stock to elect Directors and to remove any Director whom the holders of any such stock have the right to elect, any Director (including persons elected by Directors to fill vacancies in the Board of Directors) may be removed from office (i) only with cause and (ii) only by the affirmative vote of the holders of 75% or more of the shares then entitled to vote at an election of Directors. At least forty-five (45) days prior to any meeting of stockholders at which it is proposed that any Director be removed from office, written notice of such proposed removal and the alleged grounds thereof shall be sent to the Director whose removal will be considered at the meeting.

ARTICLE VII

LIMITATION OF LIABILITY

A Director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a Director, except for liability (a) for any breach of the Director's duty of loyalty to the Corporation or its stockholders, (b) for acts or

omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under Section 174 of the DGCL or (d) for any transaction from which the Director derived an improper personal benefit. If the DGCL is amended after the effective date of this Certificate to authorize corporate action further eliminating or limiting the personal liability of Directors, then the liability of a Director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

Any repeal or modification of this Article VII by either of (i) the stockholders of the Corporation or (ii) an amendment to the DGCL, shall not adversely affect any right or protection existing at the time of such repeal or modification with respect to any acts or omissions occurring before such repeal or modification of a person serving as a Director at the time of such repeal or modification.

ARTICLE VIII

AMENDMENT OF BY-LAWS

1. AMENDMENT BY DIRECTORS. Except as otherwise provided by law, the By-laws of the Corporation may be amended or repealed by the Board of Directors by the affirmative vote of a majority of the Directors then in office.

2. AMENDMENT BY STOCKHOLDERS. The By-laws of the Corporation may be amended or repealed at any annual meeting of stockholders, or special meeting of stockholders called for

such purpose as provided in the By-laws, by the affirmative vote of at least 75% of the outstanding shares entitled to vote on such amendment or repeal, voting together as a single class; PROVIDED, HOWEVER, that if the Board of Directors recommends that stockholders approve such amendment or repeal at such meeting of stockholders, such amendment or repeal shall only require the affirmative vote of the majority of the outstanding shares entitled to vote on such amendment or repeal, voting together as a single class.

ARTICLE IX

AMENDMENT OF CERTIFICATE OF INCORPORATION

The Corporation reserves the right to amend or repeal this Certificate in the manner now or hereafter prescribed by statute and this Certificate, and all rights conferred upon stockholders herein are granted subject to this reservation. Whenever any vote of the holders of voting stock is required to amend or repeal any provision of this Certificate, and in addition to any other vote of holders of voting stock that is required by this Certificate or by law, such amendment or repeal shall require the affirmative vote of the majority of the outstanding shares entitled to vote on such amendment or repeal, and the affirmative vote of the majority of the outstanding shares of each class entitled to vote thereon as a class, at a duly constituted meeting of stockholders called expressly for such purpose; PROVIDED, HOWEVER, that the affirmative vote of not less than 75% of the outstanding shares entitled to vote on such amendment or repeal, and the affirmative vote of not less than 75% of the outstanding shares of each class entitled to vote thereon as a class, shall be required to amend or repeal any provision of Article V, Article VI, Article VII, Article VIII or Article IX of this Certificate.

[End of Text]

THIS THIRD AMENDED AND RESTATED CERTIFICATE OF INCORPORATION is executed as of this ____ day of _____, ____.

NEUROMETRIX, INC.

By:

Shai N. Gozani
President and Chief Executive Officer

EXHIBIT 3.5

NEUROMETRIX, INC.

AMENDED AND RESTATED BY-LAWS

ARTICLE I. - GENERAL.

1.1. OFFICES. The registered office shall be in the City of Wilmington, County of New Castle, State of Delaware. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

1.2. SEAL. The seal of the Corporation shall be in the form of a circle and shall have inscribed thereon the name of the Corporation, the year of its organization and the words "Corporate Seal, Delaware".

1.3. FISCAL YEAR. The fiscal year of the Corporation shall be the period from January 1 through December 31.

ARTICLE II. - STOCKHOLDERS.

2.1. PLACE OF MEETINGS. All meetings of the stockholders shall be held at the principal office of the Corporation except such meetings as the Board of Directors expressly determine shall be held elsewhere, in which case meetings may be held upon notice as hereinafter provided at such other place or places within or without the Commonwealth of Massachusetts as the Board of Directors or the President shall have determined and as shall be stated in such notice.

2.2. ANNUAL MEETING. The annual meeting of the stockholders shall be held on the first Monday of May each year (or if that be a legal holiday in the place where the meeting is to be held, on the next succeeding full business day), unless a different day and hour shall be fixed by the Board of Directors or the President and stated in the notices of the meeting. At each annual meeting the stockholders entitled to vote shall elect a Board of Directors by plurality vote by ballot, and they may transact such other corporate business as may properly be brought before the meeting. At the annual meeting any business may be transacted, irrespective of whether the notice calling such meeting shall have contained a reference thereto, except where notice is required by law, the Amended and Restated Certificate of Incorporation as it may be amended from time to time (the "Certificate of Incorporation") or these by-laws.

2.3. QUORUM. At all meetings of the stockholders the holders of a majority of the stock issued and outstanding and entitled to vote thereat, present in person or represented by

proxy, shall constitute a quorum requisite for the transaction of business except as otherwise provided by law, by the Certificate of Incorporation or by these by-laws; except that if two or more classes of stock shall be outstanding and entitled to vote as separate classes, then in the case of each of such class, a quorum shall consist of the holders of a majority in interest of the stock of the class issued and outstanding and entitled to vote thereat. If, however, such majority shall not be present or represented at any meeting of the stockholders, the stockholders entitled to vote thereat, present in person or by proxy, by a majority vote, shall have power to adjourn the meeting from time to time without notice other than announcement at the meeting until the requisite amount of voting stock shall be present. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. At such adjourned meeting, at which the requisite amount of voting stock shall be represented, any business may be transacted which might have been transacted if the meeting had been held as originally called.

2.4. RIGHT TO VOTE; PROXIES. Each holder of a share or shares of capital stock of the Corporation having the right to vote at any meeting shall be entitled to one vote for each such share of stock held by him, unless otherwise provided by the Certificate of Incorporation. Any stockholder entitled to vote at any meeting of stockholders may vote either in person or by proxy, but no proxy which is dated more than three years prior to the meeting at which it is offered shall confer the right to vote thereat unless the proxy provides that it shall be effective for a longer period. A proxy may be granted by a writing executed by the stockholder or his authorized officer, director, employee or agent or by transmission or authorization of transmission of a telegram, cablegram, or other means of electronic transmission to the person who will be

the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, subject to the conditions set forth in Section 212 of the Delaware General Corporation Law, as it may be amended from time to time (the "Delaware GCL").

2.5. VOTING. When a quorum shall be present, the holders of a majority of the stock present or represented and voting on a matter (or if there shall be two or more classes of stock entitled to vote as separate classes, then in the case of each such class, the holders of a majority of the stock of that class present or represented and voting on a matter), except where a larger vote shall be required by law, by the Certificate of Incorporation, by these by-laws or by that certain Fourth Amended and Restated Stockholders Agreement by and between the Corporation, Shai N. Gozani, M.D., Ph.D., and the investors listed on the signature pages thereto, as amended from time to time (the "Stockholders Agreement"), shall decide any matter to be voted on by the stockholders. Any election by stockholders shall be determined by a plurality of the votes cast by the stockholders entitled to vote at the election. No ballot shall be required for such election unless requested by a stockholder present or represented at the meeting and entitled to vote in the election. The Corporation shall not directly or indirectly vote any share of its stock.

2.6. NOTICE OF ANNUAL MEETINGS. Written notice of the annual meeting of the stockholders shall be mailed to each stockholder entitled to vote thereat at such address as appears on the stock books of the Corporation at least ten (10) days (and not more than sixty (60) days) prior to the meeting. It shall be the duty of every stockholder to furnish to the Secretary of

the Corporation or to the transfer agent, if any, of the class of stock owned by him, his post-office address and to notify said Secretary or transfer agent of any change therein.

2.7. STOCKHOLDERS' LIST. A complete list of the stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order and showing the address of each stockholder, and the number of shares registered in the name of each stockholder, shall be prepared by the Secretary and filed either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held, at least ten days before such meeting, and shall at all times during the usual hours for business, and during the whole time of said election, be open to the examination of any stockholder for a purpose germane to the meeting.

2.8. SPECIAL MEETINGS. Special meetings of the stockholders for any purpose or purposes, unless otherwise provided by statute, may be called by the President or the Chief Executive Officer or any two Directors. Upon written application of one or more stockholders who hold at least (i) ten percent (10%) of the capital stock entitled to vote at the meeting, (ii) twenty-five percent (25%) of the outstanding shares of the Corporation's Series A Voting Convertible Preferred Stock (the "Series A Preferred Stock") and the Corporation's Series B Voting Convertible Preferred Stock (the "Series B Preferred Stock"), taken together as a single class, (iii) twenty-five percent (25%) of the outstanding shares of the Corporation's Series C-1 Voting Convertible Preferred Stock (the "Series C-1 Preferred Stock") and the Corporation's Series C-2 Non-Voting Convertible Preferred Stock (the "Series C-2 Preferred Stock", and, together with the Series C-1 Preferred Stock, "Series C Preferred Stock"), taken together as a single class, (iv) twenty-five percent (25%) of the outstanding shares of the Corporation's Series D Voting Convertible Preferred Stock (the "Series D Preferred Stock"), or (v) twenty-five percent (25%) of the outstanding shares of the Corporation's Series E Voting Convertible Preferred Stock (the "Series E Preferred Stock") and the Corporation's Series E-1 Voting Convertible Preferred Stock (the "Senior E-1 Preferred Stock"), taken together as a single class, a special meeting shall be called by the Secretary, or in case of the death, absence, incapacity or refusal of the Secretary, by any other officer; in the event that none of the officers shall be able and willing to call the meeting, the Court of Chancery shall have jurisdiction to authorize one or more of such stockholders to call the meeting. The call for the meeting shall state the date, hour and place and the purposes of the meeting.

2.9. NOTICE OF SPECIAL MEETINGS. Written notice of a special meeting of stockholders, stating the time and place and object thereof shall be mailed, postage prepaid, not less than ten (10) nor more than sixty (60) days before such meeting, to each stockholder entitled to vote thereat, at such address as appears on the books of the Corporation. No business may be transacted at such meeting except that referred to in said notice, or in a supplemental notice given also in compliance with the provisions hereof, or such other business as may be germane or supplementary to that stated in said notice or notices.

2.10. INSPECTORS.

1. One or more inspectors may be appointed by the Board of Directors before or at any meeting of stockholders, or, if no such appointment shall have been made, the presiding officer may make such appointment at the meeting. At the meeting for which the inspector or inspectors are appointed, he or they shall open and close the polls, receive and take charge of the proxies and ballots, and decide all questions touching on the qualifications of voters, the validity of proxies and the acceptance and rejection of votes. If any inspector previously appointed shall fail to attend or refuse or be unable to serve, the presiding officer shall appoint an inspector in his place.

2. At any time at which the Corporation has a class of voting stock that is (i) listed on a national securities exchange, (ii) authorized for quotation on an inter-dealer quotation system of a registered national securities association, or (iii) held of record by more than 2,000 stockholders, the provisions of Section 231 of the Delaware GCL with respect to inspectors of election and voting procedures shall apply, in lieu of the provisions of paragraph (1) of this Section2.10.

2.11. STOCKHOLDERS' CONSENT IN LIEU OF MEETING. Unless otherwise provided in the Certificate of Incorporation, any action required by law to be taken at any annual or special meeting of stockholders of the Corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation by delivery to its registered office in the State of Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Every written consent shall bear the date of signature of each stockholder who signs the consent and no written consent shall be effective to take the corporate action referred to therein unless, within sixty days of the earliest dated consent delivered in the manner required by this Section2.11 to the Corporation, written consents signed by a sufficient number of stockholders to take action are delivered to the Corporation by delivery to its registered office in the State of Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

ARTICLE III. - DIRECTORS.

3.1. NUMBER OF DIRECTORS. The number of directors shall be determined from time to time by resolution of the Board of Directors or by the stockholders at the annual meeting, subject to the provisions of the Certificate of Incorporation and the Stockholders Agreement. Directors

need not be stockholders, residents of Delaware or citizens of the United States. The directors shall be elected at the annual meeting of the stockholders, subject to and consistent with the provisions of the Certificate of Incorporation and the Stockholders Agreement, and each director shall be elected to serve until his successor shall be elected and shall qualify or until his earlier resignation or removal; provided that in the event of failure to hold such meeting or to hold such election at such meeting, such election may be held at any special meeting of the stockholders called for that purpose. If the office of any director becomes vacant by reason of death, resignation, disqualification, removal, failure to elect, or otherwise, the remaining directors, although more or less than a quorum, by a majority vote of such remaining directors may elect a successor or successors who shall hold office for the unexpired term, subject to and consistent with the Certificate of Incorporation and the Stockholders Agreement.

3.2. CHANGE IN NUMBER OF DIRECTORS; VACANCIES. The number of directors shall be determined from time to time by the Board of Directors as set forth in the Stockholders Agreement; provided, however, that in no case shall the number of Directors so fixed conflict with the terms or provision of the Series A

Preferred Stock, the Series B Preferred Stock, the Series C-1 Preferred Stock, the Series C-2 Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock or the Series E-1 Preferred Stock, as set forth in the Certificate of Incorporation. Any vacancy in the Board of Directors, however occurring (except a vacancy resulting from the enlargement of the Board) may be filled by the stockholders, subject to the Certificate of Incorporation and the Stockholders Agreement.

3.3. RESIGNATION. Any director of this Corporation may resign at any time by giving written notice to the Chairman of the Board, if any, the President or the Secretary of the Corporation. Such resignation shall take effect at the time specified therein, at the time of receipt if no time is specified therein and at the time of acceptance if the effectiveness of such resignation is conditioned upon its acceptance. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

3.4. REMOVAL. Any director or the entire Board of Directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors, provided that the Directors of a class elected by a particular class of stockholders may be removed only by the vote of the holders of a majority of the shares of such class.

3.5. PLACE OF MEETINGS AND BOOKS. The Board of Directors may hold their meetings and keep the books of the Corporation outside the State of Delaware, at such places as they may from time to time determine.

3.6. GENERAL POWERS. In addition to the powers and authority expressly conferred upon them by these by-laws, the board may exercise all such powers of the Corporation and do all such lawful acts and things except as otherwise provided by statute or by the Certificate of Incorporation or by these by-laws or by the Stockholders Agreement. In the event of a vacancy in the Board of Directors, the remaining Directors, except as otherwise provided by law, may exercise the powers of the full Board until the vacancy shall be filled, including, but not limited to, the issuance of all authorized shares of stock.

3.7. EXECUTIVE COMMITTEE. There may be an executive committee of one or more directors designated by resolution passed by a majority of the whole board. The act of a majority of the members of such committee shall be the act of the committee. Said committee may meet at stated times or on notice to all by any of their own number, and shall have and may exercise those powers of the Board of Directors in the management of the business affairs of the Company as are provided by law and may authorize the seal of the Corporation to be affixed to all papers which may require it. Vacancies in the membership of the committee shall be filled by the Board of Directors at a regular meeting or at a special meeting called for that purpose.

3.8. OTHER COMMITTEES. The Board of Directors may also designate one or more committees in addition to the executive committee, by resolution or resolutions passed by a majority of the whole board; such committee or committees shall consist of one or more directors of the Corporation, and to the extent provided in the resolution or resolutions designating them, shall have and may exercise specific powers of the Board of Directors in the management of the business and affairs of the Corporation to the extent permitted by statute and shall have power to authorize the seal of the Corporation to be affixed to all papers which may require it. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors.

3.9. POWERS DENIED TO COMMITTEES. Committees of the Board of Directors shall not, in any event, have any power or authority to amend the Certificate of Incorporation (except that a committee may, to the extent authorized in the resolution or resolutions providing for the issuance of shares adopted by the Board of Directors as provided in Section 151(a) of the Delaware GCL, fix the designations and any of the preferences or rights of such shares relating to dividends, redemption, dissolution, any distribution of assets of the Corporation or the conversion into, or the exchange of such shares for, shares of any other class or classes or any other series of the same or any other class or classes of stock of the Corporation or fix the number of shares of any series of stock or authorize the increase or decrease of the shares of any series), adopt an agreement of merger or consolidation, recommend to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property and assets, recommend to the stockholders a dissolution of the Corporation or a revocation of a dissolution or to amend the by-laws of the Corporation. Further, no committee of the Board of Directors shall have the power or authority to declare a dividend, to authorize the issuance of stock or to adopt a certificate of ownership and merger pursuant to Section 253 of the Delaware GCL, unless the resolution or resolutions designating such committee

expressly so provides.

3.10. SUBSTITUTE COMMITTEE MEMBER. In the absence or on the disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of such absent or disqualified member. Any committee shall keep regular minutes of its proceedings and report the same to the board as may be required by the board.

3.11. COMPENSATION OF DIRECTORS. The Board of Directors shall have the power to fix the compensation of directors and members of committees of the Board. The directors may be

paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary as director. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings.

3.12. ANNUAL MEETING. The newly elected board may meet at such place and time as shall be fixed and announced by the presiding officer at the annual meeting of stockholders, for the purpose of organization or otherwise, and no further notice of such meeting shall be necessary to the newly elected directors in order legally to constitute the meeting, provided a quorum shall be present, or they may meet at such place and time as shall be stated in a notice given to such directors two (2) days prior to such meeting, or as shall be fixed by the consent in writing of all the directors.

3.13. REGULAR MEETINGS. Regular meetings of the board may be held without notice at such time and place as shall from time to time be determined by the Board of Directors.

3.14. SPECIAL MEETINGS. Special meetings of the board may be called by the Chairman of the Board, if any, or the President, or the Treasurer, or any two of the Directors (unless there be only one Director then in office, in which case by such sole Director). Notice of all special meetings shall be given to each Director by the Secretary or the Assistant Secretary, or in case of the death, absence, incapacity or refusal of such persons, by the officer or one of the Directors calling the meeting. Notice shall be given to each Director in person or by telephone, facsimile or be telegram sent to each Director's business or home address at least twenty-four (24) hours in advance of the meeting, or by written notice mailed to such business or home address at least forty-eight (48) hours in advance of the meeting. Notice need not be given to any Director if a written waiver of notice, executed by such Director, before or after the meeting, shall be filed with the records of the meeting, or to any Director who shall attend the meeting without protesting prior thereto or at its commencement the lack of notice. A notice or waiver of notice of a Director meeting need not specify the purposes of the meeting.

3.15. QUORUM. At all meetings of the Board of Directors, a majority of the total number of directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically permitted or provided by statute, or by the Certificate of Incorporation, or by these by-laws, or by the Stockholders Agreement. If at any meeting of the board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time until a quorum is obtained, and no further notice thereof need be given other than by announcement at said meeting which shall be so adjourned.

3.16. TELEPHONIC PARTICIPATION IN MEETINGS. Members of the Board of Directors or any committee designated by such board may participate in a meeting of the board or committee by means of conference telephone or similar communications equipment by means of which all

persons participating in the meeting can hear each other, and participation in a meeting pursuant to this section shall constitute presence in person at such meeting.

3.17. ACTION BY CONSENT. Unless otherwise restricted by the Certificate of Incorporation or these by-laws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be

taken without a meeting, if written consent thereto is signed by all members of the board or of such committee as the case may be and such written consent is filed with the minutes of proceedings of the board or committee.

ARTICLE IV. - OFFICERS.

4.1. SELECTION; STATUTORY OFFICERS. The officers of the Corporation shall be chosen by the Board of Directors. There shall be a President, a Chief Executive Officer, a Secretary and a Treasurer, and there may be a Chairman of the Board of Directors, one or more Vice Presidents, one or more Assistant Secretaries, and one or more Assistant Treasurers, as the Board of Directors may elect. Any number of offices may be held by the same person.

4.2. TIME OF ELECTION. The officers above named shall be chosen by the Board of Directors at its first meeting and may be chosen by the Board of Directors at its first meeting after each annual meeting of stockholders. None of said officers need be a director.

4.3. ADDITIONAL OFFICERS. The board may appoint such other officers and agents as it shall deem necessary, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the board.

4.4. TERMS OF OFFICE. Except as otherwise provided by law, by the Certificate of Incorporation or these by-laws or by the Stockholders Agreement, each officer of the Corporation shall hold office until his successor is chosen and qualified, or until his earlier resignation or removal.

4.5. REMOVAL. The Directors may remove any officer, other than the Chief Executive Officer, with or without cause, and may remove the Chief Executive Officer with cause, by a vote of a majority of the entire number of Directors then in office, provided that any officer may be removed for cause only after reasonable notice and opportunity to be heard by the Board of Directors prior to action thereon.

4.6. COMPENSATION OF OFFICERS. The Board of Directors shall have power to fix the compensation of all officers of the Corporation. It may authorize any officer, upon whom the power of appointing subordinate officers may have been conferred, to fix the compensation of such subordinate officers.

4.7. CHAIRMAN OF THE BOARD. The Chairman of the Board of Directors shall preside at all meetings of the stockholders and directors, and shall have such other duties as may be assigned to him from time to time by the Board of Directors.

4.8. CHIEF EXECUTIVE OFFICER. Unless the Board of Directors otherwise determines, the Chief Executive Officer shall be a senior corporate officer of the Corporation. Unless there is a Chairman of the Board, the Chief Executive Officer shall preside at all meetings of the Board of Directors and the stockholders. Under the supervision of the Board of Directors and of the executive committee, the Chief Executive Officer shall have the general control and management of the Corporation's business and affairs, subject, however, to the right of the Board of Directors and of the executive committee to confer any specific power upon any other officer or officers of the Corporation. The Chief Executive Officer shall do and perform all acts and things incident to the office of Chief Executive Officer and such other duties as may be assigned to him from time to time by the Board of Directors or the executive committee.

4.9. PRESIDENT. Unless the Board of Directors otherwise determines, the President shall be the executive officer next in authority to the Chief Executive Officer and, under the supervision of the Chief Executive Officer, shall be the chief operating officer of the Corporation. He need not be a director.

4.10. VICE-PRESIDENTS. The Vice-Presidents shall perform such of the duties of the President on behalf of the Corporation as may be respectively assigned to them from time to time by the Board of Directors or by the executive committee or by the President. The Board of Directors or the executive committee may designate one of the Vice-Presidents as the Executive Vice-President, and in the absence or inability of the President to act, such Executive Vice-President shall have and possess all of the powers and discharge all of the duties of the President, subject to the control of the board and of the executive committee.

4.11. TREASURER. The Treasurer shall have the care and custody of all the funds and securities of the Corporation which may come into his hands as Treasurer, and the power and authority to endorse checks, drafts and other instruments for the payment of money for deposit or collection when necessary or proper and to deposit the same to the credit of the Corporation in such bank or

banks or depository as the Board of Directors or the executive committee, or the officers or agents to whom the Board of Directors or the executive committee may delegate such authority, may designate, and he may endorse all commercial documents requiring endorsements for or on behalf of the Corporation. He may sign all receipts and vouchers for the payments made to the Corporation. He shall render an account of his transactions to the Board of Directors or to the executive committee as often as the board or the committee shall require the same. He shall enter regularly in the books to be kept by him for that purpose full and adequate account of all moneys received and paid by him on account of the Corporation. He shall perform all acts incident to the position of Treasurer, subject to the control of the Board of Directors and of the executive committee. He shall when requested, pursuant to vote of the Board of Directors or the executive committee, give a bond to the Corporation conditioned for the faithful performance of his duties, the expense of which bond shall be borne by the Corporation.

4.12. SECRETARY. The Secretary shall keep the minutes of all meetings of the Board of Directors and of the stockholders; he shall attend to the giving and serving of all notices of the Corporation. Except as otherwise ordered by the Board of Directors or the executive committee, he may attest the seal of the Corporation upon all contracts and instruments executed under such seal and may as he deems appropriate affix the seal of the Corporation thereto and he may as he deems appropriate affix the seal of the Corporation to all certificates of shares of capital stock of the Corporation. He shall have charge of the stock certificate book, transfer book and stock ledger, and such other books and papers as the Board of Directors or the executive committee may direct. He shall, in general, perform all the duties of Secretary, subject to the control of the Board of Directors and of the executive committee.

4.13. ASSISTANT SECRETARY. The Board of Directors or any two of the officers of the Corporation acting jointly may appoint or remove one or more Assistant Secretaries of the Corporation. Any Assistant Secretary upon his appointment shall perform such duties of the Secretary, and also any and all such other duties as the executive committee or the Board of Directors or the President or the Executive Vice-President or the Treasurer or the Secretary may designate.

4.14. ASSISTANT TREASURER. The Board of Directors or any two of the officers of the Corporation acting jointly may appoint or remove one or more Assistant Treasurers of the Corporation. Any Assistant Treasurer upon his appointment shall perform such of the duties of the Treasurer, and also any and all such other duties as the executive committee or the Board of Directors or the President or the Executive Vice-President or the Treasurer or the Secretary may designate.

4.15. SUBORDINATE OFFICERS. The Board of Directors may select such subordinate officers as it may deem desirable. Each such officer shall hold office for such period, have such authority, and perform such duties as the Board of Directors may prescribe. The Board of Directors may, from time to time, authorize any officer to appoint and remove subordinate officers and to prescribe the powers and duties thereof.

ARTICLE V. - STOCK.

5.1. STOCK. Each stockholder shall be entitled to a certificate or certificates of stock of the Corporation in such form as the Board of Directors may from time to time prescribe. The certificates of stock of the Corporation shall be numbered and shall be entered in the books of the Corporation as they are issued. They shall certify the holder's name and number and class of shares and shall be signed by both of (i) either the Chief Executive Officer, or the President or a Vice-President, and (ii) any one of the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary, and may as the Secretary deems appropriate be sealed with the corporate seal of the Corporation. If such certificate is countersigned (1) by a transfer agent other than the Corporation or its employee, or, (2) by a registrar other than the Corporation or its employee, the signature of the officers of the Corporation and the corporate seal may be facsimiles. In case any officer or officers who shall have signed, or whose facsimile signature or signatures shall have been used on, any such certificate or certificates shall cease to be such officer or officers of the

Corporation, whether because of death, resignation or otherwise, before such certificate or certificates shall have been delivered by the Corporation, such certificate or certificates may nevertheless be adopted by the Corporation and be issued and delivered as though the person or persons who signed such certificate or certificates or whose facsimile signature shall have been used

thereon had not ceased to be such officer or officers of the Corporation.

Every certificate for shares of stock which shall be subject to any restriction on transfer pursuant to the Certificate of Incorporation, these by-laws or any agreements to which the Corporation shall be a party, including the Stockholders Agreement, shall have the restriction noted conspicuously on the certificate and shall also set forth on the face or back either the full text of the restriction or a statement of the existence of such restriction and a statement that the Corporation will furnish a copy to the holder of such certificate upon written request and without charge. Every certificate issued when the Corporation shall be authorized to issue more than one class or series of stock shall set forth on its face or back either full text of the preferences, voting powers, qualifications and special and relative rights of the shares of each class and series authorized to be issued or a statement of the existence of such preferences, powers, qualifications and rights, and a statement that the Corporation will furnish a copy thereof to the holder of such certificate upon written request and without charge.

5.2. FRACTIONAL SHARE INTERESTS. The Corporation may, but shall not be required to, issue fractions of a share. If the Corporation does not issue fractions of a share, it shall (i) arrange for the disposition of fractional interests by those entitled thereto, (ii) pay in cash the fair value of fractions of a share as of the time when those entitled to receive such fractions are determined, or (iii) issue scrip or warrants in registered or bearer form which shall entitle the holder to receive a certificate for a full share upon the surrender of such scrip or warrants aggregating a full share. A certificate for a fractional share shall, but scrip or warrants shall not unless otherwise provided therein, entitle the holder to exercise voting rights, to receive dividends thereon, and to participate in any of the assets of the Corporation in the event of liquidation. The Board of Directors may cause scrip or warrants to be issued subject to the conditions that they shall become void if not exchanged for certificates representing full shares before a specified date, or subject to the conditions that the shares for which scrip or warrants are exchangeable may be sold by the Corporation and the proceeds thereof distributed to the holders of scrip or warrants, or subject to any other conditions which the Board of Directors may impose.

5.3. TRANSFERS OF STOCK. Subject to any transfer restrictions then in force, the shares of stock of the Corporation shall be transferable only upon its books by the holders thereof in person or by their duly authorized attorneys or legal representatives and upon such transfer the old certificates shall be surrendered to the Corporation by the delivery thereof to the person in charge of the stock and transfer books and ledgers or to such other person as the directors may designate by whom they shall be cancelled and new certificates shall thereupon be issued. The Corporation shall be entitled to treat the holder of record of any share or shares of stock as the holder in fact thereof and accordingly shall not be bound to recognize any equitable or other claim to or interest in such share on the part of any other person whether or not it shall have express or other notice thereof save as expressly provided by the laws of Delaware.

5.4. RECORD DATE. For the purpose of determining the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or the allotment of any rights, or entitled to exercise any rights in respect of any change, conversion, or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty (60) days nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action. If no such record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held; the record date for determining stockholders entitled to express consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is necessary, shall be the day on which the first written consent is expressed; and the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto. A determination of stockholders of record entitled to notice of or to vote at any meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

5.5. TRANSFER AGENT AND REGISTRAR. The Board of Directors may appoint one or more transfer agents or transfer clerks and one or more registrars and may require all certificates of stock to bear the signature or signatures of any

of them.

5.6. DIVIDENDS.

1. POWER TO DECLARE. Dividends upon the capital stock of the Corporation, subject to the provisions of the Certificate of Incorporation, if any, may be declared by the Board of Directors at any regular or special meeting, pursuant to law. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the Certificate of Incorporation and the laws of Delaware.

2. RESERVES. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for such other purpose as the directors shall think conducive to the interest of the Corporation, and the directors may modify or abolish any such reserve in the manner in which it was created.

5.7. LOST, STOLEN OR DESTROYED CERTIFICATES. No certificates for shares of stock of the Corporation shall be issued in place of any certificate alleged to have been lost, stolen or destroyed, except upon production of such evidence of the loss, theft or destruction and upon indemnification of the Corporation and its agents to such extent and in such manner as the Board of Directors may from time to time prescribe.

5.8. INSPECTION OF BOOKS. The stockholders of the Corporation, by a majority vote at any meeting of stockholders duly called, or in case the stockholders shall fail to act, the Board of Directors shall have power from time to time to determine whether and to what extent and at what times and places and under what conditions and regulations the accounts and books of the Corporation (other than the stock ledger) or any of them, shall be open to inspection of stockholders; and no stockholder shall have any right to inspect any account or book or document of the Corporation except as conferred by statute or authorized by the Board of Directors or by a resolution of the stockholders.

ARTICLE VI. - MISCELLANEOUS MANAGEMENT PROVISIONS.

6.1. CHECKS, DRAFTS AND NOTES. All checks, drafts or orders for the payment of money, and all notes and acceptances of the Corporation shall be signed by the Chief Executive Officer, the President or the Treasurer except by such officer or officers, agent or agents as the Board of Directors may designate.

6.2. NOTICES.

1. Notices to directors may, and notices to stockholders shall, be in writing and delivered personally or mailed to the directors or stockholders at their addresses appearing on the books of the Corporation. Notice by mail shall be deemed to be given at the time when the same shall be mailed. Notice to directors may also be given by telegram, telecopy or orally, by telephone or in person.

2. Whenever any notice is required to be given under the provisions of the statutes or of the Certificate of Incorporation of the Corporation or of these by-laws, a written waiver of notice, signed by the person or persons entitled to said notice, whether before or after the time stated therein or the meeting or action to which such notice relates, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

6.3. CONFLICT OF INTEREST. No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, association, or other organization in which one or more of its directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the board or committee thereof which authorized the contract or transaction, or solely because his or their votes are counted for such purpose, if: (i) the material facts as to his relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee and the board or committee in good faith authorizes the contract or transaction by the affirmative vote of a majority of the

disinterested directors, even though the disinterested directors be less than a quorum; or (ii) the material facts as to his relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders of the Corporation entitled to vote thereon, and the contract or transaction as specifically approved in good faith by

vote of such stockholders; or (iii) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified, by the Board of Directors, a committee or the stockholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

6.4. VOTING OF SECURITIES OWNED BY THIS CORPORATION. Subject always to the specific directions of the Board of Directors, (i) any shares or other securities issued by any other Corporation and owned or controlled by this Corporation may be voted in person at any meeting of security holders of such other corporation by the President of this Corporation if he is present at such meeting, or in his absence by the Treasurer of this Corporation if he is present at such meeting, and (ii) whenever, in the judgment of the President, it is desirable for this Corporation to execute a proxy or written consent in respect to any shares or other securities issued by any other Corporation and owned by this Corporation, such proxy or consent shall be executed in the name of this Corporation by the President, without the necessity of any authorization by the Board of Directors, affixation of corporate seal or countersignature or attestation by another officer, provided that if the President is unable to execute such proxy or consent by reason of sickness, absence from the United States or other similar cause, the Treasurer may execute such proxy or consent. Any person or persons designated in the manner above stated as the proxy or proxies of this Corporation shall have full right, power and authority to vote the shares or other securities issued by such other corporation and owned by this Corporation the same as such shares or other securities might be voted by this Corporation.

ARTICLE VII. - INDEMNIFICATION.

7.1. RIGHT TO INDEMNIFICATION. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of being or having been a director or officer of the Corporation or serving or having served at the request of the Corporation as a director, trustee, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (an "Indemnitee"), whether the basis of such proceeding is alleged action or failure to act in an official capacity as a director, trustee, officer, employee or agent or in any other capacity while serving as a director, trustee, officer, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than permitted prior thereto) (as used in this Article 7, the "Delaware Law"), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such Indemnitee in connection therewith and such indemnification shall continue as to an Indemnitee who has ceased to be a director, trustee, officer, employee or agent and shall inure to the benefit of the Indemnitee's heirs, executors and administrators; provided, however, that, except as provided in Section7.2 hereof with respect to Proceedings to enforce rights to indemnification, the Corporation shall indemnify any such Indemnitee in connection with a Proceeding (or part

thereof) initiated by such Indemnitee only if such Proceeding (or part thereof) was authorized by the Board of Directors of the Corporation. The right to indemnification conferred in this Article 7 shall be a contract right and shall include the right to be paid by the Corporation the expenses (including attorneys' fees) incurred in defending any such Proceeding in advance of its final disposition (an "Advancement of Expenses"); provided, however, that, if the Delaware Law so requires, an Advancement of Expenses incurred by an Indemnitee shall be made only upon delivery to the Corporation of an undertaking (an "Undertaking"), by or on behalf of such Indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (a "Final Adjudication") that such Indemnitee is not entitled to be indemnified for such expenses under this Article 7 or otherwise.

7.2. RIGHT OF INDEMNITEE TO BRING SUIT. If a claim under Section7.1 hereof is not paid in full by the Corporation within sixty days after a written claim has been received by the Corporation, except in the case of a claim for an Advancement of Expenses, in which case the applicable period shall be twenty days, the Indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the Indemnitee shall be entitled to be paid also the expense of prosecuting or defending such suit. In (i) any suit brought by the Indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the Indemnitee to enforce a right to an Advancement of Expenses) it shall be a defense that, and (ii) in any suit by the Corporation to recover an Advancement of Expenses pursuant to the terms of an Undertaking the Corporation shall be entitled to recover such expenses upon a Final Adjudication that, the Indemnitee has not met the applicable standard of conduct set forth in the Delaware Law. Neither the failure of the Corporation (including its board of directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the Indemnitee is proper in the circumstances because the Indemnitee has met the applicable standard of conduct set forth in the Delaware Law, nor an actual determination by the Corporation (including its board of directors, independent legal counsel, or its stockholders) that the Indemnitee has not met such applicable standard of conduct, shall create a presumption that the Indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the Indemnitee, be a defense to such suit. In any suit brought by the Indemnitee to enforce a right to indemnification or to an Advancement of Expenses hereunder, or by the Corporation to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the burden of proving that the Indemnitee is not entitled to be indemnified, or to such Advancement of Expenses, under this Article 7 or otherwise shall be on the Corporation.

7.3. NON-EXCLUSIVITY OF RIGHTS. The rights to indemnification and to the Advancement of Expenses conferred in this Article 7 shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, the Certificate or Incorporation, by-law, agreement, vote of stockholders or disinterested directors or otherwise.

7.4. INSURANCE. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether

or not the Corporation would have the power to indemnify such person against such expense, liability or loss under this Article 7 or under the Delaware Law.

7.5. INDEMNIFICATION OF EMPLOYEES AND AGENTS OF THE CORPORATION. The Corporation may, to the extent authorized from time to time by the board of directors, grant rights to indemnification, and to the Advancement of Expenses, to any employee or agent of the Corporation to the fullest extent of the provisions of this Article 7 with respect to the indemnification and Advancement of Expenses of directors and officers of the Corporation.

ARTICLE VIII. - AMENDMENTS.

8.1. AMENDMENTS. The by-laws of the Corporation may be altered, amended or repealed at any meeting of the Board of Directors upon notice thereof in accordance with these by-laws, or at any meeting of the stockholders by the vote of the holders of the majority of the stock issued and outstanding and entitled to vote at such meeting, in accordance with the provisions of the Certificate of Incorporation of the Corporation and of the laws of Delaware.

APPROVED BY THE BOARD OF DIRECTORS: December 19, 2002

EXHIBIT 3.6

SECOND AMENDED AND RESTATED

BY-LAWS

OF

NEUROMETRIX, INC.

(the "Corporation")

ARTICLE I

STOCKHOLDERS

SECTION 1. ANNUAL MEETING. The annual meeting of stockholders (any such meeting being referred to in these By-laws as an "Annual Meeting") shall be held at the hour, date and place within or without the United States which is fixed by the Board of Directors, which time, date and place may subsequently be changed at any time by vote of the Board of Directors. If no Annual Meeting has been held for a period of thirteen months after the Corporation's last Annual Meeting, a special meeting in lieu thereof may be held, and such special meeting shall have, for the purposes of these By-laws or otherwise, all the force and effect of an Annual Meeting. Any and all references hereafter in these By-laws to an Annual Meeting or Annual Meetings also shall be deemed to refer to any special meeting(s) in lieu thereof.

SECTION 2. Notice of Stockholder Business and Nominations.

(a) Annual Meetings of Stockholders.

(1) Nominations of persons for election to the Board of Directors of the Corporation and the proposal of business to be considered by the stockholders may be made at an Annual Meeting (a) pursuant to the Corporation's notice of meeting, (b) by or at the direction of the Board of Directors or (c) by any stockholder of the Corporation who was a stockholder of record at the time of giving of notice provided for in this By-law, who is entitled to vote at the meeting, who is present (in person or by proxy) at the meeting and who complies with the notice procedures set forth in this By-law. In addition to the other requirements set forth in this By-law, for any proposal of business to be considered at an Annual Meeting, it must be a proper subject for action by stockholders of the Corporation under Delaware law.

(2) For nominations or other business to be properly brought before an Annual Meeting by a stockholder pursuant to clause (c) of paragraph (a)(1) of this By-law, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on

the 90th day nor earlier than the close of business on the 120th day prior to the first anniversary of the preceding year's Annual Meeting; provided, however, that in the event that the date of the Annual Meeting is advanced by more than 30 days before or delayed by more than 60 days after such anniversary date, notice by the stockholder to be timely must be so delivered not earlier than the close of business on the 120th day prior to such Annual Meeting and not later than the close of business on the later of the 90th day prior to such Annual Meeting or the 10th day following the day on which public announcement of the date of such meeting is first made. Notwithstanding anything to the contrary provided herein, for the first Annual Meeting following the initial public offering of common stock of the Corporation, a stockholder's notice shall be timely if delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the later of the 90th day prior to the scheduled date of such Annual Meeting or the 10th day following the day on which public announcement of the date of such Annual Meeting is first made or sent by the Corporation. Such stockholder's notice shall set forth (a) as to each person whom the stockholder proposes to nominate for election or reelection as a director, all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act") (including such person's written consent to being named in the proxy statement as a nominee and to serving as a

director if elected); (b) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting, any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made, and the names and addresses of other stockholders known by the stockholder proposing such business to support such proposal, and the class and number of shares of the Corporation's capital stock beneficially owned by such other stockholders; and (c) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, and (ii) the class and number of shares of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner.

(3) Notwithstanding anything in the second sentence of paragraph (a)(2) of this By-law to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board of Directors made by the Corporation at least 85 days prior to the first anniversary of the preceding year's Annual Meeting, a stockholder's notice required by this By-law shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation.

(b) GENERAL.

(1) Only such persons who are nominated in accordance with the provisions of this By-law shall be eligible for election and to serve as directors and only such business shall be conducted at an Annual Meeting as shall have been brought before the meeting in accordance with the provisions of this By-law. The Board of Directors or a designated committee thereof shall have the power to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the provisions of this By-law. If neither the Board of Directors nor such designated committee makes a determination as to whether any stockholder proposal or nomination was made in accordance with the provisions of this By-law, the presiding officer of the Annual Meeting shall have the power and duty to determine whether the stockholder proposal or nomination was made in accordance with the provisions of this By-law. If the Board of Directors or a designated committee thereof or the presiding officer, as applicable, determines that any stockholder proposal or nomination was not made in accordance with the provisions of this By-law, such proposal or nomination shall be disregarded and shall not be presented for action at the Annual Meeting.

(2) For purposes of this By-law, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(3) Notwithstanding the foregoing provisions of this By-law, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this By-law. Nothing in this By-law shall be deemed to affect any rights of (i) stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act or (ii) the holders of any series of Undesignated Preferred Stock to elect directors under specified circumstances.

SECTION 3. SPECIAL MEETINGS. Except as otherwise required by statute and subject to the rights, if any, of the holders of any series of Undesignated Preferred Stock, special meetings of the stockholders of the Corporation may be called only by the Board of Directors acting pursuant to a resolution approved by the affirmative vote of a majority of the Directors then in office. Only those matters set forth in the notice of the special meeting may be considered or acted upon at a special meeting of stockholders of the Corporation.

SECTION 4. NOTICE OF MEETINGS; ADJOURNMENTS. A notice of each Annual Meeting stating the hour, date and place, if any, of such Annual Meeting shall be given not less than ten (10) days nor more than sixty (60) days before the Annual Meeting, to each stockholder entitled to vote thereat by delivering such notice to such stockholder or by mailing it, postage prepaid, addressed to such stockholder at the address of such stockholder as it appears on the

Corporation's stock transfer books.

Notice of all special meetings of stockholders shall be given in the same manner as provided for Annual Meetings, except that the notice of all special meetings shall state the purpose or purposes for which the meeting has been called.

Notice of an Annual Meeting or special meeting of stockholders need not be given to a stockholder if a waiver of notice is executed before or after such meeting by such stockholder or if such stockholder attends such meeting, unless such attendance was for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting was not lawfully called or convened.

The Board of Directors may postpone and reschedule any previously scheduled Annual Meeting or special meeting of stockholders and any record date with respect thereto, regardless of whether any notice or public disclosure with respect to any such meeting has been sent or made pursuant to Section 2 of this Article I of these By-laws or otherwise. In no event shall the public announcement of an adjournment, postponement or rescheduling of any previously scheduled meeting of stockholders commence a new time period for the giving of a stockholder's notice under Section 2 of this Article I of these By-laws.

When any meeting is convened, the presiding officer may adjourn the meeting if (a) no quorum is present for the transaction of business, (b) the Board of Directors determines that adjournment is necessary or appropriate to enable the stockholders to consider fully information which the Board of Directors determines has not been made sufficiently or timely available to stockholders, or (c) the Board of Directors determines that adjournment is otherwise in the best interests of the Corporation. When any Annual Meeting or special meeting of stockholders is adjourned to another hour, date or place, notice need not be given of the adjourned meeting other than an announcement at the meeting at which the adjournment is taken of the hour, date and place, if any, to which the meeting is adjourned and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting; provided, however, that if the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, notice of the adjourned meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting shall be given to each stockholder of record entitled to vote thereat and each stockholder who, by law or under the Certificate of Incorporation of the Corporation (as the same may hereafter be amended and/or restated, the "Certificate") or these By-laws, is entitled to such notice.

SECTION 5. QUORUM. A majority of the shares entitled to vote, present in person or represented by proxy, shall constitute a quorum at any meeting of stockholders. If less than a quorum is present at a meeting, the holders of voting stock representing a majority of the voting power present at the meeting or the presiding officer may adjourn the meeting from time to time, and the meeting may be held as adjourned without further notice, except as provided in Section 5 of this Article I. At such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally noticed. The stockholders present at a duly constituted meeting may continue to transact business until

adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

SECTION 6. VOTING AND PROXIES. Stockholders shall have one vote for each share of stock entitled to vote owned by them of record according to the stock ledger of the Corporation, unless otherwise provided by law or by the Certificate. Stockholders may vote either (i) in person, (ii) by written proxy or (iii) by a transmission permitted by Section 212(c) of the Delaware General Corporation Law ("DGCL"). Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission permitted by Section 212(c) of the DGCL may be substituted for or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission. Proxies shall be filed in accordance with the procedures established for the meeting of stockholders. Except as otherwise limited therein or as otherwise provided by law, proxies authorizing a person to vote at a specific meeting shall entitle the persons authorized thereby to vote at any adjournment of such meeting, but they shall not be valid after final

adjournment of such meeting. A proxy with respect to stock held in the name of two or more persons shall be valid if executed by or on behalf of any one of them unless at or prior to the exercise of the proxy the Corporation receives a specific written notice to the contrary from any one of them.

SECTION 7. ACTION AT MEETING. When a quorum is present at any meeting of stockholders, any matter before any such meeting (other than an election of a director or directors) shall be decided by a majority of the votes properly cast for and against such matter, except where a larger vote is required by law, by the Certificate or by these By-laws. Any election of directors by stockholders shall be determined by a plurality of the votes properly cast on the election of directors. The Corporation shall not directly or indirectly vote any shares of its own stock; provided, however, that the Corporation may vote shares which it holds in a fiduciary capacity to the extent permitted by law.

SECTION 8. STOCKHOLDER LISTS. The Secretary or an Assistant Secretary (or the Corporation's transfer agent or other person authorized by these By-laws or by law) shall prepare and make, at least 10 days before every Annual Meeting or special meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for a period of at least ten (10) days prior to the meeting in the manner provided by law. The list shall also be open to the examination of any stockholder during the whole time of the meeting as provided by law.

SECTION 9. PRESIDING OFFICER. The Chairman of the Board, if one is elected, or if not elected or in his or her absence, the President, shall preside at all Annual Meetings or special meetings of stockholders and shall have the power, among other things, to adjourn such meeting at any time and from time to time, subject to Sections 5 and 6 of this Article I. The order of

business and all other matters of procedure at any meeting of the stockholders shall be determined by the presiding officer.

SECTION 10. INSPECTORS OF ELECTIONS. The Corporation shall, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the presiding officer shall appoint one or more inspectors to act at the meeting. Any inspector may, but need not, be an officer, employee or agent of the Corporation. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall perform such duties as are required by the DGCL, including the counting of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors. The presiding officer may review all determinations made by the inspectors, and in so doing the presiding officer shall be entitled to exercise his or her sole judgment and discretion and he or she shall not be bound by any determinations made by the inspectors. All determinations by the inspectors and, if applicable, the presiding officer, shall be subject to further review by any court of competent jurisdiction.

ARTICLE II

DIRECTORS

SECTION 1. POWERS. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors except as otherwise provided by the Certificate or required by law.

SECTION 2. NUMBER AND TERMS. The number of directors of the Corporation shall be fixed solely and exclusively by resolution duly adopted from time to time by the Board of Directors. The directors shall hold office in the manner provided in the Certificate.

SECTION 3. QUALIFICATION. No director need be a stockholder of the Corporation.

SECTION 4. VACANCIES. Vacancies in the Board of Directors shall be filled in the manner provided in the Certificate.

SECTION 5. REMOVAL. Directors may be removed from office in the manner provided in the Certificate.

SECTION 6. RESIGNATION. A director may resign at any time by giving

written notice to the Chairman of the Board, if one is elected, the President or the Secretary. A resignation shall be effective upon receipt, unless the resignation otherwise provides.

SECTION 7. REGULAR MEETINGS. The regular annual meeting of the Board of Directors shall be held, without notice other than this Section 7, on the same date and at the same place as the Annual Meeting following the close of such meeting of stockholders. Other regular meetings of the Board of Directors may be held at such hour, date and place as the Board of Directors may by resolution from time to time determine and publicize by means of reasonable notice given to any director who is not present at the meeting at which such resolution is adopted.

SECTION 8. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called, orally or in writing, by or at the request of a majority of the directors, the Chairman of the Board, if one is elected, or the President. The person calling any such special meeting of the Board of Directors may fix the hour, date and place thereof.

SECTION 9. NOTICE OF MEETINGS. Notice of the hour, date and place of all special meetings of the Board of Directors shall be given to each director by the Secretary or an Assistant Secretary, or in case of the death, absence, incapacity or refusal of such persons, by the Chairman of the Board, if one is elected, or the President or such other officer designated by the Chairman of the Board, if one is elected, or the President. Notice of any special meeting of the Board of Directors shall be given to each director in person, by telephone, or by facsimile, electronic mail or other form of electronic communication, sent to his or her business or home address, at least 24 hours in advance of the meeting, or by written notice mailed to his or her business or home address, at least 48 hours in advance of the meeting. Such notice shall be deemed to be delivered when hand delivered to such address, read to such director by telephone, deposited in the mail so addressed, with postage thereon prepaid if mailed, dispatched or transmitted if faxed, telexed or telecopied, or when delivered to the telegraph company if sent by telegram.

A written waiver of notice signed before or after a meeting by a director and filed with the records of the meeting shall be deemed to be equivalent to notice of the meeting. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because such meeting is not lawfully called or convened. Except as otherwise required by law, by the Certificate or by these By-laws, neither the business to be transacted at, nor the purpose of, any meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

SECTION 10. QUORUM. At any meeting of the Board of Directors, a majority of the total number of directors shall constitute a quorum for the transaction of business, but if less than a quorum is present at a meeting, a majority of the directors present may adjourn the meeting from time to time, and the meeting may be held as adjourned without further notice, except as provided in Section 9 of this Article II. Any business which might have been transacted at the meeting as originally noticed may be transacted at such adjourned meeting at which a quorum is present. For purposes of this section, the total number of directors includes any unfilled vacancies on the Board of Directors.

SECTION 11. ACTION AT MEETING. At any meeting of the Board of Directors at which a quorum is present, the vote of a majority of the directors present shall constitute action by the Board of Directors, unless otherwise required by law, by the Certificate or by these By-laws.

SECTION 12. ACTION BY CONSENT. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if all members of the Board of Directors consent thereto in writing or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the records of the meetings of the Board of Directors. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form. Such consent shall be treated as a resolution of the Board of Directors for all purposes.

SECTION 13. MANNER OF PARTICIPATION. Directors may participate in meetings of the Board of Directors by means of conference telephone or other communications equipment by means of which all directors participating in the meeting can hear each other, and participation in a meeting in accordance

herewith shall constitute presence in person at such meeting for purposes of these By-laws.

SECTION 14. COMMITTEES. The Board of Directors, by vote of a majority of the directors then in office, may designate from its number one or more committees, including, without limitation, an Executive Committee, a Compensation Committee, a Stock Option Committee, an Audit Committee and a Nominating Committee, and may delegate thereto some or all of its powers except those which by law, by the Certificate or by these By-laws may not be delegated. Except as the Board of Directors may otherwise determine, any such committee may make rules for the conduct of its business, but unless otherwise provided by the Board of Directors or in such rules, its business shall be conducted so far as possible in the same manner as is provided by these By-laws for the Board of Directors. All members of such committees shall hold such offices at the pleasure of the Board of Directors. The Board of Directors may abolish any such committee at any time. Any committee to which the Board of Directors delegates any of its powers or duties shall keep records of its meetings and shall report its action to the Board of Directors.

SECTION 14. COMPENSATION OF DIRECTORS. Directors shall receive such compensation for their services as shall be determined by a majority of the Board of Directors, or a designated committee thereof, provided that directors who are serving the Corporation as employees and who receive compensation for their services as such, shall not receive any salary or other compensation for their services as directors of the Corporation.

ARTICLE III

OFFICERS

SECTION 1. ENUMERATION. The officers of the Corporation shall consist of a President, a Treasurer, a Secretary and such other officers, including, without limitation, a Chairman of the Board of Directors, a Chief Executive Officer and one or more Vice Presidents (including

Executive Vice Presidents or Senior Vice Presidents), Assistant Vice Presidents, Assistant Treasurers and Assistant Secretaries, as the Board of Directors may determine.

SECTION 2. ELECTION. At the regular annual meeting of the Board of Directors following the Annual Meeting, the Board of Directors shall elect the President, the Treasurer and the Secretary. Other officers may be elected by the Board of Directors at such regular annual meeting of the Board of Directors or at any other regular or special meeting.

SECTION 3. QUALIFICATION. No officer need be a stockholder or a director. Any person may occupy more than one office of the Corporation at any time. Any officer may be required by the Board of Directors to give bond for the faithful performance of his or her duties in such amount and with such sureties as the Board of Directors may determine.

SECTION 4. TENURE. Except as otherwise provided by the Certificate or by these By-laws, each of the officers of the Corporation shall hold office until the regular annual meeting of the Board of Directors following the next Annual Meeting and until his or her successor is elected and qualified or until his or her earlier resignation or removal.

SECTION 5. RESIGNATION. Any officer may resign by delivering his or her written resignation to the Corporation addressed to the President or the Secretary, and such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

SECTION 6. REMOVAL. Except as otherwise provided by law, the Board of Directors may remove any officer with or without cause by the affirmative vote of a majority of the directors then in office.

SECTION 7. ABSENCE OR DISABILITY. In the event of the absence or disability of any officer, the Board of Directors may designate another officer to act temporarily in place of such absent or disabled officer.

SECTION 8. VACANCIES. Any vacancy in any office may be filled for the unexpired portion of the term by the Board of Directors.

SECTION 9. PRESIDENT. The President shall, subject to the direction of the Board of Directors, have general supervision and control of the Corporation's business. If there is no Chairman of the Board or if he or she is absent, the President shall preside, when present, at all meetings of

stockholders and of the Board of Directors. The President shall have such other powers and perform such other duties as the Board of Directors may from time to time designate.

SECTION 10. CHAIRMAN OF THE BOARD. The Chairman of the Board, if one is elected, shall preside, when present, at all meetings of the stockholders and of the Board of Directors.

The Chairman of the Board shall have such other powers and shall perform such other duties as the Board of Directors may from time to time designate.

SECTION 11. CHIEF EXECUTIVE OFFICER. The Chief Executive Officer, if one is elected, shall have such powers and shall perform such duties as the Board of Directors may from time to time designate.

SECTION 12. VICE PRESIDENTS AND ASSISTANT VICE PRESIDENTS. Any Vice President (including any Executive Vice President or Senior Vice President) and any Assistant Vice President shall have such powers and shall perform such duties as the Board of Directors or the Chief Executive Officer may from time to time designate.

SECTION 13. TREASURER AND ASSISTANT TREASURERS. The Treasurer shall, subject to the direction of the Board of Directors and except as the Board of Directors or the Chief Executive Officer may otherwise provide, have general charge of the financial affairs of the Corporation and shall cause to be kept accurate books of account. The Treasurer shall have custody of all funds, securities, and valuable documents of the Corporation. He or she shall have such other duties and powers as may be designated from time to time by the Board of Directors or the Chief Executive Officer.

Any Assistant Treasurer shall have such powers and perform such duties as the Board of Directors or the Chief Executive Officer may from time to time designate.

SECTION 14. SECRETARY AND ASSISTANT SECRETARIES. The Secretary shall record all the proceedings of the meetings of the stockholders and the Board of Directors (including committees of the Board) in books kept for that purpose. In his or her absence from any such meeting, a temporary secretary chosen at the meeting shall record the proceedings thereof. The Secretary shall have charge of the stock ledger (which may, however, be kept by any transfer or other agent of the Corporation). The Secretary shall have custody of the seal of the Corporation, and the Secretary, or an Assistant Secretary, shall have authority to affix it to any instrument requiring it, and, when so affixed, the seal may be attested by his or her signature or that of an Assistant Secretary. The Secretary shall have such other duties and powers as may be designated from time to time by the Board of Directors or the Chief Executive Officer. In the absence of the Secretary, any Assistant Secretary may perform his or her duties and responsibilities.

Any Assistant Secretary shall have such powers and perform such duties as the Board of Directors or the Chief Executive Officer may from time to time designate.

SECTION 15. OTHER POWERS AND DUTIES. Subject to these By-laws and to such limitations as the Board of Directors may from time to time prescribe, the officers of the Corporation shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as from time to time may be conferred by the Board of Directors or the Chief Executive Officer.

ARTICLE IV

CAPITAL STOCK

SECTION 1. CERTIFICATES OF STOCK. Each stockholder shall be entitled to a certificate of the capital stock of the Corporation in such form as may from time to time be prescribed by the Board of Directors. Such certificate shall be signed by the Chairman of the Board of Directors, the President or a Vice President and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary. The Corporation seal and the signatures by the Corporation's officers, the transfer agent or the registrar may be facsimiles. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed on such certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such

officer, transfer agent or registrar at the time of its issue. Every certificate for shares of stock which are subject to any restriction on transfer and every certificate issued when the Corporation is authorized to issue more than one class or series of stock shall contain such legend with respect thereto as is required by law.

SECTION 2. TRANSFERS. Subject to any restrictions on transfer and unless otherwise provided by the Board of Directors, shares of stock may be transferred only on the books of the Corporation by the surrender to the Corporation or its transfer agent of the certificate theretofore properly endorsed or accompanied by a written assignment or power of attorney properly executed, with transfer stamps (if necessary) affixed, and with such proof of the authenticity of signature as the Corporation or its transfer agent may reasonably require.

SECTION 3. RECORD HOLDERS. Except as may otherwise be required by law, by the Certificate or by these By-laws, the Corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect thereto, regardless of any transfer, pledge or other disposition of such stock, until the shares have been transferred on the books of the Corporation in accordance with the requirements of these By-laws.

SECTION 4. RECORD DATE. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date: (a) in the case of determination of stockholders entitled to vote at any meeting of stockholders, shall, unless otherwise required by law, not be more than sixty nor less than ten days before the date of such meeting and (b) in the case of any other action, shall not be more than sixty days prior to such other action. If no record date is fixed: (i) the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding

the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held and (ii) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

SECTION 5. REPLACEMENT OF CERTIFICATES. In case of the alleged loss, destruction or mutilation of a certificate of stock, a duplicate certificate may be issued in place thereof, upon such terms as the Board of Directors may prescribe.

ARTICLE V

INDEMNIFICATION

SECTION 1. DEFINITIONS. For purposes of this Article:

(a) "Corporate Status" describes the status of a person who is serving or has served (i) as a Director of the Corporation, (ii) as an Officer of the Corporation, or (iii) as a director, partner, trustee, officer, employee or agent of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise which such person is or was serving at the request of the Corporation. For purposes of this Section 1(a), an Officer or Director of the Corporation who is serving or has served as a director, partner, trustee, officer, employee or agent of a Subsidiary shall be deemed to be serving at the request of the Corporation. Notwithstanding the foregoing, "Corporate Status" shall not include the status of a person who is serving or has served as a director, officer, employee or agent of a constituent corporation absorbed in a merger or consolidation transaction with the Corporation with respect to such person's activities prior to said transaction, unless specifically authorized by the Board of Directors or the stockholders of the Corporation;

(b) "Director" means any person who serves or has served the Corporation as a director on the Board of Directors of the Corporation;

(c) "Disinterested Director" means, with respect to each Proceeding in respect of which indemnification is sought hereunder, a Director of the Corporation who is not and was not a party to such Proceeding;

(d) "Expenses" means all reasonable attorneys' fees, retainers, court costs, transcript costs, fees of expert witnesses, private investigators and professional advisors (including, without limitation, accountants and investment bankers), travel expenses, duplicating costs, printing and binding costs, costs of preparation of demonstrative evidence and other courtroom presentation aids and devices, costs incurred in connection with document review, organization, imaging and computerization, telephone charges, postage, delivery service fees, and all other disbursements, costs or expenses of the type customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, settling or otherwise participating in, a Proceeding;

(e) "Non-Officer Employee" means any person who serves or has served as an employee or agent of the Corporation, but who is not or was not a Director or Officer;

(f) "Officer" means any person who serves or has served the Corporation as an officer appointed by the Board of Directors of the Corporation;

(g) "Proceeding" means any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, inquiry, investigation, administrative hearing or other proceeding, whether civil, criminal, administrative, arbitrative or investigative; and

(h) "Subsidiary" shall mean any corporation, partnership, limited liability company, joint venture, trust or other entity of which the Corporation owns (either directly or through or together with another Subsidiary of the Corporation) either (i) a general partner, managing member or other similar interest or (ii) (A) 50% or more of the voting power of the voting capital equity interests of such corporation, partnership, limited liability company, joint venture or other entity, or (B) 50% or more of the outstanding voting capital stock or other voting equity interests of such corporation, partnership, limited liability company, joint venture or other entity.

SECTION 2. INDEMNIFICATION OF DIRECTORS AND OFFICERS. Subject to the operation of Section 4 of this Article V of these By-laws, each Director and Officer shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment) against any and all Expenses, judgments, penalties, fines and amounts reasonably paid in settlement that are incurred by such Director or Officer or on such Director's or Officer's behalf in connection with any threatened, pending or completed Proceeding or any claim, issue or matter therein, which such Director or Officer is, or is threatened to be made, a party to or participant in by reason of such Director's or Officer's Corporate Status, if such Director or Officer acted in good faith and in a manner such Director or Officer reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. The rights of indemnification provided by this Section 2 shall continue as to a Director or Officer after he or she has ceased to be a Director or Officer and shall inure to the benefit of his or her heirs, executors, administrators and personal representatives. Notwithstanding the foregoing, the Corporation shall indemnify any Director or Officer seeking indemnification in connection with a Proceeding initiated by such Director or Officer only if such Proceeding was authorized by the Board of Directors of the Corporation, unless such Proceeding was brought to enforce an Officer or Director's rights to indemnification or, in the case of Directors, advancement of Expenses under these By-laws in accordance with the provisions set forth herein.

SECTION 3. INDEMNIFICATION OF NON-OFFICER EMPLOYEES. Subject to the operation of Section 4 of this Article V of these By-laws, each Non-Officer Employee may, in the discretion of the Board of Directors of the Corporation, be indemnified by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended, against any or all Expenses, judgments, penalties, fines and amounts reasonably paid in settlement that are incurred by such Non-Officer Employee or on such Non-Officer Employee's behalf in connection with any threatened, pending or completed Proceeding, or any claim, issue or matter therein, which such Non-Officer Employee is, or is threatened to be made, a party to or

participant in by reason of such Non-Officer Employee's Corporate Status, if such Non-Officer Employee acted in good faith and in a manner such Non-Officer Employee reasonably believed to be in or not opposed to the best interests of

the Corporation and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. The rights of indemnification provided by this Section 3 shall exist as to a Non-Officer Employee after he or she has ceased to be a Non-Officer Employee and shall inure to the benefit of his or her heirs, personal representatives, executors and administrators. Notwithstanding the foregoing, the Corporation may indemnify any Non-Officer Employee seeking indemnification in connection with a Proceeding initiated by such Non-Officer Employee only if such Proceeding was authorized by the Board of Directors of the Corporation.

SECTION 4. GOOD FAITH. Unless ordered by a court, no indemnification shall be provided pursuant to this Article V to a Director, to an Officer or to a Non-Officer Employee unless a determination shall have been made that such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal Proceeding, such person had no reasonable cause to believe his or her conduct was unlawful. Such determination shall be made by (a) a majority vote of the Disinterested Directors, even though less than a quorum of the Board of Directors, (b) a committee comprised of Disinterested Directors, such committee having been designated by a majority vote of the Disinterested Directors (even though less than a quorum), (c) if there are no such Disinterested Directors, or if a majority of Disinterested Directors so directs, by independent legal counsel in a written opinion, or (d) by the stockholders of the Corporation.

SECTION 5. ADVANCEMENT OF EXPENSES TO DIRECTORS PRIOR TO FINAL DISPOSITION.

(a) The Corporation shall advance all Expenses incurred by or on behalf of any Director in connection with any Proceeding in which such Director is involved by reason of such Director's Corporate Status within ten (10) days after the receipt by the Corporation of a written statement from such Director requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by such Director and shall be preceded or accompanied by an undertaking by or on behalf of such Director to repay any Expenses so advanced if it shall ultimately be determined that such Director is not entitled to be indemnified against such Expenses. Notwithstanding the foregoing, the Corporation shall advance all Expenses incurred by or on behalf of any Director seeking advancement of expenses hereunder in connection with a Proceeding initiated by such Director only if such Proceeding was (i) authorized by the Board of Directors of the Corporation, or (ii) brought to enforce Director's rights to indemnification or advancement of Expenses under these By-laws.

(b) If a claim for advancement of Expenses hereunder by a Director is not paid in full by the Corporation within 10 days after receipt by the Corporation of documentation of Expenses and the required undertaking, such Director may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and if successful in whole or in part, such Director shall also be entitled to be paid the expenses of prosecuting such claim. The failure of the Corporation (including its Board of Directors or any committee thereof, independent legal counsel, or stockholders) to make a determination concerning the permissibility of such

advancement of Expenses under this Article V shall not be a defense to the action and shall not create a presumption that such advancement is not permissible. The burden of proving that a Director is not entitled to an advancement of expenses shall be on the Corporation.

(c) In any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that the Director has not met any applicable standard for indemnification set forth in the DGCL.

SECTION 6. ADVANCEMENT OF EXPENSES TO OFFICERS AND NON-OFFICER EMPLOYEES PRIOR TO FINAL DISPOSITION.

(a) The Corporation may, at the discretion of the Board of Directors of the Corporation, advance any or all Expenses incurred by or on behalf of any Officer and Non-Officer Employee in connection with any Proceeding in which such is involved by reason of the Corporate Status of such Officer or Non-Officer Employee upon the receipt by the Corporation of a statement or statements from such Officer or Non-Officer Employee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by such Officer and Non-Officer Employee and shall be preceded or accompanied by an undertaking by or on behalf of such to repay any Expenses so advanced if it

shall ultimately be determined that such Officer or Non-Officer Employee is not entitled to be indemnified against such Expenses.

(b) In any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that the Officer or Non-Officer Employee has not met any applicable standard for indemnification set forth in the DGCL.

SECTION 7. CONTRACTUAL NATURE OF RIGHTS.

(a) The foregoing provisions of this Article V shall be deemed to be a contract between the Corporation and each Director and Officer entitled to the benefits hereof at any time while this Article V is in effect, and any repeal or modification thereof shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any Proceeding theretofore or thereafter brought based in whole or in part upon any such state of facts.

(b) If a claim for indemnification hereunder by a Director or Officer is not paid in full by the Corporation within 60 days after receipt by the Corporation of a written claim for indemnification, such Director or Officer may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim, and if successful in whole or in part, such Director or Officer shall also be entitled to be paid the expenses of prosecuting such claim. The failure of the Corporation (including its Board of Directors or any committee thereof, independent legal counsel, or stockholders) to make a determination concerning the permissibility of such indemnification under this Article V shall not be a defense to the action

and shall not create a presumption that such indemnification is not permissible. The burden of proving that a Director or Officer is not entitled to indemnification shall be on the Corporation.

(c) In any suit brought by a Director or Officer to enforce a right to indemnification hereunder, it shall be a defense that such Director or Officer has not met any applicable standard for indemnification set forth in the DGCL.

SECTION 8. NON-EXCLUSIVITY OF RIGHTS. The rights to indemnification and advancement of Expenses set forth in this Article V shall not be exclusive of any other right which any Director, Officer, or Non-Officer Employee may have or hereafter acquire under any statute, provision of the Certificate or these By-laws, agreement, vote of stockholders or Disinterested Directors or otherwise.

SECTION 9. INSURANCE. The Corporation may maintain insurance, at its expense, to protect itself and any Director, Officer or Non-Officer Employee against any liability of any character asserted against or incurred by the Corporation or any such Director, Officer or Non-Officer Employee, or arising out of any such person's Corporate Status, whether or not the Corporation would have the power to indemnify such person against such liability under the DGCL or the provisions of this Article V.

SECTION 10. OTHER INDEMNIFICATION. The Corporation's obligation, if any, to indemnify any person under this Article V as a result of such person serving, at the request of the Corporation, as a director, partner, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise shall be reduced by any amount such person may collect as indemnification from such other corporation, partnership, joint venture, trust, employee benefit plan or enterprise.

ARTICLE VI

MISCELLANEOUS PROVISIONS

SECTION 1. FISCAL YEAR. The fiscal year of the Corporation shall be determined by the Board of Directors.

SECTION 2. SEAL. The Board of Directors shall have power to adopt and alter the seal of the Corporation.

SECTION 3. EXECUTION OF INSTRUMENTS. All deeds, leases, transfers, contracts, bonds, notes and other obligations to be entered into by the Corporation in the ordinary course of its business without director action may be executed on behalf of the Corporation by the Chairman of the Board, if one is elected, the President or the Treasurer or any other officer, employee or agent of the Corporation as the Board of Directors or Executive Committee may authorize.

SECTION 4. VOTING OF SECURITIES. Unless the Board of Directors otherwise provides, the Chairman of the Board, if one is elected, the President or the Treasurer may waive notice of and act on behalf of this Corporation, or appoint another person or persons to act as proxy or attorney in fact for this Corporation with or without discretionary power and/or power of substitution, at any meeting of stockholders or shareholders of any other corporation or organization, any of whose securities are held by this Corporation.

SECTION 5. RESIDENT AGENT. The Board of Directors may appoint a resident agent upon whom legal process may be served in any action or proceeding against the Corporation.

SECTION 6. CORPORATE RECORDS. The original or attested copies of the Certificate, By-laws and records of all meetings of the incorporators, stockholders and the Board of Directors and the stock transfer books, which shall contain the names of all stockholders, their record addresses and the amount of stock held by each, may be kept outside the State of Delaware and shall be kept at the principal office of the Corporation, at the office of its counsel or at an office of its transfer agent or at such other place or places as may be designated from time to time by the Board of Directors.

SECTION 7. CERTIFICATE. All references in these By-laws to the Certificate shall be deemed to refer to the Amended and Restated Certificate of Incorporation of the Corporation, as amended and in effect from time to time.

SECTION 8. AMENDMENT OF BY-LAWS.

(a) AMENDMENT BY DIRECTORS. Except as provided otherwise by law, these By-laws may be amended or repealed by the Board of Directors by the affirmative vote of a majority of the directors then in office.

(b) AMENDMENT BY STOCKHOLDERS. These By-laws may be amended or repealed at any Annual Meeting, or special meeting of stockholders called for such purpose, by the affirmative vote of at least 75% of the outstanding shares entitled to vote on such amendment or repeal, voting together as a single class; provided, however, that if the Board of Directors recommends that stockholders approve such amendment or repeal at such meeting of stockholders, such amendment or repeal shall only require the affirmative vote of the majority of the outstanding shares entitled to vote on such amendment or repeal, voting together as a single class. Notwithstanding the foregoing, stockholder approval shall not be required unless mandated by the Certificate, these By-laws, or other applicable law.

SECTION 9. NOTICES. If mailed, notice to stockholders shall be deemed given when deposited in the mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation. Without limiting the manner by which notice otherwise may be given to stockholders, any notice to stockholders may be given by electronic transmission in the manner provided in Section 232 of the DGCL.

SECTION 10. WAIVERS. A written waiver of any notice, signed by a stockholder or director, or waiver by electronic transmission by such person, whether given before or after the time of the event for which notice is to be given, shall be deemed equivalent to the notice required to be given to such person. Neither the business nor the purpose of any meeting need be specified in such a waiver.

Adopted June 2, 2004 and effective as of _____, ____.

EXHIBIT 3.7

SECOND CERTIFICATE OF AMENDMENT

TO THE

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

NEUROMETRIX, INC.

NeuroMetrix, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), pursuant to Section 242 of the General Corporation Law of the State of Delaware (the "DGCL") DOES HEREBY CERTIFY:

FIRST: That the Board of Directors of the Corporation (the "Board") duly adopted resolutions at a meeting held on June 2, 2004 in accordance with Section 242 of the DGCL (i) proposing an amendment to the Amended and Restated Certificate of Incorporation of the Corporation, as amended (the "Certificate of Incorporation"), (ii) declaring such amendment to be advisable, and (iii) directing that such amendment be submitted to and be considered by the stockholders of the Corporation entitled to vote thereon for approval by the affirmative vote of such stockholders. Such resolution proposed to amend the Certificate of Incorporation in the following manner:

(i) increase the total number of shares of Common Stock which the Corporation shall have authority to issue from 37,000,000 to 40,000,000.

SECOND: That thereafter, pursuant to the resolutions of the Board certified to in the preceding paragraph, the proposed amendment as set forth in this Second Certificate of Amendment was approved and duly adopted by written consent dated June 18, 2004 of the holders of outstanding shares of capital stock having not less than the minimum number of votes that would be necessary to authorize the proposed amendment at a meeting at which all shares entitled to vote thereon were present and voted, in accordance with the provisions of Sections 228 and 242 of the DGCL and the terms of the Certificate of Incorporation.

I, Shai N. Gozani, President of the Corporation, for the purpose of amending the Corporation's Certificate of Incorporation pursuant to the General Corporation Law of the State of Delaware, do make this Second Certificate of Amendment, hereby declaring and certifying that this is my act and deed on behalf of the Corporation this 21st day of June, 2004.

By: /s/ Shai N. Gozani

Name: Shai N. Gozani
Title: President

EXHIBIT 10.1

62 FOURTH AVENUE, WALTHAM
OFFICE BUILDING LEASE

TENANT: NEUROMETRIX, INC.
LANDLORD: FOURTH AVENUE LLC

TABLE OF CONTENTS

LEASE AGREEMENT

THIS LEASE made this October 18, 2000 between Fourth Avenue LLC, a Massachusetts limited liability company with offices at One Gateway Center in Newton, Massachusetts having offices at One Gateway Center, Newton, Massachusetts (the "Landlord"), and NeuroMetrix, Inc., a Massachusetts corporation, with offices located in Cambridge, Massachusetts (the "Tenant").

In consideration of the rents and the covenants to be paid and performed

by the Tenant and upon the terms and conditions of this Lease, the Landlord hereby leases to Tenant and Tenant hires from Landlord the Premises (as defined below) and as shown on the plan attached hereto as Exhibit A and made a part hereof.

1.0 REFERENCE DATA

Each reference in this Lease to any term defined in this Article shall be deemed and construed to incorporate the data stated following that term in this Article.

ADDITIONAL RENT: Sums or other charges payable by Tenant to Landlord under this Lease, other than Annual Base Rent.

ANNUAL BASE RENT:

Annual Base Monthly Rent:	Period:	Installment:
---	January 1, 2001 through December 31, 2004	$ 810,000.00 $ 67,500.00
	January 1, 2005 through March 31, 2009	$ 930,000.00 $ 77,500.00

BROKER: McPherson Corporation

BUILDING: Landlord's single-story office building, commonly referred to as 62 Fourth Avenue in Waltham, Massachusetts.

BUSINESS DAY: All days except Saturdays, Sundays and days defined as "legal holidays".

LAND: The parcel of land on which the Building and the related improvements are situated as shown on Exhibit B.

LEASE YEAR: A twelve (12) month period beginning on the Term Commencement Date or an anniversary thereof.

LANDLORD'S ADDRESS: c/o J. F. White Properties, Inc.
One Gateway Center, Newton, MA 02458

MORTGAGE: A mortgage, deed of trust, trust indenture, or other security instrument of record creating an interest in or affecting title to the Property or any part thereof, and any renewal, modification, consolidation or extension of any such instrument.

MORTGAGEE: The holder of any Mortgage.

PARKING AREAS: Those areas on the Property designated for parking as shown on Exhibit B.

PREMISES: Approximately 30,000 square feet of

	rentable area located on the ground floor of the Building, as more fully described in the Article of this Lease entitled "DESCRIPTION OF PREMISES".
PROPERTY:	The Building and the Land and any improvements on the Land.
RENT:	Annual Base Rent and Additional Rent.
SECURITY DEPOSIT:	$1,860,000.00
TENANT'S ADDRESS:	Until the Term Commencement Date, One Memorial Drive, Cambridge, MA 02142, and thereafter the Premises.
TENANT'S PROPORTIONATE SHARE OF REAL ESTATE TAXES:	100%
TERM COMMENCEMENT DATE:	January 1, 2001
TERM EXPIRATION DATE:	March 31, 2009
TERM:	A period of time commencing on the Term Commencement Date and ending on the Term Expiration Date.
USE OF THE PREMISES:	General office (including computer and data rooms used by Tenant for the conduct of Tenant's business), research and development and light assembly and for no other purpose or use.

2.0 DESCRIPTION OF PREMISES

2.1. PREMISES. The premises leased by Tenant under this Lease shall be the Premises (as the same may from time to time be constituted after changes therein, additions thereto and eliminations therefrom pursuant to rights of Landlord hereinafter reserved).

2.2. APPURTENANT RIGHTS. Tenant shall have, as appurtenant to the Premises, rights to use the Parking Areas and those roadways and walkways which are both on the Property and are

necessary for access to the Premises; provided, however, that such rights shall be subject to reasonable rules and regulations from time to time made by Landlord and communicated to Tenant, all pursuant to the Section of this Lease entitled "Rules and Regulations".

2.3. RESERVATIONS. Landlord reserves the exclusive right to use and to grant to other persons or entities designated by Landlord from time to time the right to use the perimeter walls of the Premises (except the inner surfaces thereof), any balconies, terraces or roofs adjacent to the Premises, and any spaces in or adjacent to the Premises used for serving other portions of the Building or other portions of the Property exclusively or in common with the Premises, including without limitation (where applicable) shafts, stacks, pipes, conduits, wires and appurtenant fixtures, fan rooms, ducts, electric or other utilities, sinks or other Building or Property facilities, and the use thereof, as well as the right of access through the Premises for the purpose of operation, maintenance, decoration and repair, are expressly reserved to Landlord.

Without any intended limitation, Landlord specifically reserves the right to lease or license to others rights with respect to the roof or other portions of the Building; provided however, that (i) Landlord shall not lease or license to others rights with respect to the roof or other portions of the Building for advertisement purposes, (ii) the exercise of Landlord's rights under this paragraph shall not materially adversely alter the general aesthetic appearance of the Building, (iii) Tenant shall not be obligated to pay any taxes or other charges (including, without limitation, charges for utilities) to the extent any such taxes or other charges are due solely to the exercise of Landlord's rights under this paragraph and (iv) Tenant shall not be responsible to maintain or remove any equipment which is installed on the roof or other portions of the Building solely as a result of the exercise of Landlord's rights under this paragraph nor shall Tenant be required to repair any damage to the Building to the extent such damage is due solely to such equipment or the exercise of Landlord's rights under this paragraph. In the event Landlord exercises such rights, Tenant agrees to permit Landlord and any tenant, licensee

or other designee of Landlord reasonable access in and through the Premises and other portions of the Property in order to install, maintain, repair, remove, use and otherwise have antennas or other equipment on the roof of the Building or elsewhere on the Property; provided that in no event shall such activities by the Landlord or Landlord's tenant, licensee or other designee unreasonably materially adversely interfere with the use of the Premises by Tenant for the Use of the Premises or any other right or obligation of Tenant under the Lease.

3.0 TERM OF LEASE

3.1. TERM. The term of this Lease shall be for the Term (or until such Term shall sooner cease or expire) commencing on the Term Commencement Date and ending on the Term Expiration Date.

4.0 TAKING OCCUPANCY

4.1. OCCUPANCY AS IS. Tenant acknowledges that Tenant has inspected or has had the opportunity to inspect the Premises and is satisfied in all respects thereto and Landlord shall not be required to make any repairs or improvements or perform any other work to deliver possession of the Premises to Tenant. Tenant shall accept occupancy of the Premises "as is", and any work necessary to prepare the Premises for occupancy by Tenant shall be performed by Tenant in compliance with the terms and provisions of this Lease at Tenant's own expense.

4.2. DELIVERY OF POSSESSION. If Landlord is delayed in Landlord's ability to deliver possession of all or any portion of the Premises to Tenant as otherwise required herein whether because of strikes, labor difficulties, difficulties in obtaining materials, fire, governmental regulations, or any other circumstances beyond Landlord's reasonable control (including, without limitation, the failure of existing tenants to vacate), then such delay shall not constitute a breach or default on the part of the Landlord under this Lease or give rise to any claims of damage or expenses of any kind against the Landlord by Tenant, either direct or consequential; provided that (a) Landlord shall proceed with reasonable diligence to deliver the Premises or any remaining portion thereof to the Tenant and (b) if Landlord is unable to deliver possession of the entire Premises by January 1, 2001, then Tenant's sole and exclusive remedy at law and in equity shall be that the Term Commencement Date, the Term Expiration Date and schedule of Annual Base Rent shall be adjusted to reflect any such delay and (c) if Tenant elects to occupy a portion of the Premises and Landlord consents to such occupancy of a portion of the Premises (the "Partial Premises") (which consent shall not unreasonably be with held), Tenant shall occupy such Partial Premises on all of the terms and conditions of the Lease, except that, until the entire Premises is delivered to Tenant, (i) Tenant shall pay the Landlord Annual Base Rent based on the rate of $27.00 per square foot per year for the Partial Premises, (ii) Tenant's Proportionate Share of Real Estate Taxes and all other applicable Additional Rent shall be adjusted to reflect the area of the Partial Premises relative to the area of the entire Premises, (iii) Tenant's rights to use the Parking Areas and related access ways shall be in common with other occupants of the Building and limited to use of a proportionate share of the then existing parking spaces in the Parking Areas (such proportionate share reflecting the area of the Partial Premises relative to the area of the entire Premises) and (iv) Tenant's obligations with respect to the performance of maintenance and repairs shall be limited to the Partial Premises except to the extent that other maintenance or repairs to the Premises, other portions Building or the Property are required as a result of the acts or omissions of Tenant, its agents contractors or employees.

Notwithstanding anything in the foregoing paragraph to the contrary, in the event Landlord is unable to deliver possession of the entire Premises to Tenant by April 30, 2001, Tenant shall have the right to terminate this Lease by written notice ("Termination Notice") to Landlord received on or after May 1, 2001 and prior to the earlier of (a) the date on which Landlord tenders possession of the entire Premises to Tenant or (b) May 8, 2001. The foregoing termination right shall be Tenant's sole and exclusive remedy for Landlord's failure to timely deliver possession of the entire Premises.

5.0 USE OF PREMISES

5.1. PERMITTED USE. Tenant shall occupy and use the Premises for the permitted Use of the Premises and for no other purpose. Service and utility areas (whether or not a part of the Premises) shall be used only for the particular purpose for which they are designated.

5.2. PROHIBITED USES. Tenant shall not use, permit the use of, permit anything to be done in or on or anything to be brought into or onto or kept in or on the Premises, the Building, the Property or any part of thereof (i) which would violate any covenant, agreement, term, provision or condition of this Lease, (ii) for any unlawful purpose or in any unlawful manner, or (iii) which,

in the reasonable judgment of Landlord shall in any way (a) impair or tend to impair the appearance or reputation of the Building or the Property, (b) impair or interfere with or tend to impair or interfere with any of the Building or Property services or the proper and economic

heating, cleaning, air conditioning or other servicing of the Building or the Property or any portion thereof or with the use of the Building or the Property or any portion thereof, or (c) occasion discomfort, inconvenience or annoyance to any other tenant, licensee or other occupant of the Property or any neighboring property, whether through the transmission of noise or odors or vibrations or otherwise.

No outside storage of any sort shall be permitted at any time. Tenant shall not bring or permit to be brought into or keep in or on the Premises, the Building or elsewhere on the Property any oil or any toxic, hazardous, inflammable, combustible or explosive fluids, materials, chemicals or substances, (including without limitation any hazardous substances within the meaning of Chapter 21E of the Massachusetts General Laws and any medical waste or any fluid, material, chemical or substance considered to be biologically hazardous) (except in the Premises where such are related to Tenant's use of the Premises, provided that the same are stored and handled in a proper fashion consistent with applicable legal standards), or cause or permit any odors to emanate from or permeate the Premises or any other portion of the Property.

The Property shall be maintained in a sanitary condition, and kept free of rodents and vermin. Tenant shall suitably store all trash and rubbish in the Premises, the Building or elsewhere on the Property in locations designated by Landlord from time to time.

5.3. LICENSES AND PERMITS. If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business, Tenant, at Tenant's expense, shall duly procure and maintain such license or permit and submit the same to inspection by Landlord. Tenant, at Tenant's expense, shall at all times comply with the terms and conditions of each such license or permit.

6.0 RENT

6.1. ANNUAL BASE RENT. Tenant shall pay to Landlord, without any demand, setoff or deduction, at Landlord's Address, or to such other person or at such other place as Landlord may designate by notice to Tenant, the Annual Base Rent. The Annual Base Rent shall be paid in equal Monthly Installments in advance on or before the first Business Day of each calendar month during the Term of this Lease and shall be apportioned for any fraction of a month in which the Term Commencement Date or the last day of the Term of this Lease may fall.

6.2. SECURITY DEPOSIT. It is understood that upon the execution of this Lease, Tenant shall have deposited the sum of the Security Deposit as security for the faithful performance and observance by Tenant of the terms, conditions, provisions and covenants of this Lease, it being further understood however, that said deposit is not to be considered prepaid Rent. Landlord shall hold the Security Deposit in a separate interest bearing account, which Tenant acknowledges may not be fully insured due to the amount of the Security Deposit and Landlord shall not be obligated for the loss of any uninsured portion of the Security Deposit. Provided Tenant is not in default in respect to any of the terms, conditions, provisions and covenants of this Lease, then upon Tenant's written request, Landlord shall pay to Tenant annually interest then accumulated and undisbursed on the Security Deposit. In the event Tenant defaults in respect to any of the terms, conditions, provisions and covenants of this Lease, including, but not limited to the payment of Rent, Landlord may use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any Rent or any other sum as to

which Tenant is in default or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default with respect to this Lease, including but not limited to any amount for which the Tenant is liable under the Article contained herein entitled "DEFAULT" provided, however, that such Security Deposit shall in no way be construed as liquidated damages for any default or breach of any term, condition, provision and covenant of this Lease, nor shall Landlord be required, because of said deposit, to waive its right under the Article contained herein entitled "DEFAULT" to terminate this Lease in the event of default. In the event Landlord uses, applies or retains any part or all of the Security Deposit and the Lease continues or Tenant's occupancy continues in the Premises or elsewhere on the Property, Tenant shall within ten (10) days after written notice from the Landlord make such further or other deposit of moneys as may be necessary to bring the balance of the deposit to a

sum equal the Security Deposit.

In the event the Tenant shall fully and faithfully comply with all of the terms, conditions, provisions and covenants of this Lease, the Security Deposit made hereby (or what may remain thereof) shall be returned, with interest, to Tenant after the termination of the Lease and upon delivery of possession of the Premises to Landlord.

Notwithstanding anything contained in this Section 6.2, "SECURITY DEPOSIT.", to the contrary, in place of a cash deposit or any portion thereof, the Tenant may provide Landlord with a clean irrevocable letter of credit from an Approved Financial Institution (as described below in this paragraph) in the amount set forth in Article 1.0, "REFERENCE DATA", for the defined term "SECURITY DEPOSIT:". The letter of credit and any replacement thereof shall be in a form approved by Landlord, shall be for a minimum of one year and thereafter renew automatically as set forth below and shall include a right of assignment to any successor to Landlord's interests hereunder. Such letter of credit, and any replacement thereof, shall be drawn on Imperial Bank (a California corporation with principal offices in Los Angeles, California) or other reputable financial institution qualified to do business in and having an office in Massachusetts and approved by Landlord from time to time (an "Approved Financial Institution"). In the event of a material adverse change in the financial position of any Approved Financial Institution which has issued a letter of credit hereunder, Landlord reserves the right to require that Tenant change the issuing Approved Financial Institution to another Approved Financial Institution. If the Approved Financial Institution on which the original letter of credit or any replacement letter is drawn is declared insolvent or placed into conservatorship or receivership, Tenant shall, within 10 days thereafter, replace the then-outstanding letter of credit with cash on deposit with Landlord or a like letter of credit from another Approved Financial Institution. The letter of credit shall contain a clause whereby the issuing Approved Financial Institution agrees to automatically extend the term of the letter of credit for one year periods throughout the Term unless, not less than sixty (60) days prior to the date on which the letter would expire absent such extension, the issuing Approved Financial Institution gives notice to the Landlord, by certified or registered mail, of non-extension. In the event of notice from the issuing Approved Financial Institution of non-extension, Tenant shall, not later than thirty (30) days prior to the date on which the outstanding letter shall expire, obtain a replacement letter of credit from an Approved Financial Institution, under all of the terms and conditions set forth above. Upon (i) the occurrence of a default of Tenant and written certification thereof by Landlord to the issuing Approved Financial Institution, or (ii) the failure of Tenant to replace any such letter at least thirty (30) days prior to its expiration, Landlord may at its election draw the full amount or any

part thereof, and hold, use and apply the proceeds thereof as if such proceeds were originally deposited with Landlord in cash under this Section. Landlord may elect to use such proceeds (or any excess proceeds after application) to obtain from another Approved Financial Institution a replacement letter of credit, and the cost of such replacement shall be deducted from the available balance and reimbursed by Tenant. From and after the time at which Landlord shall have drawn all or any portion of the proceeds of such a letter of credit, if Landlord shall not elect to obtain its own replacement letter of credit, Landlord shall have the right from time to time without prejudice to any other remedy Landlord may have on account thereof, to apply such proceeds, or any part thereof, to Landlord's damages arising from any then existing or subsequently occurring default of Tenant. There then existing no default of Tenant, Landlord shall return the proceeds (or, if not drawn upon, any letter of credit), or so much thereof as shall not have theretofore been applied in accordance with the terms of this Section, to Tenant on the expiration or earlier termination of the Term of this Lease and surrender of possession of the Premises by Tenant to Landlord at such time. If Landlord conveys Landlord's interest under this Lease, the proceeds (or, if not drawn upon, any letter of credit), or any part thereof not previously applied, shall be turned over by Landlord to Landlord's grantee, and, when actually tamed over, Tenant agrees to look solely to such grantee for proper application of the proceeds herewith. The holder of a mortgage shall not be responsible to Tenant for the return of any letter of credit or application of any such proceeds, whether or not it succeeds to the position of Landlord hereunder, unless such proceeds or letter of credit shall have actually been received by such holder.

Notwithstanding anything to the contrary contained in this Section 6.2, "SECURITY DEPOSIT." or the definition of the defined term "SECURITY DEPOSIT:" in Article 1.0, "REFERENCE DATA", "Tenant's Security Deposit Reduction Notice" shall be a written notice given by Tenant to Landlord after the last day of the 48th consecutive full month of the Term which notice shall include

(i) Tenant's independently audited financial statements (the

"Security Deposit Reduction Financial Statements") for the 12 consecutive full fiscal months immediately preceding the giving of Tenant's Security Deposit Reduction Notice (the "Security Deposit Reduction Analysis Period"),

(ii) a letter from a reputable accounting firm indicating that such firm has audited the Security Deposit Reduction Financial Statements and that the information contained in the Security Deposit Reduction Financial Statements is true and correct and has been prepared in accordance with Generally Accepted Accounting Principals,

(iii) a certified statement by such accounting firm that, as of the giving of Tenant's Security Deposit Reduction Notice, Tenant has, in unrestricted unencumbered cash on deposit with one or more reputable financial institutions, the greater of (a) $5,000,000.00 or (b) twice the amount of any net loss shown on the Security Deposit Reduction Financial Statements for the Security Deposit Reduction Analysis Period and

(iv) a request by Tenant that the amount shown as the definition of the defined term "SECURITY DEPOSIT:" be reduced to $1,430,000.00 in accordance with this provision.

Provided (a) Tenant is not and has not any time been in default under the Lease and no condition exists which with passage of time or the giving of notice or both would give rise to a default by Tenant under the Lease, (b) Landlord has approved Tenant's Security Deposit Reduction Notice which has been given pursuant to the immediately preceding sentence and (c) Landlord is satisfied that the information contained in Tenant's Security Deposit Reduction Notice is true and correct and Tenant does in fact have the amount of unrestricted unencumbered cash required pursuant to clause (iii) above in the immediately preceding sentence, the definition of the defined term "SECURITY DEPOSIT:" shall be amended to be $1,430,000.00 and any funds then held by Landlord as Security Deposit or the amount of any letter of credit in lieu thereof shall be adjusted between the parties as applicable to reflect such reduced amount of the Security Deposit.

6.3. TAXES. "Real Estate Taxes" shall mean all taxes, assessments and betterments, levied, assessed or imposed by any governmental authority upon the Building, the Land or any portion thereof, or arising from, or imposed on, the ownership or operation of the Building, the Land or any portion thereof, or the ownership of the tenant's interest under any ground lease and any payment in addition to or in lieu of any of the same required now or in the future. "Real Estate Taxes" shall not include any net income, capital stock, succession, transfer, franchise, gift, estate or inheritance taxes or, except to the extent due to Tenant's failure to timely pay Tenant's Proportionate Share of Real Estate Taxes, any interest or penalties incurred by Landlord as a result of Landlord's late payment of Real Estate Taxes.

Tenant shall pay to Landlord as Additional Rent "Tenant's Proportionate Share of Real Estate Taxes" of all Real Estate Taxes, prorated with respect to any portion of a fiscal year in which the Term of this Lease begins or ends. Such payments are to be made by the Tenant to the Landlord in installments corresponding to the installments in which said taxes are payable by the Landlord. Each payment shall be due and payable within ten (10) days after written notice by the Landlord to the Tenant of the amount of such installment. If Landlord shall receive any refund of any real estate taxes of which Tenant has paid a portion pursuant to this Section, then, out of any balance remaining after deducting Landlord's expenses incurred in obtaining such refund, Landlord shall pay or credit to Tenant the same proportionate share of said balance, prorated as set forth above, but in no event more than the amount paid by the Tenant with respect to the year in question. Landlord shall have no obligation to seek any such refund and Tenant shall have no right to seek or to control any abatement, dispute, or other proceeding with any governmental agencies or entities with respect to the real estate taxes as described in this Section. Tenant shall, if as and when demanded by Landlord and with each Monthly Installment of Annual Base Rent, make tax fund payments to Landlord. "Tax fund payments" refer to such payments as Landlord shall determine to be sufficient to provide in the aggregate a fund adequate to pay, when they become due and payable, all payments required from Tenant under this Section. In the event that tax fund payments are so demanded, and if the aggregate of said tax fund payments is not adequate to pay Tenant's share of such taxes, Tenant shall pay to Landlord the amount by which such aggregate is less than the amount of said share, such payment to be due and payable at the time set forth above. Any surplus tax fund payments shall be accounted for to Tenant after such surplus has been determined, and may be credited by Landlord against future tax fund payments or refunded to Tenant at Landlord's option. If during the term of this Lease or any extension thereof, a tax or excise on rents or other tax (excluding

income tax), however described, shall be levied or assessed against Landlord by the Commonwealth of Massachusetts or any political subdivision thereof on account of the rental

hereunder, such tax or excise on rents or other taxes assessed on the land and buildings of which the Premises form a part shall be deemed to constitute Real Estate Taxes for the purposes of this Section. It is also understood and agreed that the term Real Estate Taxes includes betterments and improvement assessments, provided, however, that the Landlord shall for the purposes of this Section, be deemed to have elected to pay any such assessments over the longest period of time permitted by law (whether or not the Landlord in fact makes such election), and only those installments which are or would be payable with respect to the tax years which are included in the term of this Lease or any extension thereof (with interest which is or would be payable thereon) shall be included in the Real Estate Taxes for said tax years for the purposes hereof. In the event the taxing authorities shall, during the term of this Lease, or any extension thereof, assess along with Real Estate Taxes, a personal property tax on Tenant's trade fixtures, leasehold improvements, furnishings, lighting fixtures, heating and cooling equipment, or other equipment in the Premises, the Building or elsewhere on the Property, whether or not such are owned and installed by Landlord, the taxes thus assessed shall be paid by Tenant within ten (10) days of notice by Landlord of the amount due.

Notwithstanding anything to the contrary contained above in this Section 6.3, "TAXES.", if Landlord leases or licenses to others rights with respect to the roof of the Building, Tenant shall not be obligated to pay the taxes assessed for or associated with any equipment on the roof installed by any such third party tenant or licensee or installed by Landlord for the benefit of such third party tenant or licensee.

Notwithstanding anything to the contrary contained above in this Section 6.3, "TAXES.", Tenant may by notice to Landlord ("Tenant's Abatement Notice") direct Landlord to file with the appropriate governmental authority a request for abatement of Real Estate Taxes ("Abatement Request"); provided, however, that any Tenant's Abatement Notice shall pertain to only one tax year and shall be given after the amount of Real Estate Taxes with respect to the Property for the pertinent tax year are publicly available. If after receipt of Tenant's Abatement Notice, Landlord declines to or fails to file such Abatement Request prior to the last date that such Abatement Request may be filed, Tenant may file such Abatement Request and Landlord agrees to reasonably cooperate with Tenant with respect to such Abatement Request. Whether such Abatement Request is filed by Landlord or Tenant, Tenant shall reimburse Landlord upon demand for Landlord's reasonable legal, professional, administrative, managerial and all other expenses (which expenses may include, without limitation, hourly fees for administrative and management personnel and an allocation for overhead and profit) related to any Tenant's Abatement Notice or any Abatement Request, whether or not any abatement of Real Estate Taxes actually takes place.

6.4. OPERATING EXPENSES. Intentionally omitted.

6.5. LATE PAYMENT CHARGE. If any installment of Rent or Additional Rent or any other sum due from Tenant shall not be received by Landlord on the date such installment or sum is due, Landlord reserves the right to assess, and Tenant then shall pay, a late payment charge equal to two and one half percent (2.5%) of the total amount that is in arrears, and a further late payment charge equal to two and one half percent (2.5%) of the amount then outstanding may be assessed for each additional thirty (30) day period (or any fraction thereof) that such amount remains unpaid. Acceptance of such late payment charge by Landlord shall in no event

constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of Landlord's other rights and remedies granted by this Lease.

6.6. ABSOLUTE NET LEASE. Notwithstanding anything to the contrary elsewhere in this Lease, Tenant's Rent payments shall be net to Landlord so that this Lease yields to Landlord the net Annual Base Rent, and Tenant shall pay all Annual Base Rent, Additional Rent, 100% of all costs of every kind relating to the Premises, Tenant's Proportionate Share of Real Estate Taxes and all costs of every kind relating to the Property or this Lease (including, without limitation, Landlord's Costs pursuant to Section 7.6, "LANDLORD'S RESERVATIONS.", if any, charges for all insurance carried by Landlord with respect to or relating to the Property and management fees in an amount equal to 3% of the Annual Base Rent) (but not including any expenses incurred solely as a result of any tenant or licensee with respect to the roof of the Building)

without setoff, deduction, counterclaim or defense and, except as specifically provided in this Lease, without abatement or demand.

6.7. BOOKS AND RECORDS. Within 15 days of any request by Landlord (which request shall be limited to not more than one request per fiscal quarter), Tenant shall furnish to Landlord a balance sheet as of the last day of the most recently completed fiscal quarter for which financial statements are reasonably available (but not less recent than the fiscal quarter completed within the immediately preceding 4 months) or such more recent fiscal period for which a balance sheet is reasonably available and a similarly current statement of Tenant's income and expenses for the twelve months preceding the date of the aforementioned balance sheet, both of which shall be prepared in reasonable detail in accordance with generally accepted accounting principles and certified as being true and correct by an officer or principal of Tenant. In addition to the foregoing, within 15 days of any request by Landlord, Tenant shall provide such other financial or business plan related information as Landlord shall reasonably request, including without limitation, information related to the capitalization of Tenant's business, e.g. the status of venture capital funding. If at the time Tenant furnishes Landlord with information pursuant to this Section 6.7, "BOOKS AND RECORDS.", Tenant notifies Landlord that such information is confidential, Landlord shall not willfully share such financial information with any person except those persons having a bona fide reason to know such information, e.g. Landlord's investors, lenders, appraisers and other similar persons or entities, or except as may be necessary to enforce Landlord's rights under this Lease or as may be required by a court of competent jurisdiction.

7.0 UTILITIES AND SERVICES

7.1. UTILITIES. Tenant shall, at its own expense and subject to all applicable terms and conditions of this Lease, arrange for all utilities Tenant requires for use in and about the Premises or elsewhere on the Property, including, without limitation, natural gas, electricity and water and sewer, and Tenant shall pay all charges for or relating to such utilities when due. Tenant shall pay such charges whether such charges shall be made directly by a public, quasi-public or private utility company, by a governmental authority or subdivision or department thereof or by the Landlord. Tenant shall pay any other tax or other charge imposed by any governmental authority if based on a similar service used in the Premises or elsewhere on the Property by the Tenant. Such charges, if payable to the Landlord, shall be due within 10 days of presentation of bills therefor. If Landlord shall pay any of such charges, Tenant shall reimburse Landlord upon demand.

Tenant's use of utilities shall not at any time exceed the capacity of any of the pipes, feeders, risers or other conductors or equipment in, on or otherwise serving the Premises, the Building or other portions of the Property (the "Utility Systems"). In order to insure that such capacity is not exceeded and to avert possible adverse effects upon the utility services for the Building or the Property, Tenant shall give notice to Landlord and obtain Landlord's prior written consent whenever Tenant shall connect to the Utility Systems any fixtures, appliances or pieces of equipment other than those which may be safely connected to the Utility Systems in compliance with all applicable laws, utility provider and insurance company regulations and guidelines and terms and conditions of this Lease. Any additional pipes, feeders, risers or the like and any other equipment proper and necessary in connection with such additional pipes, feeders, or risers or the like (collectively "Additional Utility Delivery Facilities") which may be necessary to meet Tenant's utility needs, shall, upon Tenant's request, be installed by Landlord at the sole cost and expense of Tenant, provided that such Additional Utility Delivery Facilities are permissible under applicable laws, utility provider and insurance company regulations and guidelines and all terms and conditions of this Lease and the installation of such Additional Utility Delivery Facilities will not cause permanent damage or injury to the Building or any other portion of the Property or cause or create a dangerous condition or unreasonably interfere with other tenants of the Building or the Property or otherwise diminish the value of the Building or the Property, all as determined by the Landlord in the Landlord's sole discretion. Tenant agrees that it will not make any alteration or material addition to the Utility Systems or related equipment in the Premises, the Building or elsewhere on the Property without the prior written consent of Landlord in each instance first obtained. Tenant, at Tenant's expense, shall purchase, install and replace all light bulbs or tubes used in the Premises or used exclusively by the Tenant in the Building or elsewhere on the Property. Landlord shall not in any way be liable or responsible to Tenant for any loss, damage or expense which Tenant may incur if the quantity, character, or supply of any utility is changed or is no longer available or suitable for Tenant's requirements.

7.2. HEATING, VENTILATION AND AIR CONDITIONING. Tenant, at the

Tenant's sole expense, shall provide such heating, ventilation and air conditioning as Tenant shall require and shall cause the Premises to remain heated, ventilated and cooled so as to prevent damage to the Building and not place a burden on the heating, ventilating or cooling systems of the Landlord (if any). Tenant shall maintain the heating, ventilating and air conditioning ("HVAC") systems serving the Premises ("HVAC Systems") in good order and repair throughout the Term, which obligation shall include, without limitation, all maintenance, repairs and replacements. Throughout the Term, Tenant shall maintain an HVAC service and preventative maintenance contract, which contract and related contractor shall be subject to Landlord's approval in all respects. Such HVAC contract shall include a requirement that the contractor provide Landlord with reasonable documentation on a quarterly basis to demonstrate that HVAC equipment maintenance and repair is being performed regularly and in accordance with applicable laws and manufacturer's recommendations. If the contractor fails to provide such documentation, Tenant shall be responsible for providing same. At the expiration or earlier termination of the Term, Tenant shall, upon Landlord's request, assign any HVAC contracts to Landlord.

Notwithstanding anything to the contrary above in this Section 7.2, "HEATING, VENTILATION, AND AIR CONDITIONING.", Tenant and Landlord agree as follows. An "HVAC Unit" shall be deemed to be a so-called "package" HVAC unit mounted on the roof and serving the Premises

exclusively, which unit can be purchased and delivered as a complete unit (as opposed to fabricated or customized in the field). The replacement of a particular HVAC Unit shall be deemed to be required (a "Required Replacement") when such HVAC Unit cannot be repaired or the cost of a particular repair to such HVAC Unit would exceed 40% of the cost to replace such HVAC Unit with a new HVAC Unit comparable in its capacity to heat, ventilate and cool.

In the event of a Required Replacement, Landlord shall be obligated to perform such Required Replacement, at Landlord's expense, provided that all of the following conditions (the "Required Replacement Preconditions") are met,

a. Tenant is not and has not at any time during the immediately preceding twelve months been in default under the Lease beyond any applicable cure period,

b. Tenant is not using and has not at any time used the Premises for any purpose that may have materially adversely affected the HVAC Systems (as determined by three competent engineers knowledgeable of HVAC systems, one working for Tenant, one working for Landlord and a third selected by the first two),

c. Tenant has complied with the provisions of the Lease which relate to maintenance of the Premises, in particular and without limitation, Tenant's obligations with respect to maintenance of the HVAC Systems,

d. Tenant is not doing and has not at any time done anything which would place an excessive burden on any of the HVAC Systems (as determined by three competent engineers knowledgeable of HVAC systems, one working for Tenant, one working for Landlord and a third selected by the first two),

e. Tenant is not using and has not at any time used any of the HVAC Systems for purposes other than those purposes for which such HVAC Systems were designed,

f. Tenant is not doing and has not at any time done any negligent act or misconduct which would give rise, directly or indirectly, to the necessity of such replacement (as determined by three competent engineers knowledgeable of HVAC systems, one working for Tenant, one working for Landlord and a third selected by the first two),

g. Landlord determines independently based on information provided by competent engineers knowledgeable of HVAC systems that such replacement HVAC Systems will provide the heating, ventilation and air conditioning that would otherwise have been provided by the HVAC Systems existing as of the Term Commencement Date in their then condition under the circumstances (e.g. the layout and use of the Premises) existing as of the Term Commencement Date (e.g. as opposed to satisfying new HVAC requirements based on changes in the Premises or other changes) (and in the event Tenant contests Landlord's determination, the matter shall be resolved by three competent engineers knowledgeable of HVAC systems, one working for Tenant, one working for Landlord and a

third selected by the first two),

h. in the case where repair costs are anticipated to exceed 40% of replacement costs, Landlord has determined independently that the cost of the repairs which would otherwise be required do in fact exceed 40% of the cost to replace the applicable HVAC Unit (and in the event Tenant contests Landlord's determination, the matter shall be resolved by three competent engineers knowledgeable of HVAC systems, one working for Tenant, one working for Landlord and a third selected by the first two),

i. in the case where the applicable HVAC Unit cannot be repaired, such fact has been determined by three competent engineers knowledgeable of HVAC systems, one working for Tenant, one working for Landlord and a third selected by the first two,

j. Notwithstanding the foregoing, Landlord shall under no circumstances be required to replace an HVAC Unit if the cost of such replacement is less than $3,000 or the HVAC Unit to be replaced was installed by Tenant after the Term Commencement Date.

Landlords obligations with respect to Required Replacements also shall be subject to all of the following.

Tenant shall notify Landlord in writing of the Required Replacement. Such notice shall include (a) original quotes from at least two reputable contractors to perform the repairs which would be required notwithstanding the Required Replacement or (b) an original letter, signed and stamped by a competent engineer knowledgeable of HVAC systems, indicating that the applicable HVAC Unit cannot be repaired. Upon receipt of such notice, Landlord shall have 30 days to establish that the Required Replacement Preconditions have been met, including, without limitation, obtaining any relevant information from any contractors and engineers as Landlord deems necessary. Tenant agrees to cooperate and coordinate with Landlord in this regard, including, without limitation, (a) responding to Landlord's requests and the requests of Landlord's contractors and engineers for information and (b) permitting Landlord and Landlord's contractors and engineers access to the Premises and the HVAC Systems and related records and other information. If and when Landlord has established that the Required Replacement Preconditions have been met, Landlord shall proceed diligently at Landlord's expense to replace the applicable HVAC Unit. Tenant agrees that Tenant shall reimburse Landlord for all costs (including without limitation, hourly fees for administrative and management personnel and an allocation for overhead and profit) (a) related to any upgrades of any HVAC Unit if the Tenant requests that the replacement of such HVAC Unit have capabilities that are new, different or in excess of the HVAC Unit being replaced and (b) if it is determined that the Required Replacement Preconditions have not been met.

7.3. ELEVATORS. Intentionally omitted.

7.4. CLEANING. Tenant, at the Tenant's sole expense shall furnish such cleaning services to the Premises or elsewhere on the Property as the Tenant may require or as required under the Lease.

7.5. OTHER MAINTENANCE AND SERVICES. Except as otherwise provided in the articles entitled "CASUALTY" and "CONDEMNATION - EMINENT DOMAIN", and in addition to Tenant's obligations in the Article contained herein entitled "MAINTENANCE OF AND IMPROVEMENTS TO PREMISES" and elsewhere in this Lease, Tenant shall (a) keep and maintain the Building in good condition and repair, including, without limitation the roof membrane, deck and structure, exterior walls and windows, structural floor slabs and columns and all utility, heating and air conditioning and other systems serving the Building, (b) keep and maintain all exterior lighting on the Property in good condition and repair, (c) keep and maintain all walkways, roadways and parking areas on the Property clean and in good condition and repair and remove all snow and ice therefrom and (d) provide grounds maintenance to all landscaped areas on the Property.

Notwithstanding anything to the contrary contained in this Section, provided that any replacement is not due (whether in whole or in part) to the failure of Tenant to perform Tenant's obligations under the Lease or the negligence or willful misconduct of any person whomsoever (other than Landlord or its agents, contractors or employees (or Landlord's tenants or licensees if and to the extent Landlord has exercised Landlord's rights pursuant to Section 2.3 of the Lease, "RESERVATIONS.")) or any change in laws, rules, orders or

regulations of federal, state, county or local governments, Tenant shall not be required to "replace" the roof membrane and Landlord, upon its own independent determination that replacement is in fact required, shall replace same. For the purposes of this Section, "replace" shall be deemed to mean the removal and replacement of more than 20% of the entire roof membrane.

7.6. LANDLORD RESERVATIONS. If Landlord is at any time exercising Landlord's rights with respect to the performance of certain work as described in the immediately following paragraph or other applicable provisions of this Lease, Landlord reserves the right to interrupt, curtail, stop or suspend the furnishing of services and the operation of any Building or Property system, when necessary by reason of accident or emergency, or of repairs, alterations, replacements or improvements in the reasonable judgment of Landlord desirable or necessary to be made, or of difficulty or inability in securing supplies or labor, or of strikes, or of any other cause beyond the reasonable control of Landlord, whether such other cause be similar or dissimilar to those herein above specifically mentioned, until said cause has been removed. Landlord shall have no responsibility or liability for any such interruption, curtailment, stoppage, or suspension of service or system, except that Landlord shall exercise reasonable diligence to eliminate the cause of same. Landlord agrees to provide reasonable notice prior to interrupting, curtailing, stopping or suspending the furnishing of services and the operation of any Building systems for the purpose of making elective alterations, replacements or improvements.

Without limiting Landlord's rights under other provisions of the Lease, Landlord specifically reserves the right for itself from time to time to perform such work as Landlord determines is reasonably necessary to (a) keep and maintain the roof membrane, deck and structure, exterior walls and windows, structural floor slabs and columns of the Building in good condition and repair, (b) keep and maintain all exterior lighting on the Property in good condition and repair, (c) keep and maintain all walkways, roadways and parking areas on the Property in good condition and repair and clean same and remove snow and ice therefrom and (d) provide grounds maintenance to landscaped areas. Landlord's exercise of such right shall not affect Tenant's other obligations under the Lease and Tenant shall reimburse Landlord for Landlord's

costs related to such maintenance, repairs and services, including without limitation, hourly fees for administrative and management personnel and an allocation for overhead and profit ("Landlord's Costs"); provided that Landlord's Costs shall be reasonable and reasonably consistent with the market in general for such maintenance, repairs and services.

With respect to payments due from Tenant to Landlord under this Lease (other than Annual Base Rent) and also in the event Landlord exercises Landlord's rights provided in the immediately preceding paragraph, Tenant shall, if, as and when demanded by Landlord and with each monthly installment of Annual Base Rent, make Operating Fund Payments to Landlord. "Operating Fund Payments" shall refer to such payments as Landlord shall determine from time to time to be sufficient to provide in the aggregate a fund adequate to pay, when they become due and payable, all payments required from Tenant under this Lease. In the event that Landlord determines at any time that the Operating Fund Payments will not be adequate to pay all payments required from Tenant under this Lease, Landlord may increase the Operating Fund Payments by the required amount and Tenant shall pay the Operating Fund Payments as so adjusted. Any surplus Operating Fund Payments shall be accounted for to Tenant after such surplus has been determined, and may be credited by Landlord against future Operating Fund Payments or refunded to Tenant at Landlord's option.

8.0 MAINTENANCE OF AND IMPROVEMENTS TO PREMISES

8.1. CHANGES OR ALTERATIONS BY LANDLORD. Landlord reserves the right, exercisable by itself or its nominee, at any time and from time to time without the same constituting an actual or constructive eviction and without incurring any liability to Tenant therefor or otherwise affecting Tenant's obligations under this Lease, to make such changes, alterations, additions, improvements, repairs or replacements in or to the Building or elsewhere on the Property and the fixtures and equipment thereof, as well as in or to the street entrances, halls, passages, elevators, and stairways thereof, as it may deem necessary or desirable, and to change the arrangement and/or location of entrances or passageways, doors and doorways, and corridors, elevators, stairs, toilets, or other public parts of the Building or other portions of the Property, provided, however, that there be no unreasonable obstruction of the right of access to, or unreasonable interference with the use and enjoyment of the Premises by Tenant. Nothing contained in this Article shall be deemed to relieve Tenant of any duty, obligation or liability of Tenant with respect to making or causing to be made any repair, replacement or improvement or complying with any law, order or requirement of any governmental or other authority. Neither this Lease nor any use by Tenant shall give Tenant any right or easement or the use of any door or

any passage or any concourse connecting with any other building or to any public convenience, and the use of such doors, passages and concourses and of such conveniences may be regulated or discontinued at any time and from time to time by Landlord without notice to Tenant and without affecting the obligations of Tenant hereunder or incurring any liability to Tenant therefor.

8.2. ALTERATIONS AND IMPROVEMENTS BY TENANT. Tenant shall make no alterations, decorations, installations, removals, additions or improvements in or to the Premises, the Building or elsewhere on the Property, nor permit any holes to be drilled or made in or on the Premises, the Building or elsewhere on the Property except in each instance in such place and manner and by contractors or mechanics all as shall first have been approved in advance and in writing by Landlord. No such installations or other work shall be undertaken or begun by Tenant until Landlord has approved written plans and specifications therefor; and no amendments or

additions to such plans and specifications shall be made without prior written consent of Landlord. Any such alteration, decoration, installation, removal, addition and improvement shall be done at the sole expense of Tenant and at such times and in such manner as Landlord may designate. If Tenant shall make any alterations, decorations, installations, removals, additions or improvements, then Landlord may elect to require Tenant, at the Tenant's expense, at the expiration of this Lease, to restore the Premises, the Building and the Property (as the case may be) to substantially the same condition as existed at the Term Commencement Date. If, prior to the installation of such items and as part of Tenant's request for Landlord's approval of such items, Tenant requests in writing that Landlord indicate whether and how Tenant will be required to restore the Premises or other portion of the Property, Landlord shall respond to Tenant in writing and Landlord shall only be able to require Tenant to perform the restoration described in such Landlord response.

Notwithstanding anything to the contrary contained in this Section, during the Term of the Lease Tenant may, without the prior approval of Landlord, perform interior non-structural alterations, provided that (1) the total cost of all such alterations in the aggregate does not exceed $25,000 in any twelve month period and (2) in advance of any such alterations (and in the instance of any change in information previously provided to Landlord, if and to the extent applicable), Tenant provides Landlord with (a) construction drawings stamped by a registered architect and showing the proposed alterations, (b) a certification stating the cost of the proposed alterations and signed by an officer of the entity constituting Tenant and (c) a building permit for the proposed alteration issued by the City of Waltham.

Subject to all applicable terms and conditions of the Lease (including, without limitation, Landlord's advance approval of plans and drawings, etc.), Landlord agrees in concept that the existing monument sign identifying the tenants and the Building from Fourth Avenue may be modified, relocated or replaced (by Tenant, at Tenant's expense) and a new sign may be installed on the Building (by Tenant, at Tenant's expense). Tenant acknowledges and agrees that Landlord's agreement in concept as described in this paragraph is subject to (among other things) applicable laws and zoning ordinances. Under no circumstances shall Landlord be deemed to be in default under the Lease if those things to which Landlord has agreed in concept are not permitted under applicable law or zoning ordinances or otherwise.

8.3. TENANT'S CONTRACTORS - MECHANICS' AND OTHER LIENS - STANDARD OF TENANT'S PERFORMANCE - COMPLIANCE WITH LAWS. Whenever Tenant shall make any alteration, decoration, installation, removal, addition or improvement or do any other work in or to the Premises, the Building or elsewhere on the Property, Tenant will strictly observe the following covenants and agreements:

(a) In no event shall any material or equipment be incorporated in or added to the Premises, the Building or any other portion of the Property in connection with any such alteration, decoration, installation, addition or improvement which is subject to any lien, charge, mortgage or other encumbrance of any kind whatsoever or is subject to any security interest or any form of title retention agreement. Any notice of contract or mechanic's or materialmen's lien filed against the Premises, the Building, the Property or any portion thereof for work claimed to have been done for, or materials claimed to have been furnished to Tenant shall be removed or discharged by Tenant within ten (10) days thereafter, at the expense of Tenant, by filing the bond required by law or otherwise. If

Tenant fails so to remove or discharge any lien, Landlord may do so at

Tenant's expense and Tenant shall reimburse Landlord for any expenses or costs incurred by Landlord in so doing within ten (10) days after rendition of a bill therefor.

(b) All installations or work done by Tenant under this or any other Article of this Lease shall be at its own expense (unless expressly otherwise provided) and shall at all times comply with (i) laws, rules, orders and regulations of governmental authorities having jurisdiction thereof; (ii) orders, rules and regulations of any insurance rating bureau if and as applicable; and (iii) plans and specifications prepared by and at the expense of Tenant and approved by Landlord prior to the commencement of any work.

(c) Tenant shall procure all necessary permits before undertaking any work in the Premises, the Building or elsewhere on the Property; do all such work in a good and workmanlike manner, employing materials of good quality and complying with all governmental requirements, and defend, save harmless, exonerate and indemnify Landlord from all injury, loss or damage to any person or property occasioned by or growing out of such work.

8.4. FIXTURES, EQUIPMENT AND IMPROVEMENTS - REMOVAL BY TENANT. All fixtures, equipment, improvements and appurtenances attached to or built into the Premises (or the Building or elsewhere on the Property with respect to Tenant's tenancy) prior to or during the Term, or any extension thereof, whether by Landlord, at its expense or at the expense of Tenant, or by Tenant shall be and remain part of the Premises and shall not be removed by Tenant at the end of the Term unless Landlord, in its sole discretion, shall request Tenant to remove any of such fixtures, equipment, improvements and appurtenances in which event Tenant shall remove such at Tenant's expense and the cost of repairing any damages to the Premises, the Building, the Property or any portion thereof (as the case may be) arising from such removal shall be paid by Tenant. Where not built into the Premises, and if furnished and installed by and at the sole expense of Tenant, all removable furniture, trade fixtures and business equipment shall not be deemed to be included in such fixtures, equipment, improvements and appurtenances and may be, and upon the request of Landlord shall be, removed by Tenant, at Tenant's expense, and the cost of repairing any damages to the Premises, the Building, the Property or any portion thereof (as the case may be) arising from such removal shall be paid by Tenant; provided, however, that any of such items toward which Landlord shall have granted any allowance or credit to Tenant (if any) shall be deemed not to have been furnished and installed in the Premises by or at the sole expense of Tenant.

8.5. REPAIRS BY TENANT. Tenant shall keep or cause to be kept the Premises, the Building and all other portions of the Property in such repair, order and condition as the same are in on the Term Commencement Date or such better condition as the they may be put in during the Term hereof, reasonable wear and tear excepted but in no event in less than good and safe condition. Without limiting the generality of the foregoing, Tenant shall keep all windows and other glass whole and in good condition, and shall replace the same whenever broken with glass of the same quality and appearance and Tenant shall keep all interior and exterior doors (including, without limitation, all related frames, hardware, locks, closers and the like) operable and in good condition.

8.6. LOCKS. Tenant agrees that it will not change, alter or replace the locks provided to the Premises or common access doors, nor will it add locks to same, without the written permission of Landlord. Tenant agrees that all repairs necessary to such locks (except such locks which are used in common with other tenants of the Building or the Property) will be at Tenant's sole expense.

8.7. TENANT'S IMPROVEMENTS AND CONDITION OF PREMISES AT TERMINATION. Upon the termination of this Lease and any extension thereof, by its own terms or otherwise, Tenant will remove its goods and effects and those of all persons claiming under the Tenant from the Premises, the Building and all other portions of the Property and will peaceably yield up to the Landlord the Premises and all other portions of the Property and all alterations, erections, additions and improvements pursuant to the Section entitled "Fixtures, Equipment and Improvements - Removal by Tenant", in good repair, order, and condition in all respects, reasonable use and wear (which for the purposes of this paragraph shall not be deemed to include holes in floors or walls or special wiring caused by the installation of Tenant's fixtures or equipment) excepted (but in no less than good and safe condition) (and with obligations relating to casualties and takings being governed by the applicable provisions of this Lease). It is further agreed and understood that at the termination of this Lease or any extension thereof, Tenant shall have restored the Premises and any portion of the Building and the Property (as the case may be) to good repair, order and condition in all respects, including but not limited to repair of all floor surfaces damaged by the removal of partitions, machinery and equipment, and

shall restore all floor areas to a good condition and repair, using materials to provide a consistent floor surface, satisfactory to Landlord; and shall have cleaned and removed accumulations of dirt and particles, oils, greases, and discolorations from all surfaces resulting from Tenant's processes and shall leave the Premises and any portion of the Building or the Property (as the case may be) broom clean.

9.0 INSURANCE, INDEMNIFICATION, EXONERATION AND EXCULPATION

9.1. TENANT'S INSURANCE. Tenant shall procure, keep in force and pay for insurance covering all claims and demands for injury to or death of persons or damage to property arising out of or related to Tenant's occupancy of the Premises. Insurance shall not be in amounts less than the following:

COMMERCIAL GENERAL LIABILITY

$ 1,000,000	combined single limit per occurrence, Coverage A
$ 1,000,000	any one person or organization, Coverage B
$ 1,000,000	products/completed operations liability aggregate
$ 5,000	medical payments
$ 50,000	fire damage legal liability
$ 2,000,000	general aggregate, applying per location, per project OR $4,000,000 general aggregate

The general liability is to be written on the 1988 Insurance Services Office form and shall extend to broad form contractual liability covering the indemnification provisions of this Lease, premises-operations liability, independent contractors liability, products and completed operations liability, personal injury liability, and host liquor liability.

UMBRELLA LIABILITY

$ 5,000,000	each occurrence
$ 5,000,000	aggregate

WORKERS' COMPENSATION

Coverage A Workers' Compensation -Statutory
Coverage B Employer's Liability - $500,000 bodily injury by accident, each accident $500,000 bodily injury by disease, each employee $1,000,000 bodily injury by disease, policy aggregate

AUTOMOBILE LIABILITY

$1,000,000 Combined single limit, each accident applying to all owned, hired and nonowned automobiles

GLASS COVERAGE

Covering all glass windows on the Property in such reasonable amounts as may be established from time to time by Landlord.

CONTENTS AND LEASEHOLD IMPROVEMENTS COVERAGE

Adequately insuring all property situated in the Premises, the Building or elsewhere on the Property and belonging to or removable by Tenant.

BUSINESS INTERRUPTION COVERAGE

Insurance shall not be less than such higher amounts as are customarily carried by responsible tenants of comparable premises in Boston or Waltham and as may be required by Landlord from time to time.

9.2. ADDITIONAL INSUREDS. The Tenant shall add the Landlord and such other entities or individuals as the Landlord may, from time to time, direct as Additional Insureds on a primary basis on Tenant's Commercial General Liability, Umbrella Liability and Automobile Liability policies.

With respect to glass, contents and leasehold improvement and business interruption coverages, the Landlord shall be named as an Additional Insured and Loss Payee As Their Interest May Appear.

9.3. CERTIFICATES OF INSURANCE. All insurance required under the Lease shall be effected with insurers authorized to do business in the Commonwealth of Massachusetts under valid and enforceable policies. Such insurance shall provide that it shall not be canceled without at least thirty (30) days prior written notice to each insured named therein. On or before the first day of the term of this Lease and thereafter not less than fifteen (15) days prior to the

expiration date of each expiring policy, original copies of the policies herein provided for, issued by the respective insurers, or certificates of such policies, setting forth in full the provisions thereof and issued by such insurers, together with evidence satisfactory to Landlord of the payment of all premiums for

such policies, shall be delivered by Tenant to Landlord, or to any additional insureds, entities or individuals as the Landlord may from time to time direct.

9.4. TENANT'S COMPLIANCE. Tenant covenants and agrees that during said term and for such further time as Tenant shall hold the Premises or any part thereof, Tenant will comply with all requirements of the Insurance Services Offices of Massachusetts and/or the Factory Mutual Engineering Association (or any similar bodies succeeding to their respective powers) and any local Board of Fire Underwriters; will not make or allow any use or occupation of the Premises, the Building or any other portion of the Property that may make any insurance on the Building or any other portion of the Property, or the contents thereof, void or voidable; and that in the event that Tenant does or permits anything to be done in the Premises, the Building or elsewhere on the Property (including, without limiting the generality of the foregoing, anything which in any way affects the sprinkler system) which: (a) is classified as a "common hazard" or "special hazard" by said Insurance Services Offices of Massachusetts (or its successor); (b) causes an aftercharge or (c) otherwise increases insurance rates and premium charges over those which would apply but for the doing of such thing, including, but without limiting the generality thereof, increases resulting from the refusal of the Factory Mutual Engineering Association (or any similar body succeeding to its business) to continue coverage of the Building, the Property or any portion thereof, then the Tenant will promptly pay to Landlord on demand all increased premium charges caused by the same for any and all of the following insurance:

insurance on the Building, the Property or any portion thereof against damage by fire, with extended coverage, demolition, sprinkler leakage and vandalism and malicious mischief endorsements; Landlord's rental insurance; use and occupancy insurance carried by any tenant of any portion of the Building or the Property; insurance on the contents of Landlord and all other tenants of the Building, the Property or any portion thereof against damage by fire (with extended coverage, sprinkler leakage and vandalism and malicious mischief endorsements) or water.

9.5. INDEMNIFICATION. To the fullest extent permitted by law (and not limited by the amounts of any insurance coverage required of Tenant under this Lease), the Tenant agrees to indemnify and hold harmless the Landlord (which term shall include, without limitation any of the officers, trustees, directors, partners, beneficiaries, joint venturers, members, stockholders or other principals or representatives, disclosed or undisclosed, of Landlord or any managing agent) and such other entities or individuals as the Landlord may, from time to time, direct as additional insureds on Tenant's general liability, umbrella liability, automobile, glass, contents and leasehold improvements and business interruption coverage policies, from and against any and all claims, liabilities, penalties, damages or expenses (including without limitation reasonable attorneys' fees) asserted against or incurred by them:

(a) on account of or based upon any injury to person, or loss of or damage to property sustained or occurring on the Premises on account of or based upon the act, omission, fault, negligence or misconduct of any person whomsoever (other than Landlord or its agents, contractors or employees);

(b) on account of or based upon any injury to person or loss of or damage to property, sustained or occurring elsewhere (other than on the Premises) in or about the

Building or elsewhere on the Property (and, in particular, without limiting the generality of the foregoing on or about the Parking Areas, stairways, public corridors, sidewalks, roof, or other, appurtenances and facilities used in connection with the Premises, the Building or other portions of the Property) arising out of the use or occupancy of the Premises, the Building or other portions of the Property by Tenant, or any person claiming by, through or under Tenant, and caused by any person other than the Landlord or its agents, contractors, or employees (or Landlord's tenants or licensees if and to the extent Landlord has exercised Landlord's rights pursuant to Section 2.3 of the Lease, "RESERVATIONS."); and

(c) on account of or based upon (including moneys due on account of) any work or thing whatsoever done (other than by Landlord or its contractors, or agents or employees of either (or Landlord's tenants or licensees if and to the extent Landlord has exercised Landlord's rights pursuant to Section 2.3 of the Lease, "Reservations.")) in the Premises, the Building or elsewhere on the Property during the Term of this Lease and during the period of time, if any, prior to the Term Commencement Date or after the Term Expiration Date or earlier date on which the Lease is terminated when Tenant may have been given access to the Premises, the Building or any other portion of the Property;

and, in case any action or proceeding be brought against Landlord by reason of any of the foregoing, Tenant, upon notice from Landlord, shall, at Tenant's expense, resist or defend such action or proceeding and employ counsel therefor reasonably satisfactory to Landlord, it being agreed that such counsel as may act for insurance underwriters of Tenant engaged in such defense shall be deemed satisfactory.

9.6. PROPERTY OF TENANT. In addition to and not in limitation of the foregoing, and subject only to provisions of applicable law, Tenant covenants and agrees that all merchandise, furniture, fixtures and property of every kind, nature and description which may be in or upon the Premises, the Building or elsewhere on the Property during the Term of this Lease, shall be at the sole risk and hazard of Tenant, and that if the whole or any part thereof shall be damaged, destroyed, stolen or removed for any cause or reason whatsoever other than the gross negligence or willful misconduct of Landlord, no part of said damage or loss shall be charged to, or borne by Landlord.

9.7. LANDLORD'S LIABILITY. Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, electrical disturbance, water, rain, ice or snow or leaks from any part of the Building or any other portion of the Property or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or caused by any other cause of whatever nature, unless caused by or due to the negligence or willful misconduct of Landlord, its agents, contractors or employees; nor shall Landlord or its agents be liable for any such damage caused by other tenants or persons in the Building or elsewhere on the Property or caused by operations in construction of any private, public or quasi-public work; nor shall Landlord be liable for any latent defect in the Premises, the Building or elsewhere on the Property. All of the limitations on Landlord's liability set forth in this Lease shall be subject to applicable law provided that, in any event, Tenant agrees to pursue and exhaust all claims under its insurance and other remedies prior to seeking reimbursement from Landlord (and to waive such claims against Landlord to the extent Tenant obtains reimbursement through its insurance or other remedies).

9.8. WAIVER OF SUBROGATION. The parties hereto shall each endeavor to procure an appropriate clause in, or endorsement on, any fire or extended coverage insurance policy covering the Premises, the Building or any other portion of the Property and personal property, fixtures and equipment located thereon or therein, pursuant to which the insurance companies waive subrogation or consent to a waiver of right of recovery, and having obtained such clauses and/or endorsements of waiver of subrogation or consent to a waiver of right of recovery each party hereby agrees that it will not make any claim against or seek to recover from the other for any loss or damage to its property or the property of others resulting from fire or other perils covered by such fire and extended coverage insurance; provided, however, that the release, discharge, exoneration and covenant not to sue herein contained shall be limited by the terms and provisions of the waiver of subrogation clauses and/or endorsements or clauses and/or endorsements consenting to a waiver of right of recovery and shall be coextensive therewith. If either party may obtain such clause or endorsement only upon payment of an additional premium, such party shall promptly so advise the other party and shall be under no obligation to obtain such clause or endorsement unless such other party pays the premium.

9.9. PROPERTY INSURANCE. Landlord shall at all times during the Term carry a policy of insurance which insures the Building for the full replacement cost thereof (subject, at Landlord's option, to commercially reasonable deductibles) against loss or damage by fire or other hazards (namely, the perils against which insurance is afforded by broad form property insurance policy "extended coverages" or, at Landlord's option, by a "special forms coverage" policy and, at Landlord's option, with traditional business interruption coverage); provided, however, that Landlord shall not be responsible for, and shall not be obligated to insure against (provided Landlord may elect by written notice to Tenant to insure against), any loss of or damage to any personal property of Tenant or which Tenant may have in the Building or elsewhere on the Property or any trade fixtures installed by or paid for by Tenant and in the

Building or elsewhere on the Property or any additional improvements which Tenant may construct in or on the Building or elsewhere on the Property, and Landlord shall not be liable for any loss or damage to such property, regardless of cause, including the negligence of Landlord and its employees, agents, contractors, customers and invitees (subject to applicable laws). The cost of the foregoing insurance and all other insurance maintained by Landlord with respect to the Property shall be deemed to be included in Landlord's Costs (described in Section 7.6, "LANDLORD'S RESERVATIONS.") and shall be reimbursed to Landlord in accordance with the terms of this Lease.

9.10. LANDLORD'S INDEMNIFICATION. Landlord agrees to indemnify and hold harmless Tenant from and against any and all claims, liabilities, penalties, damages or expenses (including without limitation reasonable attorney's fees) asserted against or incurred by Tenant on account of or based upon any injury to person, or loss of or damage to property sustained or occurring in or about the Property to the extent same are on account of or based upon the negligence or willful misconduct of Landlord or its agents, contractors or employees and not covered by insurance maintained or required to be maintained by Tenant (whichever is greater). This Section 9.10 shall not limit Tenant's obligations under Tenant's indemnification set forth in Section 9.5 and shall be subject to the limitation set forth in Section 9.9 and other applicable provisions of the Lease.

10.0 ASSIGNMENT, MORTGAGING, SUBLETTING, ETC.

Tenant covenants and agrees that neither this Lease nor the term and estate hereby granted nor any interest herein or therein, will be assigned, mortgaged, pledged, encumbered or otherwise transferred (whether voluntarily or by operation of law) and that neither the Premises, the Building, the Property nor any part thereof, will be encumbered in any manner by reason of any act or omission on the part of Tenant, or used or occupied, or permitted to be used or occupied, or utilized for any reason whatsoever, by anyone other than Tenant, or for any use or purpose other than Use of the Premises as stated in the Article contained herein entitled "REFERENCE DATA", or be sublet, or offered or advertised for subletting, without the prior written consent of Landlord in every case. Landlord agrees not to unreasonably withhold its consent provided that

(a) the Lease is in full force and effect,

(b) Tenant is not and has not at any time been in default under the Lease beyond any applicable notice and cure period and no condition known to Tenant or Landlord exists which with the passage of time would result in a default under the Lease,

(c) the financial worth of the proposed assignee or subtenant is reasonably satisfactory to Landlord, and

(d) any assignee or subtenant of the entire Premises shall assume, by written recordable instrument, in form and content satisfactory to Landlord, the due performance of all Tenant's obligations under this Lease, including any accrued obligations at the time of the assignment or subletting of the entire Premises or, in the case where a subtenant subleases a portion of the Premises, such subtenant acknowledges that the sublease is subject and subordinate to this Lease.

For purposes hereof, the transfer of a controlling interest in the corporation or other entity constituting Tenant (other than transfers of interests via a public stock exchange) shall be deemed an assignment of this Lease and Landlord's consent shall be required except as provided below.

Notwithstanding the foregoing language of this Article to the contrary, provided that

(a) the Lease is in full force and effect,

(b) Tenant is not and has not at any time been in default under the Lease beyond any applicable notice and cure period and no condition known to Tenant or Landlord exists which with the passage of time would result in a default under the Lease and

(c) the Affiliate (as defined below) shall assume, by written recordable instrument, in form and content satisfactory to Landlord (the "Assumption Document"), the due performance of all Tenant's obligations under this Lease, including any accrued obligations at the time of the assignment or subletting,

(d) At the time of the Permitted Transfer, the ultimate parent (if any) of the Affiliate shall guaranty the full performance of Tenant's obligations under the Lease in a form acceptable to Landlord, and

(e) Tenant provides Landlord with a Notice of Permitted Transfer (as described and in accordance with the provisions below),

Landlord's consent shall not be required with respect to an assignment of this Lease or subletting of the entire Premises or any portion thereof to an Affiliate for such time as such entity remains an Affiliate. The foregoing shall be deemed a "Permitted Transfer".

For purposes of this Article, the term "Affiliate" shall be deemed to mean (a) any entity which controls, is controlled by or is under common control with Tenant or (b) any person or entity having a net worth equal to or greater than the greater of (x) the net worth of Tenant upon the date of this Lease or (y) the net worth of Tenant immediately prior to the Permitted Transfer (as determined in accordance with generally accepted accounting principals) and (i) to which a controlling interest in Tenant is transferred (e.g. by transfer of capital stock), (ii) which acquires all or substantially all of the assets of Tenant (except in the case of bankruptcy) where the business of Tenant will continue to be operated as a going concern substantially the same as prior to such acquisition of such assets or (iii) which succeeds to the entire business of Tenant pursuant to a merger or consolidation, but in each of the foregoing instances under clauses (a) and (b) of this paragraph only for so long as such entity remains an "Affiliate" and thereafter Landlord's consent shall be required as otherwise provided above.

For purposes of this Article, the term "Notice of Permitted Transfer" shall be deemed to mean a notice to Landlord at least 10 Business Days in advance of any assignment or subleasing, which notice shall contain (1) the name and address of the Affiliate to which the Lease will be assigned or the entire Premises (or any portion thereof) will be sublet, (2) a description satisfactory to Landlord of the relationship between the Affiliate and Tenant, (3) evidence of the Affiliates financial condition in the form of a current balance sheet and income and expense statements (all prepared in accordance with generally accepted accounting principals and signed by an authorized officer of the Affiliate), (4) the effective date of the Permitted Transfer, (5) a copy of either (a) an assignment and assumption agreement wherein the assignee assumes all of Tenant's obligations under the Lease or (b) a sublease agreement wherein the subtenant acknowledges that the sublease is subject and subordinate to this Lease, (6) a copy of the Assumption Document (if not included as part of 5a or 5b above) and (7) a copy of the guaranty (or the guarantees, as the case may be) if applicable.

In connection with any request by Tenant for Landlord's consent to an assignment or subletting when required, Tenant shall submit to Landlord, in writing, a statement, certified as true and correct by an officer of the Tenant, containing the name of the proposed assignee, subtenant or other third party, such information as to its financial responsibility and standing as Landlord may require, all of the terms and provisions upon which the proposed transaction is to take place (including, without limitation, a letter of intent signed by both Tenant and the proposed subtenant or assignee and a copy of the applicable assignment and assumption agreement or sublease agreement to be executed, as the case may be) and such other information as Landlord may require ("Transfer Information").

The "Assignment/Sublease Consideration" shall be the consideration (including, without limitation, all forms of rent and additional rent) payable by the assignee or subtenant on account of an assignment of the Lease or sublease of all or a portion of the Premises. For the purposes of this calculation, the Assignment/Sublease Consideration shall be deemed to not include so called "pass-through" charges or charges that will be passed through to an assignee or subtenant. The following are examples (without limitation) of typical "pass-through" charges: operating expenses and real estate taxes to be paid directly by the Tenant, Landlord's Costs and Real Estate Taxes to be reimbursed to Landlord and the like.

The "Lease rent" shall be the Annual Base Rent and Additional Rent pursuant to the Lease, prorated on a per diem basis and allocated on a per square foot basis to the portion of the Premises subject to an assignment or sublease. For the purposes of this calculation, "Additional Rent" shall be deemed to not include the Assignment/Sublease Excess Rent as defined below or any pass-through charges not included in the Assignment/Sublease Consideration

pursuant to the immediately preceding paragraph.

"Tenant's Assignment/Sublease Costs" shall be deemed to include the actual out-of-pocket expenses paid by Tenant to third parties in connection with the assignment of the Lease or sublease of all or a portion of the Premises for (a) brokerage commissions, (b) legal advice procured by Tenant specifically relating to the completed assignment or sublease transaction for which Tenant's Assignment/Sublease Costs are being calculated, (c) costs paid to Landlord in conjunction with the request for Landlord's consent under this Article and (d) construction of certain improvements in the Premises (or construction "allowances" applicable for such improvements if and to the extent such improvements are actually completed). For the purpose of calculating Tenant's Assignment/Sublease Costs, such improvements in the Premises shall be deemed to specifically include only changes in the locations of walls and doors (and plumbing, electrical, HVAC, fire protection and ceiling changes related to such changes in the locations of walls and doors) and shall specifically not include changes in telecommunications or data wiring or related equipment or any other changes.

If the Assignment/Sublease Consideration exceeds the Lease rent plus Tenant's Assignment/Sublease Costs, Tenant shall pay to Landlord 100% of such excess (the "Assignment/Sublease Excess Rent"). The Assignment/Sublease Excess Rent shall (subject to receipt by Tenant of the Assignment/Sublease Consideration) be paid to the Landlord as Additional Rent in equal monthly installments during the balance of the Term with respect to an assignment and over the sublease term with respect to a sublease, and shall be payable on the first day of each month beginning with the first full month during which the assignment or sublease is effective.

Notwithstanding the foregoing provisions of this Section, except in the case of a Permitted Transfer,

(1) In the event Tenant proposes to assign this Lease or enter into a sublease such that all or substantially all of the Premises will have been sublet, Landlord, at Landlord's option, may give to Tenant, within thirty (30) days after the submission by Tenant to Landlord of the statement required to be submitted in connection therewith, a notice terminating this Lease on the date (referred to as the "Earlier Termination Date") immediately prior to the effective date of the proposed assignment or the proposed

commencement date of the term of the proposed subletting, as set forth in such statement, and, in the event such notice is given, this Lease and the Term shall come to an end and expire on the Earlier Termination Date with the same effect as if it were the date originally fixed herein for the end of the Term of this Lease, and the Rent shall be apportioned as of said Earlier Termination Date and any prepaid portion of Rent for any period after such date shall be refunded by Landlord to Tenant; or

(2) in the event Tenant proposes to sublet any portion of the Premises, Landlord, at Landlord's option, may give to Tenant, within thirty (30) days after the submission by Tenant to Landlord of the statement required to be submitted in connection with such proposed subletting, a notice electing to eliminate such portion of the Premises (said portion is referred to as the "Eliminated Space") from the Premises during the period (referred to as the "Elimination Period") commencing on the date (referred to as the "Elimination Date") immediately prior to the proposed commencement date of the term of the proposed subletting, as set forth in such statement, and ending on a date specified by Landlord, which date shall be on or after the proposed expiration date of the term of the proposed subletting, as set forth in such statement, and in the event such notice is given (i) the Eliminated Space shall be eliminated from the Premises during the Elimination Period; (ii) Tenant shall surrender the Eliminated Space to Landlord on or prior to the Elimination Date in the same manner as if said Date were the date originally fixed in this Lease for the end of the Term of this Lease; (iii) if the Eliminated Space shall constitute less than an entire floor, Landlord, at Landlord's expense, shall have the right to make any alterations and installations in the Premises required, in Landlord's judgment, reasonably exercised, to make the Eliminated Space a self-contained rental unit with access through corridors to the elevators and core toilets serving the Eliminated Space, and if the Premises shall contain any core toilets or any corridors (including any corridors proposed to be constructed by Landlord pursuant to this subdivision (iii) providing access from the Eliminated Space to the core area), Landlord and any tenant or other occupant of the Eliminated Space shall have the right to use such toilets and corridors in common with Tenant and any other permitted occupants of the Premises, and the right

to install signs and directional indicators in or about such corridors indicating the name and location of such tenant or other occupant; (iv) during the Elimination Period, the Annual Base Rent shall be reduced in the proportion which the area of the Eliminated Space bears to the total area of the Premises immediately prior to the Elimination Date (including an equitable portion of the area of any corridors referred to in subdivision (iii) of this sentence as part of the area of the Eliminated Space for the purpose of computing such reduction), and any prepaid Rent for any period after the Elimination Date allocable to the Eliminated Space shall be refunded by Landlord to Tenant; (v) there shall be an equitable apportionment of any Additional Rent payable pursuant to the Article contained herein entitled "RENT" for the relevant fiscal and calendar years in which said Elimination Date shall occur; and (vi) if the Elimination Period shall end prior to the Term Expiration Date, the Eliminated Space, in its then existing condition, shall be deemed restored to and once again a part of the Premises subject to the provisions of this Lease as if said elimination had not occurred during the period (referred to as the "Restoration Period") commencing on the date next following the expiration of the Elimination Period and ending on the Term Commencement Date, except in the event that Landlord is unable to give Tenant possession of the Eliminated

Space at the expiration of the Elimination Period by reason of the holding over or retention of possession of any tenant or other occupant, in which event (x) the Restoration Period shall not commence, and the Eliminated Space shall not be deemed restored to or a part of the Premises, until the date upon which Landlord shall give Tenant possession of such Space free of occupancies, (y) neither the date fixed in this Lease for the end of the Term of the Lease, nor the validity of this Lease shall be affected, and (z) Tenant waives any right to recover any damages which may result from the failure of Landlord to deliver possession of the Eliminated Space at the end of the Elimination Period.

Notwithstanding the foregoing language in this Article, Landlord shall not be entitled to exercise Landlord's option to eliminate a portion of the Premises from the Premises with respect to any sublease the term of which begins prior January 1, 2005.

At the request of Landlord, Tenant shall execute and deliver an instrument or instruments, in form satisfactory to Landlord, setting forth any modifications to this Lease contemplated in or resulting from the operation of the foregoing provisions of this Article; however, neither Landlord's failure to request any such instrument nor Tenant's failure to execute or deliver any such instrument shall vitiate the effect of the foregoing provisions of this Article. The failure by Landlord to exercise its options under this Article with respect to any assignment or subletting shall not be deemed a waiver of such option with respect to any extension of such sublease or any subsequent assignment or subletting.

Tenant shall reimburse Landlord promptly, as Additional Rent, for Landlord's reasonable legal, professional, administrative, managerial and all other expenses (which expenses may include, without limitation, hourly fees for administrative and management personnel and an allocation for overhead and profit) related to any Notice of Permitted Transfer and any request by Tenant for any consent required under the provisions of this Article, whether or not any Permitted Transfer or proposed assignment or sublease actually takes place. Along with Tenant's written request for consent or Notice of Permitted Transfer, Tenant shall deliver to Landlord a nonrefundable assignment/sublease review fee of $1,500 which shall be applied against such expenses.

The listing of any name other than that of Tenant, whether at any door of the Premises or in or on any Building or Property directory, or otherwise, shall not operate to vest any right or interest in this Lease or in the Premises or be deemed to be the written consent of Landlord mentioned in this Article, it being expressly understood that any such listing is a privilege extended by Landlord revocable at will by written notice to Tenant.

If this Lease be assigned, or if the Premises or any part thereof be sublet or occupied by anybody other than Tenant, Landlord may at any time and from time to time, collect Rent and other charges from the assignee, subtenant or occupant, and apply the net amount collected to the Rent and other charges herein reserved, but no such assignment or collection shall be deemed a waiver of this covenant, or the acceptance of the assignee, subtenant or occupant as a tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained. The consent by Landlord to an assignment or subletting or occupancy shall not in any way be construed to relieve Tenant from obtaining the express consent in writing of Landlord to any further assignment or subletting or occupancy.

Notwithstanding any consent by Landlord and notwithstanding any Permitted Transfer, no assignment or subletting of the Premises by Tenant shall relieve Tenant from Tenant's obligation to pay Rent to Landlord or from Tenant's obligation to observe or perform any and all of the terms, provisions, covenants and conditions of this Lease.

11.0 MISCELLANEOUS COVENANTS

11.1. RULES AND REGULATIONS. Tenant and Tenant's servants, employees, agents, visitors and licensees will faithfully observe such Rules and Regulations as are attached hereto as Exhibit C and made a part hereof or as Landlord hereafter at any time or from time to time may make and which in the reasonable judgment of Landlord shall be necessary for the reputation, safety, care or appearance of the Building or other portions of the Property, or the preservation of good order therein, or the operation or maintenance of the Building or other portions of the Property, or the equipment thereof, or the comfort of tenants or others in the Building or other portions of the Property, provided, however, that in the case of any conflict between the provisions of this Lease and any such Rules and Regulations, the provisions of this Lease shall control, and provided further that nothing contained in this Lease shall be construed to impose upon Landlord any duty or obligation to enforce such Rules and Regulations or the terms, covenants or conditions in any other lease as against any other tenant and Landlord shall not be liable to Tenant for violation of the same by any other tenant, its servants, employees, agents, visitors, invitees or licensees.

11.2. NUISANCE. Tenant shall not permit any nuisance or use or practice on or about the Premises, the Building or elsewhere on the Property which is in violation of the Landlord's rules and regulations or any municipal ordinance, law, rule or regulation or any State or Federal laws or which unreasonably interferes with or is an unreasonable annoyance to the peaceful possession or proper use of the premises of other tenants or occupants; the determination of such interference or annoyance to be at the sole discretion of the Landlord.

11.3. ACCESS TO PREMISES. Tenant shall: (i) permit Landlord to erect, use and maintain pipes, wires, ducts and conduits in and through the Premises, provided the same do not materially reduce the floor area or materially adversely affect the appearance thereof or materially adversely interfere with Tenant's use of the Premises for the Use of the Premises; (ii) permit the Landlord and any Mortgagee to have free and unrestricted access to and to enter upon the Premises at all reasonable hours for the purposes of inspecting equipment (including, without limitation, sanitary, electrical, heating, air conditioning or other systems) or making repairs, replacements or improvements in or to the Premises, the Building or elsewhere on the Property or complying with all laws, orders and requirements of governmental or other authority or of exercising any right reserved to Landlord by this Lease (including the right during the progress of any such repairs, replacements or improvements or while performing work and furnishing materials in connection with compliance with any such laws, orders or requirements to take upon or through, or to keep and store within, the Premises all necessary materials, tools and equipment); and (iii) permit Landlord, at reasonable times and upon reasonable prior notice (which notice need only be reasonable given the applicable circumstances and need not be in writing or given in strict compliance with Article 23.0 hereof, "BILLS AND NOTICES"), to show the Premises during ordinary business hours to any Mortgagee, prospective purchaser of any interest of Landlord in the Building, the Property or any portion thereof, prospective Mortgagee, or prospective assignee of any Mortgage, and during the period of twelve months

next preceding the Term Expiration Date to any person contemplating the leasing of the Premises or any part thereof. If during the last month of the Term, Tenant shall have removed substantially all of Tenant's property from the Premises, Landlord may immediately enter and alter, renovate and redecorate the Premises, without elimination or abatement of Rent, or incurring liability to Tenant for any compensation, and such acts shall have no effect upon this Lease. If Tenant shall not be personally present to open and permit any entry into the Premises at any time when for any reason an entry therein shall be necessary or permissible, Landlord or Landlord's agents must nevertheless be able to gain such entry by contacting a responsible representative of Tenant, whose name, address and telephone number shall be furnished by Tenant. Landlord shall exercise its rights of access to the Premises permitted under any of the terms and provisions of this Lease in such manner as to minimize, to the extent practicable, interference with Tenant's use and occupation of the Premises. If an excavation shall be made or authorized by the Landlord to be made upon the Property, Tenant shall afford, to the person causing or authorized to cause such

excavation, license to enter upon the Premises for the purpose of doing such work as said person shall deem necessary to preserve the Building, the Property or any portion thereof from injury or damage and to support the same by proper foundations without any claim for damage or indemnity against Landlord, or diminution or abatement of Rent.

11.4. ACCIDENTS TO SANITARY AND OTHER SYSTEMS. Tenant shall give to Landlord prompt notice of any fire or accident in the Premises, the Building or elsewhere on the Property and of any damage to, or defective condition in, any part or appurtenance of the Building's or the Property's sanitary, electrical, heating and air conditioning or other systems located in, or passing through, the Premises.

11.5. SIGNS, BLINDS AND DRAPES. Tenant shall not place any signs on the exterior of the Building or elsewhere on the Property or on or in any window, public corridor or door visible from the exterior of the Premises. No drapes or blinds may be put on or in any window nor may any drapes or blinds be removed by Tenant without the prior written consent of Landlord in each instance, which consent shall not unreasonably be withheld or delayed.

11.6. ESTOPPEL CERTIFICATE. Tenant shall at any time and from time to time upon not less than fifteen (15) days' prior notice by Landlord or by a Mortgagee to Tenant, execute, acknowledge and deliver to the party making such request a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), and the dates to which Rent has been paid in advance, if any, and stating whether or not to the best knowledge of the signer of such certificate Landlord is in default in performance of any covenant, agreement, term, provision or condition contained in this Lease and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by any prospective purchaser of any interest in the Building, the Property or any portion thereof, any Mortgagee or prospective Mortgagee, any tenant or prospective tenant thereof, any prospective assignee of any Mortgage, or any other party designated by Landlord. The form of any such estoppel certificate requested by a Mortgagee shall be satisfactory to such Mortgagee.

11.7. REQUIREMENTS OF LAW - FINES AND PENALTIES. Tenant at its sole expense shall comply with all laws, rules, orders and regulations of federal, state, county and local

governments (including without limitation, the Americans with Disabilities Act, Public Law 101-336, 42 U.S.C. Sections 12101 et seq., as amended; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended; the Comprehensive Environmental Response, Compensation and Responsibility Act of 1980, codified in scattered sections of 26 U.S.C., 33 U.S.C., 42 U.S.C. and 42 U.S.C. Section 9602 et seq., as amended; the Toxic Substances Control Act, 15 U.S.C. Section 2061 et seq., as amended; the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, M.G.L. c.21E, as amended; and the Massachusetts Hazardous Waste Management Act, M. G. L. c.21 C, as amended) and with any direction of any public officer or officers, pursuant to law, which shall impose any duty upon Landlord or Tenant with respect to and arising out of Tenant's use or occupancy of the Premises, the Building or any other portion of the Property. If Tenant receives notice of any violation of law, ordinance, order or regulation applicable to the Premises, the Building or any other portion of the Property, it shall give prompt notice thereof to Landlord.

11.8. FLOOR LOADING. Tenant shall not place a load upon any floor of the Premises, the Building or other portion of the Property exceeding the floor load per square foot area which such floor was designed to carry and which is allowed by law. Landlord reserves the right to prescribe the weight and position of all equipment and fixtures, including computers and safes, which shall be placed so as to distribute weight and which shall be placed and maintained by Tenant at Tenant's expense in settings sufficient in Landlord's judgment to absorb and prevent vibration, noise and annoyance.

11.9. TENANT'S ACCESS. Subject to such reasonable rules and regulations as Landlord may impose from time to time, and causes beyond Landlord's reasonable control, Tenant shall have the right, during the Term of the Lease, to have access to the Premises, twenty-four hours per day, seven days per week. Any rules, regulations, mechanisms or procedures of Landlord with respect to controlling or regulating access to the Premises, the Building or other portions of the Property shall not be interpreted as imposing any duty on the Landlord to provide security for the Premises, the Building or any portion of the Property or any person in the Premises, the Building or elsewhere on the Property.

12.0 PARKING

Tenant's use of the Parking Areas shall be solely by Tenant's employees and visitors, provided Landlord shall not be liable to Tenant and this Lease shall not be affected if any parking rights of Tenant hereunder are impaired by any law, ordinance or other governmental regulation imposed after the date of the execution of this Lease.

13.0 CASUALTY

In the event of loss of, or damage to, the Premises, the Building or other portion of the Property by fire or other casualty, the rights and obligations of the parties hereto shall be as follows:

(a) If the Premises, or any part thereof, shall be damaged by fire or other casualty, Tenant shall give prompt notice thereof to Landlord, and Landlord, upon receiving such notice, shall proceed promptly and with due diligence, subject to unavoidable delays and the terms of this Article 13.0, to repair, or cause to be repaired,

such damage; provided that Landlord shall not be required (i) to repair any Tenant improvements except to the extent that, at least 30 days prior to the fire or other casualty, Landlord receives notice of such improvements, proof of the costs thereof and such other information as Landlord's insuror may require and (ii) to expend in excess of the net insurance proceeds obtained by Landlord and made available to Landlord for such repairs less all costs and expenses including adjustor's and attorney's fees of obtaining such insurance proceeds. In addition, Landlord's obligations shall be subject to the rights of Mortgagees, applicable laws, including, without limitation, zoning laws and building codes then in existence, and insurance regulations. If the Premises or any part thereof shall be rendered untenantable by reason of such damage, whether to the Premises or to the Building, Annual Base Rent shall proportionately abate for the period from the date of such damage to the date when such damage shall have been repaired.

(b) If, as a result of fire or other casualty, the whole or a substantial portion of the Building or the Property is rendered untenantable, Landlord, within ninety (90) days from the date of such fire or casualty, may terminate this Lease by notice to Tenant, specifying a date not less than twenty (20) nor more than forty (40) days after the giving of such notice on which the Term of this Lease shall terminate. If Landlord does not so elect to terminate this Lease, then Landlord shall proceed with diligence to repair the damage to the Premises and all facilities serving the same, if any, which shall have occurred, and the Annual Base Rent shall meanwhile proportionately abate, all as provided in Paragraph (a) of this Article. However, if such damage is not repaired and the Premises restored to substantially the same condition as they were prior to such damage within twelve (12) months from the date of such damage, Tenant within thirty (30) days from the expiration of such twelve (12) month period or from the expiration of any extension thereof by reason of unavoidable delays as hereinafter provided, may terminate this Lease by notice to Landlord, specifying a date not more than sixty (60) days after the giving of such notice on which the Term of this Lease shall terminate. The period within which the required repairs may be accomplished shall be extended by the number of days, not to exceed one hundred eighty (180) days, lost as a result of unavoidable delays, which term shall be defined to include all delays referred to in the Article contained herein entitled "INABILITY TO PERFORM - EXCULPATORY CLAUSE".

(c) Landlord shall not be required to repair or replace any of Tenant's business machinery, equipment, cabinet work, furniture, personal property or other installations, and no damages, compensation or claim shall be payable by Landlord for inconvenience, loss of business or annoyance arising from any repair or restoration of the Premises, the Building, the Property or any portion thereof.

(d) The provisions of this Article shall be considered an express agreement governing any instance of damage or destruction of the Premises, the Building, the Property or any portion thereof by fire or other casualty, and any law now or hereafter in force providing for such a contingency in the absence of express agreement shall have no application.

(e) In the event of any termination of this Lease pursuant to this Article, the Term of this Lease shall expire as of the effective termination date as fully and

completely as if such date were the date originally fixed herein for the end of the Term of this Lease. Tenant shall have access to the Premises for a period of thirty (30) days after the date of termination in order to remove Tenant's personal property.

(f) Landlord's Architect's certificate, given in good faith, shall be deemed conclusive of the statements therein contained and binding upon Tenant with respect to the performance and completion of any repair or restoration work undertaken by Landlord pursuant to this Article or the Article contained herein entitled "CONDEMNATION - EMINENT DOMAIN".

14.0 CONDEMNATION -EMINENT DOMAIN

In the event that the Building, the Property or any portion thereof shall be taken or appropriated by eminent domain or shall be condemned for any public or quasi-public use, or (by virtue of any such taking, appropriation or condemnation) shall suffer any damage (direct, indirect or consequential) for which Landlord or Tenant shall be entitled to compensation, then (and in any such event) this Lease and the term hereof may be terminated at the election of Landlord by a notice in writing of its election so to terminate which shall be given by the Landlord to Tenant within sixty (60) days following the date on which Landlord shall have received notice of such taking, appropriation or condemnation. In the event that the entire Premises or a portion of the Premises or the access to the Premises shall be so taken, appropriated or condemned such that Tenant shall be precluded from effectively utilizing the Premises, then (and in any such event) this Lease and the Term hereof may be terminated at the election of Tenant by a notice in writing of its election so to terminate which shall be given by Tenant to Landlord within sixty (60) days following the date on which Tenant shall have received notice of such taking, appropriation or condemnation.

Upon the giving of any such notice of termination (either by Landlord or Tenant) this Lease and the Term hereof shall terminate on or retroactively as of the date on which Tenant shall be required to vacate any part of the Premises or shall be deprived of a substantial part of the means of access thereto, provided, however, that Landlord may in Landlord's notice elect to terminate this Lease and the Term hereof retroactively as of the date on which such taking, appropriation or condemnation became legally effective. In the event of any such termination, this Lease and the Term hereof shall expire as of the effective termination date as fully and completely as if such date were the date originally fixed herein for the end of the Term of this Lease. If neither party (having the right so to do) elects to terminate, Landlord will, with reasonable diligence and at Landlord's expense, restore the remainder of the Premises, or the remainder of the means of access, as nearly as practical to the same condition as obtained prior to such taking, appropriation or condemnation in which event (i) a just proportion of the Annual Base Rent, according to the nature and extent of the taking, appropriation or condemnation and the resulting permanent injury to the Premises and the means of access thereto, shall be permanently abated, and (ii) a just proportion of the remainder of the Annual Base Rent, according to the nature and extent of the taking, appropriation or condemnation and the resultant injury sustained by the Premises and the means of access thereto, shall be abated until what remains of the Premises and the means of access thereto shall have been restored as fully as may be for permanent use and occupation by Tenant hereunder.

Except for any award specifically reimbursing Tenant for moving or relocation expenses or leasehold improvements made by Tenant at Tenant's sole expense and except for any award specifically made to Tenant for interruption of Tenant's business, there are expressly reserved to Landlord all rights to compensation and damages created, accrued or accruing by reason of any such taking, appropriation or condemnation. In implementation and in confirmation of which Tenant does hereby acknowledge that Landlord shall be entitled to receive and retain all such compensation and damages, grants to Landlord all and whatever rights (if any) Tenant may have to such compensation and damages, and agrees to execute and deliver all and whatever further instruments of assignment as Landlord may from time to time request. In the event of any taking of the Premises or any part thereof for temporary use, (i) this Lease shall be and remain unaffected thereby, and (ii) Tenant shall be entitled to receive for itself any award made for such use, provided, that if any taking is for a period extending beyond the Term of this Lease, such award shall be apportioned between Landlord and Tenant as of the Term Expiration Date.

15.0 DEFAULT

15.1. CONDITIONS OF LIMITATION - RE-ENTRY - TERMINATION. This Lease and the herein term and estate are upon the condition that if (a) Tenant shall neglect or fail to perform or observe any of the Tenant's covenants herein, including (without limitation) the covenants with regard to the payment when due of Rent; or (b) Tenant shall be involved in financial difficulties as evidenced by an admission in writing by Tenant of Tenant's inability to pay its debts generally as they become due, or by the making or offering to make a composition of its debts with its creditors; or (c) Tenant shall make an assignment or trust mortgage, or other conveyance or transfer of like nature, of all or a substantial part of its property for the benefit of its creditors, or (d) the leasehold hereby created shall be taken on execution or by other process of law and shall not be revested in Tenant within sixty (60) days thereafter; or (e) a receiver, sequester, trustee or similar officer shall be appointed by a court of competent jurisdiction to take charge of all or a substantial part of Tenant's property and such appointment shall not be vacated within sixty (60) days; or (f) any proceeding shall be instituted by or against Tenant pursuant to any of the provisions of any Act of Congress or State law relating to bankruptcy, reorganization, arrangements, compositions or other relief from creditors, and, in the case of any such proceeding instituted against it, if Tenant shall fail to have such proceeding dismissed within thirty (30) days or if Tenant is adjudged bankrupt or insolvent as a result of any such proceeding; or (g) any event shall occur or any contingency shall arise whereby this Lease, or the term and estate thereby created, would (by operation of law or otherwise) devolve upon or pass to any person, firm or corporation other than Tenant, except as expressly permitted under the Article of this Lease entitled "ASSIGNMENT, MORTGAGING, SUBLETTING, ETC." or (h) Tenant shall vacate all or substantially all of the Premises and fail to maintain the Property as required under the Lease; then, and in any such event Landlord may, in a manner consistent with applicable law, immediately or at any time thereafter declare this Lease terminated by notice to Tenant or, without further demand or notice, enter into and upon the Premises (or any part thereof in the name of the whole), and in either such case (and without prejudice to any remedies which might otherwise be available for arrears of Rent or other charges due hereunder or preceding breach of covenant and without prejudice to Tenant's liability for damages as hereinafter stated), this Lease shall terminate. The words "re-entry" and "re-enter" as used in this Lease are not restricted to their technical legal meaning. As used in items (b), (c), (e) and (d)

of this Section, the term "Tenant" shall also be deemed to refer to any guarantor of Tenant's obligations hereunder.

15.2. DAMAGES - TERMINATION. Upon the termination of this Lease under the provisions of this Article, Tenant shall pay to Landlord the Rent payable by Tenant to Landlord up to the time of such termination, shall continue to be liable for any preceding breach of covenant, and in addition, shall pay to Landlord as damages, at the election of Landlord either:

(x) the amount by which, at the time of the termination of this Lease (or at any time thereafter if Landlord shall have initially elected damages under Subparagraph (y), below), (i) the aggregate of the Rent projected over the period commencing with such time and ending on the originally-scheduled Term Expiration Date as stated in the Article of this Lease entitled "REFERENCE DATA" exceeds (ii) the aggregate projected fair market rental value of the Premises for such period, or,

(y) amounts equal to the Rent which would have been payable by Tenant had this Lease not been so terminated, payable upon the due dates therefor specified herein following such termination and until the originally-scheduled Term Expiration Date as specified in the Article of this Lease entitled "REFERENCE DATA", provided, however, if Landlord shall re-let the Premises during such period, that Landlord shall credit Tenant with the net rents received by Landlord from such re-letting, such net rents to be determined by first deducting from the gross rents as and when received by Landlord from such re-letting the expenses incurred or paid by Landlord in terminating this Lease, as well as the expenses of re-letting, including altering and preparing the Premises for new tenants, brokers' commissions, and all other similar and dissimilar expenses properly chargeable against the Premises and the rental therefrom, it being understood that any such re-letting may be for a period equal to or shorter or longer than the remaining term of this Lease; and provided, further, that (i) in no event shall Tenant be entitled to receive any excess of such net rents over the sums payable by Tenant to Landlord hereunder and (ii) in no event shall Tenant be entitled in any suit for the collection of damages pursuant to this Subparagraph (y) to a credit in respect of any net rents from a re-letting except to the extent that such net rents are actually received by Landlord prior to the commencement of such suit. If the Premises or any part thereof should be re-let in combination with other

space, then proper apportionment on a square foot area basis shall be made of the rent received from such re-letting and of the expenses of re-letting.

Suit or suits for the recovery of such damages, or any installments thereof, may be brought by Landlord from time to time at its election, and nothing contained herein shall be deemed to require Landlord to postpone suit until the date when the term of this Lease would have expired if it had not been terminated hereunder.

Nothing herein contained shall be construed as limiting or precluding the recovery by Landlord against Tenant of any sums or damages to which, in addition to the damages particularly provided above, Landlord may lawfully be entitled by reason of any default hereunder on the part of Tenant.

15.3. FEES AND EXPENSES If Tenant shall default in the performance of any covenant on Tenant's part to be performed as in this Lease contained, Landlord may immediately, or at any time thereafter, without notice, perform the same for the account of Tenant. If Landlord at any time is compelled to pay or elects to pay any sum of money, or do any act which will require the payment of any sum of money, by reason of the failure of Tenant to comply with any provision hereof, or if Landlord is compelled to or does incur any expense, including without limitation reasonable attorneys' fees, in instituting, prosecuting and/or defending any action or proceeding instituted by reason of any default of Tenant hereunder or any costs incurred in recovering possession of the Premises after the termination of the Lease, Tenant shall on demand pay to Landlord by way of reimbursement the sum or sums so paid by Landlord with all interest, costs and damages.

15.4. LANDLORD'S REMEDIES NOT EXCLUSIVE. The specified remedies to which Landlord may resort hereunder are cumulative and are not intended to be exclusive of any remedies or means of redress to which Landlord may at any time be lawfully entitled, and Landlord may invoke any remedy (including without limitation the remedy of specific performance) allowed at law or in equity as if specific remedies were not herein provided for.

15.5. GRACE PERIOD. Notwithstanding anything to the contrary in this Article contained, Landlord agrees not to take any action to terminate this Lease (a) for default by Tenant in the payment when due of Rent, if Tenant shall cure such default within ten (10) days after written notice thereof given by Landlord to Tenant, or (b) for default by Tenant in the performance of any other covenant, if Tenant shall cure such default within a period of thirty (30) days after written notice thereof given by Landlord to Tenant (except where the nature of the default is such that remedial action should appropriately take place sooner, as indicated in such written notice), or with respect to covenants other than to pay a sum of money within such additional period as may reasonably be required to cure such default if (because of governmental restrictions or any other cause beyond the reasonable control of Tenant) the default is of such a nature that it cannot be cured within such thirty (30)-day period, provided, however, (1) that there shall be no extension of time beyond such thirty (30)-day period for the curing of any such default unless, not more than ten (10) days after the receipt of the notice of default, Tenant in writing (i) shall specify the cause on account of which the default cannot be cured during such period and shall advise Landlord of its intention duly to institute all steps necessary to cure the default and (ii) shall as soon as may be reasonable duly institute and thereafter diligently prosecute to completion all steps necessary to cure such default and, (2) that no notice of the opportunity to cure a default need be given, and no grace period whatsoever shall be allowed to Tenant, if the default is incurable or if the covenant or condition the breach of which gave rise to the default had, by reason of a breach on a prior occasion been the subject of a notice hereunder to cure such default.

16.0 ABANDONED PROPERTY

Any personal property in which Tenant has an interest which shall remain in the Premises, the Building or elsewhere on the Property after the expiration or termination of the Term of this Lease shall be conclusively deemed to have been abandoned, and may be disposed of in such manner as Landlord may see fit.

17.0 SUBORDINATION

This Lease is subject and subordinate in all respects to any future ground lease, to all mortgages and other matters of record and to mortgages which may hereafter be placed on or affect this Lease, the Building, the Property or any portion thereof or Landlord's interest or estate therein, and to

each advance made or hereafter to be made under any such mortgages, and to all renewals, modifications, consolidations, replacements and extensions thereof and substitutions therefor. This Article shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant shall execute and deliver promptly any certificate acknowledging or confirming such subordination that Landlord or any mortgagee or their respective successor in interest may request.

Landlord agrees to use reasonable efforts to obtain a Subordination, Nondisturbance and Attornment agreement from the Mortgagee holding a mortgage covering real estate of which the Premises is a part as of the date of execution of this Lease and from any future Mortgagees holding mortgages covering real estate of which the Premises is a part. The failure of the Landlord to obtain any such agreement shall not be a default by Landlord under this Lease. Upon receipt of an invoice therefor, Tenant agrees to reimburse Landlord for all reasonable costs and expenses incurred by Landlord in obtaining any such Subordination, Nondisturbance and Attornment agreement.

18.0 QUIET ENJOYMENT

Landlord covenants that if, and so long as, Tenant keeps and performs each and every covenant, agreement, term, provision and condition herein contained on the part and on behalf of Tenant to be kept and performed, Tenant shall quietly enjoy the Premises from and against the claims of all persons claiming by, through or under Landlord subject, nevertheless, to the covenants, agreements, terms, provisions and conditions of this Lease and to all Mortgages to which this Lease is subject and subordinate.

Without incurring any liability to Tenant, Landlord may permit access to the Premises and open the same, whether or not Tenant shall be present, upon any demand of any receiver, trustee, assignee for the benefit of creditors, sheriff, marshall or court officer entitled to, or reasonably purporting to be entitled to, such access for the purpose of taking possession of, or removing Tenant's property or for any other lawful purpose (but this provision and any action by Landlord hereunder shall not be deemed a recognition by Landlord that the person or official making such demand has any right or interest in or to this Lease, or in or to the Premises), or upon demand of any representative of the fire, police, building, sanitation or other department of the city, county, state or federal governments.

19.0 ENTIRE AGREEMENT - WAIVER - SURRENDER

19.1. ENTIRE AGREEMENT. This Lease and the Exhibits made a part hereof contain the entire and only agreement between the parties relative to the Premises and any and all statements and representations, written and oral, including previous correspondence and agreements between the parties hereto, are merged herein. Tenant acknowledges that all representations, and statements upon which it relied in executing this Lease are contained herein and that Tenant in no way relied upon any other statements or representations, written or oral. Any executory

agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of this Lease in whole or in part unless such executory agreement is in writing and signed by the party against whom enforcement of the change, modification, discharge or abandonment is sought. Nothing herein shall prevent the parties from agreeing to amend this Lease and the Exhibits made a part hereof as long as such amendment shall be in writing and shall be duly signed by both parties.

19.2. WAIVER BY LANDLORD. The failure of Landlord to seek redress for violation, or to insist upon the strict performance, of any covenant or condition of this Lease, or any of the Rules and Regulations promulgated hereunder, shall not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt by Landlord of Rent with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach. The failure of Landlord to enforce any of such Rules and Regulations against Tenant or any other tenant, licensee or occupant in the Building or elsewhere on the Property shall not be deemed a waiver of any such Rules and Regulations. No provisions of this Lease shall be deemed to have been waived by Landlord unless such waiver be in writing signed by Landlord. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly Rent herein stipulated shall be deemed to be other than on account of the stipulated Rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment of rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy in this Lease provided.

19.3. SURRENDER. No act or thing done by Landlord during the term hereby demised shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender shall be valid, unless in writing signed by Landlord. No employee of Landlord or of Landlord's agents shall have any power to accept the keys of the Premises prior to the termination of this Lease. The delivery of keys to any employee of Landlord or of Landlord's agents shall not operate as a termination of the Lease or a surrender of the Premises.

20.0 INABILITY TO PERFORM - EXCULPATORY CLAUSE

Landlord shall be relieved from performing its obligations under this Lease if it is prevented or delayed from doing so by reason of strikes or labor troubles or any other similar or dissimilar cause whatsoever beyond its reasonable control, including but not limited to, governmental preemption in connection with a national emergency or by reason of any rule, order or regulation of any department or subdivision thereof of any governmental agency or by reason of the conditions of supply and demand which have been or are affected by war, hostilities or other similar or dissimilar emergency. In each such instance of inability of Landlord to perform, Landlord shall exercise reasonable diligence to eliminate the cause of such inability to perform.

Tenant shall neither assert nor seek to enforce any claim for breach of this Lease against any of Landlord's assets other than Landlord's interest in the Building of which the Premises are a part, and Tenant agrees to look solely to such interest for the satisfaction of any liability of Landlord under this Lease, it being specifically agreed that in no event shall Landlord (which term shall include, without limitation any of the officers, trustees, directors, partners, beneficiaries, joint venturers, members, stockholders or other principals or representatives,

disclosed or undisclosed, of Landlord or any managing agent) ever be personally liable for any such liability. This paragraph shall not limit any right that Tenant might otherwise have to obtain injunctive relief against Landlord or to take any other action which shall not involve the personal liability of Landlord to respond in monetary damages from Landlord's assets other than the Landlord's interest in said real estate, as aforesaid. In no event shall Landlord be liable for consequential damages.

Landlord shall not be in default unless a failure to perform an obligation remains uncured for more than thirty (30) days following written notice from Tenant specifying the nature of such default, or such longer period as may be reasonably required to correct such default.

21.0 LANDLORD'S CONSENT

It is understood and agreed that whenever Landlord's consent or approval is required, either expressed or implied, by any provision of this Lease, the consent or approval may be granted or withheld arbitrarily in Landlord's sole discretion unless otherwise specifically stated in such provision. Notwithstanding anything to the contrary contained in the Lease, if any provision of the Lease obligates Landlord not to unreasonably withhold its consent or approval, an action for specific performance will be Tenant's sole right and remedy in any dispute as to whether Landlord has breached such obligation.

22.0 RIGHT TO RELOCATE

Intentionally omitted.

23.0 BILLS AND NOTICES

All bills and statements for reimbursement or other payments or charges due from Tenant to Landlord hereunder shall be due and payable in full thirty (30) days, unless herein otherwise provided, after submission thereof by Landlord to Tenant. Tenant's failure to make timely payment of any amounts indicated by such bills and statements, whether for work done by Landlord at Tenant's request, reimbursement provided for by this Lease or for any other sums properly owing by Tenant to Landlord, shall be treated as a default in the payment of Rent, in which event Landlord shall have all rights and remedies provided in this Lease for the nonpayment of Rent.

Any notice by either party to the other party shall be in writing. Any notice from the Landlord to the Tenant related to the Premises or to the occupancy thereof shall be deemed duly served if and when such notice is sent to the Tenant at the Tenant's Address by registered or certified mail, return receipt requested, postage prepaid or by FedEx, UPS or other nationally known reputable overnight courier service. Any notice from the Tenant to the Landlord related to the Premises or to the occupancy thereof shall be deemed duly served

if and when such notice is sent to the Landlord at the Landlord's Address by registered or certified mail, return receipt requested, postage prepaid or by FedEx, UPS or other nationally known reputable overnight courier service.

The Landlord may change the Landlord's Address and the Tenant may change the Tenant's Address by delivering or sending a notice in accordance with the foregoing paragraph

to the other party stating the change and setting forth the changed address, provided such changed address is within the United States.

24.0 HOLDOVER

If the Tenant remains in the Premises, the Building or elsewhere on the Property beyond the expiration or earlier termination of the Term of this Lease such holding over shall not be deemed to create any tenancy, but (a) the Tenant shall be a tenant-at-sufferance only, (b) shall pay Rent to Landlord at the times and manner determined by Landlord at a daily rate in an amount equal to three times the daily rate of the Rent and other sums payable under this Lease as of the last day of the Term of this Lease and (c) shall indemnify, defend and hold harmless Landlord from and against any and all damages, liabilities, claims and losses relating to or arising as a result of such holding over.

25.0 NO OPTION

Employees or agents of Landlord have no authority to make or agree to make a lease or any other agreement or undertaking in connection herewith. The submission of this document for examination and negotiation does not constitute an offer or agreement to lease, or a reservation of, or option for the Premises and this document shall become effective and binding as a lease only upon the execution and delivery hereof by both Landlord and Tenant. If Tenant is a corporation, it agrees that the person executing this Lease for it has full authority to do so, and also to execute any notice, receipt, consent, amendment of the Lease, or any other document pertaining to the Lease or the Premises until such time as Landlord receives notice from Tenant to the contrary.

26.0 PARTIES BOUND - SEIZING OF TITLE

The covenants, agreements, terms, provisions and conditions of this Lease shall bind and benefit the successors and assigns of the parties hereto with the same effect as if mentioned in each instance where a party hereto is named or referred to, except that no violation of the provisions of the Article contained herein entitled "ASSIGNMENT, MORTGAGING, SUBLETTING, ETC." hereof shall operate to vest any rights in any successor or assignee of Tenant and that the provisions of this Article shall not be construed as modifying the conditions of limitation contained in the Article contained herein entitled "DEFAULT".

If, in connection with or as a consequence of the sale, transfer or other disposition of the Building, the Property or any portion thereof, Landlord ceases to be the owner of the "landlord's" interest in the Premises, Landlord shall be entirely freed and relieved from the performance and observance thereafter of all covenants and obligations hereunder accruing thereafter on the part of Landlord to be performed and observed, it being understood and agreed in such event (and it shall be deemed and construed as a covenant running with the land) that the person succeeding to Landlord's ownership of said reversionary interest shall thereupon and thereafter assume, and perform and observe, any and all of such covenants and obligations of Landlord.

27.0 MISCELLANEOUS

27.1. SEPARABILITY. If any provision of this Lease or portion of such provision or the application thereof to any person or circumstance is for any reason held invalid or unenforceable, the remainder of the Lease (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby. In the event that any charge under this Lease is interpreted to be the payment of interest, the rate of interest shall be equal to the lesser of the amount stated in the Lease or the maximum amount permitted by law.

27.2. CAPTIONS. The captions are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Lease nor the intent of any provisions thereof.

27.3. LANDLORD OR TENANT. The words "Landlord" and "Tenant" as used in

this Lease may extend to and be applied to several parties whether male or female and to corporations and partnerships, and words importing the singular may include the plural and all obligations of the Tenant as herein defined shall be joint and several. Each of the provisions of this Lease shall bind and inure to the benefit of the heirs, legal representatives, successors and assigns of the parties hereto and it is specifically understood that the Landlord has the right to assign all of its right, title and interest, or any portion thereof, in and to this Lease and any amendments thereto to any other party or entity during the Term of this Lease and any extension thereof and that the Tenant shall execute any and all instruments that may be necessary to acknowledge and assent to such assignment.

27.4. BROKER. Each party represents and warrants that it has not directly or indirectly dealt, with respect to the leasing of space in the Building or elsewhere on the Property, with any broker or had its attention called to the Premises or other space to let in the Building or elsewhere on the Property, by any broker other than the Broker (if any) listed in the Article of this Lease entitled "REFERENCE DATA" whose commission (which shall be $90,000.00) shall be the responsibility of Landlord. Each party agrees to exonerate and save harmless and indemnify the other against any claims for a commission by any other broker, person or firm, with whom such party has dealt in connection with the execution and delivery of this Lease or out of negotiations between Landlord and Tenant with respect to the leasing of other space in the Building or elsewhere on the Property.

27.5. GOVERNING, LAW. This Lease is made pursuant to, and shall be governed by, and construed in accordance with, the laws of the Commonwealth of Massachusetts.

27.6. ASSIGNMENT OF LEASE, AND/OR RENTS. With reference to any assignment by Landlord of its interest in this Lease and/or the Rent payable hereunder, conditional in nature or otherwise, which assignment is made to or held by a bank, trust company, insurance company or other institutional lender holding a Mortgage on the Building, the Property or any portion thereof, Landlord and Tenant agree:

(a) that the execution thereof by Landlord and acceptance thereof by such Mortgagee shall never be deemed an assumption by such Mortgagee of any of the obligations of the Landlord hereunder, unless such Mortgagee shall, by written notice sent to the Tenant, specifically otherwise elect; and

(b) that, except as aforesaid, such Mortgagee shall be treated as having assumed the Landlord's obligations hereunder only upon foreclosure of such Mortgagee's Mortgage and the taking of possession of the Premises after having given notice of its intention to succeed to the interest of the Landlord under this Lease.

27.7. NOTICE OF LEASE. Tenant agrees that it will not record this Lease in any Registry of Deeds or Registry District, provided however that either party shall at the request of the other, execute and deliver a recordable Notice of this Lease in the form prescribed by and as required by Chapter 183, Section 4 of the Massachusetts General Laws.

IN WITNESS WHEREOF, Landlord and Tenant have caused this instrument to be executed under seal, all as of the day and year first above written.

FOURTH AVENUE LLC BY: COMMONWEALTH DEVELOPMENT GROUP LLC, MANAGER	NEUROMETRIX, INC.
	By:
/s/ James A. Magliozzi - ---------- James A. Magliozzi, Manager	/s/ Shai Gozani ---------- Name: Shai Gozani Title: CEO, duly authorized

EXHIBIT A

LEASE PLAN

EXHIBIT B

LAND

EXHIBIT B-2

A certain parcel of land situated in Waltham, County of Middlesex, Commonwealth of Massachusetts, together with all buildings and improvements thereon, shown as Parcel 12 on a plan entitled "Subdivision Plan of Land for Prospect Hill Executive Office Park, a Subdivision in Waltham, MA, Definitive Subdivision Plan", dated June 22, 1988, prepared by Vanasse Hangen Brustlin, Inc. recorded at the Middlesex South Registry of Deeds as Plan No. 1365 of 1988 recorded at Book 19393, Page 5, being more particularly bounded and described according to said plan, as follows:

Southeasterly	by Fifth Avenue, three hundred fifty five and 68/100(355.68) feet;
Southwesterly	by Parcel 13, three hundred thirteen and 95/100 (313.95)feet;
Northwesterly	by Parcel 14, three hundred fifty one and 00/100 (351.00)feet;
Northeasterly	by Parcels 14 and 10, three hundred twenty one and 61/100 (321.61) feet.

Containing, according to said plan, 2.577 acres of land.

Said premises have the benefit of the appurtenant right, privilege and easement in, over and to all entrances and exits, sidewalks, driveways, roadways and other means of access, ingress and egress to the above described premises, over Parcel 14 (now 14C) and Fourth Avenue as shown on the above referenced plan and as set forth in the deed to Grantor.

EXHIBIT C

RULES AND REGULATIONS

1. The sidewalks, entrances, passages, courts, elevators, vestibules, stairways, corridors or halls of the Property shall not be obstructed or encumbered or used for any purpose other than ingress and egress to and from the premises demised to any tenant or occupant.

2. No awnings or other projections shall be attached to the outside walls or windows of the Building without the prior written consent of Landlord. No curtains, blinds, shades, or screens shall be attached or hung in, or used in connection with, any window or door of the premises demised to any tenant or occupant, without the prior written consent of Landlord. Such awnings, projections, curtains, blinds, shades, screens, or other fixtures must be of a quality type, design and color, and attached in a manner, approved by Landlord in writing in advance.

3. Except as permitted under the Lease, no sign, advertisement, object, notice or other lettering shall be exhibited, inscribed, painted or affixed on any part of the outside or inside of the premises demised to any tenant or occupant of the Building without the prior written consent of Landlord.

4. The sashes, sash doors, skylights, windows, and doors that reflect or admit light and air into the halls, passageways or other public places in the Building shall not be covered or obstructed, nor shall any bottles, parcels, or other articles be placed on any window sills.

5. No show cases or other articles shall be put in front of or affixed to any part of the exterior of the Building, nor placed in the halls, corridors, vestibules or other parts of the Building.

6. The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were constructed, and no sweepings, rubbish, rags, or other substances shall be thrown therein.

7. Except as permitted under the Lease, no tenant or occupant shall mark, paint, drill into, or in any way deface any part of the Building or the premises demised to such tenant or occupant. No boring, cutting or stringing of wires shall be permitted, except with the prior written consent of the Landlord, and as Landlord may direct. No tenant or occupant shall install any resilient tile or similar floor covering in the premises demised to such tenant or occupant except in a manner approved by Landlord in writing and in advance.

8. No bicycles, vehicles, dogs (except for seeing eye dogs and similar animals) or other animals, birds or pets of any kind shall be brought into or kept in or about the premises demised to any tenant. Bicycles may be stored in racks, if any, furnished for such purpose by Landlord in a common area of the Property. No cooking shall be done or permitted in the Building by any tenant without the approval of Landlord. No tenant shall cause or permit any unusual or objectionable odors to emanate from the premises demised to such tenant.

9. Without the prior written consent of Landlord, no space in the Building shall be used for manufacturing, or for the sale of merchandise, goods or property of any kind at auction.

10. No tenant shall make, or permit to be made, any unseemly or disturbing noises or disturb or interfere with other tenants or occupants of the Building or neighboring buildings or premises whether by the use of any musical instrument, radio, television set or other audio device, unmusical noise, whistling, singing, or in any other way. Nothing shall be thrown out of any doors or windows.

11. Each tenant must, upon the termination of its tenancy, restore to Landlord all keys of stores, storage areas, offices and toilet rooms, either furnished to, or otherwise procured by, such tenant.

12. All removals from the Building, or the carrying in or out of the Building or the premises demised to any tenant, of any safes, freight, furniture, or bulky matter of any description must take place at such time and in such manner as Landlord or its agents may determine, from time to time. Landlord reserves the right to inspect all freight to be brought into the Building and to exclude from the Building all freight which violates any of the Building Rules or the provisions of such tenant's lease.

13. Intentionally omitted.

14. Landlord shall have the right to prohibit any advertising by any tenant or occupant which, in Landlord's reasonable opinion, tends to impair the reputation of the Building or its desirability as a building for offices, and upon notice from Landlord, such tenant or occupant shall refrain from or discontinue such advertising.

15. Each tenant, before closing and leaving the premises demised to such tenant at any time, shall see that all entrance doors are locked and windows closed.

16. Each tenant shall, at its expense, provide artificial light in the premises demised to such tenant for Landlord's agents, contractors, and employees while performing janitorial or other cleaning services and making repairs or alterations in said premises.

17. No premises shall be used, or permitted to be used, for lodging or sleeping, or for any immoral or illegal purpose.

18. There shall not be used in the Building, either by any tenant or occupant or by their agents or contractors, in the delivery or receipt of merchandise, freight or other matter, any hand trucks or other means of conveyance except those equipped with rubber tires, rubber side guards and such other safeguards as Landlord may require.

19. Canvassing, soliciting and peddling in the Building are prohibited and each tenant and occupant shall cooperate in seeking their prevention.

20. If the premises demised to any tenant become infested with vermin, such tenant, at its sole cost and expense, shall cause its premises to be exterminated from time to time, to

the satisfaction of Landlord, and shall employ such exterminators therefor as shall be approved by Landlord in writing and in advance.

21. No premises shall be used, or permitted to be used, at any time, without the prior written approval of Landlord, as a store for the sale or display of goods, wires or merchandise of any kind, or as a restaurant, shop, booth, bootblack or other stand, or for the conduct of any business or occupation which predominantly involves direct patronage of the general public in the premises demised to such tenant, or for manufacturing or for other similar purpose.

22. No tenant shall move, or permit to be moved, into or out of the Building or the premises demised to such tenant, any heavy or bulky matter, without the specific approval of Landlord. If any such matter requires special handling, only a person holding a Master Rigger's license shall be employed to perform such special handling. No tenant shall place, or permit to be placed, on any part of the floor or floors of the premises demised to such tenant, a load exceeding the floor load per square foot which such floor was designed to carry and which is allowed by law. Landlord reserves the right to prescribe the weight and position of safes and other heavy matter, which must be placed so as to distribute the weight.

23. The requirements of tenants will be attended to only upon application at the office of the Building. Building employees shall not be required to perform, and shall not be requested by any tenant or occupant to perform, any work outside of their regular duties, unless under specific instructions from the office of the managing agent of the Building.

EXHIBIT 10.2

NEUROMETRIX, INC.
AMENDED AND RESTATED
1996 STOCK OPTION/RESTRICTED STOCK PLAN

1. PURPOSE.

The purpose of this 1996 Stock Option/Restricted Stock Plan (the "Plan") is to advance the interests of NeuroMetrix, Inc. (the "Company") by enhancing the ability of the Company to attract and retain directors, employee, consultants or advisers who are in a position to make significant contributions to the success of the Company, to reward them for their contributions and to encourage them to take into account the long-term interests of the Company.

The Plan provides for the award of options and/or Restricted Stock (as defined hereinafter) to purchase shares of the Company's common stock, no par value per share (the "Stock"). Options granted pursuant to the Plan may be incentive stock options (any option that is intended to qualify as an incentive stock option being referred to herein as an "Incentive Option") as defined in Section 422 of the Internal Revenue Code of 1986 as from time to time amended (the "Code"), or options that are not incentive options ("Non-Incentive Options"), or both. Options granted pursuant to the Plan shall be presumed to be Non-Incentive Options unless expressly designated as Incentive Options. "Restricted Stock" shall mean the shares of the Stock awarded to a Participant (as defined hereinafter) under SECTION 7 of the Plan pursuant to an award that entitles the Participant to acquire the Stock for a purchase price (which may be zero), subject to such conditions, including a Company right during a specified period or periods (the "Restricted Period") to repurchase the Stock at their original purchase price (or to require forfeiture of the Stock if the purchase price was zero) upon the Participant's termination of employment.

2. ELIGIBILITY FOR AWARDS.

Persons eligible to receive awards under the Plan shall be all executive officers of the Company and other employees, consultants and advisers who, in the opinion of the Board, are in a position to make a significant contribution to the success of the Company and its Subsidiaries. A Subsidiary for purposes of the Plan shall be a corporation in which the Company owns, directly or indirectly, stock possessing fifty (50%) percent or more of the total combined voting power of all classes of stock. Directors, including directors who are not employees of the Company, shall be eligible to receive awards under the Plan to the extent that their eligibility would not disqualify them as disinterested persons for purposes of rule 16b-3 ("Rule 16b-3") under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Incentive Options shall be granted only to "employees" as defined in the provisions of the Code or regulations thereunder applicable to incentive stock options. Persons selected for awards under the Plan are referred to herein as "Participants".

3. ADMINISTRATION.

The Plan shall be administered by the Board of Directors (the "Board") of the Company. The Board shall have authority, not inconsistent with the express provisions of the Plan, to (a) grant awards consisting of options and/or Restricted Stock to such Participants as the Board may select, (b) determine the time or times when awards shall be granted and the number of shares of Stock subject to each award, (c) determine which options are, and which options are not, Incentive Options, (d) determine the terms and conditions of each award, (e) prescribe the form or forms of any instruments evidencing awards and any other instruments required under the Plan and to change such forms from time to time, (f) adopt, amend and rescind rules and regulations for the administration of the Plan, and (g) interpret the Plan and to decide any questions and settle all controversies and disputes that may arise in connection with the Plan. Such determinations of the Board shall be conclusive and shall bind all parties. Subject to Section 9 hereof, the Board shall also have the authority, both generally and in particular instances, to waive compliance by a Participant with respect to any obligation to be performed by the Participant under an award, to waive any condition or provision of an award, and to amend or cancel any award (and if an award is canceled, to grant a new award on such terms as the Board shall specify), except that the Board may not take any action with respect to an outstanding award that would adversely affect the rights of the Participant under such award without such Participant's consent. Not withstanding the foregoing, nothing in the preceding sentence shall be construed as limiting the power of the Board to make adjustments required by Section 5(b) and Section 6(i) hereof.

The Board may, in its discretion, delegate some or all of its powers with respect to the Plan to a committee (the "Committee"), in which event all

references in this Plan to the Board shall, as appropriate, be deemed to refer to the Committee. The Committee, if one is appointed, shall consist of at least two directors. A majority of the members of the Committee shall constitute a quorum, and all determinations of the Committee shall be made by a majority of its members. Any determination of the Committee under the Plan may be made without notice or meeting of the Committee by a writing signed by a majority of the Committee members. On and after registration of the Stock under the Exchange Act, the Board shall delegate the power to select directors and executive officers to receive awards under the Plan and the timing, pricing and amount of such awards to a committee or committees, the number of which shall satisfy the requirements of Rule 16b-3 applicable to the Company and all members of which shall be disinterested persons within the meaning of the applicable provisions of Rule 16b-3 and, with respect to executive officers only, "outside directors" within the meaning of Section 162(m) under the Code.

4. EFFECTIVE DATE AND TERM OF PLAN.

The Plan shall become effective on the date on which it is approved by the shareholders of the Company. Grants of awards under the Plan may be made prior to that date (but contemporaneous with or after Board adoption of the Plan), subject to approval of the Plan by such shareholders.

No awards shall be granted under the Plan after the completion of three years from the date on which the Plan was adopted by the Board, but awards previously granted may extend beyond that date.

5. SHARES SUBJECT TO THE PLAN.

(a) NUMBER OF SHARES. Subject to adjustment as provided in Section 5(b) hereof, the aggregate number of shares of Stock that may be delivered upon the exercise of awards granted under the Plan shall be 125,000 (the "Founder Shares"), all of which shares are owned by Shai N. Gozani, M.D., Ph.D. ("Gozani"), who is currently the President, Treasurer and Clerk of the Company as well as an employee of the Company, and provided by Gozani hereto in accordance with the terms and provisions set forth in the Stockholder Agreement dated as of June 3, 1996, by and among the Company, Gozani and Harris & Harris Group, Inc. Up to 125,000 of said Founder Shares may be Incentive Options. All option grants shall be subject to the Board's approval pursuant to Section 3 as well as Gozani's approval. Until such time as options are exercised, Gozani will retain all rights with respect to the Founder Shares, except the right to transfer such Founder Shares. If any award granted under the Plan terminates without having been exercised in full, or upon exercise is satisfied other than by delivery of Stock, the number of shares of Stock as to which such award was not exercised shall not be available for future grants.

(b) CHANGES IN STOCK. In the event of a stock dividend, stock split or combination of shares, recapitalization or other change in the Company's capital stock, the number and kind of shares of Stock subject to awards then outstanding or subsequently granted under the Plan, the exercise price of such awards, the maximum number of shares of Stock that may be delivered under the Plan, and other relevant provisions shall be appropriately adjusted by the Board, whose determination shall be binding on all persons.

The Board may also adjust the number of shares of Stock subject to outstanding awards and the exercise price and the terms of outstanding awards to take into consideration material changes in accounting practices or principles, extraordinary dividends, consolidations or mergers (except those described in Section 6(i) below), acquisitions or dispositions of stock or property or any other event if it is determined by the Board that such adjustment is appropriate to avoid distortion in the operation of the Plan, provided that no such adjustment shall be made in the case of an Incentive Option without the consent of the Participant if it would constitute a modification, extension or renewal of the option within the meaning of Section 424(h) of the Code.

6. TERMS AND CONDITIONS OF OPTIONS.

(a) EXERCISE PRICE OF OPTIONS. The exercise price of each option shall be determined by the Board, but in the case of an Incentive Option shall not be less than 100% (110% in the case of an Incentive Option granted to a ten (10%) percent shareholder) of the Fair Market Value of the Stock at the time the option is granted; nor shall the exercise price be less, in the case of an original issue of authorized stock, than par value. For this purpose, "Fair Market Value" in the case of Incentive Options shall have the same meaning as it does in the provisions of the Code and the regulations thereunder applicable to incentive options; and "ten (10%) percent shareholder" shall mean any Participant who at the time of grant owns directly, or by reason of the attribution rules set forth in Section 424(d) of the Code, is deemed to own stock possessing

more than ten (10%) percent of the total combined voting power of all classes of stock of the Company or of any of its parent or Subsidiary corporation.

(b) DURATION OF OPTIONS. Options shall be exercisable during such period or periods as the Board may specify. The latest date on which an option may be exercised (the "Final Exercise Date") shall be the date that is ten (10) years (five (5) years in the case of an Incentive Option granted to a "ten (10%) percent shareholder" as defined in Section 6 (a) above) from the date the option was granted or such earlier date as the Board may specify at the time the option is granted.

(c) EXERCISE OF OPTION.

(1) Options shall become exercisable at such time or times and upon such conditions as the Board shall specify. In the case of an option not immediately exercisable in full, the Board may at any time accelerate the time at which all or any part of the option may be exercised.

(2) Options may be exercised only in writing. Written notice of exercise must be signed by the proper person and furnished to the Company, together with (i) such documents as the Board may require and (ii) payment in full as specified in Section 6(d) below for the number of shares of Stock for which the options is exercised.

(3) The delivery of Stock upon the exercise of an option shall be subject to compliance with (i) applicable federal and state laws and regulations, (ii) if the outstanding Stock is at the time listed on any stock exchange, the listing requirements of such exchange, and (iii) Company counsel's approval of all other legal matters in connection with the issuance and delivery of such Stock. If the sale of Stock has not been registered under the Securities Act of 1933, as amended, the Company may require, as a condition to exercise of the option, such representations or agreements as counsel for the Company may consider appropriate to avoid violation of such Act any may require that the certificates evidencing such Stock bear an appropriate legend restricting transfer.

(4) In the case of a Non-Incentive Option, the Board shall have the right to require that the Participant exercising the option remit to the Company an amount sufficient to satisfy any federal, state, or local withholding tax requirements (or make other arrangements satisfactory to the Company with regard to such taxes) prior to the delivery of any Stock pursuant to the exercise of the option. If permitted by the Board, either at the time of the grant of the option or the time of exercise, the Participant may elect, at such time and in such manner as the Board may prescribe, to satisfy such withholding obligation by (i) delivering to the Company Stock (which in the case of Stock acquired from the Company shall have been owned by the Participant for at least six (6) months prior to the delivery date) having a fair market value equal to such withholding obligation, or (ii) requesting that the Company withhold from the shares of Stock to be delivered upon the exercise a number of shares of Stock having a Fair Market Value equal to such withholding obligation.

(5) In the case of an Incentive Option, if at the time the option is exercised the Board determines that under applicable law and regulations the Company could be liable for the withholding of any federal or state tax with respect to a disposition of the Stock received upon exercise, the Board may require as a condition of exercise that the Participant exercising the option agree (i) to inform the Company promptly of any disposition (within the meaning of Section 424(c) of the Code and the regulations thereunder) of Stock received upon exercise, and (ii) to give such security as the Board deems adequate to meet the potential liability of the Company for the withholding of tax, and to augment such security from time to time in any amount reasonably deemed necessary by the Board to preserve the adequacy of such security.

(6) If an option is exercised by the executor or administrator of a deceased Participant, or by the person or persons to whom the option has been transferred by the Participant's will or the applicable laws of descent and distribution, the Company shall be under no obligation to deliver Stock pursuant to such exercise until the Company is

satisfied as to the authority of the person or persons exercising the option.

(d) PAYMENT FOR AND DELIVERY OF STOCK. Stock purchased upon exercise of an option under the Plan shall be paid for as follows:

(1) in cash or by personal check, certified check, bank draft or money order payable to the order of the Company; or

(2) if so permitted by the Board (which, in the case of an Incentive Option, shall specify the method of payment at the time of grant), (i) through the delivery of shares of Stock (which, in the case of Stock acquired from the Company, shall have been held for at least six (6) months prior to delivery) having a Fair Market Value on the last business day preceding the date of exercise equal to the purchase price, or (ii) by delivery of a promissory note of the Participant to the Company, such note to be payable on such terms as are specified by the Board, or (iii) by delivery of an unconditional and irrevocable undertaking by a broker to deliver promptly to the Company sufficient funds to pay the exercise price, or (iv) by any combination of the permissible forms of payment; PROVIDED, that if the Stock delivered upon exercise of the option is an original issue of authorized Stock, at least so much of the exercise price as represents the par value of such Stock shall be paid other than by a personal check or promissory note of the person exercising the option.

Upon satisfaction of the terms of Sections 6(c) above and 6(d) hereof, the Company will remit to Gozani the consideration received by the Company pursuant to Sections 6(c) above and 6(d) hereof, and Gozani will transfer to the Company the number of shares deliverable upon such exercise.

(e) RIGHTS AS SHAREHOLDER. A Participant shall not have the rights of a shareholder with regard to awards under the Plan until the Participant tenders to the Company the required notice of exercise of the Option, pays to the Company the consideration required and complies with all other terms and conditions of exercise as set forth in this Plan.

(f) NON-TRANSFERABILITY OF AWARD; RESTRICTIONS ON STOCK. Except as the Board may otherwise determine, no award may be transferred other than by will or by the laws of descent and distribution, and during a Participant's lifetime an award may be exercised only by the Participant.

The Board, in its discretion, may at the time an award is granted make Stock delivered under the award subject to such restrictions and conditions, including restrictions on resale and buy-back rights, as it deems appropriate.

(g) DEATH. If a Participant dies, each option held by the Participant immediately prior to death may be exercised, to the extent it was exercisable immediately prior to death, by the Participant's executor or administrator or by the person to whom the option is transferred by will or the applicable laws of descent and distribution, at any time within the one (1) year period (or such longer or shorter period as the Board may determine) beginning with the date of the Participant's death but in no event beyond the Final Exercise Date. All options held by a Participant immediately prior to death that are not then exercisable shall terminate on the date of death.

(h) TERMINATION OF SERVICE OTHER THAN BY DEATH. If any employee's employment with the Company terminates for any reason other than by death, all options held by the employee that are not then exercisable shall terminate. Options that are exercisable on the date employment terminates shall continue to be exercisable for a period of three (3) months (or such longer period as the Board may determine, but in no event beyond the Final Exercise Date) unless the employee was discharged for cause that in the opinion of the Board casts such discredit on the employee as to justify termination of the employee's options. After completion of the post-termination exercise period, such options shall terminate to the extent not previously exercised, expired or terminated. For purposes of this Section 6(h), employment shall not be considered terminated (i) in the case of sick leave or other bona fide leave of absence approved for purposes of the Plan by the Board, so long as the employee's right to re-employment is guaranteed either by statute or by contract, or (ii) in the case of a transfer of employment between the Company and a Subsidiary or between Subsidiaries, or to the employment of a corporation (or a parent or Subsidiary corporation of such corporation) issuing or assuming an option in a transaction to which Section 424(a) of the Code applies.

Options that are exercisable on the date the Participant's service as a director, consultant or adviser terminates shall continue to be exercisable for

a period of three (3) months (or such longer period as the Board may determine, but in no event beyond the Final Exercise Date) unless the director, consultant or adviser was terminated for cause that in the opinion of the Board casts such discredit on him or her as to justify termination of his or her options. After completion of the post-termination exercise period, such options shall terminate to the extent not previously exercised, expired or terminated.

In the case of a Participant who is not an employee, director, consultant or adviser, provisions relating to the exercisability of options following termination of service shall be specified in the award. If not so specified, all options held by such Participant that are not then exercisable shall terminate upon termination of service.

(i) MERGERS. In the event of a consolidation or merger in which the Company is not the surviving corporation or which results in the acquisition of substantially all the Company's outstanding Stock by a single person or entity or by a group of persons and/or entities acting in concert, or in the event of the sale or transfer of substantially all the Company's assets, all outstanding awards shall thereupon terminate, provided that at least twenty (20) days prior to the effective date of any such merger, consolidation or sale of assets, the Board shall either (i) make all outstanding awards exercisable immediately prior to consummation of such merger, consolidation or sale of assets or (ii) if there is a surviving or acquiring corporation, arrange, subject to consummation or the merger, consolidation or sale of assets, to have that corporation or an affiliate of that corporation grant to Participants replacement awards, which awards in the case of incentive options shall satisfy, in the determination of the Board, the requirements of Section 424(a) of the Code.

The Board may grant awards under the Plan in substitution for awards held by directors, employees, consultants or advisers of another corporation who concurrently become directors, employees, consultants or advisers of the Company or a Subsidiary of the Company as the result of a merger or consolidation of that corporation with the Company or a Subsidiary of the Company, or as the result of the acquisition by the Company or a Subsidiary of the Company of property or stock of that corporation. The Company may direct that substitute awards be granted on such terms and conditions as the Board considers appropriate in the circumstances.

SECTION 7. RESTRICTED STOCK

7.1 GRANT OF RESTRICTED STOCK. The Board may award Restricted Stock to a Participant and determine the purchase price, if any, therefor, the duration of the Restricted Period, the conditions under which the Restricted Stock may be forfeited to or repurchased by the Company and any other terms and conditions of the award. The Board may modify or waive any restrictions, terms and conditions with respect to any Restricted Stock. Restricted Stock may be issued for whatever consideration is determined by the Board, subject to applicable law.

7.2 TRANSFERABILITY. Restricted Stock may not be sold, assigned, transferred, pledged or otherwise encumbered, except as permitted by the Board, during the Restricted Period.

7.3 EVIDENCE OF AWARD. Restricted Stock shall be evidenced in such manner as the Board may determine. Any certificates issued in respect of Restricted Stock shall be registered in the name of the Participant and, unless otherwise determined by the Board, deposited by the Participant, together with a stock power endorsed in blank, with the Company. At the expiration of the Restricted Period, the Company shall deliver the certificates and stock power to the Participant.

7.4 SHAREHOLDER RIGHTS. A Participant shall have all the rights of a shareholder with respect to Restricted Stock awarded, including voting and dividend rights, unless otherwise provided in the agreement that awards Restricted Stock to the Participant.

8. EMPLOYMENT RIGHTS.

Neither the adoption of the Plan nor the grant of awards confer upon any Participant any right to continue as an employee or director of, or consultant or adviser to, the Company or any parent or Subsidiary or affect in any way the right of the Company or parent or Subsidiary to terminate them at any time. Except as specifically provided by the Board in any particular case, the loss of existing or potential profit in awards granted under this Plan shall not constitute an element of damages in the event of termination of the relationship of a Participant even if the termination is in violation of an obligation of the

Company to the Participant by contract or otherwise.

9. EFFECT, DISCONTINUANCE, CANCELLATION, AMENDMENT AND TERMINATION.

Neither adoption of the Plan nor the grant of awards to a Participant shall affect the Company's rights to make awards to such Participant that are not subject to the Plan, to issue to such Participant Stock as a bonus or otherwise, or to adopt other plans or arrangements under which Stock may be issued.

The Board may at any time discontinue granting awards under the Plan. With the consent of the Participant, the Board may at any time cancel an existing award in whole or in part and grant another award for such number of shares as the Board specifies. The Board may at any time or times amend the Plan or any outstanding award for the purpose of satisfying the requirements of Section 422 of the Code or of any changes in applicable laws or regulations or for any other purpose that may at the time be permitted by law, or may at any time terminate the Plan as to further grants or awards, but no such amendment shall adversely affect the rights of any Participant (without the Participant's consent) under any award previously granted.

Approved by the Board: June 3, 1998
Approved by the Stockholders: January 19, 1999

EXHIBIT 10.3

NEUROMETRIX, INC.

AMENDEDAND RESTATED
1998 EQUITY INCENTIVE PLAN

SECTION 1. PURPOSE AND DURATION

1.1 PURPOSES. The purposes of the NeuroMetrix, Inc., 1998 Equity Incentive Plan are to attract, retain and motivate employees and consultants of the Company, its Parent (if any), and any present or future Subsidiaries and to enable them to participate in the growth of the Company by providing for or increasing the proprietary interests of such persons in the Company.

1.2 EFFECTIVE DATE. The Plan is effective as of the date of its adoption by the Board.

1.3 EXPIRATION DATE. The Plan shall expire one day less than ten (10) years from the date of the adoption of the Plan by the Board. In no event shall any Awards be made under the Plan after such expiration date, but Awards previously granted may extend beyond such date.

SECTION 2. DEFINITIONS

As used in the Plan, the following capitalized words shall have the meanings indicated:

"Award" means, individually or collectively, a grant under the Plan of Options, SARs, Performance Shares, Restricted Stock or Stock Units.

"Award Agreement" means the written agreement setting forth the terms and provisions applicable to an Award granted under the Plan.

"Board" means the Board of Directors of the Company.

"Code" means the Internal Revenue Code of 1986, as amended.

"Committee" means the committee of the Board appointed by the Board to administer the Plan in accordance with SECTION 3.1.

"Company" means NeuroMetrix, Inc., a Massachusetts corporation, or any successor thereto.

"Director" means any individual who is a member of the Board.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fair Market Value" means, with respect to a Share, the fair market thereof as of the relevant date of determination, as determined in accordance with a valuation methodology

approved by the Board in good faith but in no event less than, in the case of newly issued stock, the par value per Share; provided that if the Board does not adopt or employ any such valuation methodology and Shares are traded on an exchange or quoted on The Nasdaq National Market, fair market value shall mean, on the relevant date of determination, the closing price of a Share traded on the principal exchange for the Shares or, if the Shares are so traded, the closing or last price quoted on The Nasdaq National Market.

"Grant Date" means the effective date of an Award as specified by the Board and set forth in the applicable Award Agreement.

"Incentive Stock Option" or "ISO" means an option to purchase Shares awarded to a Participant under SECTION 6 of the Plan that is intended to meet the requirements of Section 422 of the Code.

"Nonqualified Stock Option" or "NQO" means an option to purchase Shares awarded to a Participant under SECTION 6 of the Plan that is not intended to be an ISO.

"Option" means an ISO or an NQO.

"Parent" means a "parent corporation" as that term is defined in Section 424 of the Code.

"Participant" means an individual who has been selected by the Board to

receive an Award under the Plan.

"Performance Cycle" means the period of time selected by the Board during which performance is measured for the purpose of determining the extent to which an Award of Performance Shares has been earned. More than one Performance Cycle may be in progress at any one time and the duration of Performance Cycles may differ.

"Performance Share" means a Share awarded to a Participant under SECTION 8 of the Plan that entitles the Participant to acquire Shares upon the attainment of specified performance goals.

"Plan" means the NeuroMetrix, Inc., 1998 Equity Incentive Plan set forth in this document and as hereafter amended from time to time in accordance with SECTION 12.

"Restricted Period" means the period of time selected by the Board during which Shares of Restricted Stock are subject to forfeiture and/or restrictions on transferability.

"Restricted Stock" means Shares awarded to a Participant under SECTION 9 of the Plan pursuant to an Award that entitles the Participant to acquire Shares for a purchase price (which may be zero), subject to such conditions, including a Company right during a specified period or periods to repurchase the Shares at their original purchase price (or to require forfeiture of the Shares if the purchase price was zero) upon the Participant's termination of employment.

"SAR" or "Stock Appreciation Right" means an Award that is designated as an SAR pursuant to SECTION 7 of the Plan, granted alone or in connection with a related Award, entitling a Participant to receive an amount in cash or Shares or a combination thereof having a value equal to (or if the Board shall so determine at time of grant, less than) the excess of the Fair Market Value of a Share on the date of exercise over the Fair Market Value of a Share on the Grant Date (or over the Option exercise price, if the Stock Appreciation Right was granted in tandem with an Option) multiplied by the number of Shares with respect to which the Stock Appreciation Right is exercised.

Securities Act" means the Securities Act of 1933, as amended.

"Shares" means shares of the Company's common stock, no par value per share.

"Subsidiary" means a "subsidiary corporation" as that term is defined in Section 424 of the Code.

SECTION 3. ADMINISTRATION OF THE PLAN

3.1 THE BOARD. The Plan shall be administered by the Board. The Board may, in its discretion, delegate some or all of its powers with respect to the Plan to the Committee, in which event all references in the Plan to the Board (except references in SECTION 12.1) shall be deemed to refer to the Committee. The Committee, if one is appointed, shall consist of at least two (2) Directors.

3.2 AUTHORITY OF THE BOARD. The Board shall have the authority to adopt, alter and repeal such administrative rules, guidelines and practices governing the operation of the Plan as it shall consider advisable from time to time, to interpret the provisions of the Plan and any Award and to decide all disputes arising in connection with the Plan. The Board's decisions and interpretations shall be final and binding.

SECTION 4. ELIGIBILITY OF PARTICIPANTS

The persons eligible to receive Awards under the Plan shall be all executive officers of the Company, its Parent (if any), and any Subsidiaries, and other employees, consultants and advisers who, in the opinion of the Board, are in a position to make a significant contribution to the success of the Company, its Parent (if any), and any Subsidiaries. Directors, including directors who are not employees, of the Company, its Parent (if any), and any Subsidiaries shall be eligible to receive Awards under the Plan.

SECTION 5. STOCK AVAILABLE FOR AWARDS

5.1 NUMBER OF SHARES. Awards may be made under the Plan for up to one hundred percent (100%) of the Shares outstanding from time to time, of which up to five hundred fifteen thousand (515,000) Shares may be ISOs. Shares issued under the Plan may consist in whole or in part of authorized but unissued Shares or treasury Shares.

5.2 LAPSED, FORFEITED OR EXPIRED AWARDS. If any Award in respect of Shares expires or is terminated before exercise or is forfeited for any reason, the Shares subject to such Award, to the extent of such expiration, termination or forfeiture, shall again be available for award under the Plan.

SECTION 6. STOCK OPTIONS

6.1 GRANT OF OPTIONS. Subject to the terms and provisions of the Plan, the Board may award Options and determine the number of shares to be covered by each Option, the exercise price therefor, the term of the Option, and any other conditions and limitations applicable to the exercise of the Option. The Board may grant ISOs, NQOs or a combination thereof.

6.2 EXERCISE PRICE. Subject to the provisions of this SECTION 6, the exercise price for each Option shall be determined by the Board in its sole discretion.

6.3 RESTRICTIONS ON OPTION TRANSFERABILITY AND EXERCISABILITY. No Option shall be transferable by the Participant other than by will or the laws of descent and distribution, and all Options shall be exercisable, during the Participant's lifetime, only by the Participant; provided, however, that the Board may provide that an Option is transferable by the Participant and exercisable by persons other than the Participant upon such terms and conditions as the Board shall determine.

6.4 CERTAIN ADDITIONAL PROVISIONS FOR INCENTIVE STOCK OPTIONS

6.4.1 EXERCISE PRICE. In the case of an ISO, the exercise price shall be not less than one hundred percent (100%) of the Fair Market Value on the Grant Date of the Shares subject to the Option; provided, however, that if on the Grant Date the Participant (together with persons whose stock ownership is attributed to the Participant pursuant to Section 424(d) of the Code) owns stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company, its Parent (if any) or any Subsidiaries, the exercise price shall be not less than one hundred and ten percent (110%) of the Fair Market Value on the Grant Date of the Shares subject to the Option.

6.4.2 EXERCISABILITY. Subject to SECTION 11.3 and SECTION 11.4, the aggregate Fair Market Value (determined on the Grant Date(s)) of the Shares with respect to which ISOs are exercisable for the first time by any Participant during any calendar year (under all plans of the Company, its Parent (if any) and any Subsidiaries) shall not exceed $100,000.

6.4.3 ELIGIBILITY. ISOs may be granted only to persons who are employees of the Company, its Parent (if any) or any Subsidiaries on the Grant Date.

6.4.4 EXPIRATION. No ISO may be exercised after the expiration of one day less than ten (10) years from the Grant Date; provided, however, that if the Option is granted to a Participant who, together with persons whose stock ownership is attributed to the Participant

pursuant to Section 424(d) of the Code, owns stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company, its Parent (if any) or any Subsidiaries, the ISO may not be exercised after the expiration of one day less than five (5) years from the Grant Date.

6.4.5 COMPLIANCE WITH SECTION 422 OF THE CODE. The terms and conditions of ISOs shall be subject to and comply with Section 422 of the Code or any successor provision.

6.4.6 NOTICE TO COMPANY OF DISQUALIFYING DISPOSITION. Each Participant who receives an ISO agrees to notify the Company in writing immediately after the Participant makes a Disqualifying Disposition of any Shares received pursuant to the exercise of an ISO. The term "Disqualifying Disposition" means any disposition (including any sale) of Shares before the later of (a) two (2) years after the Participant was granted the ISO under which the Participant acquired such Shares, or (b) one (1) year after the Participant acquired the Shares by exercising the ISO.

6.4.7 SUBSTITUTE OPTIONS. Notwithstanding the provisions of SECTION 6.4.1, in the event that the Company, its Parent (if any) or any Subsidiary consummates a transaction described in Section 424(a) of the Code (relating to the acquisition of property or stock from an unrelated corporation), individuals who become employees or consultants of the Company, its Parent (if any) or any

Subsidiary on account of such transaction may be granted ISOs in substitution for options granted by their former employer. The Board, in its sole discretion and consistent with Section 424(a) of the Code, shall determine the exercise price of such substitute Options.

6.5 NQO PRESUMPTION. Options granted pursuant to the Plan shall be presumed to be NQOs unless expressly designated ISOs in the Award Agreements.

SECTION 7. GRANT OF STOCK APPRECIATION RIGHTS

Subject to the terms and provisions of the Plan, the Board may award SARs in tandem with another Award (at or after the Grant Date of the other Award), or alone and unrelated to another Award, and may determine the terms and conditions applicable thereto, including the form of payment.

SECTION 8. PERFORMANCE SHARES

8.1 GRANT OF PERFORMANCE SHARES. The Board may award Performance Shares to Participants and determine the performance goals applicable to each such Award, the number of Shares for each Performance Cycle, the duration of each Performance Cycle and all other limitations and conditions applicable to the awarded Performance Shares. The payment value of each Performance Share shall be equal to the Fair Market Value of one Share on the date the Performance Share is earned or, in the discretion of the Board, on the date the Board determines that the Performance Share has been earned.

8.2 ADJUSTMENT OF PERFORMANCE GOALS. Except as provided in an Award, during any Performance Cycle, the Board may adjust the performance goals for the Performance Cycle as it deems equitable in recognition of unusual or non-recurring events affecting the Company or its Shares, changes in applicable tax laws or accounting principles, or such other factors as the Board shall determine.

8.3 WRITTEN CERTIFICATION. As soon as practical after the end of a Performance Cycle, the Board shall certify in writing the extent to which the performance goals applicable to each Participant for the Performance Cycle were achieved or exceeded and the number of Performance Shares which have been earned on the basis of performance in relation to the established performance goals.

SECTION 9. RESTRICTED STOCK

9.1 GRANT OF RESTRICTED STOCK. The Board may award Shares of Restricted Stock and determine the purchase price, if any, therefor, the duration of the Restricted Period, the conditions under which the Shares may be forfeited to or repurchased by the Company and any other terms and conditions of the Awards. The Board may modify or waive any restrictions, terms and conditions with respect to any Restricted Stock. Shares of Restricted Stock may be issued for whatever consideration is determined by the Board, subject to applicable law.

9.2 TRANSFERABILITY. Shares of Restricted Stock may not be sold, assigned, transferred, pledged or otherwise encumbered, except as permitted by the Board, during the Restricted Period.

9.3 EVIDENCE OF AWARD. Shares of Restricted Stock shall be evidenced in such manner as the Board may determine. Any certificates issued in respect of Shares of Restricted Stock shall be registered in the name of the Participant and, unless otherwise determined by the Board, deposited by the Participant, together with a stock power endorsed in blank, with the Company. At the expiration of the Restricted Period, the Company shall deliver the certificates and stock power to the Participant.

9.4 SHAREHOLDER RIGHTS. A Participant shall have all the rights of a shareholder with respect to Restricted Stock awarded, including voting and dividend rights, unless otherwise provided in the Award Agreement.

SECTION 10. GRANT OF OTHER AWARDS

The Board shall have the authority to specify the terms and provisions of other forms of equity-based or equity-related Awards not described above which the Board determines to be consistent with the purposes of the Plan and the interests of the Company, which Awards may provide for cash payments based in whole or in part on the value or future value of Shares, for the acquisition or future acquisition of Shares, or any combination thereof. Other Awards may also include cash payments (including the cash payment of dividend equivalents) under the Plan which may be based on one or more criteria determined by the Board that are unrelated to the

value of the Shares and that may be granted in tandem with, or independent of, other Awards under the Plan.

SECTION 11. GENERAL PROVISIONS APPLICABLE TO AWARDS

11.1 LEGAL AND REGULATORY MATTERS. The delivery of Shares shall be subject to compliance with (i) applicable federal and state laws and regulations, (ii) if the outstanding Shares are listed at the time on any stock exchange, the listing requirements of such exchange, and (iii) the Company's counsel's approval of all other legal matters in connection with the issuance and delivery of the Shares. If the sale of the Shares has not been registered under the Securities Act, the Company may require, as a condition to delivery of the Shares, such representations or agreements as counsel for the Company may consider appropriate to avoid violation of such Act and may require that the certificates evidencing the Shares bear an appropriate legend restricting transfer.

11.2 WRITTEN AWARD AGREEMENT. The terms and provisions of an Award shall be set forth in an Award Agreement approved by the Board and delivered or made available to the Participant as soon as practicable following the Grant Date. Where the Award is an Option Award, the Award Agreement shall specify whether the Option is intended to be an ISO or a NQO.

11.3 DETERMINATION OF RESTRICTIONS ON THE AWARD. The vesting, exercisability, payment and other restrictions applicable to an Award (which may include, without limitation, restrictions on transferability or provision for mandatory resale to the Company) shall be determined by the Board and set forth in the applicable Award Agreement. Notwithstanding the foregoing, the Board may accelerate (i) the vesting or payment of any Award (including an ISO), (ii) the lapse of restrictions on any Award (including an Award of Restricted Stock) and (iii) the date on which any Option or SAR first becomes exercisable.

11.4 MERGERS, ETC. Notwithstanding any other provision of the Plan, in the event of a consolidation or merger in which the Company is not the surviving corporation or which results in the acquisition of substantially all the Company's outstanding shares by a single person or entity or by a group of persons and/or entities acting in concert, or in the event of the sale or transfer of substantially all the Company's assets, then if the Board so determines, all outstanding Awards shall terminate, provided that at least twenty (20) days prior to the effective date of any such merger, consolidation or sale of assets, the Board shall either (i) make all outstanding Awards exercisable immediately prior to the consummation of such merger, consolidation or sale of assets, (ii) approve the automatic vesting of all unvested and outstanding Awards, or (iii) if there is a surviving or acquiring corporation, arrange, subject to consummation of the merger, consolidation or sale of assets, to have that corporation or an affiliate of that corporation grant to Participants replacement Awards, which Awards in the case of ISOs shall satisfy, in the discretion of the Board, the requirements of Section 424(a) of the Code.

11.5 TERMINATION OF EMPLOYMENT. For purposes of the Plan, the following events shall not be deemed a termination of employment of a Participant: (i) a transfer to the employment of the Company from its Parent (if any) or from a Subsidiary, or from the Company to its Parent

(if any) or to a Subsidiary, or from one Subsidiary to another, or from the Company's Parent (if any) to a Subsidiary, or from a Subsidiary to the Company's Parent (if any); or (ii) an approved leave of absence for military service or sickness, or for any other purpose approved by the Company, if the Participant's right to employment is guaranteed either by a statute or by contract or under the policy pursuant to which the leave of absence was granted or if the Board otherwise so provides in writing. For purposes of the Plan, employees of a Subsidiary or Parent (if any) shall be deemed to have terminated their employment on the date on which such Subsidiary or Parent ceases to be a Subsidiary or Parent of the Company, as the case may be.

11.6 DATE OF AND EFFECT OF TERMINATION OF EMPLOYMENT. The date of a Participant's termination of employment for any reason shall be determined in the sole discretion of the Board. The Board shall have full authority to determine and specify in the applicable Award Agreement the effect, if any, that a Participant's termination of employment for any reason will have on the vesting, exercisability, payment or lapse of restrictions applicable to an outstanding Award.

11.7 GRANT OF AWARDS. Each Award may be made alone, in addition to or in relation to any other Award. The terms of each Award need not be identical, and the Board need not treat Participants uniformly.

11.8 SETTLEMENT OF AWARDS. No Shares shall be delivered pursuant to any exercise of an Award until payment in full of the price therefor, if any, is received by the Company. Such payment may be made in whole or in part in cash or by certified or bank check or, to the extent permitted by the Board at or after the Grant Date, by delivery of a note or Shares, including Restricted Stock, valued at their Fair Market Value on the date of delivery, or such other lawful consideration as the Board shall determine.

11.9 WITHHOLDING REQUIREMENTS AND ARRANGEMENTS. The Participant shall pay to the Company or make provision satisfactory to the Board for payment of any taxes required by law to be withheld in respect of Awards under the Plan no later than the date of the event creating the tax liability. In the Board's discretion, such tax obligations may be paid in whole or in part in Shares, including Shares retained from the Award creating the tax obligation, valued at their Fair Market Value on the date of delivery. The Company may, to the extent permitted by law, deduct any such tax obligations from any payment of any kind otherwise due to the Participant.

11.10 NO EFFECT ON EMPLOYMENT. The Plan shall not give rise to any right on the part of any Participant to continue in the employ of the Company, its Parent (if any) or any Subsidiary. The loss of existing or potential profit in Awards granted under the Plan shall not constitute an element of damages in the event of termination of the relationship of a Participant even if the termination is in violation of an obligation of the Company to the Participant by contract or otherwise.

11.11 NO RIGHTS AS SHAREHOLDER. Subject to the provisions of the Plan and the applicable Award Agreement, no Participant shall have any rights as a shareholder with respect to any Shares to be distributed under the Plan until he or she becomes the holder thereof.

11.12 ADJUSTMENTS. Upon the happening of any of the following described events, a Participant's rights with respect to Awards granted hereunder shall be adjusted as hereinafter provided, unless otherwise specifically provided in the Award Agreement.

11.12.1 STOCK SPLITS AND RECAPITALIZATIONS. In the event Shares shall be subdivided or combined into a greater or smaller number of Shares, or if, upon a merger or consolidation (except those described in SECTION 11.4), reorganization, split-up, liquidation, combination, recapitalization or the like of the Company, Shares shall be exchanged for other securities of the Company, securities of another entity, cash or other property, then each Participant upon exercising an Award (for the purchase price to be paid under the Award) shall be entitled to purchase such number of Shares, other securities of the Company, securities of such other entity, cash or other property as the Participant would have received if the Participant had been the holder of the Shares with respect to which the Award is exercised at all times between the Grant Date of the Award and the date of its exercise, and appropriate adjustments shall be made in the purchase price per Share.

11.12.2 RESTRICTED STOCK. If any person owning Restricted Stock receives new or additional or different shares or securities ("New Securities") in connection with a corporate transaction described in SECTION 11.12.1 or a stock dividend described in SECTION 11.12.1 as a result of owning such Restricted Stock, the New Securities shall be subject to all of the conditions and restrictions applicable to the Restricted Stock with respect to which such New Securities were issued.

11.12.3 BOARD DETERMINATION. Notwithstanding any provision to the contrary, no adjustments shall be made pursuant to SECTION 11.12.1 with respect to ISOs, unless (i) the Board, after consulting with counsel for the Company, determines that such adjustments would not constitute a modification, "extension" or "renewal" of such ISOs as such terms are defined in Section 424 of the Code, (ii) would not cause any adverse tax consequences for the holders of such ISOs, or (iii) the holders of such ISOs consent to the adjustment.

11.12.4 FRACTIONAL SHARES. No fractional Shares shall be issued under the Plan. Any fractional Shares which, but for this Section, would have been issued shall be deemed to have been issued and immediately sold to the Company for their Fair Market Value, and the Participant shall receive from the Company cash in lieu of such fractional Shares.

11.12.5 RECAPITALIZATION. The Board may adjust the number of Shares subject to outstanding Awards and the exercise price and the terms of outstanding Awards to take into consideration material changes in accounting practices or principles, extraordinary dividends, acquisitions or dispositions of stock or property, or any other event if it is determined by the Board that

such adjustment is appropriate to avoid distortion in the operation of the Plan.

11.12.6 FURTHER ADJUSTMENT. Upon the happening of any of the events described in SECTIONS 11.12.1 or 11.12.5, the class and aggregate number of Shares set forth in SECTIONS 5.1 and 5.3 hereof that are subject to Awards which previously have been or subsequently may be granted under the Plan shall be appropriately adjusted to reflect the events described in such

Sections. The Board shall determine the specific adjustments to be made under this SECTION 11.12.6.

11.13 LOCK-UP" AND MARKET STANDSTILL. In the event the Company proposes an initial public offering of any of its equity securities pursuant to a registration statement under the Securities Act (whether for its own account or the account of others,) and (1) if requested in writing by the Company and an underwriter of the proposed offering of common stock or other securities of the Company; and (2) if all other "affiliates" and all five percent (5%) stockholders, directors, officers and other key management personnel similarly situated are requested by the Company and such underwriter to sign, and actually do sign, any "Lock-Up Agreement" (each a "Lock-Up Agreement" and collectively, the "Lock-Up Agreements"), a Participant shall agree to a restriction whereby he or she shall not sell, grant any option or right to buy or sell, or otherwise transfer or dispose of in any manner, to the public in open market transactions, any Shares or other equity securities of the Company held by such Participant during whatever time period is requested by the Company and the underwriter for restrictions on trading or transfer (the "Lock-Up Period") following the effective date of the registration statement of the Company filed under the Securities Act. Such agreements shall be in writing and in form and substance pursuant to customary and prevailing terms and conditions for such Lock-Up Agreements. The Company may impose stop-transfer instructions with respect to the securities subject to the foregoing restrictions until the end of the Lock-Up Period. Such Lock-Up Period shall not exceed 180 days in length.

SECTION 12. AMENDMENT AND TERMINATION

12.1 AMENDMENT, SUSPENSION, TERMINATION OF THE PLAN. The Board may modify, amend, suspend or terminate the Plan in whole or in part at any time; provided, however, that no modification, amendment, suspension or termination of the Plan shall be made without shareholder approval if such approval is necessary to comply with any applicable tax or regulatory requirement; provided, further, that such modification, amendment, suspension or termination shall not, without a Participant's consent, affect adversely the rights of such Participant with respect to any Award previously made.

12.2 AMENDMENT, SUSPENSION, TERMINATION OF AN AWARD. The Board may modify, amend or terminate any outstanding Award, including, without limitation, substituting therefor another Award of the same or a different type, changing the date of exercise or realization and converting an ISO to a NQO; provided, however, that the Participant's consent to such action shall be required unless the Board determines that the action, taking into account any related action, would not materially and adversely affect the Participant.

SECTION 13. LEGAL CONSTRUCTION

13.1 CAPTIONS. The captions provided herein are included solely for convenience of reference and shall not affect the meaning of any of the provisions of the Plan or serve as a basis for interpretation or construction of the Plan.

13.2 SEVERABILITY. In the event any provision of the Plan is held invalid or illegal for any reason, the illegality or invalidity shall not affect the remaining provisions of the Plan, and the Plan shall be construed and enforced as if the illegal or invalid provision had not been included.

13.3 GOVERNING LAW. The Plan and all rights under the Plan shall be construed in accordance with and governed by the internal laws of the Commonwealth of Massachusetts.

Approved by Board: February 15, 2001

Approved by Stockholders: February 23, 2001

EXHIBIT 10.4

FIRST AMENDMENT TO AMENDED AND RESTATED 1998 EQUITY INCENTIVE PLAN

The NeuroMetrix, Inc. Amended and Restated 1998 Equity Incentive Plan (the "Plan") is hereby amended as follows:

Section 5.1 of the Plan is hereby deleted in its entirety and replaced with the following:

> 5.1 NUMBER OF SHARES. Awards may be made under the Plan for up to 2,675,000 Shares, of which up to 2,675,000 Shares may be ISOs. Shares issued under the Plan may consist in whole or in part of authorized but unissued Shares or treasury Shares.

This amendment shall be effective as of the date on which it is approved by the stockholders of NeuroMetrix, Inc.

APPROVED BY BOARD: APRIL 21, 2004

APPROVED BY STOCKHOLDERS: APRIL 21, 2004

EXHIBIT 10.5

NEUROMETRIX, INC.

2004 STOCK OPTION AND INCENTIVE PLAN

SECTION 1. GENERAL PURPOSE OF THE PLAN; DEFINITIONS

The name of the plan is the NeuroMetrix, Inc. 2004 Stock Option and Incentive Plan (the "Plan"). The purpose of the Plan is to encourage and enable the officers, employees, Non-Employee Directors and other key persons (including consultants and prospective employees) of NeuroMetrix, Inc. (the "Company") and its Subsidiaries upon whose judgment, initiative and efforts the Company largely depends for the successful conduct of its business to acquire a proprietary interest in the Company. It is anticipated that providing such persons with a direct stake in the Company's welfare will assure a closer identification of their interests with those of the Company, thereby stimulating their efforts on the Company's behalf and strengthening their desire to remain with the Company.

The following terms shall be defined as set forth below:

"ACT" means the Securities Act of 1933, as amended, and the rules and regulations thereunder.

"ADMINISTRATOR" is defined in Section 2(a).

"AWARD" or "AWARDS," except where referring to a particular category of grant under the Plan, shall include Incentive Stock Options, Non-Qualified Stock Options, Stock Appreciation Rights, Deferred Stock Awards, Restricted Stock Awards, Unrestricted Stock Awards and Dividend Equivalent Rights.

"BOARD" means the Board of Directors of the Company.

"CODE" means the Internal Revenue Code of 1986, as amended, and any successor Code, and related rules, regulations and interpretations.

"COMMITTEE" means the Committee of the Board referred to in Section 2.

"COVERED EMPLOYEE" means an employee who is a "Covered Employee" within the meaning of Section 162(m) of the Code.

"DEFERRED STOCK AWARD" means Awards granted pursuant to Section 8.

"DIVIDEND EQUIVALENT RIGHT" means Awards granted pursuant to Section 11.

"EFFECTIVE DATE" means the date on which the Plan is approved by stockholders as set forth in Section 17.

"EXCHANGE ACT" means the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder.

"FAIR MARKET VALUE" of the Stock on any given date means the fair market value of the Stock determined in good faith by the Administrator; provided, however, that if the Stock is traded on The NASDAQ National Market or a national securities exchange, the Fair Market Value of the Stock will equal the closing sales price as reported on the principal exchange or market for the Stock on such date. If there is no trading on such date, the determination shall be made by reference to the last date preceding such date for which there was trading; provided further, however, that if the date for which Fair Market Value is determined is the first day when trading prices for the Stock are reported on The NASDAQ National Market or on a national securities exchange, the Fair Market Value of the Common Stock shall be the "Price to the Public" (or equivalent) set forth on the cover page for the final prospectus relating to the Company's Initial Public Offering.

"INCENTIVE STOCK OPTION" means any Stock Option designated and qualified as an "incentive stock option" as defined in Section 422 of the Code.

"INITIAL PUBLIC OFFERING" means the consummation of the first fully underwritten, firm commitment public offering pursuant to an effective registration statement under the Act covering the offer and sale by the Company of its equity securities, or such other event as a result of or following which the Stock shall be publicly held.

"NON-EMPLOYEE DIRECTOR" means a member of the Board who is not also an employee of the Company or any Subsidiary.

"NON-QUALIFIED STOCK OPTION" means any Stock Option that is not an Incentive Stock Option.

"OPTION" or "STOCK OPTION" means any option to purchase shares of Stock granted pursuant to Section 5.

"PERFORMANCE CYCLE" means one or more periods of time, which may be of varying and overlapping durations, as the Administrator may select, over which the attainment of one or more performance criteria will be measured for the purpose of determining a grantee's right to and the payment of a Restricted Stock Award or Deferred Stock Award.

"RESTRICTED STOCK AWARD" means Awards granted pursuant to Section 7.

"STOCK" means the Common Stock, par value $0.0001 per share, of the Company, subject to adjustments pursuant to Section 3.

"STOCK APPRECIATION RIGHT" means any Award granted pursuant to Section 6.

"SUBSIDIARY" means any corporation or other entity (other than the Company) in which the Company has a controlling interest, either directly or indirectly.

"UNRESTRICTED STOCK AWARD" means any Award granted pursuant to Section 9.

SECTION 2. ADMINISTRATION OF PLAN; ADMINISTRATOR AUTHORITY TO SELECT GRANTEES AND DETERMINE AWARDS

(a) COMMITTEE. The Plan shall be administered by either the Board or a committee of not less than two Non-Employee Directors (in either case, the "Administrator").

(b) POWERS OF ADMINISTRATOR. The Administrator shall have the power and authority to grant Awards consistent with the terms of the Plan, including the power and authority:

(i) to select the individuals to whom Awards may from time to time be granted;

(ii) to determine the time or times of grant, and the extent, if any, of Incentive Stock Options, Non-Qualified Stock Options, Stock Appreciation Rights, Restricted Stock Awards, Deferred Stock Awards, Unrestricted Stock Awards and Dividend Equivalent Rights, or any combination of the foregoing, granted to any one or more grantees;

(iii) to determine the number of shares of Stock to be covered by any Award;

(iv) to determine and modify from time to time the terms and conditions, including restrictions, not inconsistent with the terms of the Plan, of any Award, which terms and conditions may differ among individual Awards and grantees, and to approve the form of written instruments evidencing the Awards;

(v) to accelerate at any time the exercisability or vesting of all or any portion of any Award;

(vi) subject to the provisions of Section 5(a)(ii), to extend at any time the period in which Stock Options may be exercised;

(vii) to determine at any time whether, to what extent, and under what circumstances distribution or the receipt of Stock and other amounts payable with respect to an Award shall be deferred either automatically or at the election of the grantee and whether and to what extent the Company shall pay or credit amounts constituting interest (at rates determined by the Administrator) or dividends or deemed dividends on such deferrals; and

(viii) at any time to adopt, alter and repeal such rules, guidelines and practices for administration of the Plan and for its own acts and proceedings as it shall deem advisable; to interpret the terms and provisions of the Plan and any Award (including related written instruments); to make all determinations it deems advisable for the administration of the Plan; to decide all disputes arising in connection with the Plan; and to otherwise supervise the administration of the Plan.

All decisions and interpretations of the Administrator shall be binding on all persons, including the Company and Plan grantees.

(c) DELEGATION OF AUTHORITY TO GRANT AWARDS. The Administrator, in its discretion, may delegate to the Chief Executive Officer of the Company all or

part of the Administrator's authority and duties with respect to the granting of Awards, to individuals who are not subject to

the reporting and other provisions of Section 16 of the Exchange Act or "covered employees" within the meaning of Section 162(m) of the Code. Any such delegation by the Administrator shall include a limitation as to the amount of Awards that may be granted during the period of the delegation and shall contain guidelines as to the determination of the exercise price of any Stock Option or Stock Appreciation Right, the conversion ratio or price of other Awards and the vesting criteria. The Administrator may revoke or amend the terms of a delegation at any time but such action shall not invalidate any prior actions of the Administrator's delegate or delegates that were consistent with the terms of the Plan.

(d) INDEMNIFICATION. Neither the Board nor the Committee, nor any member of either or any delegatee thereof, shall be liable for any act, omission, interpretation, construction or determination made in good faith in connection with the Plan, and the members of the Board and the Committee (and any delegatee thereof) shall be entitled in all cases to indemnification and reimbursement by the Company in respect of any claim, loss, damage or expense (including, without limitation, reasonable attorneys' fees) arising or resulting therefrom to the fullest extent permitted by law and/or under any directors' and officers' liability insurance coverage which may be in effect from time to time.

SECTION 3. STOCK ISSUABLE UNDER THE PLAN; MERGERS; SUBSTITUTION

(a) STOCK ISSUABLE. Subject to adjustment as provided in Section 3(b), the maximum number of shares of Stock reserved and available for issuance under the Plan shall be the aggregate number of shares of Stock as does not exceed the sum of (i) 3,300,000 shares; plus (ii) as of the last day of the fiscal year in which the Initial Public Offering occurs, 15 percent of any net increase, during the period beginning on the day after the closing of the Initial Public Offering and ending on the last day of such fiscal year, in the total number of shares of Stock actually outstanding; plus (iii) as of the last day of each fiscal year starting with the first fiscal year commencing after the Initial Public Offering, 15 percent of any net increase since the last day of the prior fiscal year in the total number of shares of Stock actually outstanding; provided that not more than 3,300,000 shares shall be issued in the form of Unrestricted Stock Awards, Restricted Stock Awards or Deferred Stock Awards (excluding for purposes of such 3,300,000 share limitation, the shares of Stock underlying any Awards granted in lieu of cash compensation or fees). For purposes of this limitation, the shares of Stock underlying any Awards which are forfeited, canceled, held back upon exercise of an Option or settlement of an Award to cover the exercise price or tax withholding, reacquired by the Company prior to vesting, satisfied without the issuance of Stock or otherwise terminated (other than by exercise) shall be added back to the shares of Stock available for issuance under the Plan. Subject to such overall limitations, shares of Stock may be issued up to such maximum number pursuant to any type or types of Award; provided, however, that Stock Options or Stock Appreciation Rights with respect to no more than 3,300,000 shares of Stock may be granted to any one individual grantee during any one calendar year period. The shares available for issuance under the Plan may be authorized but unissued shares of Stock or shares of Stock reacquired by the Company.

(b) CHANGES IN STOCK. Subject to Section 3(c) hereof, if, as a result of any reorganization, recapitalization, reclassification, stock dividend, stock split, reverse stock split or other similar change in the Company's capital stock, the outstanding shares of Stock are increased or decreased or are exchanged for a different number or kind of shares or other

securities of the Company, or additional shares or new or different shares or other securities of the Company or other non-cash assets are distributed with respect to such shares of Stock or other securities, or, if, as a result of any merger or consolidation, sale of all or substantially all of the assets of the Company, the outstanding shares of Stock are converted into or exchanged for a different number or kind of securities of the Company or any successor entity (or a parent or subsidiary thereof), the Administrator shall make an appropriate or proportionate adjustment in (i) the maximum number of shares reserved for issuance under the Plan, including the maximum number of shares that may be issued in the form of Unrestricted Stock Awards, Restricted Stock Awards or Deferred Stock Awards, (ii) the number of Stock Options or Stock Appreciation Rights that can be granted to any one individual grantee and the maximum number of shares that may be granted under a Performance-based Award, (iii) the number and kind of shares or other securities subject to any then outstanding Awards under the Plan, (iv) the repurchase price, if any, per share subject to each

outstanding Restricted Stock Award, (v) the number of Stock Options automatically granted to Non-Employee Directors, and (vi) the price for each share subject to any then outstanding Stock Options and Stock Appreciation Rights under the Plan, without changing the aggregate exercise price (i.e., the exercise price multiplied by the number of Stock Options and Stock Appreciation Rights) as to which such Stock Options and Stock Appreciation Rights remain exercisable. The adjustment by the Administrator shall be final, binding and conclusive. No fractional shares of Stock shall be issued under the Plan resulting from any such adjustment, but the Administrator in its discretion may make a cash payment in lieu of fractional shares.

The Administrator may also adjust the number of shares subject to outstanding Awards and the exercise price and the terms of outstanding Awards to take into consideration material changes in accounting practices or principles, extraordinary dividends, acquisitions or dispositions of stock or property or any other event if it is determined by the Administrator that such adjustment is appropriate to avoid distortion in the operation of the Plan, provided that no such adjustment shall be made in the case of an Incentive Stock Option, without the consent of the grantee, if it would constitute a modification, extension or renewal of the Option within the meaning of Section 424(h) of the Code.

(c) MERGERS AND OTHER TRANSACTIONS. In the case of and subject to the consummation of (i) the dissolution or liquidation of the Company, (ii) the sale of all or substantially all of the assets of the Company on a consolidated basis to an unrelated person or entity, (iii) a merger, reorganization or consolidation in which the outstanding shares of Stock are converted into or exchanged for a different kind of securities of the successor entity and the holders of the Company's outstanding voting power immediately prior to such transaction do not own a majority of the outstanding voting power of the successor entity immediately upon completion of such transaction, or (iv) the sale of all of the Stock of the Company to an unrelated person or entity (in each case, a "Sale Event"), the Plan and all outstanding Awards granted hereunder shall terminate, unless provision is made in connection with the Sale Event in the sole discretion of the parties thereto for the assumption or continuation of Awards theretofore granted by the successor entity, or the substitution of such Awards with new Awards of the successor entity or parent thereof, with appropriate adjustment as to the number and kind of shares and, if appropriate, the per share exercise prices, as such parties shall agree. In the event of such termination, all Options and Stock Appreciation Rights that are not exercisable immediately prior to the effective time of the Sale Event shall become fully exercisable as of the effective

time of the Sale Event and all other Awards shall become fully vested and nonforfeitable as of the effective time of the Sale Event, except as the Administrator may otherwise specify with respect to particular Awards in the relevant Award documentation, and each grantee shall be permitted, within a specified period of time prior to the consummation of the Sale Event as determined by the Administrator, to exercise all outstanding Options and Stock Appreciation Rights held by such grantee, including those that will become exercisable upon the consummation of the Sale Event; provided, however, that the exercise of Options and Stock Appreciation Rights not exercisable prior to the Sale Event shall be subject to the consummation of the Sale Event.

Notwithstanding anything to the contrary in this Section 3(c), in the event of a Sale Event pursuant to which holders of the Stock of the Company will receive upon consummation thereof a cash payment for each share surrendered in the Sale Event, the Company shall have the right, but not the obligation, to make or provide for a cash payment to the grantees holding Options and Stock Appreciation Rights, in exchange for the cancellation thereof, in an amount equal to the difference between (A) the value as determined by the Administrator of the consideration payable per share of Stock pursuant to the Sale Event (the "Sale Price") times the number of shares of Stock subject to outstanding Options and Stock Appreciation Rights (to the extent then exercisable at prices not in excess of the Sale Price) and (B) the aggregate exercise price of all such outstanding Options and Stock Appreciation Rights.

(d) SUBSTITUTE AWARDS. The Administrator may grant Awards under the Plan in substitution for stock and stock based awards held by employees, directors or other key persons of another corporation in connection with the merger or consolidation of the employing corporation with the Company or a Subsidiary or the acquisition by the Company or a Subsidiary of property or stock of the employing corporation. The Administrator may direct that the substitute awards be granted on such terms and conditions as the Administrator considers appropriate in the circumstances. Any substitute Awards granted under the Plan shall not count against the share limitation set forth in Section 3(a).

SECTION 4. ELIGIBILITY

Grantees under the Plan will be such full or part-time officers and other employees, Non-Employee Directors and key persons (including consultants and prospective employees) of the Company and its Subsidiaries as are selected from time to time by the Administrator in its sole discretion.

SECTION 5. STOCK OPTIONS

Any Stock Option granted under the Plan shall be in such form as the Administrator may from time to time approve.

Stock Options granted under the Plan may be either Incentive Stock Options or Non-Qualified Stock Options. Incentive Stock Options may be granted only to employees of the Company or any Subsidiary that is a "subsidiary corporation" within the meaning of Section 424(f) of the Code. To the extent that any Option does not qualify as an Incentive Stock Option, it shall be deemed a Non-Qualified Stock Option.

(a) STOCK OPTIONS GRANTED TO EMPLOYEES AND KEY PERSONS. The Administrator in its discretion may grant Stock Options to eligible employees and key persons of the Company or any Subsidiary. Stock Options granted pursuant to this Section 5(a) shall be subject to the following terms and conditions and shall contain such additional terms and conditions, not inconsistent with the terms of the Plan, as the Administrator shall deem desirable. If the Administrator so determines, Stock Options may be granted in lieu of cash compensation at the optionee's election, subject to such terms and conditions as the Administrator may establish.

(i) EXERCISE PRICE. The exercise price per share for the Stock covered by a Stock Option granted pursuant to this Section 5(a) shall be determined by the Administrator at the time of grant but, in the case of Incentive Stock Options, shall not be less than 100 percent of the Fair Market Value on the date of grant and, in the case of all other Stock Options, shall not be less than 85 percent of the Fair Market Value on the date of grant (other than options granted in lieu of cash compensation). If an employee owns or is deemed to own (by reason of the attribution rules of Section 424(d) of the Code) more than 10 percent of the combined voting power of all classes of stock of the Company or any parent or subsidiary corporation and an Incentive Stock Option is granted to such employee, the option price of such Incentive Stock Option shall be not less than 110 percent of the Fair Market Value on the grant date.

(ii) OPTION TERM. The term of each Stock Option shall be fixed by the Administrator, but no Stock Option shall be exercisable more than 10 years after the date the Stock Option is granted. If an employee owns or is deemed to own (by reason of the attribution rules of Section 424(d) of the Code) more than 10 percent of the combined voting power of all classes of stock of the Company or any parent or subsidiary corporation and an Incentive Stock Option is granted to such employee, the term of such Stock Option shall be no more than five years from the date of grant.

(iii) EXERCISABILITY; RIGHTS OF A STOCKHOLDER. Stock Options shall become exercisable at such time or times, whether or not in installments, as shall be determined by the Administrator at or after the grant date. The Administrator may at any time accelerate the exercisability of all or any portion of any Stock Option. An optionee shall have the rights of a stockholder only as to shares acquired upon the exercise of a Stock Option and not as to unexercised Stock Options.

(iv) METHOD OF EXERCISE. Stock Options may be exercised in whole or in part, by giving written notice of exercise to the Company, specifying the number of shares to be purchased. Payment of the purchase price may be made by one or more of the following methods to the extent provided in the Option Award agreement:

(A) In cash, by certified or bank check or other instrument acceptable to the Administrator;

(B) Through the delivery (or attestation to the ownership) of shares of Stock that have been purchased by the optionee on the open market or that have been beneficially owned by the optionee for at least six months and are not then subject to restrictions under any Company plan. Such surrendered shares shall be valued at Fair Market Value on the exercise date; or

(C) By the optionee delivering to the Company a properly executed exercise notice together with irrevocable instructions to a broker

to promptly deliver to the Company cash or a check payable and acceptable to the Company for the purchase price; provided that in the event the optionee chooses to pay the purchase price as so provided, the optionee and the broker shall comply with such procedures and enter into such agreements of indemnity and other agreements as the Administrator shall prescribe as a condition of such payment procedure.

Payment instruments will be received subject to collection. The delivery of certificates representing the shares of Stock to be purchased pursuant to the exercise of a Stock Option will be contingent upon receipt from the optionee (or a purchaser acting in his stead in accordance with the provisions of the Stock Option) by the Company of the full purchase price for such shares and the fulfillment of any other requirements contained in the Option Award agreement or applicable provisions of laws. In the event an optionee chooses to pay the purchase price by previously-owned shares of Stock through the attestation method, the number of shares of Stock transferred to the optionee upon the exercise of the Stock Option shall be net of the number of shares attested to.

(v) ANNUAL LIMIT ON INCENTIVE STOCK OPTIONS. To the extent required for "incentive stock option" treatment under Section 422 of the Code, the aggregate Fair Market Value (determined as of the time of grant) of the shares of Stock with respect to which Incentive Stock Options granted under this Plan and any other plan of the Company or its parent and subsidiary corporations become exercisable for the first time by an optionee during any calendar year shall not exceed $100,000. To the extent that any Stock Option exceeds this limit, it shall constitute a Non-Qualified Stock Option.

(b) NON-TRANSFERABILITY OF OPTIONS. No Stock Option shall be transferable by the optionee otherwise than by will or by the laws of descent and distribution and all Stock Options shall be exercisable, during the optionee's lifetime, only by the optionee, or by the optionee's legal representative or guardian in the event of the optionee's incapacity. Notwithstanding the foregoing, the Administrator, in its sole discretion, may provide in the Award agreement regarding a given Option that the optionee may transfer his Non-Qualified Stock Options to members of his immediate family, to trusts for the benefit of such family members, or to partnerships in which such family members are the only partners, provided that the transferee agrees in writing with the Company to be bound by all of the terms and conditions of this Plan and the applicable Option.

SECTION 6. STOCK APPRECIATION RIGHTS

(a) NATURE OF STOCK APPRECIATION RIGHTS. A Stock Appreciation Right is an Award entitling the recipient to receive an amount in cash or shares of Stock or a combination thereof having a value equal to the excess of the Fair Market Value of the Stock on the date of exercise over the exercise price of the Stock Appreciation Right, which price shall not be less than 85 percent of the Fair Market Value of the Stock on the date of grant (or more than the option exercise price per share, if the Stock Appreciation Right was granted in tandem with a Stock Option) multiplied by the number of shares of Stock with respect to which the Stock

Appreciation Right shall have been exercised, with the Administrator having the right to determine the form of payment.

(b) GRANT AND EXERCISE OF STOCK APPRECIATION RIGHTS. Stock Appreciation Rights may be granted by the Administrator in tandem with, or independently of, any Stock Option granted pursuant to Section 5 of the Plan. In the case of a Stock Appreciation Right granted in tandem with a Non-Qualified Stock Option, such Stock Appreciation Right may be granted either at or after the time of the grant of such Option. In the case of a Stock Appreciation Right granted in tandem with an Incentive Stock Option, such Stock Appreciation Right may be granted only at the time of the grant of the Option.

A Stock Appreciation Right or applicable portion thereof granted in tandem with a Stock Option shall terminate and no longer be exercisable upon the termination or exercise of the related Option.

(c) TERMS AND CONDITIONS OF STOCK APPRECIATION RIGHTS. Stock Appreciation Rights shall be subject to such terms and conditions as shall be determined from time to time by the Administrator, subject to the following:

(i) Stock Appreciation Rights granted in tandem with Options shall be exercisable at such time or times and to the extent that the related Stock Options shall be exercisable.

(ii) Upon exercise of a Stock Appreciation Right, the applicable portion of any related Option shall be surrendered.

(iii) All Stock Appreciation Rights shall be exercisable during the grantee's lifetime only by the grantee or the grantee's legal representative.

SECTION 7. RESTRICTED STOCK AWARDS

(a) NATURE OF RESTRICTED STOCK AWARDS. A Restricted Stock Award is an Award entitling the recipient to acquire, at such purchase price (which may be zero) as determined by the Administrator, shares of Stock subject to such restrictions and conditions as the Administrator may determine at the time of grant ("Restricted Stock"). Conditions may be based on continuing employment (or other service relationship) and/or achievement of pre-established performance goals and objectives. The grant of a Restricted Stock Award is contingent on the grantee executing the Restricted Stock Award agreement. The terms and conditions of each such agreement shall be determined by the Administrator, and such terms and conditions may differ among individual Awards and grantees.

(b) RIGHTS AS A STOCKHOLDER. Upon execution of a written instrument setting forth the Restricted Stock Award and payment of any applicable purchase price, a grantee shall have the rights of a stockholder with respect to the voting of the Restricted Stock, subject to such conditions contained in the written instrument evidencing the Restricted Stock Award. Unless the Administrator shall otherwise determine, (i) uncertificated Restricted Stock shall be accompanied by a notation on the records of the Company or the transfer agent to the effect that

they are subject to forfeiture until such Restricted Stock are vested as provided in Section 7(d) below, and (ii) certificated Restricted Stock shall remain in the possession of the Company until such Restricted Stock is vested as provided in Section 7(d) below, and the grantee shall be required, as a condition of the grant, to deliver to the Company such instruments of transfer as the Administrator may prescribe.

(c) RESTRICTIONS. Restricted Stock may not be sold, assigned, transferred, pledged or otherwise encumbered or disposed of except as specifically provided herein or in the Restricted Stock Award agreement. Except as may otherwise be provided by the Administrator either in the Award agreement or, subject to Section 14 below, in writing after the Award agreement is issued, if any, if a grantee's employment (or other service relationship) with the Company and its Subsidiaries terminates for any reason, any Restricted Stock that has not vested at the time of termination shall automatically and without any requirement of notice to such grantee from or other action by or on behalf of, the Company be deemed to have been reacquired by the Company at its original purchase price from such grantee or such grantee's legal representative simultaneously with such termination of employment (or other service relationship), and thereafter shall cease to represent any ownership of the Company by the grantee or rights of the grantee as a shareholder. Following such deemed reacquisition of unvested Restricted Stock that are represented by physical certificates, grantee shall surrender such certificates to the Company upon request without consideration.

(d) VESTING OF RESTRICTED STOCK. The Administrator at the time of grant shall specify the date or dates and/or the attainment of pre-established performance goals, objectives and other conditions on which the non-transferability of the Restricted Stock and the Company's right of repurchase or forfeiture shall lapse. Notwithstanding the foregoing, in the event that any such Restricted Stock shall have a performance-based goal, the restriction period with respect to such shares shall not be less than one year, and in the event any such Restricted Stock shall have a time-based restriction, the restriction period with respect to such shares shall not be less than three years. Subsequent to such date or dates and/or the attainment of such pre-established performance goals, objectives and other conditions, the shares on which all restrictions have lapsed shall no longer be Restricted Stock and shall be deemed "vested." Except as may otherwise be provided by the Administrator either in the Award agreement or, subject to Section 14 below, in writing after the Award agreement is issued, a grantee's rights in any shares of Restricted Stock that have not vested shall automatically terminate upon the grantee's termination of employment (or other service relationship) with the Company and its Subsidiaries and such shares shall be subject to the provisions of Section 7(c) above.

SECTION 8. DEFERRED STOCK AWARDS

(a) NATURE OF DEFERRED STOCK AWARDS. A Deferred Stock Award is an Award of phantom stock units to a grantee, subject to restrictions and conditions as the Administrator may determine at the time of grant. Conditions may be based on continuing employment (or other service relationship) and/or achievement of pre-established performance goals and objectives. The grant of a Deferred Stock

Award is contingent on the grantee executing the Deferred Stock Award agreement. The terms and conditions of each such agreement shall be determined by the Administrator, and such terms and conditions may differ among individual Awards and grantees. Notwithstanding the foregoing, in the event that any such Deferred Stock Award shall have a

performance-based goal, the restriction period with respect to such award shall not be less than one year, and in the event any such Deferred Stock Award shall have a time-based restriction, the restriction period with respect to such award shall not be less than three years. At the end of the deferral period, the Deferred Stock Award, to the extent vested, shall be paid to the grantee in the form of shares of Stock.

(b) ELECTION TO RECEIVE DEFERRED STOCK AWARDS IN LIEU OF COMPENSATION. The Administrator may, in its sole discretion, permit a grantee to elect to receive a portion of the cash compensation or Restricted Stock Award otherwise due to such grantee in the form of a Deferred Stock Award. Any such election shall be made in writing and shall be delivered to the Company no later than the date specified by the Administrator and in accordance with rules and procedures established by the Administrator. The Administrator shall have the sole right to determine whether and under what circumstances to permit such elections and to impose such limitations and other terms and conditions thereon as the Administrator deems appropriate.

(c) RIGHTS AS A STOCKHOLDER. During the deferral period, a grantee shall have no rights as a stockholder; provided, however, that the grantee may be credited with Dividend Equivalent Rights with respect to the phantom stock units underlying his Deferred Stock Award, subject to such terms and conditions as the Administrator may determine.

(d) RESTRICTIONS. A Deferred Stock Award may not be sold, assigned, transferred, pledged or otherwise encumbered or disposed of during the deferral period.

(e) TERMINATION. Except as may otherwise be provided by the Administrator either in the Award agreement or, subject to Section 14 below, in writing after the Award agreement is issued, a grantee's right in all Deferred Stock Awards that have not vested shall automatically terminate upon the grantee's termination of employment (or cessation of service relationship) with the Company and its Subsidiaries for any reason.

SECTION 9. UNRESTRICTED STOCK AWARDS

GRANT OR SALE OF UNRESTRICTED STOCK. The Administrator may, in its sole discretion, grant (or sell at par value or such higher purchase price determined by the Administrator) an Unrestricted Stock Award to any grantee pursuant to which such grantee may receive shares of Stock free of any restrictions ("Unrestricted Stock") under the Plan. Unrestricted Stock Awards may be granted in respect of past services or other valid consideration, or in lieu of cash compensation due to such grantee.

SECTION 10. PERFORMANCE-BASED AWARDS TO COVERED EMPLOYEES

Notwithstanding anything to the contrary contained herein, if any Restricted Stock Award or Deferred Stock Award granted to a Covered Employee is intended to qualify as "Performance-based Compensation" under Section 162(m) of the Code and the regulations promulgated thereunder (a "Performance-based Award"), such Award shall comply with the provisions set forth below:

(a) PERFORMANCE CRITERIA. The performance criteria used in performance goals governing Performance-based Awards granted to Covered Employees may include any or all of the following: (i) the Company's return on equity, assets, capital or investment: (ii) pre-tax or after-tax profit levels of the Company or any Subsidiary, a division, an operating unit or a business segment of the Company, or any combination of the foregoing; (iii) cash flow, funds from operations or similar measure; (iv) total shareholder return; (v) changes in the market price of the Stock; (vi) sales or market share; or (vii) earnings per share.

(b) GRANT OF PERFORMANCE-BASED AWARDS. With respect to each Performance-based Award granted to a Covered Employee, the Committee shall select, within the first 90 days of a Performance Cycle (or, if shorter, within the maximum period allowed under Section 162(m) of the Code) the performance criteria for such grant, and the achievement targets with respect to each performance criterion (including a threshold level of performance below which no

amount will become payable with respect to such Award). Each Performance-based Award will specify the amount payable, or the formula for determining the amount payable, upon achievement of the various applicable performance targets. The performance criteria established by the Committee may be (but need not be) different for each Performance Cycle and different goals may be applicable to Performance-based Awards to different Covered Employees.

(c) PAYMENT OF PERFORMANCE-BASED AWARDS. Following the completion of a Performance Cycle, the Committee shall meet to review and certify in writing whether, and to what extent, the performance criteria for the Performance Cycle have been achieved and, if so, to also calculate and certify in writing the amount of the Performance-based Awards earned for the Performance Cycle. The Committee shall then determine the actual size of each Covered Employee's Performance-based Award, and, in doing so, may reduce or eliminate the amount of the Performance-based Award for a Covered Employee if, in its sole judgment, such reduction or elimination is appropriate.

(d) MAXIMUM AWARD PAYABLE. The maximum Performance-based Award payable to any one Covered Employee under the Plan for a Performance Cycle is 3,300,000 Shares (subject to adjustment as provided in Section 3(b) hereof).

SECTION 11. DIVIDEND EQUIVALENT RIGHTS

(a) DIVIDEND EQUIVALENT RIGHTS. A Dividend Equivalent Right is an Award entitling the grantee to receive credits based on cash dividends that would have been paid on the shares of Stock specified in the Dividend Equivalent Right (or other award to which it relates) if such shares had been issued to and held by the grantee. A Dividend Equivalent Right may be granted hereunder to any grantee as a component of another Award or as a freestanding award. The terms and conditions of Dividend Equivalent Rights shall be specified in the Award agreement. Dividend equivalents credited to the holder of a Dividend Equivalent Right may be paid currently or may be deemed to be reinvested in additional shares of Stock, which may thereafter accrue additional equivalents. Any such reinvestment shall be at Fair Market Value on the date of reinvestment or such other price as may then apply under a dividend reinvestment plan sponsored by the Company, if any. Dividend Equivalent Rights may be settled in cash or shares of Stock or a combination thereof, in a single installment or installments. A Dividend Equivalent Right granted as a component of another Award may provide that such Dividend Equivalent

Right shall be settled upon exercise, settlement, or payment of, or lapse of restrictions on, such other award, and that such Dividend Equivalent Right shall expire or be forfeited or annulled under the same conditions as such other award. A Dividend Equivalent Right granted as a component of another Award may also contain terms and conditions different from such other award.

(b) INTEREST EQUIVALENTS. Any Award under this Plan that is settled in whole or in part in cash on a deferred basis may provide in the grant for interest equivalents to be credited with respect to such cash payment. Interest equivalents may be compounded and shall be paid upon such terms and conditions as may be specified by the grant.

(c) TERMINATION. Except as may otherwise be provided by the Administrator either in the Award agreement or, subject to Section 14 below, in writing after the Award agreement is issued, a grantee's rights in all Dividend Equivalent Rights or interest equivalents granted as a component of another Award that has not vested shall automatically terminate upon the grantee's termination of employment (or cessation of service relationship) with the Company and its Subsidiaries for any reason.

SECTION 12. TAX WITHHOLDING

(a) PAYMENT BY GRANTEE. Each grantee shall, no later than the date as of which the value of an Award or of any Stock or other amounts received thereunder first becomes includable in the gross income of the grantee for Federal income tax purposes, pay to the Company, or make arrangements satisfactory to the Administrator regarding payment of, any Federal, state, or local taxes of any kind required by law to be withheld with respect to such income. The Company and its Subsidiaries shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to the grantee. The Company's obligation to deliver stock certificates to any grantee is subject to and conditioned on tax obligations being satisfied by the grantee.

(b) PAYMENT IN STOCK. Subject to approval by the Administrator, a grantee may elect to have the minimum required tax withholding obligation satisfied, in whole or in part, by (i) authorizing the Company to withhold from shares of Stock to be issued pursuant to any Award a number of shares with an aggregate Fair Market Value (as of the date the withholding is effected) that would

satisfy the withholding amount due, or (ii) transferring to the Company shares of Stock owned by the grantee with an aggregate Fair Market Value (as of the date the withholding is effected) that would satisfy the withholding amount due.

SECTION 13. TRANSFER, LEAVE OF ABSENCE, ETC.

For purposes of the Plan, the following events shall not be deemed a termination of employment:

(a) a transfer to the employment of the Company from a Subsidiary or from the Company to a Subsidiary, or from one Subsidiary to another; or

(b) an approved leave of absence for military service or sickness, or for any other purpose approved by the Company, if the employee's right to re-employment is guaranteed either by a statute or by contract or under the policy pursuant to which the leave of absence was granted or if the Administrator otherwise so provides in writing.

SECTION 14. AMENDMENTS AND TERMINATION

The Board may, at any time, amend or discontinue the Plan and the Administrator may, at any time, amend or cancel any outstanding Award for the purpose of satisfying changes in law or for any other lawful purpose, but no such action shall adversely affect rights under any outstanding Award without the holder's consent. Except as provided in Section 3(b) or 3(c), in no event may the Administrator exercise its discretion to reduce the exercise price of outstanding Stock Options or effect repricing through cancellation and re-grants. Any material Plan amendments (other than amendments that curtail the scope of the Plan), including any Plan amendments that (i) increase the number of shares reserved for issuance under the Plan, (ii) expand the type of Awards available, materially expand the eligibility to participate or materially extend the term of the Plan, or (iii) materially change the method of determining Fair Market Value, shall be subject to approval by the Company stockholders entitled to vote at a meeting of stockholders. In addition, to the extent determined by the Administrator to be required by the Code to ensure that Incentive Stock Options granted under the Plan are qualified under Section 422 of the Code or to ensure that compensation earned under Awards qualifies as performance-based compensation under Section 162(m) of the Code, Plan amendments shall be subject to approval by the Company stockholders entitled to vote at a meeting of stockholders. Nothing in this Section 14 shall limit the Administrator's authority to take any action permitted pursuant to Section 3(c).

SECTION 15. STATUS OF PLAN

With respect to the portion of any Award that has not been exercised and any payments in cash, Stock or other consideration not received by a grantee, a grantee shall have no rights greater than those of a general creditor of the Company unless the Administrator shall otherwise expressly determine in connection with any Award or Awards. In its sole discretion, the Administrator may authorize the creation of trusts or other arrangements to meet the Company's obligations to deliver Stock or make payments with respect to Awards hereunder, provided that the existence of such trusts or other arrangements is consistent with the foregoing sentence.

SECTION 16. GENERAL PROVISIONS

(a) NO DISTRIBUTION; COMPLIANCE WITH LEGAL REQUIREMENTS. The Administrator may require each person acquiring Stock pursuant to an Award to represent to and agree with the Company in writing that such person is acquiring the shares without a view to distribution thereof.

No shares of Stock shall be issued pursuant to an Award until all applicable securities law and other legal and stock exchange or similar requirements have been satisfied. The

Administrator may require the placing of such stop-orders and restrictive legends on certificates for Stock and Awards as it deems appropriate.

(b) DELIVERY OF STOCK CERTIFICATES. Stock certificates to grantees under this Plan shall be deemed delivered for all purposes when the Company or a stock transfer agent of the Company shall have mailed such certificates in the United States mail, addressed to the grantee, at the grantee's last known address on file with the Company. Uncertificated Stock shall be deemed delivered for all purposes when the Company or a Stock transfer agent of the Company shall have given to the grantee by United States mail, addressed to the grantee, at the

grantee's last known address on file with the Company, notice of issuance and recorded the issuance in its records (which may include electronic "book entry" records).

(c) OTHER COMPENSATION ARRANGEMENTS; NO EMPLOYMENT RIGHTS. Nothing contained in this Plan shall prevent the Board from adopting other or additional compensation arrangements, including trusts, and such arrangements may be either generally applicable or applicable only in specific cases. The adoption of this Plan and the grant of Awards do not confer upon any employee any right to continued employment with the Company or any Subsidiary.

(d) TRADING POLICY RESTRICTIONS. Option exercises and other Awards under the Plan shall be subject to such Company's insider trading policy and procedures, as in effect from time to time.

(e) DESIGNATION OF BENEFICIARY. Each grantee to whom an Award has been made under the Plan may designate a beneficiary or beneficiaries to exercise any Award or receive any payment under any Award payable on or after the grantee's death. Any such designation shall be on a form provided for that purpose by the Administrator and shall not be effective until received by the Administrator. If no beneficiary has been designated by a deceased grantee, or if the designated beneficiaries have predeceased the grantee, the beneficiary shall be the grantee's estate.

SECTION 17. EFFECTIVE DATE OF PLAN

This Plan shall become effective upon the date of the Company's Initial Public Offering, subject to approval before or after such date, in accordance with applicable state law, by the holders of a majority of the votes cast at a meeting of stockholders at which a quorum is present or by written consent of the holders of a majority of the votes represented by all outstanding shares of stock of the Company entitled to vote thereon. Subject to such approval by the stockholders and to the requirement that no Stock may be issued hereunder prior to such approval, Stock Options and other Awards may be granted hereunder on and after adoption of this Plan by the Board. No grants of Stock Options and other Awards may be made hereunder after the tenth (10th) anniversary of the Effective Date and no grants of Incentive Stock Options may be made hereunder after the tenth (10th) anniversary of the date the Plan is approved by the Board.

SECTION 18. GOVERNING LAW

This Plan and all Awards and actions taken thereunder shall be governed by, and construed in accordance with, the laws of the State of Delaware, applied without regard to conflict of law principles.

DATE APPROVED BY BOARD OF DIRECTORS: MAY 12, 2004

DATE APPROVED BY STOCKHOLDERS: JUNE 18, 2004

EXHIBIT 10.6

NEUROMETRIX, INC.
2004 EMPLOYEE STOCK PURCHASE PLAN

1. PURPOSE. The purpose of the NeuroMetrix, Inc. 2004 Employee Stock Purchase Plan (the "Plan") is to provide eligible employees of NeuroMetrix, Inc. (the "Company") or a Designated Subsidiary (as defined in Section 11) with opportunities to purchase shares of the Company's common stock, par value $0.0001 per share (the "Common Stock"). One million five hundred thousand (1,500,000) shares of Common Stock in the aggregate have been approved and reserved for this purpose. The Plan is intended to constitute an "employee stock purchase plan" within the meaning of Section 423(b) of the Internal Revenue Code of 1986, as amended (the "Code"), and shall be interpreted in accordance with that intent.

2. ADMINISTRATION. The Plan will be administered by the person or persons (the "Administrator") appointed by the Company's Board of Directors (the "Board") for such purpose. The Administrator has authority to make rules and regulations for the administration of the Plan, and its interpretations and decisions with regard thereto shall be final and conclusive. No member of the Board or individual exercising administrative authority with respect to the Plan shall be liable for any action or determination made in good faith with respect to the Plan or any option granted hereunder.

3. OFFERINGS. The Company will make one or more offerings to Eligible Employees (as defined below) to purchase Common Stock under the Plan ("Offerings"). Unless otherwise determined by the Administrator, the initial Offering will begin on the Effective Date and will end on the following December 31 (the "Initial Offering"). Thereafter, unless otherwise determined by the Administrator, an Offering will begin on the first business day occurring on or after each January 1 and July 1 and will end on the last business day occurring on or before the following June 30 and December 31, respectively. The Administrator may, in its discretion, designate a different period for any Offering, provided that no Offering shall exceed 27 months in duration or overlap any other Offering.

4. ELIGIBILITY. Each individual classified as an employee (within the meaning of Section 3401(c) of the Code and the regulations thereunder) by the Company or a Designated Subsidiary on the Company's or the Designated Subsidiary's payroll records during the relevant participation period (each an "Eligible Employee") is eligible to participate in any one or more of the Offerings under the Plan, provided that as of the first day of the applicable Offering (the "Offering Date") they are customarily employed by the Company or a Designated Subsidiary for more than 20 hours a week and more than five months in the calendar year during which the Offering Date occurs or in the calendar year immediately preceding such year, and have completed at least 60 days of employment.

5. PARTICIPATION.

(a) PARTICIPANTS ON EFFECTIVE DATE. Each Eligible Employee on the Effective Date shall be deemed to be a Participant at such time. If an Eligible Employee is deemed to be a Participant pursuant to this Section 5(a), he shall be deemed not to have authorized payroll deductions and shall not purchase any Common Stock hereunder unless he thereafter authorizes

payroll deductions (in the manner described in Section 5(b)) by the end of the first Offering. If such a Participant does not authorize payroll deductions by the end of the first Offering, that Participant will be deemed to have withdrawn from the Plan.

(b) PARTICIPANTS IN SUBSEQUENT OFFERINGS. Any Eligible Employee who is not a Participant may elect to become a Participant by submitting an enrollment form to his appropriate payroll location at least 15 business days before the Offering Date (or such other deadline as shall be established by the Administrator for the Offering). The form will (i) state a whole percentage at a minimum of one percent (1%) and a maximum of ten percent (10%) to be deducted from his Compensation (as defined in Section 11) per pay period, (ii) authorize the purchase of Common Stock for him in each Offering in accordance with the terms of the Plan and (iii) specify the exact name or names in which shares of Common Stock purchased for him are to be issued pursuant to Section 10. The Company will maintain book accounts showing the amount of payroll deductions made by each Participant for each Offering. No interest will accrue or be paid on payroll deductions. An employee who does not enroll in accordance with these procedures will be deemed to have waived his right to participate.

(d) Except as provided elsewhere in the Plan, a Participant's election to participate in the Plan and payroll deduction election shall continue in effect until the Participant withdraws from the Plan or terminates employment.

(e) All Participants shall have the same rights and privileges under the Plan, except for differences that may be mandated by local law and that are consistent with Code Section 423(b)(5).

(f) In accordance with Section 423(b)(8) of the Code, the Committee may reduce a Participant's payroll deductions to zero percent (0%) at any time during an Offering.

6. DEDUCTION CHANGES. Except in the event of a Participant increasing his payroll deduction from 0% during the Initial Offering (as specified in Section 5(a)) or as may be determined by the Administrator in advance of an Offering, a Participant may not increase or decrease his payroll deduction during any Offering, but may increase or decrease his payroll deduction with respect to the next Offering (subject to the limitations of Section 5) by filing a new enrollment form at least 15 business days before the next Offering Date (or by such other deadline as shall be established by the Administrator for the Offering). The Administrator may, in advance of any Offering, establish rules permitting an employee to increase, decrease or terminate his payroll deduction during an Offering.

7. WITHDRAWAL. A Participant may withdraw from participation in the Plan by delivering a written notice of withdrawal to his appropriate payroll location. The Participant's withdrawal will be effective as of the next business day. Following a Participant's withdrawal, the Company will promptly refund to him his entire account balance under the Plan (after payment for any Common Stock purchased before the effective date of withdrawal). Partial withdrawals are not permitted. The employee may not begin participation again during the remainder of the Offering, but may enroll in a subsequent Offering in accordance with Section 5.

8. GRANT OF OPTIONS. On each Offering Date, the Company will grant to each Participant an option ("Option") to purchase on the last day of such Offering (the "Exercise Date"), at the Option Price hereinafter provided for, (a) a number of shares of Common Stock determined by the Administrator in advance of an Offering either (i) by dividing such employee's accumulated payroll deductions on such Exercise Date by the lower of (x) the Applicable Percentage (as defined in Section 11) of the Fair Market Value of the Common Stock on the Offering Date, or (y) the Applicable Percentage of the Fair Market Value of the Common Stock on the Exercise Date, or (ii) by dividing such employee's accumulated payroll deductions on such Exercise Date by the Applicable Percentage of the Fair Market Value of the Common Stock on the Exercise Date, or (b) such other lesser maximum number of shares as shall have been established by the Administrator in advance of the Offering; provided, however, that such Option shall be subject to the limitations set forth below. Each employee's Option shall be exercisable only to the extent of such employee's accumulated payroll deductions on the Exercise Date. The purchase price for each share purchased under each Option (the "Option Price") will be the Applicable Percentage of the Fair Market Value of the Common Stock as determined by the Administrator in advance of an Offering either (a) on the Offering Date or the Exercise Date, whichever is less or (b) on the Exercise Date.

Notwithstanding the foregoing, no employee may be granted an option hereunder if such employee, immediately after the option was granted, would be treated as owning stock possessing five percent (5%) or more of the total combined voting power or value of all classes of stock of the Company or any Parent or Subsidiary (as defined in Section 11). For purposes of the preceding sentence, the attribution rules of Section 424(d) of the Code shall apply in determining the stock ownership of an employee, and all stock which the employee has a contractual right to purchase shall be treated as stock owned by the employee. In addition, no employee may be granted an Option which permits his rights to purchase stock under the Plan, and any other employee stock purchase plan of the Company and its Parents and Subsidiaries, to accrue at a rate which exceeds $25,000 of the fair market value of such stock (determined on the option grant date or dates) for each calendar year in which the Option is outstanding at any time. The purpose of the limitation in the preceding sentence is to comply with Section 423(b)(8) of the Code and shall be applied taking Options into account in the order in which they were granted.

9. EXERCISE OF OPTION AND PURCHASE OF SHARES. Each employee who continues to be a Participant in the Plan on the Exercise Date shall be deemed to have exercised his Option on such date and shall acquire from the Company such number of whole shares of Common Stock reserved for the purpose of the Plan as his accumulated payroll deductions on such date will purchase at the Option Price,

subject to any other limitations contained in the Plan. Any amount remaining in a Participant's account at the end of an Offering solely by reason of the inability to purchase a fractional share will be carried forward to the next Offering; any other balance remaining in a Participant's account at the end of an Offering will be refunded to the employee promptly.

10. ISSUANCE OF CERTIFICATES. Certificates representing shares of Common Stock purchased under the Plan may be issued only in the name of the employee, in the name of the employee and another person of legal age as joint tenants with rights of survivorship, or in the name of a broker authorized by the employee to be his, or their, nominee for such purpose.

11. DEFINITIONS.

(a) The term "Applicable Percentage" means 85% (or such higher percentage as may be determined by the Administrator in advance of an Offering).

(b) The term "Compensation" means the amount of base pay and commissions, prior to salary reduction pursuant to Sections 125, 132(f) or 401(k) of the Code, but excluding overtime, incentive or bonus awards, allowances and reimbursements for expenses such as relocation allowances or travel expenses, income or gains on the exercise of Company stock options, and similar items.

(c) The term "Designated Subsidiary" means any present or future Subsidiary (as defined below) that has been designated by the Board to participate in the Plan. The Board may so designate any Subsidiary, or revoke any such designation, at any time and from time to time, either before or after the Plan is approved by stockholders.

(d) The term "Effective Date" means the date of the Initial Public Offering.

(e) The term "Fair Market Value of the Common Stock" on any given date means the fair market value of the Common Stock determined in good faith by the Administrator; provided, however, that if the Common Stock is traded on The NASDAQ National Market or a national securities exchange, the Fair Market Value of the Common Stock will equal the closing sales price as reported on the principal exchange or market for the Common Stock on such date. If there is no trading on such date, the determination shall be made by reference to the last date preceding such date for which there was trading. Notwithstanding the foregoing, if the date for which Fair Market Value of the Common Stock is determined is the first day when trading prices for the Common Stock are reported on The NASDAQ National Market or on a national securities exchange, the Fair Market Value of the Common Stock shall be the "Price to the Public" (or equivalent) set forth on the cover page for the final prospectus relating to the Company's Initial Public Offering.

(f) The term "Initial Public Offering" means the consummation of the first fully underwritten, firm commitment public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale by the Company of its Common Stock.

(g) The term "Parent" means a "parent corporation" with respect to the Company, as defined in Section 424(e) of the Code.

(h) The term "Participant" means an Eligible Employee who has complied with the provisions of Section 5.

(i) The term "Subsidiary" means a "subsidiary corporation" with respect to the Company, as defined in Section 424(f) of the Code.

12. RIGHTS ON TERMINATION OF EMPLOYMENT. If a Participant's employment terminates for any reason before the Exercise Date for any Offering, no payroll deduction will be taken from any pay due and owing to the employee and the balance in his account will be paid to him

or, in the case of his death, to his designated beneficiary as if he had withdrawn from the Plan under Section 7. An employee will be deemed to have terminated employment, for this purpose, if the corporation that employs him, having been a Designated Subsidiary, ceases to be a Subsidiary, or if the employee is transferred to any corporation other than the Company or a Designated Subsidiary. An employee will not be deemed to have terminated employment, for this purpose, if the employee is on an approved leave of absence for military service or sickness, or for any other purpose approved by the

Company, if the employee's right to reemployment is guaranteed either by a statute or by contract or under the policy pursuant to which the leave of absence was granted or if the Administrator otherwise provides in writing.

13. SPECIAL RULES. Notwithstanding anything herein to the contrary, the Administrator may adopt special rules applicable to the employees of a particular Designated Subsidiary, whenever the Administrator determines that such rules are necessary or appropriate for the implementation of the Plan in a jurisdiction where such Designated Subsidiary has employees; provided that such rules are consistent with the requirements of Section 423(b) of the Code. Such special rules may include (by way of example, but not by way of limitation) the establishment of a method for employees of a given Designated Subsidiary to fund the purchase of shares other than by payroll deduction, if the payroll deduction method is prohibited by local law or is otherwise impracticable. Any special rules established pursuant to this Section 13 shall, to the extent possible, result in the employees subject to such rules having substantially the same rights as other Participants in the Plan.

14. OPTIONEES NOT STOCKHOLDERS. Neither the granting of an Option to an employee nor the deductions from his pay shall constitute such employee a holder of the shares of Common Stock covered by an Option under the Plan until such shares have been purchased by and issued to him.

15. RIGHTS NOT TRANSFERABLE. Rights under the Plan are not transferable by a participating employee other than by will or the laws of descent and distribution, and are exercisable during the employee's lifetime only by the employee.

16. APPLICATION OF FUNDS. All funds received or held by the Company under the Plan may be combined with other corporate funds and may be used for any corporate purpose.

17. ADJUSTMENT IN CASE OF CHANGES AFFECTING COMMON STOCK. In the event of a subdivision of outstanding shares of Common Stock, or the payment of a dividend in Common Stock, the number of shares approved for the Plan, and the share limitation set forth in Section 8, shall be increased proportionately, and such other adjustment shall be made as may be deemed equitable by the Administrator. In the event of any other change affecting the Common Stock, such adjustment shall be made as may be deemed equitable by the Administrator to give proper effect to such event.

18. AMENDMENT OF THE PLAN. The Board may at any time, and from time to time, amend the Plan in any respect, except that without the approval, within 12 months of such Board action, by the stockholders, no amendment shall be made increasing the number of shares approved for the Plan or making any other change that would require stockholder approval in

order for the Plan, as amended, to qualify as an "employee stock purchase plan" under Section 423(b) of the Code.

19. INSUFFICIENT SHARES. If the total number of shares of Common Stock that would otherwise be purchased on any Exercise Date plus the number of shares purchased under previous Offerings under the Plan exceeds the maximum number of shares issuable under the Plan, the shares then available shall be apportioned among Participants in proportion to the amount of payroll deductions accumulated on behalf of each Participant that would otherwise be used to purchase Common Stock on such Exercise Date.

20. TERMINATION OF THE PLAN. The Plan may be terminated at any time by the Board. Upon termination of the Plan, all amounts in the accounts of Participants shall be promptly refunded.

21. GOVERNMENTAL REGULATIONS. The Company's obligation to sell and deliver Common Stock under the Plan is subject to obtaining all governmental approvals required in connection with the authorization, issuance, or sale of such stock.

The Plan shall be governed by Delaware law except to the extent that such law is preempted by federal law.

22. ISSUANCE OF SHARES. Shares may be issued upon exercise of an Option from authorized but unissued Common Stock, from shares held in the treasury of the Company, or from any other proper source.

23. TAX WITHHOLDING. Participation in the Plan is subject to any minimum required tax withholding on income of the Participant in connection with the Plan. Each employee agrees, by entering the Plan, that the Company and its Subsidiaries shall have the right to deduct any such taxes from any payment of any kind otherwise due to the employee, including shares issuable under the

Plan.

24. NOTIFICATION UPON SALE OF SHARES. Each employee agrees, by entering the Plan, to give the Company prompt notice of any disposition of shares purchased under the Plan where such disposition occurs within two years after the date of grant of the Option pursuant to which such shares were purchased.

25. EFFECTIVE DATE AND APPROVAL OF SHAREHOLDERS. The Plan was adopted by the Board of Directors on May 12, 2004 and shall take effect on the Effective Date, subject to approval, in accordance with applicable state law, by the holders of a majority of the votes cast at a meeting of stockholders at which a quorum is present or by written consent of the holders of a majority of the votes represented by all outstanding shares of stock of the Company entitled to vote thereon.

Approved by the Stockholders on June 18, 2004

EXHIBIT 10.7

SERIES E-1 CONVERTIBLE PREFERRED STOCK PURCHASE AGREEMENT

Among

NEUROMETRIX, INC.

and

THE SEVERAL PARTIES LISTED ON THE SIGNATURE PAGES HERETO

Dated as of December 20, 2002

TABLE OF CONTENTS

SCHEDULES:

Schedule I Purchasers

EXHIBITS:

Exhibit A Form of Amended and Restated Certificate of Incorporation
Exhibit B Form of Amended and Restated By-laws
Exhibit C NeuroMetrix, Inc. Capitalization Chart
Exhibit D Disclosure Schedule
Exhibit E Form of Confidentiality and Non-compete Agreement
Exhibit F Form of Opinion of Goodwin Procter LLP
Exhibit G Form of Fourth Amended and Restated Stockholders Agreement
Exhibit H Calculation of Anti-dilution Adjustments

SERIES E-1 CONVERTIBLE PREFERRED STOCK PURCHASE AGREEMENT

Series E-1 Convertible Preferred Stock Purchase Agreement (this "Agreement") dated as of December 20, 2002 by and among NeuroMetrix, Inc., a Delaware corporation (the "Company"), the several purchasers listed in Schedule I hereto (each such purchaser and each Additional Purchaser (as defined herein) a "Purchaser" and collectively, and together with the Additional Purchasers, the "Purchasers") and, solely for purposes of Sections 7 through 11, 14 and 17 through 21, Robert B. Schulz. For purposes of Sections 7, 8, 9 and 10, the term "Purchaser" or "Purchasers" shall be deemed to include Robert B. Schulz.

In consideration of the mutual promises and covenants contained in this Agreement, and intending to be legally bound by the terms and conditions of this Agreement, the parties hereto hereby agree as follows:

1. AUTHORIZATION AND SALE OF SERIES E-1 PREFERRED STOCK.

1.1 AUTHORIZATION OF SERIES E-1 PREFERRED STOCK. The Company has, or before the Closing (as defined in Section 2) will have, duly authorized the sale and issuance of up to 2,333,333 shares of its Series E-1 Voting Convertible Preferred Stock, par value $0.001 per share (the "Series E-1 Preferred Stock"), having the rights, restrictions, privileges and preferences set forth in the Amended and Restated Certificate of Incorporation of the Company in the form of Exhibit A hereto (the "Restated Charter"), which includes the terms of all series of the Company's authorized preferred stock, par value $0.001 per share (the "Preferred Stock") that will be outstanding after giving effect to the Closing and which on or before the Closing will be duly filed with the Secretary of State of the State of Delaware.

1.2 ISSUANCE AND SALE OF SERIES E-1 PREFERRED STOCK. Subject to the terms and conditions of this Agreement, at the Closing, the Company shall issue and sell to the Purchasers an aggregate of 1,333,334 shares of Series E-1 Preferred Stock (the "Shares"), and the Purchasers, severally and not jointly, shall purchase from the Company, at a purchase price of $1.50 per share, the number of shares of Series E-1 Preferred Stock set forth opposite such Purchaser's name in Schedule I. The aggregate purchase price to be paid by each Purchaser hereunder is set forth opposite such Purchaser's name in Schedule I.

1.3 SALE OF THE ADDITIONAL SHARES. Subject to the provisions of Section 2.2, from and after the Closing Date to and including September 30, 2003, the Company may issue and sell up to 1,000,000 additional shares of Series E-1 Preferred Stock (the "Additional Shares") at a price of $1.50 per share, which issuance and sale shall be made only to "accredited investors," as defined in Rule 501(a) under the Securities Act of 1933, as amended (the "Additional Purchasers"), and shall be in accordance with the terms and conditions set forth in this Agreement. The Company and the Purchasers agree that, in order to effect the sale of Additional Shares to the Additional Purchasers, each Additional

Purchaser shall become a party to this Agreement, as amended, and a party to the Stockholders Agreement (as defined in Section

5.4 hereof), as an "Investor," by executing a joinder agreement. Upon and after the issuance and sale of Additional Shares pursuant to this Section 1.3, for purposes of this Agreement, the term "Series E-1 Preferred Stock" shall be deemed to include such Additional Shares and the term "Purchaser" or "Purchasers," when used in this Agreement, shall respectively be deemed to include any Additional Purchasers.

2. THE CLOSINGS.

2.1 THE INITIAL CLOSING. The closing of the sale and purchase of the Shares pursuant to this Agreement shall take place at the Boston office of Goodwin Procter LLP on December 20, 2002, or at such other time, date, and place as are mutually agreeable to the Company and the Purchasers (the "Closing"). The date the Closing occurs is hereinafter referred to as the "Closing Date." At the Closing, the Company shall deliver to each Purchaser a certificate representing the number of shares of Series E-1 Preferred Stock set forth opposite such Purchaser's name on Schedule I, registered in the name of such Purchaser. The purchase price to be paid by each such Purchaser for the shares of Series E-1 Preferred Stock to be so purchased shall be paid by wire transfer, certified or cashier's check or other method acceptable to the Company. If at the Closing any of the conditions specified in Section 5 of this Agreement shall not have been fulfilled, each Purchaser shall, at its election, be relieved of all of its obligations under this Agreement without thereby waiving any other right it may have by reason of such failure or such non-fulfillment. If at the Closing any of the conditions specified in Section 6 of this Agreement shall not have been fulfilled, the Company shall, at its election, be relieved of all of its obligations under this Agreement without thereby waiving any other right it may have by reason of such failure or such non-fulfillment.

2.2 THE ADDITIONAL CLOSING. The closing of the sale and purchase of the Additional Shares shall take place at the Boston office of Goodwin Procter LLP on such date as is mutually agreed upon by the Company and the Additional Purchasers, but in no event later than September 30, 2003 (the "Additional Closing"). At the Additional Closing, the Company shall deliver to each Additional Purchaser a certificate representing the number of Additional Shares being purchased by such Additional Purchaser, registered in the name of such Additional Purchaser. The purchase price to be paid by each Additional Purchaser for the Additional Shares to be so purchased shall be paid by wire transfer, certified or cashier's check or other method acceptable to the Company. It shall be (and the joinder agreement referred to in Section 1.3 shall provide that it shall be) a condition to the Company's obligation to issue and sell Additional Shares to any Additional Purchaser that such Additional Purchaser (x) shall make the representations contained in Section 4 hereof with respect to such Additional Purchaser's purchase of Additional Shares and (y) such Additional Purchaser shall have become a party to the Stockholders Agreement as an "Investor" by executing and delivering to the Company and each other party thereto a joinder agreement.

3. REPRESENTATIONS OF THE COMPANY. The Company hereby represents and warrants to the Purchasers as follows:

3.1 ORGANIZATION AND CORPORATE POWER.The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and is qualified to do business as a foreign corporation in each jurisdiction in which such qualification is required, except where the failure to be so qualified would not have a Material Adverse Effect. The Company has all required corporate power and authority to own its property, to carry on its business as presently conducted or contemplated to be conducted, to enter into and perform this Agreement and the Stockholders Agreement (as defined in Section 5.4 hereof) (collectively, the "Financing Documents") and generally to carry out the transactions contemplated hereby. The copies of the Company's Certificate of Incorporation prior to the filing of the Restated Charter (the "Existing Charter") and the Company's By-laws (the "Existing By-laws"), in each case as amended to date prior to the Closing, which have been furnished to counsel for the Purchasers by the Company, are correct and complete at the date hereof. The respective forms of the Restated Charter and Amended and Restated By-laws (the "Amended By-laws") which will be in effect on the Closing Date are set forth as Exhibits A and B hereto, respectively, and have been approved by all requisite corporate action (including stockholder action) on the part of the Company. The Company is not in violation of any term of the Existing Charter or the Existing By-laws, or in violation of any term of any agreement, instrument, judgment, decree, order, statute, rule or government regulation applicable to the Company or to which the Company is a party, where any violation,

noncompliance or default would result in, either individually or in the aggregate, a material adverse effect on the financial condition, assets, liabilities, contractual rights or prospects of the Company (a "Material Adverse Effect").

3.2 AUTHORIZATION. The Financing Documents are valid and binding obligations of the Company, enforceable in accordance with their terms. The execution, delivery and performance of the Financing Documents have been duly authorized by all necessary corporate or other action of the Company. The issuance, sale and delivery of the Shares in accordance with this Agreement, and the issuance, sale and delivery of the shares of the Company's Common Stock, par value $0.0001 per share (the "Common Stock"), issuable upon conversion of the Series E-1 Preferred Stock (the "Conversion Shares"), have been, or will be prior to the Closing, duly authorized and reserved for issuance, as the case may be, by all necessary corporate action on the part of the Company. The Shares when so issued, sold and delivered against payment therefor in accordance with the provisions of this Agreement, and the Conversion Shares, when issued, will be duly and validly issued, fully paid and non-assessable. Except for routine federal and state securities law filings which have been or will be duly and timely made, no consent, approval or authorization of, or designation, declaration or filing with, any governmental authority or any other person or entity is required of the Company in connection with the execution and delivery of the Financing Documents, or the issuance, sale and delivery of the Shares in accordance with the terms of this Agreement or the consummation of any other transaction contemplated hereby or by the other Financing Documents.

3.3 CAPITALIZATION.

(a) Immediately prior to the Closing and prior to the filing of the Restated Charter, the authorized capital stock of the Company consists of (i) 30,000,000 shares of Common Stock, par value $0.0001 per share, of which 4,137,208 shares are issued and outstanding, and (ii) 18,831,430 shares of Preferred Stock, par value $0.001 per share, of which

(A) 875,000 shares have been designated as Series A Voting Convertible Preferred Stock (the "Series A Preferred Stock"), all of which shares are issued and outstanding, (B) 625,000 shares have been designated as Series B Voting Convertible Preferred Stock (the "Series B Preferred Stock"), all of which shares are issued and outstanding, (C) 2,850,000 shares have been designated as Series C-1 Voting Convertible Preferred Stock (the "Series C-1 Preferred Stock"), all of which shares are issued and outstanding, (D) 1,148,100 shares have been designated as Series C-2 Non-Voting Convertible Preferred Stock (together with the Series C-1 Preferred Stock, the "Series C Preferred Stock"), all of which shares are issued and outstanding, (E) 6,222,220 shares have been designated as Series D Voting Convertible Preferred Stock (the "Series D Preferred Stock"), all of which shares are issued or outstanding, and (F) 7,111,110 shares have been designated as Series E Voting Convertible Preferred Stock, of which 4,444,445 shares are issued and outstanding.

(b) Immediately following the Closing, the authorized capital stock of the Company will consist of (i) 30,000,000 shares of Common Stock, par value $0.0001 per share, of which 4,137,208 shares will be issued and outstanding and (ii) 21,164,763 shares of Preferred Stock, par value $0.001 per share, of which (A) 875,000 shares have been designated as Series A Preferred Stock, all of which shares will be issued and outstanding, (B) 625,000 shares have been designated as Series B Preferred Stock, all of which shares will be issued and outstanding, (C) 2,850,000 shares have been designated as Series C-1 Preferred Stock, all of which shares are issued and outstanding, (D) 1,148,100 shares have been designated as Series C-2 Preferred Stock, all of which shares are issued and outstanding, (E) 6,222,220 shares have been designated as Series D Preferred Stock, all of which shares will be issued or outstanding, (F) 7,111,110 shares have been designated as Series E Preferred Stock, of which 4,444,445 shares will be issued and outstanding, and (G) 2,333,334 shares will be designated as Series E-1 Voting Convertible Preferred Stock, of which 1,333,334 shares will be issued and outstanding.

(c) All of the issued and outstanding shares of the Company's capital stock have been duly authorized and validly issued and are fully paid and non-assessable and have been issued in compliance with applicable federal and state securities laws.

(d) The NeuroMetrix, Inc. Capitalization Chart attached as Exhibit C hereto is consistent with the foregoing and accurately reflects all shares of capital stock of the Company which will be outstanding immediately after the Closing, and all shares of Common Stock issued or transferred to an optionee or recipient of a restricted stock award or authorized to be issued or transferred to an optionee or recipient of a restricted stock award pursuant to the Company's Amended and Restated 1996 Stock Option/Restricted Stock Plan (the

"1996 Incentive Plan"), the Company's 1998 Equity Incentive Plan, as amended (the "1998 Incentive Plan"), and the Company's 1998-A Equity Incentive Plan (the "1998-A Incentive Plan" and, together with the 1996 Incentive Plan and the 1998 Incentive Plan, the "Incentive Plans") as of immediately after the Closing.

(e) Except as referred to above in this Section 3.3 and except as provided for in the Financing Documents, the License Agreement (as defined herein) or the Restated Charter, (i) there are no outstanding shares of capital stock or other securities of the Company, (ii) no subscription, warrant, option, convertible security or other right (contingent or otherwise) to purchase or acquire any shares of capital stock or other securities of the Company

is authorized or outstanding, (iii) there is not any commitment or offer of the Company to issue any such subscription, warrant, option, convertible security or other such right or to issue or distribute to holders of any shares of its capital stock or other securities any evidences of indebtedness or assets of the Company, (iv) the Company has no obligation (contingent of otherwise) to purchase, redeem or otherwise acquire any shares of its capital stock or other securities or any interest therein or to pay any dividend or make any other distribution in respect thereof and (v) there are no restrictions on the transfer of the Company's capital stock other than those arising from securities laws or contemplated by this Agreement. Except as contemplated by the Financing Documents, the Restated Charter or the License Agreement, no person or entity is entitled to (i) any preemptive or similar right with respect to the issuance of any capital stock or other securities of the Company or (ii) any rights with respect to the registration of any capital stock or other securities of the Company under the Securities Act of 1933, as amended (the "Securities Act").

3.4 STOCKHOLDER LISTS AND AGREEMENTS. Set forth on Section 3.4 of the Disclosure Schedule attached hereto as Exhibit D (the "Disclosure Schedule") is a true and complete list of all stockholders of the Company showing the number of shares of Common Stock or other securities held by each stockholder. Except as contemplated by the Financing Documents or the License Agreement, there are no agreements, written or oral, between the Company and any of the holders of the Company's capital stock, or between or among any holders of the Company's capital stock, relating to the acquisition, disposition or voting of such capital stock.

3.5 SUBSIDIARIES. The Company has no subsidiaries and does not own directly or indirectly, any interest in any corporation, association or business entity.

3.6 TITLE TO PROPERTIES. The Company owns no real property. Except as set forth on Section 3.6 of the Disclosure Schedule or in the Balance Sheet (as defined in Section 3.21), the Company has good and marketable title to all of its properties and assets, free and clear of mortgages, pledges, charges, liens, restrictions or encumbrances. All machinery and equipment included in such properties which is necessary to the business of the Company is in good condition and repair, ordinary wear and tear excepted, and all leases of real or personal property to which the Company is a party are fully effective and afford the Company peaceful and undisturbed possession of the subject matter of the lease.

3.7 CONTRACTS AND COMMITMENTS.

(a) Except for the Financing Documents, and as set forth on Section 3.7 of the Disclosure Schedule, the Company (i) is not a party to any contract, obligation or commitment which involves a potential commitment in excess of $10,000 or which is otherwise material or not entered into in the ordinary course of business, and (ii) does not have any employment contracts; agreements relating to the acquisition, redemption, disposition or voting of the capital stock of the Company; financing agreements; licenses; distributor or sales representative agreements; agreements with officers, directors, employees or stockholders of the Company or persons or organizations related to or affiliated with any such persons; leases;

agreements relating to product development; or pension, profit sharing, retirement or stock option plans.

(b) To the best of the Company's knowledge, none of the employees of the Company is a party to any outstanding contract, obligation or commitment with any prior employer.

All agreements set forth or referred to in Section 3.7 of the Disclosure Schedule are valid, binding and in full force and effect as against the Company

and the Company has no knowledge of any breach or anticipated breach by the other parties to the agreements set forth in the Disclosure Schedule where such breach or anticipated breach would have a Material Adverse Effect. The Company is not in default under any contract, obligation or commitment, where such default would have a Material Adverse Effect.

3.8 PROPRIETARY RIGHTS, EMPLOYEE RESTRICTIONS.

(a) The Massachusetts Institute of Technology ("MIT") is the owner of certain patent rights relating to MIT Case No. 5773 "Apparatus and Methods for Non-Invasive Blood Analyte Measurement" by Gozani (the "Licensed Intellectual Property"). The Company has entered into an exclusive License Agreement with MIT dated June 3, 1996, as amended as of February 25, 1998 (the "License Agreement"), whereby the Company is the exclusive licensee of the Licensed Intellectual Property. Except as set forth in the License Agreement, no person or entity has any right or interest of any kind in or to any of the Licensed Intellectual Property. The Company is the sole and exclusive owner of the patent and trademark rights described in Section 3.8(a) of the Disclosure Schedule (together with the Licensed Intellectual Property, the "Intellectual Property"), free and clear of all liens, claims or encumbrances of any kind. The Company's rights in and to the Intellectual Property constitute all the rights with respect to intellectual property necessary for the Company to conduct its business as currently conducted or contemplated to be conducted, no claim is pending or, to the best of the Company's knowledge, threatened to the effect that the operations of the Company infringe upon or conflict with the rights of any other person under the Intellectual Property or under other patents, trademarks, trade names, copyrights or licenses or any other proprietary or intellectual property rights of others, and, to the best of the Company's knowledge, there is no basis for any such claim (whether or not pending or threatened). No claim is pending or, to the best knowledge of the Company, threatened to the effect that any Intellectual Property is invalid or unenforceable by the Company, and, to the best of the Company's knowledge, there is no basis for any such claim (whether or not pending or threatened). To the best of the Company's knowledge, no other person's operations infringe upon or conflict with the Intellectual Property. To the best of the Company's knowledge, all technical information developed by and belonging to the Company which has not been patented has been kept confidential.

(b) (i) The License Agreement is in full force and effect, (ii) the Company has been and is in compliance with its obligations thereunder and has heretofore delivered to the Purchasers a true and complete copy thereof, (iii) there have been no amendments or modifications thereof and (iv) MIT has not breached the License Agreement.

(c) Except as set forth on Section 3.8(c) of the Disclosure Schedule, each of the Company's existing or former employees and consultants has executed and delivered to the Company a Confidentiality and Non-compete Agreement substantially in the form of Exhibit E hereto. The Company is not aware of any violation of the confidentiality of any of its proprietary information. To the Company's knowledge, the Company has not made and is not making unlawful use of any confidential information or trade secrets of any past or present employees of the Company. To the Company's knowledge, the activities of the Company's employees on behalf of the Company do not violate any agreements or arrangements known to the Company which any such employees have with former employers.

3.9 EFFECT OF TRANSACTIONS. The execution, delivery and performance by the Company of the Financing Documents will not conflict with or result in any default under any material contract, obligation or commitment of the Company, or any charter provision, bylaw or corporate restriction of the Company or result in the creation of any lien, charge or encumbrance of any nature upon any of the properties or assets of the Company. The Company's execution and delivery of the Financing Documents and its performance of the transactions contemplated thereby will not violate any instrument, agreement, judgment, decree, order, statute, rule or regulation of any federal, state or local government or agency applicable to the Company.

3.10 LITIGATION. There is no litigation or governmental proceeding or investigation pending or, to the knowledge of the Company, threatened (a) against the Company affecting any of the Company's properties or assets, or (b) against any officer or key employee of the Company, (c) which could have a Material Adverse Effect, or (d) which may call into question the validity, or materially hinder the enforceability or performance, of the Financing Documents.

3.11 OUTSTANDING DEBT. The Company has no outstanding indebtedness for borrowed money, and is not a guarantor or otherwise contingently liable for any such indebtedness. There exists no default under the provisions of any instrument evidencing any indebtedness, or any agreement relating thereto.

3.12 SALE NOT INTEGRATED. The Company has not directly or through any agent, sold, offered for sale, solicited offers to buy or otherwise negotiated in respect of, any security (as defined in the Securities Act) that is or will be integrated with the sale of the Shares in a manner that would require the registration of the Shares under the Securities Act.

3.13 NO SOLICITATION OR ADVERTISEMENT. Neither the Company nor any person acting on its behalf has engaged, in connection with the offering of the Shares, in any form of general solicitation or general advertising within the meaning of Rule 502(c) under the Securities Act.

3.14 SECURITIES ACT REGISTRATION. Assuming that the representations and warranties of the Purchasers contained herein are true (including, without limitation, the correctness of such Purchaser's assumption in Section 4.2 hereof), it is not necessary in connection with the offer, sale and delivery of the Shares in the manner contemplated by this

Agreement to register the Shares or the Conversion Shares under the Securities Act or under applicable state securities or blue sky laws regulating the issuance or sale of securities.

3.15 COMPLIANCE WITH LAWS. The Company has all franchises, permits, licenses and other rights and privileges from governmental authorities necessary to permit it to own its property and to conduct its business as it is presently conducted and as contemplated to be conducted, except where the failure to have any such franchises, permits, licenses or other rights or privileges would not, individually or in the aggregate, have a Material Adverse Effect. The Company is not in violation of any law, regulation, authorization or order of any public authority relevant to the ownership of its properties or the carrying on of its business as it is presently conducted and as contemplated to be conducted, except for any such violation which would not, individually or in the aggregate, have a Material Adverse Effect.

3.16 BOOKS AND RECORDS. The minute books of the Company contain complete and accurate records of all meetings and other corporate actions of its stockholders and its Board of Directors and committees thereof. The stock ledger of the Company is complete and reflects all issuances, transfers, repurchases and cancellations of shares of capital stock of the Company.

3.17 BROKERAGE. There are no claims for brokerage commissions, finder's fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement made by or on behalf of the Company.

3.18 EMPLOYEE BENEFIT PLANS. Except as set forth on Section 3.18 of the Disclosure Schedule, the Company does not maintain and never has contributed to any employee benefit plan as defined in Section 3(3) of Title I of the Employee Retirement Income Security Act of 1974, as amended.

3.19 EMPLOYEES. Set forth on Section 3.19 of the Disclosure Schedule is a correct and complete list of all of the Company's full-time and part-time employees. Except as set forth on Section 3.19 of the Disclosure Schedule and except for the employment contract dated as of June 3, 1996, by and between the Company and Gozani (the "Gozani Employment Agreement"), no employment agreements have been entered into with any such employees. The Company is not aware that any officer of the Company whose termination would have a Material Adverse Effect intends to terminate his or her employment with the Company.

(a) (i) The Gozani Employment Agreement is in full force and effect, (ii) the Company is in compliance with its obligations thereunder and has heretofore delivered to the Purchasers a true and complete copy thereof, (iii) there have been no amendments or modifications thereof and (iv) Gozani has not breached the Gozani Employment Agreement.

3.20 REGISTRATION RIGHTS. Except as provided in this Agreement, and, prior to the effectiveness of clause (v) of Section 10 hereof, Section 9 of the Series E Purchase Agreement (as defined herein), the Company is not under any obligation to register under the Securities Act any securities of the Company.

3.21 FINANCIAL STATEMENTS. The Company has previously provided the Purchasers with a true and complete copy of the unaudited balance sheet of the Company as of September 30, 2002 (the "Balance Sheet") and the statement of profit and loss for the period then ended (collectively, the "Financial Statements"), which are attached hereto as Section 3.21 of the Disclosure

Schedule. The Financial Statements fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of the date thereof and for the period set forth therein, and are consistent in all material respects with the books and records of the Company.

3.22 INSURANCE. The Company has insurance against such causalities and contingencies and of such types and in such amounts as it customary for companies similarly situated. The Company has "key-man" life insurance with a reputable insurer with respect to Gozani, providing for death benefits payable to the Company in the amount of $5 million. All of the insurance referred to above is in full force and effect.

4. REPRESENTATIONS OF THE PURCHASERS. Each Purchaser represents and warrants, severally and not jointly, to the Company as follows:

4.1 ACCREDITED INVESTOR. Except as otherwise disclosed to the Company, such Purchaser is an "accredited investor" as such term is defined in Regulation D under the Securities Act.

4.2 INVESTMENT. Such Purchaser is acquiring the Shares to be purchased by such Purchaser hereunder for such Purchaser's own account for investment and not with a view to, or for sale in connection with, any distribution thereof in violation of the Securities Act, nor with any present intention of distributing or selling the same in violation of the Securities Act.

4.3 SUITABILITY. Such Purchaser confirms that such Purchaser understands and has fully considered for purposes of this investment the risks of this investment and understands that (i) this investment is suitable only for an investor which is able to bear the economic consequences of losing its entire investment; (ii) the Company is an early-stage enterprise with limited operating history, and limited revenues and no net income from operations to date; (iii) the purchase of the Shares to be purchased by such Purchaser hereunder is a speculative investment which involves a high degree of risk of loss of the entire investment; and (iv) there are substantial restrictions on the transferability of, and there will be no public market for, the Shares, and accordingly, it may not be possible for such Purchaser to liquidate such Purchaser's investment in case of emergency.

4.4 LACK OF LIQUIDITY. Such Purchaser confirms that it is able (i) to bear the economic risk of this investment, (ii) to hold the Shares to be purchased by such Purchaser hereunder for an indefinite period of time, and (iii) presently to afford a complete loss of such Purchaser's investment. Such Purchaser has sufficient liquid assets so that the illiquidity associated with this investment will not cause any undue financial difficulties or affect such Purchaser's ability to provide for such Purchaser's current needs and possible financial

contingencies, and that such Purchaser's commitment to all speculative investments (including this one) is reasonable in relation to such Purchaser's net worth and/or annual income.

4.5 KNOWLEDGE AND EXPERIENCE. Such Purchaser has such knowledge and experience in financial and business matters that such Purchaser is capable of evaluating the merits and risks of an investment in the Shares and of making an informed investment decision and can bear a complete loss of such Purchaser's investment.

4.6 ACCESS TO MANAGEMENT. Such Purchaser confirms that, in making such Purchaser's decision to purchase its portion of the Shares, such Purchaser has relied solely upon independent investigations made by such Purchaser, and that such Purchaser has been given the opportunity to ask questions of, and to receive answers from, management or other persons acting on behalf of the Company concerning the Company and the terms and conditions of this investment, and to obtain any additional information, to the extent such persons possess such information.

4.7 JURISDICTION OF ORGANIZATION. Such Purchaser (other than an individual Purchaser) is organized and has its principal place of business in, and if an individual Purchaser is a resident of, the state set forth in the address below its or his name on Schedule I hereto.

4.8 AUTHORITY. Such Purchaser has full power and authority to execute, deliver and perform the Financing Documents to which such Purchaser is a party in accordance with their respective terms. Such Purchaser has not been organized, reorganized, or recapitalized specifically for the purpose of investing in the Company.

5. CONDITIONS TO THE OBLIGATIONS OF THE PURCHASERS. The obligations of each Purchaser under this Agreement are subject to the fulfillment, or the waiver by such Purchaser, of the conditions set forth in this Section 5 on or before the Closing Date.

5.1 ACCURACY OF REPRESENTATIONS AND WARRANTIES. Each representation and warranty of the Company contained in this Agreement shall be true and correct on and as of the Closing Date with the same effect as though such representation and warranty had been made on and as of that date.

5.2 PERFORMANCE. The Company shall have performed and complied with all agreements and conditions contained in this Agreement required to be performed or complied with by the Company prior to or at the Closing.

5.3 OPINION OF COUNSEL. The Purchasers shall have received an opinion from Goodwin Procter LLP, counsel to the Company, dated as of the Closing Date, addressed to each of them, and substantially in the form attached hereto as Exhibit F.

5.4 STOCKHOLDERS AGREEMENT; BOARD OF DIRECTORS. The Fourth Amended and Restated Stockholders Agreement of even date herewith (the "Stockholders Agreement") by and among the Company, the Purchasers, Robert B. Schulz, Richard Thomas and Gozani shall have been executed and delivered in the form attached hereto as Exhibit G and shall be in full force and effect, and the Company's Board of Directors shall be comprised of the following persons: Gozani; David Douglass, who is the current initial Series D Preferred Designee (as defined in the Stockholders Agreement); William Laverack, Jr., who is the current Series C Preferred Designee (as defined in the Stockholders Agreement); Charles E. Harris, who is the current Series A/B Preferred Designee (as defined in the Stockholders Agreement); and Richard Thomas, who is a stockholder of the Company.

5.5 BLUE SKY APPROVALS. The Company shall have received all requisite approvals, if any, of the securities authorities of each jurisdiction in which such approval is required, and such approvals shall be in full force and effect on the Closing Date.

5.6 CERTIFICATES AND DOCUMENTS. The Company shall have delivered to the Purchasers:

(a) a copy of the Restated Charter, certified by the Secretary of State of the State of Delaware, and a certificate, as of the most recent practicable date, of the Secretary of State of the State of Delaware as to the Company's corporate good standing;

(b) a certificate of the Secretary of the Company dated as of the Closing Date, certifying as to (i) the incumbency of officers of the Company executing the Financing Documents and all other documents executed and delivered in connection herewith, (ii) a copy of the Amended By-laws, as in effect on and as of the Closing Date, and (iii) a copy of the resolutions of the Board of Directors of the Company authorizing and approving the Company's execution, delivery and performance of the Financing Documents, all matters in connection with the Financing Documents and the transactions contemplated thereby; and

(c) a certificate, executed by the President of the Company as of the Closing Date, certifying to the fulfillment of all of the conditions to each Purchaser's obligations under this Agreement, as set forth in this Section 5.

6. CONDITIONS TO THE OBLIGATIONS OF THE COMPANY. The obligations of the Company under this Agreement are subject to the fulfillment, or the waiver in writing by the Company, of the conditions set forth in this Section 6 on or before the Closing Date.

6.1 ACCURACY OF REPRESENTATIONS AND WARRANTIES. The representations and warranties of the Purchasers contained in Section 4 shall be true and correct on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of that date.

6.2 PERFORMANCE. The Purchasers shall have performed and complied with all agreements contained in this Agreement required to be performed and complied with by them prior to or at the Closing.

6.3 STOCKHOLDERS AGREEMENT. The Stockholders Agreement shall have been executed and delivered by each of the Purchasers and the other parties

thereto.

7. COVENANTS OF THE COMPANY. The Company covenants and agrees with each of the Purchasers that:

7.1 FINANCIAL STATEMENTS, REPORTS, ETC.. The Company shall furnish to each Purchaser:

(a) within ninety (90) days after the end of each fiscal year of the Company, (i) a consolidated balance sheet of the Company and its subsidiaries as of the end of such fiscal year and the related consolidated statements of income, stockholders' equity and cash flows for such fiscal year, prepared in accordance with generally accepted accounting principles and certified by a firm of independent public accountants of recognized national standing selected by the Board of Directors of the Company and (ii) a report showing the number of employees of the Company, by function, as of the end of such fiscal year;

(b) within thirty (30) days after the end of each month during each fiscal year, and within thirty (30) days after the end of each quarter in each fiscal year (other than the last quarter in each fiscal year) (i) a consolidated balance sheet of the Company and its subsidiaries and the related consolidated statements of income, stockholders' equity and cash flows, unaudited but prepared in accordance with generally accepted accounting principles and certified by the chief financial officer of the Company, such consolidated balance sheet to be as of the end of such month or quarter, as applicable, and such consolidated statements of income, stockholders' equity and cash flows to be for such month or quarter, as applicable, and for the period from the beginning of the fiscal year to the end of such month or quarter, as applicable, in each case with comparative statements for the prior fiscal year and (ii) a report showing the number of employees of the Company, by function, as of the end of such periods. Such financial statements and head count reports shall also be presented in form comparative with the Company's budget for such periods;

(c) no later than forty-five (45) days prior to the start of each fiscal year, consolidated capital and operating expense budgets, cash flow projections, income and loss projections, and strategic plan updates for the Company and its subsidiaries in respect of such fiscal year, all itemized in reasonable detail and prepared on a monthly basis, and, promptly after preparation, any revisions to any of the foregoing;

(d) as soon as available and in any event within thirty (30) days after the beginning of each fiscal year, a business plan and an annual operating budget for the forthcoming fiscal year, and as soon as available and in any event within thirty (30) days after the beginning of such fiscal year, an annual comparison against the business plan and operating budget with respect to the prior fiscal year;

(e) promptly following receipt by the Company, each audit response letter, accountant's management letter and other written report submitted to the Company by its independent public accountants in connection with an annual or interim audit of the books of the Company or any of its subsidiaries;

(f) promptly after the commencement thereof, notice of all litigation or governmental proceeding or investigation of the type described in Section 3.10 that could have a Material Adverse Effect;

(g) promptly upon sending, making available or filing the same, all press releases, reports, registration statements (in each case including any amendments thereto), other than registration statements on Form S-4, S-8 or similar forms, and financial statements that the Company sends or makes available to its stockholders or directors or files with the Securities and Exchange Commission (the "Commission");

(h) promptly, from time to time, such other information regarding the business, prospects, financial condition, operations, property or affairs of the Company and its subsidiaries as such Purchaser reasonably may request; and

(i) promptly upon the occurrence thereof, written notice of any event which has a Material Adverse Effect.

7.2 RESERVE FOR CONVERSION SHARES. The Company shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, for the purpose of effecting the conversion of all authorized shares of Preferred Stock and otherwise complying with the terms of this Agreement, such

number of its duly authorized shares of Common Stock as shall be sufficient to effect the conversion of all such authorized shares of Preferred Stock from time to time outstanding or otherwise to comply with the terms of this Agreement. If at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all such authorized shares of Preferred Stock or otherwise to comply with the terms of this Agreement, without limitation of any remedies available to the Purchasers, the Company will forthwith take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes. The Company will obtain any authorization, consent, approval or other action by or make any filing with any court or administrative body that may be required under applicable state securities laws in connection with the issuance of shares of Common Stock upon conversion of the Preferred Stock.

7.3 CORPORATE EXISTENCE. The Company shall maintain its corporate existence, rights and franchises in full force and effect.

7.4 PROPERTIES, BUSINESS, INSURANCE. The Company shall maintain insurance against such casualties and contingencies and of such types and in such amounts as is customary for companies similarly situated. The Company shall maintain with a reputable insurer "key-man" life insurance with respect to Gozani providing for death benefits payable to the Company in an amount not less than $5 million.

7.5 INSPECTION, CONSULTATION AND ADVICE. The Company shall permit, at reasonable times and upon reasonable notice, each Purchaser and such person as it may designate, at such Purchaser's expense, to visit and inspect any of the properties of the Company, examine its books and take copies and extracts therefrom, discuss the affairs, finances and accounts of the Company (including management's proposed annual operating plans) with its officers, all at reasonable times and upon reasonable notice.

7.6 TRANSACTIONS WITH AFFILIATES. Except for agreements or transactions contemplated by the Financing Documents, the Restated Charter or as otherwise approved by the Board of Directors (which shall include approval by a majority of the directors of the Company without a direct or indirect interest in the agreement or transaction), the Company shall not enter into any agreement or transaction with any director, officer, employee or holder of more than 5% of the outstanding capital stock of any class or series of capital stock of the Company or any of its subsidiaries, any member of the family of any such person, or any corporation, partnership, trust or other entity in which any such person, or member of the family of any such person, is a director, officer, trustee, partner or holder of more than 5% of the outstanding capital stock thereof, except for agreements or transactions (i) entered into or consummated prior to the date hereof and previously disclosed to the Purchasers, (ii) which are nonmaterial and in the ordinary course of business or (iii) on customary terms related to such person's employment. For purposes hereof, an agreement or transaction shall be deemed to be nonmaterial if it and all other agreements or transactions (excluding, for this purpose, compensation under agreements relating to employment and other compensation arrangements approved by the Company's Board of Directors) between the Company and the person or entity in question during the fiscal year do not involve an amount in excess of $10,000.

7.7 EXPENSES OF DIRECTORS AND OBSERVERS. The Company shall promptly reimburse in full each director of the Company who is not an employee of the Company and who was elected as a director solely or in part by the holders of the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, or the Series D Preferred Stock, as the case may be, and each representative of Commonwealth and BancBoston (as defined in the Stockholders Agreement) who, pursuant to Section 2.3 of the Stockholders Agreement, is entitled to attend meetings of the Board of Directors of the Company, for all of his or her reasonable out-of-pocket expenses incurred in attending each meeting of the Board of Directors of the Company or any Committee thereof.

7.8 USE OF PROCEEDS. The Company shall use the proceeds from the sale of the Shares solely for working capital needs consistent with financial budgets approved from time to time by the Company's Board of Directors.

7.9 BOARD OF DIRECTORS MEETINGS. The Company shall use its best efforts to ensure that meetings of its Board of Directors are held at least four times each year and at least once each quarter.

7.10 BY-LAWS. (a) Unless otherwise required by the laws of the State of Delaware, the Company shall at all times cause its by-laws (including the Amended By-laws) to

provide that, (i) any two directors or (ii) any holder or holders of at least 25% of the outstanding shares of (A) Series A Preferred Stock and the Series B Preferred Stock (taken together), (B) Series C Preferred Stock, (C) Series D Preferred Stock, or (D) Series E Preferred Stock and Series E-1 Preferred Stock (taken together), shall have the right to call a meeting of the Board of Directors or stockholders and (b) the Company shall at all times cause its by-laws (including the Amended By-laws) to provide that the number of directors fixed in accordance therewith shall in no event conflict with any of the terms or provisions of any series of Preferred Stock, as set forth in the Restated Charter, as amended from time to time. The Company shall at all times maintain provisions in its by-laws (including the Amended By-laws) and/or its certificate of incorporation as then in effect (including the Restated Charter) indemnifying all directors against liability and absolving all directors from liability to the Company and its stockholders to the maximum extent permitted under the laws of the State of Delaware.

7.11 CONFIDENTIALITY AND NON-COMPETE AGREEMENTS. The Company shall use its best efforts to obtain a Confidentiality and Non-compete Agreement in substantially the form of Exhibit E from all future officers, key employees and other employees, as well as from consultants (with appropriate modification to reflect consultancy, rather than employee, status), who will have access to confidential information of the Company upon their employment, or retention as consultants, by the Company or any of its subsidiaries.

7.12 COMPLIANCE WITH LAWS. The Company shall comply, and cause each subsidiary to comply, with all applicable laws, rules, regulations and orders, noncompliance with which could have a Material Adverse Effect.

7.13 KEEPING OF RECORDS AND BOOKS OF ACCOUNT. The Company shall keep adequate records and books of account, in which complete entries will be made in accordance with generally accepted accounting principles consistently applied, reflecting all financial transactions of the Company, and in which, for each fiscal year, all proper reserves for depreciation, depletion, obsolescence, amortization, taxes, bad debts and other purposes in connection with its business shall be made.

7.14 CHANGE IN NATURE OF BUSINESS. The Company shall not make any material change in the character of its business as of the date hereof.

7.15 TAXES. The Company will pay, and hold the Purchasers harmless against liability for the payment of, any transfer or similar taxes payable in connection with the sale and issuance to the Purchasers of the Shares and the issuance of the Conversion Shares.

7.16 CERTAIN RESTRICTIONS. Without the approval of the Designees (as defined in the Stockholders Agreement), the Company will not (i) redeem or otherwise acquire any shares of Common Stock (other than pursuant to (x) repurchases from former employees or consultants of the Company under the terms of stock plans or agreements approved by the Board of Directors of the Company (with the concurrence of the Designees) or (y) repurchases from stockholders of the Company pursuant to the terms of the Stockholders Agreement); (ii) grant any shares of Common Stock consisting of restricted stock, or any options to purchase Common

Stock, in excess of the number of Reserved Shares (as defined herein), (iii) become a party to any agreement which by its terms restricts the Company's performance of this Agreement, the Stockholders Agreement or the terms of the Restated Charter, (iv) make or agree to any amendment or waiver of any provision of the License Agreement or the Gozani Employment Agreement, (v) enter into any capital leases in any year which in the aggregate involve an amount in excess of $50,000 or (vi) incur any indebtedness in an amount exceeding $100,000 or which has a maturity of more than one year.

7.17 "LOCK-UP" AND MARKET STANDSTILL. The Company shall use all reasonable efforts to obtain a "Lock-Up Agreement," satisfactory in form to the Purchasers, from all current and future employees who have or will be granted options and/or restricted stock awards under the 1996 Incentive Plan, the 1998 Incentive Plan or any other incentive plans that are adopted by the Company following the Closing.

7.18 TERMINATION OF COVENANTS. The covenants of the Company's set forth in this Section 7 shall terminate and be of no further force or effect as to the Purchasers upon the consummation of an underwritten public offering on a firm commitment basis pursuant to an effective registration statement on Form S-1 or Form SB-2 or their then equivalents under the Securities Act covering the offer and sale of Common Stock for the account of the Corporation in which the

aggregate net proceeds to the Corporation exceed $25,000,000 and in which the price per share equals or exceeds $6.00, such amount to be equitably adjusted upon the occurrence of any stock split, stock dividend, combination, reclassification, recapitalization, reorganization or other similar event (a "Qualified Public Offering").

8. RIGHT OF PARTICIPATION.

8.1 RIGHT OF PARTICIPATION. The Company shall, prior to any proposed issuance by the Company of any of its securities (other than debt securities with no equity feature), offer to each Purchaser by written notice the right, for a period of thirty (30) days, to purchase for cash at a price equal to the price or other consideration for which such securities are to be issued, a number of such securities so that, after giving effect to such issuance (and the conversion, exercise and exchange into or for (whether directly or indirectly) shares of Common Stock of all such securities that are so convertible, exercisable or exchangeable), such Purchaser will continue to maintain its same proportionate equity ownership in the Company as of the date of such notice (treating each Purchaser, for the purpose of such computation, as the holder of the number of shares of Common Stock which would be issuable to it upon conversion, exercise and exchange of all securities (including but not limited to the Shares) held by it on the date such offer is made, that are convertible, exercisable or exchangeable into or for (whether directly or indirectly) shares of Common Stock and assuming the like conversion, exercise and exchange of all such other securities held by other persons) ("Pro Rata Share"); provided, however, that the participation rights of the Purchasers pursuant to this Section 8.1 shall not apply to securities issued:

(a) upon conversion of any of the shares of Preferred Stock;

(b) as a stock dividend or upon any subdivision of shares of Common Stock, provided that the securities issued pursuant to such stock dividend or subdivision. are limited to additional shares of Common Stock;

(c) solely in consideration for the acquisition (whether by merger or otherwise) by the Company or any of its subsidiaries of all or substantially all of the stock or assets of any other entity;

(d) pursuant to a firm commitment underwritten public offering;

(e) pursuant to and in accordance with Section 2 of this Agreement; or

(f) as the grant or issuance to directors, officers, employees or consultants of the Company or any subsidiary of options and/or restricted stock awards to purchase up to 893,927 shares (equitably adjusted in the event of any stock split, stock dividend, combination, reclassification, recapitalization, reorganization or other similar event with respect to the Common Stock) of Common Stock (the "Reserved Shares") pursuant to the Incentive Plans, or (i) the issuance (or transfer by Gozani to the optionee in the case of options granted pursuant to the 1996 Incentive Plan) of shares of Common Stock pursuant to the exercise of such options or the exercise of any options which are outstanding as of the date hereof (which issuance shall dilute all of the Company's stockholders on a pro rata basis) or (ii) the grant or issuance of additional options to directors, officers, employees and consultants of the Corporation or any subsidiary, or the issuance of shares of Common Stock pursuant to the exercise of such options (which issuance shall dilute all of the Company's stockholders on a pro rata basis), pursuant to any qualified or non-qualified stock option plan or agreement, stock purchase plan, employee stock ownership plan, restricted stock plan, stock appreciation right (SAR) plan, stock purchase agreement, stock restriction agreement, consulting agreement or other agreements or plans approved by a majority of the members of the Board of Directors of the Corporation then in office with the concurrence of the directors elected by the holders of Preferred Stock.

8.2 MECHANICS OF RIGHT OF PARTICIPATION. Any Purchaser may accept the Company's offer as to the full number of securities required to be offered to it pursuant to Section 8.1 or any lesser number, by written notice thereof given by it to the Company prior to the expiration of the aforesaid thirty (30) day period, in which event the Company shall sell and such Purchaser shall buy, upon the terms specified, not later than the time such securities are sold to third parties as contemplated by the Company's offer, the number of securities agreed to be purchased by such Purchaser. Subject to and without limitation of the immediately preceding sentence, the Company shall be free at any time prior to ninety (90) days after the date of its notice of offer to such Purchaser, to offer and sell to any third party or parties the number of such securities not agreed by the Purchasers to be purchased by them, at a price and on payment

terms no less favorable to the Company than those specified in such notice of offer to the Purchasers. However, if such third party sale or sales are not consummated within such ninety (90) day period, the Company shall not sell such securities as shall not have been purchased within such period without again complying with this Section 8.2.

8.3 TERMINATION OF RIGHT OF PARTICIPATION. The rights of the Purchasers under this Section 8 shall terminate and be of no further force or effect as to the Purchasers upon the consummation of a Qualified Public Offering.

9. REGISTRATION RIGHTS.

9.1 "PIGGY-BACK" REGISTRATIONS. If at any time the Company shall determine to register for its own account or the account of others under the Securities Act any of its equity securities, it shall send to each holder of Registrable Shares (as defined below), including each holder who has the right to acquire Registrable Shares, written notice of such determination and, if within twenty (20) days after receipt of such notice, such holder shall so request in writing, the Company shall include in such registration statement all or any part of the Registrable Shares such holder requests to be registered. Nothing herein shall be construed so as to require the Company, in connection with any proposed offering, to engage the services of an underwriter under this Section 9.1 as, for example, if the Company shall file a registration statement under Rule 415 of the Securities Act without the services or engagement of any underwriter. "Registrable Shares" shall consist of any and all shares of Common Stock held by the Purchasers issued or issuable upon conversion of the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock or the Series E-1 Preferred Stock.

If, in connection with any offering involving an underwriting of Common Stock to be issued by the Company, the managing underwriter shall impose a limitation on the number of shares of such Common Stock which may be included in the registration statement because, in its judgment, such limitation is necessary to effect an orderly public distribution, then the Company shall be obligated to include in such registration statement only such limited portion of the Registrable Shares with respect to which such holder has requested inclusion hereunder; provided, however, that the Company shall not so exclude any Registrable Shares unless it has first excluded any securities to be offered and sold by officers and employees of the Company and any securities to be offered and sold by holders who do not have contractual rights to include such securities in such registration prior to or PARI PASSU with the holders of Registrable Shares.

Any exclusion of Registrable Shares shall be made pro rata among the holders of Registrable Shares seeking to include such shares, in proportion to the number of such shares held by each such holder. No rights or restrictions under this Section 9.1 shall be construed to limit, and shall not apply to, any registration required under Section 9.2. The obligations of the Company under this Section 9.1 may be waived at any time upon the written consent of both (i) holders of a majority of the Registrable Shares then outstanding and (ii) each holder of 10% or more of the Registrable Shares then outstanding.

This Section 9.1 shall not apply to a registration of shares of Common Stock on Form S-8 or Form S-4 or their then equivalents relating to an offering of shares of Common Stock to be issued solely in connection with any acquisition of any entity or business or otherwise issuable in connection with any stock option or employee benefit plan.

9.2 DEMAND REGISTRATIONS. Commencing upon the earlier of consummation of an initial public offering of shares of the Company's stock (an "IPO") or the second anniversary of the Closing (but not within six (6) months of the effective date of a registration statement), if on any occasion one or more holders of Registrable Shares shall notify the Company in writing that it or they intend to offer or cause to be offered for public sale Registrable Shares having an anticipated aggregate offering price of at least $2,000,000 (or $5,000,000 in the case of a registration pursuant to this Section 9.2 with respect to an IPO), the Company will so notify all holders of Registrable Shares, including all holders who have a right to acquire Registrable Shares. Upon written request of any holder given within twenty (20) days after the receipt by such holder from the Company of such notification, the Company will use its best efforts to cause such of the Registrable Shares as may be requested by any holder thereof (including the holder or holders giving the initial notice of intent to offer) to be registered under the Securities Act as expeditiously

as possible.

The Company shall not be required to effect more than two (2) registrations pursuant to this Section 9.2. If the Company determines to include shares to be sold by it or by other selling shareholders in any registration request pursuant to this Section 9.2, such registration shall be deemed to have been a "piggy back" registration under Section 9.1, and not a "demand" registration under this Section 9.2 if the holders of Registrable Shares are unable to include in any such registration statement at least seventy-five percent (75%) of the Registrable Shares initially requested for inclusion in such registration statement.

The holders of Registrable Shares to be registered in a registered public offering pursuant to this Section 9.2 shall have the right to select the managing underwriter(s) for such offering, provided that in the case of an IPO pursuant to this Section 9.2 such underwriter(s) shall be nationally recognized. If, in connection with any offering involving an underwriting of Common Stock to be issued by the Company, the managing underwriter shall impose a limitation on the number of shares of such Common Stock which may be included in the registration statement because, in its judgment, such limitation is necessary to effect an orderly public distribution, then the Company shall be obligated to include in such registration statement only such limited portion of the Registrable Shares with respect to which such holder has requested inclusion hereunder; PROVIDED, HOWEVER, that the Company shall not so exclude any Registrable Shares unless it has first excluded any securities to be offered and sold by officers and employees of the Company or by holders who do not have contractual rights to include such securities in such registration prior to or PARi PASSU with the holders of Registrable Shares.

9.3 REGISTRATIONS ON FORM S-3. In addition to the rights provided the holder of Registrable Shares in Sections 9.1 and 9.2 above, if the registration of Registrable Shares under the Securities Act can be effected on S-3 (or any similar form having similar requirements promulgated by the Commission), then upon the written request of one or more holders of at least a majority of the Registrable Shares, the Company will so notify each holder of Registrable Shares, including each holder who has a right to acquire Registrable Shares, and then shall use its best efforts to effect, as expeditiously as possible, qualification and registration under the Securities Act on Form S-3 of all or such portion of the Registrable Shares as the holder or holders shall specify.

The Company's obligations under this Section 9.3 shall expire eight (8) years after an IPO. Any offering of Registrable Shares pursuant to this Section 9.3 shall have a minimum market value (valued at the public offering price of the Company's securities as of the effective date of the registration statement for such Offering) of at least $2,000,000 of the securities so registered.

9.4 EFFECTIVENESS. The Company will use its best efforts to maintain the effectiveness for at least 90 days (or such shorter period of time as the underwriters need to complete the distribution of the registered offering in any Company primary offering, or nine (9) months in the case of a "shelf" registration statement on Form S-3 pursuant to Section 9.2 or 9.3) of any registration statement pursuant to which any of the Registrable Shares are being offered, and from time to time will amend or supplement such registration statement and the prospectus contained therein to the extent necessary to comply with the Securities Act and any applicable state securities statute or regulation. The Company will also provide each holder of Registrable Shares with as many copies of the prospectus contained in any such registration statement as it may reasonably request.

9.5 INDEMNIFICATION OF HOLDER OF REGISTRABLE SHARES. In the event that the Company registers any offering of the Registrable Shares under the Securities Act, to the extent permitted by law, the Company will indemnify and hold harmless each holder and each underwriter of the Registrable Shares (including their officers, directors, affiliates and partners) so registered (including any broker or dealer through whom such shares may be sold) and each person, if any, who controls the Company or any such underwriter within the meaning of Section 15 of the Securities Act from and against any and all losses, claims, damages, expenses or liabilities, joint or several, to which they or any of them become subject under the Securities Act, applicable state securities laws or under any other statute or at common law or otherwise, as incurred, and, except as hereinafter provided; will reimburse each such holder, each such underwriter and each such controlling person, if any, for any legal or other expenses reasonably incurred by them or any of them in connection with investigating or defending any actions whether or not resulting in any liability, insofar as such losses, claims, damages, expenses, liabilities or actions arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the registration statement under which

such Registrable Shares were registered under the Securities Act, in any preliminary or amended preliminary prospectus or in the final prospectus (or the registration statement or prospectus as from time to time amended or supplemented by the Company), or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances in which they were made, not misleading, or any violation by the Company of any rule or regulation promulgated under the Securities Act or any state securities laws applicable to the Company and relating to action or inaction required of the Company in connection with such registered offering.

Notwithstanding the foregoing, the Company shall have no obligation to indemnify any such holder, underwriter or controlling person if (i) such untrue statement or alleged untrue statement or omission or alleged omission was made in such registration statement, preliminary or amended preliminary prospectus or final prospectus in reliance upon and in conformity with information furnished in writing to the Company in connection therewith by such holder of

Registrable Shares (in the case of indemnification of such holder), such underwriter (in the case of indemnification of such underwriter) or such controlling person (in the case of indemnification of such controlling person) expressly for use therein, or (ii) in the case of a sale directly by such holder of Registrable Shares (including a sale of such Registrable Shares through any underwriter retained by such holder of Registrable Shares to engage in a distribution solely on behalf of such holder of Registrable Shares), such untrue statement or alleged untrue statement or omission or alleged omission was contained in a preliminary prospectus and corrected in a final or amended prospectus copies of which were delivered to such holder of Registrable Shares or such underwriter on a timely basis, and such holder of Registrable Shares failed to deliver a copy of the final or amended prospectus at or prior to the confirmation of the sale of the Registrable Shares to the person asserting any such loss, claim, damage or liability in any case where such delivery is required by the Securities Act.

The indemnity provided in this Section 9.5 shall survive the transfer of any Registrable Shares by such holder or any termination of this Agreement.

9.6 INDEMNIFICATION OF COMPANY. In the event that the Company registers any offering of Registrable Shares under the Securities Act, to the extent permitted by law, each holder of the Registrable Shares so registered will indemnify and hold harmless the Company, each of its directors, each of its officers who have signed or otherwise participated in the preparation of the registration statement, each underwriter of the Registrable Shares (including their officers, directors, affiliates and partners) so registered (including any broker or dealer through whom such of the shares may be sold) and each person, if any, who controls the Company or any such underwriter within the meaning of Section 15 of the Securities Act from and against any and all losses, claims, damages, expenses or liabilities, joint or several, to which they or any of them may become subject under the Securities Act, applicable state securities laws or under any other statute or at common law or otherwise, and, except as hereinafter provided, will reimburse the Company and each such director, officer, underwriter or controlling person for any legal or other expenses reasonably incurred by them or any of them in connection with investigating or defending any actions whether or not resulting in any liability, insofar as such losses, claims, damages, expenses, liabilities or actions arise out of or are based upon any untrue statement of a material fact contained in the registration statement under which such Registrable Shares were registered under the Securities Act, in any preliminary or amended preliminary prospectus or in the final prospectus (or in the registration statement or prospectus as from time to time amended or supplemented), or arise out of or are based upon the omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances in which they were made, not misleading, but only to the extent that any such statement or omission was made in reliance upon and in conformity with information furnished in writing to the Company in connection therewith by such holder of Registrable Shares expressly for use therein; provided, however, that such holders' obligations hereunder shall be limited to an amount equal to the proceeds received by such holder of Registrable Shares sold in any such registered offering.

9.7 INDEMNIFICATION PROCEDURES AND CONTRIBUTION.

(a) CONDUCT OF INDEMNIFICATION PROCEEDINGS. If any action or proceeding (including any governmental investigation) shall be brought or asserted against any person entitled to indemnification under Sections 9.5 or

9.6 above (an "Indemnified Party") in respect of which indemnity may be sought from any party required by the terms hereof to provide such indemnification (an "Indemnifying Party"), the Indemnifying Party shall assume the defense thereof, including the employment of counsel selected by the Indemnifying Party and reasonably satisfactory to such Indemnified Party, and shall assume the payment of all expenses. Such Indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless (i) the Indemnifying Party has agreed to pay such fees and expenses or (ii) the named parties to any such action or proceeding (including any impleaded parties) include both such Indemnified Party and the Indemnifying Party, and such Indemnified Party shall have been advised by counsel that there may be a conflict of interest on the part of counsel employed by the Indemnifying Party to represent such Indemnified Party, or that there may be defenses available to the Indemnified Party that are different from or in addition to those available to the Indemnifying Party (in which case, if such Indemnified Party notifies the Indemnifying Party in writing that it elects to employ separate counsel at the expense of the Indemnifying Party (which counsel shall be reasonably satisfactory to the Indemnifying Party), the Indemnifying Party shall not have the right to assume the defense of such action or proceeding on behalf of such Indemnified Party; it being understood, however, that the Indemnifying Party shall not, in connection with any one such action or proceeding or proceedings in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the fees and expenses of more than one separate firm of attorneys (together with appropriate local counsel) at any time for all such Indemnified Parties, which firm shall be designated in writing by such Indemnified Parties). The Indemnifying Party shall not be liable for any settlement of any such action or proceeding effected without its written consent, but if settled with its written consent, or if there be a final judgment for the plaintiff in any such action or proceeding, the Indemnifying Party shall indemnify and hold harmless such Indemnified Parties from and against any loss or liability (to the extent stated above) by reason of such settlement or judgment.

(b) CONTRIBUTION. In order to provide for just and equitable contribution to joint liability under the Securities Act in any case in which the Company or any holder of Registrable Shares exercising its rights under this Section 9, makes a claim for indemnification pursuant to Section 9.5 or 9.6, but it is judicially determined (by the entry of a final judgment or decree by a court of competent jurisdiction and the expiration of time to appeal or the denial of the last right of appeal) that such indemnification may not be enforced in such case notwithstanding that Section 9.5 or 9.6 provides for indemnification, then, in such case, the Company and such holder of Registrable Shares will contribute to the aggregate losses, claims, damages or liabilities to which they may be subject (after contribution from others) in such proportion as is appropriate to reflect the relative fault of the Company on the one hand and of the holder of Registrable Shares on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations or, if the allocation provided herein is not permitted by applicable law, in such proportion as shall be appropriate to reflect the relative benefits received by the Company and any holder of Registrable Shares from the offering of the Securities covered by such registration statement. The relative fault of the Company on the one hand and of the holder

of Registrable Shares on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or by the holder of Registrable Shares on the other, and each party's relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission; provided, however, that, in any such case, (i) no such holder of Registrable Shares will be required to contribute any amount in excess of the lesser of (A) the amount for which such holder would have been liable pursuant to Section 9.6 if the indemnification provided for therein were enforceable in accordance with the terms thereof and (B) the proceeds received by such holder of Registrable Shares offered by it pursuant to such registration statement; and (ii) no person or entity guilty of fraudulent misrepresentation (within the meaning of Section 11 (f) of the Securities Act) will be entitled to contribution from any person or entity who was not guilty of such fraudulent misrepresentation.

9.8 EXCHANGE ACT REGISTRATION. The Company shall timely file with the Commission such information as the Commission may require under Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"); and in such event the Company shall use its best efforts to take all action pursuant to Rule 144(c) as may be required as a condition to the availability of Rule 144 or Rule 144A under the Securities Act (or any successor exemptive rule hereinafter in effect) with respect to the Common Stock. The

Company shall furnish to any holder of Registrable Shares forthwith upon request (i) a written statement by the Company as to its compliance with the reporting requirements of Rule 144(c), (ii) a copy of the most recent annual or quarterly report of the Company as filed with the Commission, and (iii) such other publicly filed reports and documents as a holder may reasonably request in availing itself of any rule or regulation of the Commission allowing a holder to sell any such Registrable Shares without registration. The Company agrees to use its best efforts to facilitate and expedite transfers of Registrable Shares pursuant to Rule 144 under the Securities Act, which efforts shall include timely notice to its transfer agent to expedite such transfers of Registrable Shares and timely filing of all reports required to be filed with the Commission within any applicable time period (such as Form 10-K, Form 10-Q and Form 8-K).

9.9 DAMAGES. The Company recognizes and agrees that the holder of Registrable Shares will not have an adequate remedy if the Company fails to comply with this Section 9 and that damages may not be readily ascertainable, and the Company expressly agrees that, in the event of such failure, it shall not oppose an application by the holder of Registrable Shares or any other person entitled to the benefits of this Section 9 requiring specific performance of any and all provisions hereof or enjoining the Company from continuing to commit any such breach of this Section 9.

9.10 FURTHER OBLIGATIONS OF THE COMPANY. Whenever under the preceding Sections of this Section 9, the Company is required hereunder to register an offering of Registrable Shares, it agrees that it shall also do the following:

(a) Furnish to each selling holder such copies of each preliminary and final prospectus and such other documents as said holder may reasonably request to facilitate the public offering of its Registrable Shares;

(b) Use its best efforts to register or qualify the Registrable Shares covered by said registration statement under the applicable securities or Blue Sky laws of such jurisdictions as any selling holder may reasonably request; provided, however, that the Company shall not be obligated to qualify to do business in any jurisdictions where it is not then so qualified or to take any action which would subject it to local taxation or the service of process in suits other than those arising out of the offer or sale of the securities covered by the registration statement in any jurisdiction where it is not then so subject or to conform the composition of its assets at the time to the securities or "Blue Sky" laws of any jurisdiction;

(c) Furnish to each selling holder a signed counterpart, addressed to the selling holders, of

(i) an opinion of counsel for the Company, dated the effective date of the registration statement, and

(ii) "comfort" letters signed by the Company's independent public accountants who have examined and reported on the Company's financial statements included in the registration statement, to the extent permitted by the standards of the American Institute of Certified Public Accountants,

covering substantially the same matters with respect to the registration statement (and the prospectus included therein) and (in the case of the accountants' "comfort" letters) with respect to events subsequent to the date of the financial statements, as are customarily covered in opinions of issuer's counsel and in accountants' "comfort" letters delivered to the underwriters in underwritten public offerings of securities, but the Company shall be obligated hereunder only to the extent that the Company is required to deliver or cause the delivery of such opinion or "comfort" letters to the underwriters in an underwritten public offering of securities;

(d) Permit each selling holder of Registrable Shares or his counsel or other representatives to inspect and copy such corporate documents and records as may reasonably be requested by them after reasonable advance notice and without undue interference with the operation of the Company's business;

(e) Furnish to each selling holder of Registrable Shares a copy of all documents filed with and all correspondence from or to the Commission in connection with any such offering of securities;

(f) Use its best efforts to ensure the obtaining of all necessary approvals from the National Association of Securities Dealers, Inc. (the "NASD"); and

(g) Otherwise use its best efforts to comply with all applicable rules and regulations of the Commission.

Whenever under the preceding Sections of this Section 9 the holders of Registrable Shares are registering such shares pursuant to any registration statement, each such holder agrees to (i) timely provide to the Company, at its request, such written information and materials as it may reasonably request in order to effect the registration of such Registrable Shares and (ii) convert Preferred Stock to be included in any registration statement for shares of Common

Stock, such conversion to be effective at the closing of such offering pursuant to such registration statement.

9.11 EXPENSES. The Company shall pay the Registration Expenses (as defined below) for registrations requested by any holders of Registrable Shares pursuant to Sections 9.1, 9.2 or 9.3 hereof. If a registration pursuant to Section 9.2 is withdrawn at the request of the holders of Registrable Shares requesting it (other than as a result of information concerning the business or financial condition of the Company that is made known to such holders after the date on which such registration was requested) and if the holders of a majority of the Registrable Shares requested to be included in such registration elect not to have such registration counted as a registration requested under Section 9.2, the requesting holders of Registrable Shares shall pay the Registration Expenses of such registration pro rata in accordance with the number of their Registrable Shares which were to have been included in such registration. For purposes of this Section, the term "Registration Expenses" shall mean all expense incurred by the Company in complying with Section 9 of this Agreement, including, without limitation, all registration and filing fees, exchange listing fees, printing expenses, fees and disbursements of counsel for the Company and one counsel for the selling holders of Registrable Shares, out-of-pocket expenses of the Company and the underwriters, state Blue Sky fees and expenses, and the expense of any special audits incidental to or required by any such registration, but excluding underwriting discount and selling commissions relating to the Registrable Shares and fees of more than one counsel for the selling holders of Registrable Shares. Such underwriting discounts and selling commissions shall be borne pro rata by the selling holders of Registrable Shares in accordance with the number of their Registrable Shares included in such registration.

9.12 TRANSFERABILITY AND EXPIRATION OF REGISTRATION RIGHTS. For all purposes of this Agreement, the "holders of Registrable Shares" shall include each holder of Preferred Stock, and, in addition, any direct or indirect assignee or transferee of the Registrable Shares, who acquires (through an acquisition of shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series E-1 Preferred Stock or upon conversion of any shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series E-l Preferred Stock) at least forty percent (40%) of the Registrable Shares relating to the shares of Series A Preferred Stock and/or Series B Preferred Stock and/or Series C Preferred Stock and/or Series D Preferred Stock and/or Series E Preferred Stock and/or Series E-1 Preferred Stock, as the case may be, originally purchased by such Purchaser pursuant to this Agreement, the Series E Purchase Agreement, the Series D Purchase Agreement, the Series C Convertible Preferred Stock Purchase Agreement dated February 26, 1998 by and among the Company, certain Purchasers and Robert B. Schulz, or the Stock Purchase Agreement dated June 3, 1996 by and between the Company and Harris & Harris Group, Inc.

With respect to any Registrable Shares held by any transferee or assignee referred to in the preceding paragraph, the registration rights set forth in Section 9.1 of this Agreement shall terminate and expire when any such transferee or assignee holds less than one percent (1.0%) of the outstanding Common Stock (calculated assuming conversion of any series of the Company's preferred stock), or such transferee or assignee is otherwise eligible to sell to the public such Registrable Shares pursuant to any of the provisions of Rule 144(k) of the Securities Act.

For the purpose of determining under this Section 9.12 the number of Registrable Shares held by a transferee or assignee, the holdings of transferees and assignees of such partnership or limited liability company who are partners or members or retired partners of such partnership or limited liability company (including spouses and ancestors, lineal descendants and siblings of such partners or members or spouses who acquire Registrable Shares by gift, will or intestate succession) or otherwise associated with such partnership or limited

liability company shall be aggregated together and with the holdings of such partnership or limited liability company.

9.13 "LOCK-UP" AND MARKET STANDSTILL. Each holder of Registrable Shares agrees that in the event the Company proposes an initial public offering of any of its equity securities pursuant to a registration statement under the Securities Act (whether for its own account or the account of others, including the holders of Registrable Shares), and (i) if requested in writing by the Company and an underwriter of the proposed offering of Common Stock or other securities of the Company; and (ii) if all other "affiliates" and all five percent (5%) stockholders, directors, officers and other key management personnel similarly situated and who are not, affiliated with any holders of Registrable Shares are requested by the Company and such underwriter to sign, and actually do sign, any "Lock-Up Agreement" (each a "Lock-Up Agreement" and collectively, the "Lock-Up Agreements"), then such holder will agree to a restriction whereby he will not sell, grant any option or right to buy or sell, or otherwise transfer or dispose of in any manner, to the public in open market transactions, any Common Stock or other equity securities of the Company held by it during whatever time period is requested by the Company and the underwriter for restrictions on trading or transfer (the "Lock-Up Period") following the effective date of the registration statement of the Company filed under the Securities Act. The Company agrees that it will sign a Lock-Up Agreement upon substantially similar terms and conditions in the event of a registration effected pursuant to Section 9.2 or 9.3 hereof. Such agreements shall be in writing and in form and substance pursuant to customary and prevailing terms and conditions for such Lock-Up Agreements. The Company may impose stop-transfer instructions with respect to the securities subject to the foregoing restrictions until the end of the Lock-Up Period. Such Lock-Up Period shall not exceed 180 days in length.

9.14 DELAY OF REGISTRATION. For a period not to exceed 90 days (subject to the last paragraph of this Section 9.14), the Company shall not be obligated to prepare and file, or be prevented from delaying or abandoning, a registration statement pursuant to this Agreement at any time when the Company, in its good faith judgment by the Board of Directors with the advice of counsel, reasonably believes:

(a) that the filing thereof at the time requested, or the offering of Registrable Shares pursuant thereto, would materially and adversely affect (i) a pending or scheduled public offering or private placement of the Company's securities, (ii) an acquisition, merger, consolidation or similar transaction by or of the Company, (iii) pre-existing and continuing negotiations, discussions or pending proposals with respect to any of the foregoing transactions, or (iv) the financial condition of the Company in view of the disclosure of any pending or threatened litigation, claim, assessment or governmental investigation which may be required thereby; and

(b) that the failure to disclose any material information with respect to the foregoing would cause a violation of the Securities Act or the Exchange Act.

If the Company defers or delays the filing of a registration statement or the offering of Registrable Shares or if the Company abandons a registration statement pursuant to this Section 9.14, then such deferral, delay or abandonment right shall exist only so long as the condition giving rise to such right exists. If the Company chooses to abandon a registration statement pursuant to, and in accordance with, this Section 9.14 then such registration shall not be deemed to be a "demand" registration under Section 9.2.

9.15 FUTURE INVESTORS. If subsequent to the date hereof, the Company grants to holders or prospective holders of its securities registration rights that are more favorable than the terms or provisions of this Section 9 are to the holders of Registrable Shares, this Section 9 shall be deemed to be automatically amended (without the necessity of any action on the part of the Company or the parties hereto) to grant to the holders of Registrable Shares such more favorable registration rights, in addition to those other rights set forth herein.

9.16 INFORMATION BY HOLDER. Each holder of Registrable Shares included in any registration pursuant to this Section 9 shall furnish to the Company such information regarding such holder and the distribution proposed by such holder as the Company may request in writing and as shall be reasonably required in connection with any registration, qualification or compliance referred to in this Agreement.

9.17 CONFLICT. In the event of a conflict between the provisions of this Section 9 and an underwriting agreement entered into by the Company and the holder(s) of Registrable Shares included in a registration pursuant to this

Section 9, the provisions of such underwriting agreement shall control.

10. WAIVER OF PREEMPTIVE RIGHTS; TERMINATION OF CERTAIN PROVISIONS OF SERIES E PURCHASE AGREEMENT; WAIVERS RELATED TO CERTAIN STOCK ISSUANCES. Each Purchaser that is a party to the Series E Convertible Preferred Stock Purchase Agreement dated February 26, 2001, (the "Series E Purchase Agreement"), hereby (i) waives the provisions of Section 8 "Right of Participation" in the Series E Purchase Agreement and such other provisions of the Series E Purchase Agreement, to the extent necessary to effectuate the provisions hereof and for the Company to issue the shares of Series E-1 Preferred Stock at the Closing and at any Additional Closing, (ii) confirms that such Purchaser has no preemptive or similar rights with respect to the issuance of any capital stock or other securities of the Company except those rights set forth in Section 8 of the Series E Purchase Agreement, (iii) confirms that, solely in connection with the issuance of the Shares or the Additional Shares or the adjustment of the Applicable Conversion Value (as defined in the Restated Charter) with respect to any series of Preferred Stock solely as a result of such issuance, such Purchaser, with respect to the shares of each series of Preferred Stock it holds prior to the Closing, has no right to an adjustment of the Applicable Conversion Value for such series of Preferred Stock other than any adjustment indicated on Exhibit H hereto; (iv) confirms that effective upon the Closing, the provisions of Sections 7 and 8 of the Series E Purchase Agreement shall be deleted in their entirety and be of no further force and effect and

shall be superseded by the provisions of Sections 7 and 8 of this Agreement, provided that this clause (iv) shall not relieve a party to the Series E Purchase Agreement from liability for breach thereof prior to the date hereof; and (v) confirms that effective upon the Closing, (A) the provisions of Section 9 of the Series E Purchase Agreement shall be of no further force and effect and shall be superseded by the provisions of Section 9 of this Agreement such that each holder of Registrable Shares within the meaning of Section 9 of the Series E Purchase Agreement shall be considered a holder of Registrable Shares within the meaning of Section 9 of this Agreement, and (B) the Purchasers shall have no rights with respect to the registration of any capital stock or other securities of the Company under the Securities Act except those rights set forth in Section 9 of this Agreement.

11. SUCCESSORS AND ASSIGNS. The provisions of this Agreement shall bind and inure to the benefit of the respective successors, assigns, heirs, executors, and administrators of the parties hereto.

12. SURVIVAL OF REPRESENTATIONS AND WARRANTIES. The representations, warranties, covenants, promises and agreements contained in this Agreement or in any other Financing Documents shall survive and remain in full force and effect after the Closing.

13. EXPENSES. The Company shall pay at the Closing and at any Additional Closing the legal fees and expenses of Skadden, Arps, Slate, Meagher & Flom LLP, counsel to the affiliates of Whitney & Co. which are Purchasers hereunder, incurred in connection with the preparation of the Financing Documents, any additional documentation associated with the Additional Closing and the closing of the transactions contemplated hereby. The Company shall also pay at the Closing and at any Additional Closing the legal fees and expenses of Goodwin Procter LLP, counsel to the Company, incurred by the Company and such counsel in the preparation, review and negotiation of all documents and matters relating to the transactions contemplated hereby.

14. NOTICES. All notices, requests, consents and other communications under this Agreement shall be in writing and shall be delivered by hand, by telecopier, by overnight mail or mailed by first class certified or registered mail, return receipt requested, postage prepaid:

(a) If to the Company:

NeuroMetrix, Inc.
62 Fourth Avenue
Waltham, MA 02451
Attention: Shai N. Gozani, M.D., Ph.D.,
Chief Executive Officer
Telephone No.: (781) 890-9989
Telecopier No.: (781) 890-1556

(or at such other address as may have been furnished in writing to the parties by the Company),

with a copy to:

H. David Henken, P.C.
Goodwin Procter LLP
Exchange Place
Boston, MA 02109
Telecopier No.: (617) 570-1672

(b) If to the Purchasers, at their address listed on Schedule I:

(or at such other address as may have been furnished to the parties in writing by such Purchaser)

with, in the case of Whitney & Co. and its affiliates, a copy to Whitney & Co's special counsel:

Kent A. Coit, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
One Beacon Street
Boston, MA 02108
Telecopier No.: (617) 573-4822

(c) If to Robert B. Schulz:

Robert B. Schulz
50 Georgian Court
Stamford, CT 06903

(or at such other address as may have been furnished to the parties by Robert B. Schulz).

Notices provided in accordance with this Section 14 shall be deemed delivered upon personal delivery, receipt by telecopy or overnight mail, or 72 hours after deposit in the mail in accordance with the above.

15. BROKERS. The Company and each Purchaser (i) represent and warrant to the other that it has retained no finder or broker in connection with the transactions contemplated by this Agreement, and (ii) shall indemnify and hold harmless the other from and against any and all claims, liabilities, or obligations with respect to brokerage or finders' fees or commissions or consulting fees in connection with the transactions contemplated by this Agreement, asserted by any person on the basis of any statement or representation alleged to have been made by such indemnifying party.

16. NO CONDITIONS TO EFFECTIVENESS; ENTIRE AGREEMENT. There are no conditions to the effectiveness of this Agreement. This Agreement, together with the instruments and other documents hereby contemplated to be executed and delivered in connection herewith, contain the entire agreement and understanding of the parties hereto, and supersede any prior agreements or understandings between or among them, with respect to the subject matter hereof.

17. AMENDMENTS AND WAIVERS. Except as otherwise expressly set forth in this Agreement, any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), with the written consent of the Company and of Purchasers holding not less than 66 2/3 % of the total number of shares of Common Stock held by the Purchasers on an as-converted basis; provided, however, (i) this Agreement may not be amended so as to require a Purchaser to purchase additional Shares without the prior written consent of such Purchaser, (ii) the amendment or waiver of any of the provisions of Sections 10, 11, 14 and 17 through 21 (either generally or in a particular instance and either retroactively or prospectively) shall require the written consent of the Company and of Purchasers (including, for purposes of this clause (ii), Robert B. Schulz) holding not less than 66 2/3 % of the total number of shares of Common Stock held by the Purchasers on an as converted basis; (iii) any Purchaser may, without the consent of any other Purchaser, existing Company stockholder or the Company, waive, solely with respect to such Purchaser, any provision hereof which is for the benefit of such Purchaser, (iv) Robert B. Schulz may, without the written consent of any Purchaser or the Company, waive, solely with respect to himself, any provision hereof which is for his benefit, and (v) except as otherwise provided in the immediately preceding clauses (iii) and (iv), the provisions of Sections 7, 8 and 9 may be amended and the observance of any such provision may be waived (either generally or in a particular instance and either retroactively or prospectively), with the written consent of the Company and the written consent of (a) the holders of a majority of the total number of outstanding shares of Series A Preferred Stock and Series B Preferred Stock (and/or shares of Common Stock into which such shares have

been converted), voting together as a single series, (b) the holders of a majority of the total number of outstanding shares of Series C Preferred Stock in the aggregate (and/or shares of Common Stock into which such shares have been converted), (c) the holders of a majority of the total number of outstanding shares of Series D Preferred Stock in the aggregate (and/or shares of Common Stock into which such shares have been converted), and (d) the holders of a majority of the total number of outstanding shares of Series E Preferred Stock and Series E-1 Preferred Stock (and/or shares of Common Stock into which such shares have been converted), voting together as a single series. No waivers of or exceptions to any term, condition or provision of this Agreement, in any one or more instances, shall be deemed to be, or construed as, a further or continuing waiver of any such term, condition or provision.

18. COUNTERPARTS. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

19. CAPTIONS. The captions of the sections, subsections and paragraphs of this Agreement have been added for convenience only and shall not be deemed to be a part of this Agreement.

20. SEVERABILITY. Each provision of this Agreement shall be interpreted in such manner as to validate and give effect thereto to the fullest lawful extent, but if any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable under applicable law, such provision shall be ineffective only to the extent so determined and such invalidity or unenforceability shall not affect the remainder of such provision or the remaining provisions of this Agreement.

21. GOVERNING LAW. This Agreement shall be governed by and interpreted and construed in accordance with the internal laws of the Commonwealth of Massachusetts, without giving effect to its conflicts of law principles.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Series E-1 Convertible Preferred Stock Purchase Agreement as an instrument under seal as of the date first above written.

NEUROMETRIX, INC.

By: /s/ Shai N. Gozani

Name: Shai N. Gozani, M.D., Ph.D.
Title: Chief Executive Officer

PURCHASERS:

WHITNEY STRATEGIC PARTNERS III, L.P.
By: J.H. Whitney Equity Partners L.L.C.,
Its General Partner

By: /s/ William Laverack, Jr.

Name: William Laverack, Jr.
Title: Managing Member

J.H. WHITNEY III, L.P.
By: J.H. Whitney Equity Partners L.L.C.,
Its General Partner

By: /s/ William Laverack, Jr.

Name: William Laverack, Jr.
Title: Managing Member

HARRIS & HARRIS GROUP, INC.

By: /s/ Mel P. Melsheimer

Name:. Mel P. Melsheimer
Title: President

SIGNATURE PAGE TO STOCK PURCHASE AGREEMENT

DELPHI VENTURES IV, L.P.
By: Delphi Management Partners IV, L.L.C.,
Its General Partner

By: /s/ David Douglass

Name: David Douglass
Title: Managing Member

DELPHI VENTURES IV, L.P.
By: Delphi Management Partners IV, L.L.C.,
Its General Partner

By: /s/ David Douglass

Name: David Douglass
Title: Managing Member

BANCBOSTON VENTURES INC.

By: /s/ John B. McCormick

Name: John B. McCormick
Title: Vice President

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

By: /s/ Allan S. Bufferd

Name: Allan S. Bufferd
Title: Treasurer

SIGNATURE PAGE TO STOCK PURCHASE AGREEMENT

COMMONWEALTH CAPITAL VENTURES II L.P.
By: Commonwealth Venture Partners II L.P.,
Its General Partner

By: /s/ Jeffrey M. Hurst

Name: Jeffrey M. Hurst
Title: General Partner

CCV II ASSOCIATES L.P.
By: Commonwealth Venture Partners II L.P.,
Its General Partner

By: /s/ Jeffrey M. Hurst

Name: Jeffrey M. Hurst
Title: General Partner

PARTY SOLELY FOR PURPOSES OF SECTIONS
7 THROUGH 11, 14 AND 17 THROUGH 21

/s/ Robert B. Schulz

Robert B. Schulz

SIGNATURE PAGE TO STOCK PURCHASE AGREEMENT

SCHEDULE I

PURCHASERS

INVESTOR AND PRINCIPAL PLACE OF BUSINESS TO CLOSING	NUMBER OF E-1 SHARES PURCHASED	PRO RATA PRIOR HOLDINGS RELATIVE PURCHASE PRICE
MASSACHUSETTS INSTITUTE OF TECHNOLOGY Office of the Treasurer 238 Main Street Suite 200 Cambridge, MA 02142-1012	1,264,090	7.66% 102,142 $ 153,213.00
HARRIS & HARRIS GROUP, INC. One Rockefeller Plaza Rockefeller Center New York, NY 10020	2,914,765	17.66% 235,521 $ 353,281.50
WHITNEY STRATEGIC PARTNERS III, L.P. 177 Broad Street Stamford, CT 06901	161,310	0.98% 13,034 $ 19,551.00
J.H. WHITNEY III, L.P. 177 Broad Street Stamford, CT 06901	6,694,245	40.57% 540,914 $ 811,371.00
DELPHI VENTURES IV, L.P.	2,177,335	13.20%

175,935 $ 263,902.50 3000 Sand Hill Road Building 1, Suite 135 Menlo Park, CA 94025 DELPHI BIOINVESTMENTS IV, L.P. 44,890 0.27% 3,627 $ 5,440.50 3000 Sand Hill Road Building 1, Suite 135 Menlo Park, CA 94025 COMMONWEALTH CAPITAL VENTURES II, L.P. 1,185,820 7.19% 95,818 $ 143,727.00 20 William Street Wellesley, MA 02181 CCV II ASSOCIATES L.P. 58,625 0.36% 4,737 $ 7,105.50 20 William Street Wellesley, MA 02181 BANCBOSTON VENTURES, INC. 2,000,000 12.12% 161,606 $ 242,409.00 175 Federal Street Boston, MA 02110 - ----- --------- --- ----------- - ------- ----- -------- ---- ---------- Total 16,501,080 100% 1,333,334 $ 2,000,001.00 - ----------

CONSENT, WAIVER AND AMENDMENT

This CONSENT, WAIVER AND AMENDMENT (this "Agreement") is entered into as of May 21, 2003, by and among NeuroMetrix, Inc., a Delaware corporation (the "Company") and the undersigned Purchasers and Stockholders (such Purchasers and Stockholders, together with the Company, the "Parties"). All capitalized terms used and not defined herein shall have the meaning ascribed to such terms in the Series E-1 Convertible Preferred Stock Purchase Agreement, dated December 20,

2002, by and among the Company and the investors identified therein (the "Purchase Agreement") or, if not defined in the Purchase Agreement, then in the Fourth Amended and Restated Stockholders Agreement, dated December 20, 2002, by and among the Company and the Stockholders party thereto (the "Stockholders Agreement").

WHEREAS, within the meaning of Section 17 of the Purchase Agreement, the undersigned Purchasers hold in the aggregate no less than 66 2/3 % of the total number of shares of Common Stock held by the Purchasers on an as-converted basis and a majority of the total number of outstanding shares of each class of Preferred Stock;

WHEREAS, within the meaning of Section 3.8 of the Stockholders Agreement, the undersigned Purchasers and Stockholders constitute holders of a majority of the shares of capital stock of the Company subject to the Stockholders Agreement and include each holder of 10% or more of the total number of outstanding shares of Preferred Stock;

NOW THEREFORE, for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. CONSENT AND WAIVER. The Parties hereby consent to, and waive (on their own behalf and on behalf of all other persons for whom the Parties have the right to undertake a consent and waiver) any all rights they may have (including without limitation any rights of first refusal and participation or preemptive rights) to the extent necessary to effectuate the Company's execution, delivery and performance of its obligations under, that certain Loan and Security Agreement by and between the Company and Lighthouse Capital Partners IV, L.P. (the "Lender"), that certain Warrant made by the Company in favor of the Lender and any and all other documents necessary or appropriate in connection therewith. Without limiting the foregoing, the Parties hereby agree that:

(a) The Company may grant to the holder of the Warrant (the "Holder"), on a pari passu basis with all other parties to Section 9 of the Purchase Agreement, as amended from time to time (the "Rights Agreement"), all the registration and related rights of a "holder of Registrable Shares" under the Rights Agreement, and may agree that any and all shares of Common Stock held by the Holder issued or issuable upon conversion of the shares of Preferred Stock issued or issuable upon the exercise of the Warrant (or, if the Warrant becomes a warrant to purchase shares of Common Stock, Common Stock issued or issuable upon the exercise of the Warrant) shall be "Registrable Shares" within the meaning of the Rights Agreement, provided that the Holder agrees to comply with all obligations of a holder of

Registrable Shares under the provisions of the Rights Agreement, including without limitation the "Lock-Up" and Market Standstill provisions in Section 9.13 of the Rights Agreement.

(b) Notwithstanding Section 3.9 of the Stockholders Agreement, the Holder need not become a party to the Stockholders Agreement.

(c) Neither the issuance of the Warrant nor the issuance of any shares of capital stock on exercise of the Warrant shall require any adjustment of the Applicable Conversion Value for any series of Preferred Stock.

2. AMENDMENT OF PURCHASE AGREEMENT

(a) The Company and the Purchasers agree that Section 1.3 of the Purchase Agreement is hereby amended by replacing "1,000,000 additional shares" with "600,000 additional shares."

(b) The Company and the Purchasers agree that Section 7.1(a) of the Purchase Agreement is hereby amended by replacing "within ninety (90) days after the end of each fiscal year" to "within one hundred twenty (120) days after the end of each fiscal year."

3. GOVERNING LAW. This Agreement shall be governed by and interpreted and construed in accordance with the internal laws of the Commonwealth of Massachusetts, without giving effect to its conflicts of law principles.

4. COUNTERPARTS. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Consent, Waiver and Amendment as an instrument under seal as of the date first above written.

NEUROMETRIX, INC.

By: /s/ Shai N. Gozani

Name: Shai N. Gozani, M.D., Ph.D.
Title: Chief Executive Officer

PURCHASERS:

WHITNEY STRATEGIC PARTNERS III, L.P.
By: J.H. Whitney Equity Partners L.L.C.,
Its General Partner

By: /s/ William Laverack, Jr.

Name: William Laverack, Jr.
Title: Managing Member

J.H. WHITNEY III, L.P.
By: J.H. Whitney Equity Partners L.L.C.,
Its General Partner

By: /s/ William Laverack, Jr.

Name: William Laverack, Jr.
Title: Managing Member

HARRIS & HARRIS GROUP, INC.

By: /s/ Charles E. Harris

Name:. Charles E. Harris
Title: Chairman and CEO

DELPHI VENTURES IV, L.P.
By: Delphi Management Partners IV, L.L.C.,
Its General Partner

By: /s/ David Douglass

Name: David Douglass
Title: Managing Member

DELPHI VENTURES IV, L.P.
By: Delphi Management Partners IV, L.L.C.,
Its General Partner

By: /s/ David Douglass

Name: David Douglass
Title: Managing Member

BANCBOSTON VENTURES INC.

By: /s/ John B. McCormick

Name: John B. McCormick
Title: Vice President

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

By: /s/ Allan S. Bufferd

Name: Allan S. Bufferd
Title: Treasurer

COMMONWEALTH CAPITAL VENTURES II L.P.
By: Commonwealth Venture Partners II L.P.,
Its General Partner

By: /s/ Jeffrey M. Hurst

Name: Jeffrey M. Hurst
Title: General Partner

CCV II ASSOCIATES L.P.
By: Commonwealth Venture Partners II L.P.,
Its General Partner

By: /s/ Jeffrey M. Hurst

Name: Jeffrey M. Hurst
Title: General Partner

/s/ Robert B. Schulz

Robert B. Schulz

STOCKHOLDERS:

/s/ Shai N. Gozani

Shai N. Gozani, M.D., Ph.D.

/s/ Richard J. Thomas

Richard J. Thomas

AMENDMENT TO SERIES E-1 CONVERTIBLE
PREFERRED STOCK PURCHASE AGREEMENT

This AMENDMENT (the "Amendment") to the Series E-1 Convertible Preferred Stock Purchase Agreement (the "Purchase Agreement"), dated as of December 20, 2002, by and among NeuroMetrix, Inc. (the "Company") and the Purchasers (as defined in the Purchase Agreement), and amended by the Consent, Waiver and Amendment, dated as of May 21, 2003, by and among the Company, the Purchasers and the Stockholders (as defined therein), is made as of March 12, 2004, by and among the Company and the Purchasers. All capitalized terms used and not defined herein shall have the meanings ascribed to such terms in the Purchase Agreement.

WHEREAS, the parties desire to amend the Purchase Agreement in various respects to facilitate the sale of additional shares of Series E-1 Preferred Stock.

NOW THEREFORE, for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

Section 1. AMENDMENTS.

(a) Section 1.1 of the Purchase Agreement is hereby amended by inserting the following sentence at the end of Section 1.1: "The Company, before the first Additional Closing (as defined in Section 2.2) will have duly authorized the sale and issuance of up to an additional 6,050,771 shares of Series E-1 Preferred Stock which, taken together with the 1,000,000 additional shares of Series E-1 Preferred Stock authorized prior to the initial Closing for issuance in one or

more Additional Closings, shall constitute a total of 7,050,771 additional shares of Series E-1 Preferred Stock authorized and issuable in one or more Additional Closings."

(b) Section 1.3 of the Purchase Agreement is hereby amended by replacing the first sentence with: "Subject to the provisions of Section 2.2, on one or more dates from and after the Closing Date to and including March 31, 2004, the Company may issue and sell up to 7,050,771 additional shares of Series E-1 Preferred Stock (the "Additional Shares") at a price of $1.50 per share, which issuance and sale shall be made duly to "accredited investors," as defined in Rule 501(a) under the Securities Act of 1933, as amended (the "Additional Purchasers"), and shall be in accordance with the terms and conditions of this Agreement."

(c) Section 2.2 of the Purchase Agreement is hereby amended by replacing the first sentence with: "The closing(s) of the sale and purchase of Additional Shares shall take place at the Boston office at Goodwin Procter LLP on such date or dates as mutually agreed by the Company and the relevant Additional Purchasers, but in no event later than March 31, 2004 (each such closing, an "Additional Closing")."

(d) Section 2.2 of the Purchase Agreement is hereby further amended by inserting the following sentence at the end of Section 2.2: "Any Purchaser that participates in an Additional Closing shall be deemed to reaffirm, as of the date of such Additional Closing, the representations made by it in Section 4 of the Purchase Agreement."

(e) Section 3 of the Purchase Agreement is hereby amended by inserting at the end of the lead sentence: "as of the Closing Date".

Section 2. PURCHASE OF ADDITIONAL SHARES. Each investor (each, an "Investor") identified on the schedule of purchasers attached as EXHIBIT A hereto agrees to purchase, and the Company agrees to sell, the number of shares of Series E-1 Preferred Stock identified next to such Investor's name on EXHIBIT A in the column labeled "Actual Number of Additional E-1 Shares" in exchange for payment (in cash or by wire transfer of immediately available funds) the purchase price specified on EXHIBIT A. The closing of such investments shall occur as of the date hereof. Notwithstanding the foregoing, BancBoston Ventures, Inc. ("BancBoston") shall have the right, but not the obligation, to purchase all or a portion of the shares of Series E-1 Preferred Stock identified next to its name on EXHIBIT A in the column labeled "Actual Number of Additional E-1 Shares" (the "BancBoston Pro Rata Shares"), provided, however, that any such purchase shall be consummated no later than March 23, 2004. To make its election, BancBoston must notify the Company in writing by March 23, 2004; failure to notify the Company by such date shall be deemed to be an election not to purchase any of the BancBoston Pro Rata Shares. To the extent that BancBoston elects not to purchase all of the BancBoston Pro Rata Shares, the Company shall offer such shares not so elected to be purchased by BancBoston (the "Available Shares") in an aggregate amount up to 433,333 of the Available Shares to Whitney Strategic Partners III, L.P., J.H. Whitney III, L.P. and their affiliates. Thereafter, the Company may elect to offer any remaining Available Shares to those persons that have purchased Additional Shares or have elected to purchase Available Shares pursuant to the preceding sentence. The closing of any purchase of Available Shares shall take place on or prior to March 31, 2004.

Section 3. CONFIRMATION OF OPERATION OF PARTICIPATION RIGHTS AND ANTIDILUTION ADJUSTMENTS. Each Purchaser hereby (i) confirms that the issuance of any stock pursuant to this Amendment and any Additional Closing pursuant to the Purchase Agreement, as amended, shall not result in the right of any Purchaser to exercise its participation rights under Section 8 of the Purchase Agreement, (ii) consents to, and waives any provisions of the Purchase Agreement that would otherwise restrict, the amendment of the Purchase Agreement pursuant to this Amendment and the consummation of one or more Additional Closings under the Purchase Agreement, as amended, and (iii) confirms that, solely in connection with the issuance of the Shares or the Additional Shares or the adjustment of the Applicable Conversion Value (as defined in the Restated Charter) with respect to any series of Preferred Stock solely as a result of such issuance, such Purchaser, with respect to the shares of each series of Preferred Stock it holds prior to the Closing, has no right to an adjustment of the Applicable Conversion Value for such series of Preferred Stock other than any adjustment indicated on EXHIBIT B hereto.

Section 4. EFFECTIVENESS. This Amendment shall become effective as of the date hereof. Except as set forth in this Amendment, all terms and provisions of the Purchase Agreement shall remain in full force and effect in accordance with the terms thereof.

Section 5. GOVERNING LAW. This Amendment shall be construed and enforced in accordance with the laws of the State of Delaware.

Section 6. COUNTERPARTS. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

[END OF TEXT]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Amendment as of the date first above written.

NEUROMETRIX, INC.

By: /s/ Shai N. Gozani

Name: Shai N. Gozani, M.D., Ph.D.
Title: Chief Executive Officer

PURCHASERS:

WHITNEY STRATEGIC PARTNERS III, L.P.
By: J.H. Whitney Equity Partners L.L.C.,
Its General Partner

By: /s/ William Laverack, Jr.

Name: William Laverack, Jr.
Title: Managing Member

J.H. WHITNEY III, L.P.
By: J.H. Whitney Equity Partners L.L.C.,
Its General Partner

By: /s/ William Laverack, Jr.

Name: William Laverack, Jr.
Title: Managing Member

HARRIS & HARRIS GROUP, INC.

By: /s/ Mel P. Melsheimer

Name:. Mel P. Melsheimer
Title: President

[Signature Page to Amendment No. 1 to Stock Purchase Agreement]

DELPHI VENTURES IV, L.P.
By: Delphi Management Partners IV, L.L.C.,
Its General Partner

By: /s/ David Douglass

Name: David Douglass
Title: Managing Member

DELPHI VENTURES IV, L.P.
By: Delphi Management Partners IV, L.L.C.,
Its General Partner

By: /s/David Douglass

Name: David Douglass
Title: Managing Member

BANCBOSTON VENTURES INC.

By: /s/ John B. McCormick

Name: John B. McCormick
Title: Vice President

MASSACHUSETTS INSTITUTE OF
TECHNOLOGY

By: /s/ Allan S. Bufferd

Name: Allan S. Bufferd
Title: Treasurer

[Signature Page to Amendment No. 1 to Stock Purchase Agreement]

COMMONWEALTH CAPITAL VENTURES II L.P.
By: Commonwealth Venture Partners II L.P.,
Its General Partner

By: /s/ Jeffrey M. Hurst

Name: Jeffrey M. Hurst
Title: General Partner

CCV II ASSOCIATES L.P.
By: Commonwealth Venture Partners II L.P.,
Its General Partner

By: /s/ Jeffrey M. Hurst

Name: Jeffrey M. Hurst
Title: General Partner

/s/ Robert B. Schulz

Robert B. Schulz

[Signature Page to Amendment No. 1 to Stock Purchase Agreement]

EXHIBIT 10.8

INDEMNIFICATION AGREEMENT

This Agreement made and entered into this ____ day of _____, (the "Agreement"), by and between NeuroMetrix, Inc., a Delaware corporation (the "Company," which term shall include, where appropriate, any Entity (as hereinafter defined) controlled directly or indirectly by the Company) and _____ (the "Indemnitee"):

WHEREAS, it is essential to the Company that it be able to retain and attract as directors the most capable persons available;

WHEREAS, increased corporate litigation has subjected directors to litigation risks and expenses, and the limitations on the availability of directors and officers liability insurance have made it increasingly difficult for the Company to attract and retain such persons;

WHEREAS, the Company's By-laws (the "By-laws") require it to indemnify its directors to the fullest extent permitted by law and permit it to make other indemnification arrangements and agreements;

WHEREAS, the Company desires to provide Indemnitee with specific contractual assurance of Indemnitee's rights to full indemnification against litigation risks and expenses (regardless, among other things, of any amendment to or revocation of the By-laws or any change in the ownership of the Company or the composition of its Board of Directors);

WHEREAS, the Company intends that this Agreement provide Indemnitee with greater protection than that which is provided by the Company's By-laws; and

WHEREAS, Indemnitee is relying upon the rights afforded under this Agreement in [BECOMING] [CONTINUING AS] a director of the Company.

NOW, THEREFORE, in consideration of the promises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

1. DEFINITIONS.

(a) "Corporate Status" describes the status of a person who is serving or has served (i) as a director of the Company, (ii) in any capacity with respect to any employee benefit plan of the Company, or (iii) as a director, partner, trustee, officer, employee, or agent of any other Entity at the request of the Company. For purposes of subsection (iii) of this Section 1(a), if indemnitee is serving or has served as a director, partner, trustee, officer, employee or agent of a Subsidiary, Indemnitee shall be deemed to be serving at the request of the Company.

(b) "Entity" shall mean any corporation, partnership, limited liability company, joint venture, trust, foundation, association, organization or other legal entity.

(c) "Expenses" shall mean all fees, costs and expenses incurred by Indemnitee in connection with any Proceeding (as defined below), including, without limitation, attorneys' fees, disbursements and retainers (including, without limitation, any such fees, disbursements and retainers incurred by Indemnitee pursuant to Sections 10 and 11(c) of this Agreement), fees and disbursements of expert witnesses, private investigators and professional advisors (including, without limitation, accountants and investment bankers), court costs, transcript costs, fees of experts, travel expenses, duplicating, printing and binding costs, telephone and fax transmission charges, postage, delivery services, secretarial services, and other disbursements and expenses.

(d) "Indemnifiable Expenses," "Indemnifiable Liabilities" and "Indemnifiable Amounts" shall have the meanings ascribed to those terms in Section 3(a) below.

(e) "Liabilities" shall mean judgments, damages, liabilities, losses, penalties, excise taxes, fines and amounts paid in settlement.

(f) "Proceeding" shall mean any threatened, pending or completed claim, action, suit, arbitration, alternate dispute resolution

process, investigation, administrative hearing, appeal, or any other proceeding, whether civil, criminal, administrative, arbitrative or investigative, whether formal or informal, including a proceeding initiated by Indemnitee pursuant to Section 10 of this Agreement to enforce Indemnitee's rights hereunder.

(g) "Subsidiary" shall mean any corporation, partnership, limited liability company, joint venture, trust or other Entity of which the Company owns (either directly or through or together with another Subsidiary of the Company) either (i) a general partner, managing member or other similar interest or (ii) (A) 50% or more of the voting power of the voting capital equity interests of such corporation, partnership, limited liability company, joint venture or other Entity, or (B) 50% or more of the outstanding voting capital stock or other voting equity interests of such corporation, partnership, limited liability company, joint venture or other Entity.

2. SERVICES OF INDEMNITEE. In consideration of the Company's covenants and commitments hereunder, Indemnitee agrees to serve or continue to serve as a director of the Company. However, this Agreement shall not impose any obligation on Indemnitee or the Company to continue Indemnitee's service to the Company beyond any period otherwise required by law or by other agreements or commitments of the parties, if any.

3. AGREEMENT TO INDEMNIFY. The Company agrees to indemnify Indemnitee as follows:

(a) PROCEEDINGS OTHER THAN BY OR IN THE RIGHT OF THE COMPANY. Subject to the exceptions contained in Section 4(a) below, if Indemnitee was or is a party or is threatened to be made a party to any Proceeding (other than an action by or in the right of the Company) by reason of Indemnitee's Corporate Status, Indemnitee shall be indemnified by the Company against all Expenses and Liabilities incurred or paid by Indemnitee in connection with such Proceeding (referred to herein as "Indemnifiable Expenses" and "Indemnifiable Liabilities," respectively, and collectively as "Indemnifiable Amounts").

(b) PROCEEDINGS BY OR IN THE RIGHT OF THE COMPANY. Subject to the exceptions contained in Section 4(b) below, if Indemnitee was or is a party or is threatened to be made a party to any Proceeding by or in the right of the Company by reason of Indemnitee's Corporate Status, Indemnitee shall be indemnified by the Company against all Indemnifiable Expenses.

(c) CONCLUSIVE PRESUMPTION REGARDING STANDARD OF CARE. In making any determination required to be made under Delaware law with respect to entitlement to indemnification hereunder, the person, persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee submitted a request therefor in accordance with Section 5 of this Agreement, and the Company shall have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption.

4. EXCEPTIONS TO INDEMNIFICATION. Indemnitee shall be entitled to indemnification under Sections 3(a) and 3(b) above in all circumstances other than with respect to any specific claim, issue or matter involved in the Proceeding out of which Indemnitee's claim for indemnification has arisen, as follows:

(a) PROCEEDINGS OTHER THAN BY OR IN THE RIGHT OF THE COMPANY. If indemnification is requested under Section 3(a) and it has been finally adjudicated by a court of competent jurisdiction that, in connection with such specific claim, issue or matter, Indemnitee failed to act (i) in good faith and (ii) in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, or, with respect to any criminal Proceeding, Indemnitee had reasonable cause to believe that Indemnitee's conduct was unlawful, Indemnitee shall not be entitled to payment of Indemnifiable Amounts hereunder.

(b) PROCEEDINGS BY OR IN THE RIGHT OF THE COMPANY. If indemnification is requested under Section 3(b) and

(i) it has been finally adjudicated by a court of competent

jurisdiction that, in connection with such specific claim, issue or matter, Indemnitee failed to act (A) in good faith and (B) in a manner Indemnitee reasonably

believed to be in or not opposed to the best interests of the Company, Indemnitee shall not be entitled to payment of Indemnifiable Expenses hereunder; or

(ii) it has been finally adjudicated by a court of competent jurisdiction that Indemnitee is liable to the Company with respect to such specific claim, Indemnitee shall not be entitled to payment of Indemnifiable Expenses hereunder with respect to such claim, issue or matter unless the Court of Chancery or another court in which such Proceeding was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification for such Indemnifiable Expenses which such court shall deem proper; or

(iii) it has been finally adjudicated by a court of competent jurisdiction that Indemnitee is liable to the Company for an accounting of profits made from the purchase or sale by the Indemnitee of securities of the Company pursuant to the provisions of Section 16(b) of the Securities Exchange Act of 1934, the rules and regulations promulgated thereunder and amendments thereto or similar provisions of any federal, state or local statutory law, Indemnitee shall not be entitled to payment of Indemnifiable Expenses hereunder.

(c) INSURANCE PROCEEDS. To the extent payment is actually made to the Indemnitee under a valid and collectible insurance policy in respect of Indemnifiable Amounts in connection with such specific claim, issue or matter, Indemnitee shall not be entitled to payment of Indemnifiable Amounts hereunder except in respect of any excess beyond the amount of payment under such insurance.

5. PROCEDURE FOR PAYMENT OF INDEMNIFIABLE AMOUNTS. Indemnitee shall submit to the Company a written request specifying the Indemnifiable Amounts for which Indemnitee seeks payment under Section 3 of this Agreement and the basis for the claim. The Company shall pay such Indemnifiable Amounts to Indemnitee within sixty (60) calendar days of receipt of the request. At the request of the Company, Indemnitee shall furnish such documentation and information as are reasonably available to Indemnitee and necessary to establish that Indemnitee is entitled to indemnification hereunder.

6. INDEMNIFICATION FOR EXPENSES OF A PARTY WHO IS WHOLLY OR PARTLY SUCCESSFUL. Notwithstanding any other provision of this Agreement, and without limiting any such provision, to the extent that Indemnitee is, by reason of Indemnitee's Corporate Status, a party to and is successful, on the merits or otherwise, in any Proceeding, Indemnitee shall be indemnified against all Expenses reasonably incurred by Indemnitee or on Indemnitee's behalf in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with each successfully resolved claim,

issue or matter. For purposes of this Agreement, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, by reason of settlement, judgment, order or otherwise, shall be deemed to be a successful result as to such claim, issue or matter.

7. EFFECT OF CERTAIN RESOLUTIONS. Neither the settlement or termination of any Proceeding nor the failure of the Company to award indemnification or to determine that indemnification is payable shall create a presumption that Indemnitee is not entitled to indemnification hereunder. In addition, the termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, had reasonable cause to believe that Indemnitee's action was unlawful.

8. AGREEMENT TO ADVANCE EXPENSES; UNDERTAKING. The Company shall

advance all Expenses incurred by or on behalf of Indemnitee in connection with any Proceeding, including a Proceeding by or in the right of the Company, in which Indemnitee is involved by reason of such Indemnitee's Corporate Status within ten (10) calendar days after the receipt by the Company of a written statement from Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. To the extent required by Delaware law, Indemnitee hereby undertakes to repay any and all of the amount of Indemnifiable Expenses paid to Indemnitee if it is finally determined by a court of competent jurisdiction that Indemnitee is not entitled under this Agreement to indemnification with respect to such Expenses. This undertaking is an unlimited general obligation of Indemnitee.

9. PROCEDURE FOR ADVANCE PAYMENT OF EXPENSES. Indemnitee shall submit to the Company a written request specifying the Indemnifiable Expenses for which Indemnitee seeks an advancement under Section 8 of this Agreement, together with documentation evidencing that Indemnitee has incurred such Indemnifiable Expenses. Payment of Indemnifiable Expenses under Section 8 shall be made no later than ten (10) calendar days after the Company's receipt of such request.

10. REMEDIES OF INDEMNITEE.

(a) RIGHT TO PETITION COURT. In the event that Indemnitee makes a request for payment of Indemnifiable Amounts under Sections 3 and 5 above or a request for an advancement of Indemnifiable Expenses under Sections 8 and 9 above and the Company fails to make such payment or advancement in a timely manner pursuant to the terms of this Agreement, Indemnitee may petition the Court of Chancery to enforce the Company's obligations under this Agreement.

(b) BURDEN OF PROOF. In any judicial proceeding brought under Section 10(a) above, the Company shall have the burden of proving that Indemnitee is not entitled to payment of Indemnifiable Amounts hereunder.

(c) EXPENSES. The Company agrees to reimburse Indemnitee in full for any Expenses incurred by Indemnitee in connection with investigating, preparing for,

litigating, defending or settling any action brought by Indemnitee under Section 10(a) above, or in connection with any claim or counterclaim brought by the Company in connection therewith, whether or not Indemnitee is successful in whole or in part in connection with any such action.

(d) FAILURE TO ACT NOT A DEFENSE. The failure of the Company (including its Board of Directors or any committee thereof, independent legal counsel, or stockholders) to make a determination concerning the permissibility of the payment of Indemnifiable Amounts or the advancement of Indemnifiable Expenses under this Agreement shall not be a defense in any action brought under Section 10(a) above, and shall not create a presumption that such payment or advancement is not permissible.

11. DEFENSE OF THE UNDERLYING PROCEEDING.

(a) NOTICE BY INDEMNITEE. Indemnitee agrees to notify the Company promptly upon being served with any summons, citation, subpoena, complaint, indictment, information, or other document relating to any Proceeding which may result in the payment of Indemnifiable Amounts or the advancement of Indemnifiable Expenses hereunder; provided, however, that the failure to give any such notice shall not disqualify Indemnitee from the right, or otherwise affect in any manner any right of Indemnitee, to receive payments of Indemnifiable Amounts or advancements of Indemnifiable Expenses unless the Company's ability to defend in such Proceeding is materially and adversely prejudiced thereby.

(b) DEFENSE BY COMPANY. Subject to the provisions of the last sentence of this Section 11(b) and of Section 11(c) below, the Company shall have the right to defend Indemnitee in any Proceeding which may give rise to the payment of Indemnifiable Amounts hereunder; provided, however that the Company shall notify Indemnitee of any such decision to defend within ten (10) calendar days of receipt of notice of any such Proceeding under Section 11(a) above. The Company shall not, without the prior written consent of Indemnitee, consent to the entry of any judgment against Indemnitee or enter into any settlement or compromise which (i) includes an admission of fault of Indemnitee or (ii) does not include, as an

unconditional term thereof, the full release of Indemnitee from all liability in respect of such Proceeding, which release shall be in form and substance reasonably satisfactory to Indemnitee. This Section 11(b) shall not apply to a Proceeding brought by Indemnitee under Section 10(a) above or pursuant to Section 19 below.

(c) INDEMNITEE'S RIGHT TO COUNSEL. Notwithstanding the provisions of Section 11(b) above, if in a Proceeding to which Indemnitee is a party by reason of Indemnitee's Corporate Status, (i) Indemnitee reasonably concludes that he or she may have separate defenses or counterclaims to assert with respect to any issue which may not be consistent with the position of other defendants in such Proceeding, (ii) a conflict of interest or potential conflict of interest exists between Indemnitee and the Company, or (iii) if the Company fails to assume the

defense of such proceeding in a timely manner, Indemnitee shall be entitled to be represented by separate legal counsel of Indemnitee's choice at the expense of the Company. In addition, if the Company fails to comply with any of its obligations under this Agreement or in the event that the Company or any other person takes any action to declare this Agreement void or unenforceable, or institutes any action, suit or proceeding to deny or to recover from Indemnitee the benefits intended to be provided to Indemnitee hereunder, Indemnitee shall have the right to retain counsel of Indemnitee's choice, at the expense of the Company, to represent Indemnitee in connection with any such matter.

12. REPRESENTATIONS AND WARRANTIES OF THE COMPANY. The Company hereby represents and warrants to Indemnitee as follows:

(a) AUTHORITY. The Company has all necessary power and authority to enter into, and be bound by the terms of, this Agreement, and the execution, delivery and performance of the undertakings contemplated by this Agreement have been duly authorized by the Company.

(b) ENFORCEABILITY. This Agreement, when executed and delivered by the Company in accordance with the provisions hereof, shall be a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or similar laws affecting the enforcement of creditors' rights generally.

13. INSURANCE. The Company shall, from time to time, make the good faith determination whether or not it is practicable for the Company to obtain and maintain a policy or policies of insurance with a reputable insurance company providing the Indemnitee with coverage for losses from wrongful acts. For so long as Indemnitee shall remain a director of the Company and with respect to any such prior service, in all policies of director and officer liability insurance, Indemnitee shall be named as an insured in such a manner as to provide Indemnitee the same rights and benefits as are accorded to the most favorably insured of the Company's officers and directors. Notwithstanding the foregoing, the Company shall have no obligation to obtain or maintain such insurance if the Company determines in good faith that such insurance is not reasonably available, if the premium costs for such insurance are disproportionate to the amount of coverage provided, or if the coverage provided by such insurance is limited by exclusions so as to provide an insufficient benefit. The Company shall promptly notify Indemnitee of any good faith determination not to provide such coverage.

14. CONTRACT RIGHTS NOT EXCLUSIVE. The rights to payment of Indemnifiable Amounts and advancement of Indemnifiable Expenses provided by this Agreement shall be in addition to, but not exclusive of, any other rights which Indemnitee may have at any time under applicable law, the Company's Certificate of Incorporation or By-laws, or any other agreement, vote of stockholders or directors (or a committee of directors), or otherwise, both as to action in Indemnitee's official capacity and as to action in any other capacity as a result of Indemnitee's serving as a director of the Company.

15. SUCCESSORS. This Agreement shall be (a) binding upon all successors and assigns of the Company (including any transferee of all or a substantial portion of the business, stock and/or assets of the Company and any direct or indirect successor by merger or consolidation or otherwise by operation of law) and (b) binding on and shall inure to the benefit of the heirs, personal

representatives, executors and administrators of Indemnitee. This Agreement shall continue for the benefit of Indemnitee and such heirs, personal representatives, executors and administrators after Indemnitee has ceased to have Corporate Status.

16. SUBROGATION. In the event of any payment of Indemnifiable Amounts under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of contribution or recovery of Indemnitee against other persons, and Indemnitee shall take, at the request of the Company, all reasonable action necessary to secure such rights, including the execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

17. CHANGE IN LAW. To the extent that a change in Delaware law (whether by statute or judicial decision) shall permit broader indemnification or advancement of expenses than is provided under the terms of the By-laws and this Agreement, Indemnitee shall be entitled to such broader indemnification and advancements, and this Agreement shall be deemed to be amended to such extent.

18. SEVERABILITY. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement, or any clause thereof, shall be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, in whole or in part, such provision or clause shall be limited or modified in its application to the minimum extent necessary to make such provision or clause valid, legal and enforceable, and the remaining provisions and clauses of this Agreement shall remain fully enforceable and binding on the parties.

19. INDEMNITEE AS PLAINTIFF. Except as provided in Section 10(c) of this Agreement and in the next sentence, Indemnitee shall not be entitled to payment of Indemnifiable Amounts or advancement of Indemnifiable Expenses with respect to any Proceeding brought by Indemnitee against the Company, any Entity which it controls, any director or officer thereof, or any third party, unless the Board of Directors of the Company has consented to the initiation of such Proceeding. This Section shall not apply to counterclaims or affirmative defenses asserted by Indemnitee in an action brought against Indemnitee.

20. MODIFICATIONS AND WAIVER. Except as provided in Section 17 above with respect to changes in Delaware law which broaden the right of Indemnitee to be indemnified by the Company, no supplement, modification or amendment of this Agreement shall be binding unless executed in writing by each of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions of this Agreement (whether or not similar), nor shall such waiver constitute a continuing waiver.

21. GENERAL NOTICES. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given (a) when delivered by hand, (b) when transmitted by facsimile and receipt is acknowledged, or (c) if mailed by certified

or registered mail with postage prepaid, on the third business day after the date on which it is so mailed:

(i) If to Indemnitee, to:

(ii) If to the Company, to:

NeuroMetrix, Inc.
62 Fourth Avenue
Waltham, MA 02451
Attention: President

or to such other address as may have been furnished in the same manner by any party to the others.

22. GOVERNING LAW; CONSENT TO JURISDICTION; SERVICE OF PROCESS. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to its rules of conflict of laws. Each of the Company and the Indemnitee hereby irrevocably and unconditionally consents to

submit to the exclusive jurisdiction of the Court of Chancery of the State of Delaware and the courts of the United States of America located in the State of Delaware (the "Delaware Courts") for any litigation arising out of or relating to this Agreement and the transactions contemplated hereby (and agrees not to commence any litigation relating thereto except in such courts), waives any objection to the laying of venue of any such litigation in the Delaware Courts and agrees not to plead or claim in any Delaware Court that such litigation brought therein has been brought in an inconvenient forum. Each of the parties hereto agrees, (a) to the extent such party is not otherwise subject to service of process in the State of Delaware, to appoint and maintain an agent in the State of Delaware as such party's agent for acceptance of legal process, and (b) that service of process may also be made on such party by prepaid certified mail with a proof of mailing receipt validated by the United States Postal Service constituting evidence of valid service. Service made pursuant to (a) or (b) above shall have the same legal force and effect as if served upon such party personally within the State of Delaware. For purposes of implementing the parties' agreement to appoint and maintain an agent for service of process in the State of Delaware, each such party does hereby appoint Corporation Service Company, 2711 Centerville Road Suite 400, Wilmington, New Castle County, Delaware 19808, as such agent and each such party hereby agrees to complete all actions necessary for such appointment.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

NEUROMETRIX, INC.

By: ----------
Name:
Title:

INDEMNITEE

EXHIBIT 10.9

EMPLOYMENT AGREEMENT

AGREEMENT, made this 21st day of June, 2004, by and between NeuroMetrix, Inc., a Delaware corporation (the "Company") and Shai N. Gozani (the "Executive").

WHEREAS, the parties wish to set forth their understanding and agreement regarding the employment of the Executive by the Company.

WHEREAS, the Executive is currently President and Chief Executive Officer of the Company and the Company desires to continue to benefit from the Executive's knowledge, experience, and abilities, and to ensure the Executive's present and continued employment and service to the Company as President and Chief Executive Officer and to compensate him therefor.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1. EMPLOYMENT SERVICES.

During the Employment Period (as defined herein), the Executive will serve as the Company's President and Chief Executive Officer, and will have such duties and responsibilities as would normally attach to those positions, including such duties and responsibilities as are customary among persons employed in similar capacities for similar companies, subject to the authority of the Board of Directors of the Company (the "Board"). The Executive will faithfully and diligently carry out his duties and responsibilities and comply with all of the reasonable and lawful directives of the Board, to which the Executive will report. The Executive will, if so elected, serve as a director of the Company and an officer or director of any subsidiary or affiliate of the Company without compensation in addition to that provided in this Agreement. For purposes of this Agreement, an "affiliate" of the Company means any corporation, limited partnership, limited liability company or other entity engaged in the same business as the Company, or a related business, and which is controlled by or is under common control with the Company.

SECTION 2. TERM.

The Company shall employ the Executive, and the Executive accepts such employment, continuing from the date first above written and ending at such time as this Agreement has terminated under the provisions of Section 5 hereof (the "Employment Period").

SECTION 3. PERFORMANCE.

During the Employment Period, the Executive shall devote his best efforts and all of his business time and attention (except for vacation periods and reasonable periods of illness or other incapacity) to the business of the Company and its affiliates and will not engage in consulting

work or in any other trade or business for his own account or for or on behalf of any other person, firm or corporation without the written consent of the Board of Directors in each case, which shall not be granted if any such activity, in the opinion of the Board of Directors, competes, conflicts or interferes with the performance of his duties hereunder in any material way.

SECTION 4. COMPENSATION AND BENEFITS.

(a) SALARY. For services to the Company rendered by the Executive in any capacity during the Employment Period, including without limitation, services as a manager, officer, director or member of any committee of the Company or of any subsidiary, affiliate or division thereof, the Company will pay or cause to be paid to the Executive a base salary at the rate of not less than $250,000 per annum (or such higher amount as the Compensation Committee of the Board may establish from time to time). The Executive's base salary for any partial year will be prorated based upon the number of days elapsed in such year. The Executive's base salary will be payable periodically in accordance with the Company's customary payroll practices for its executives. Such base salary shall be reviewed at least annually after the end of each fiscal year, starting with the fiscal year ending December 31, 2004, and may be increased based on the Executive's performance, but not decreased, by the Board of Directors of the Company (or the Compensation Committee thereof) in its discretion, to be effective in the first pay period of the ensuing January, starting with January 2005. The term "base salary" shall not include any payment or other

benefit which is denominated as or is in the nature of a bonus, incentive payment, profit-sharing payment, performance share award, stock option, stock appreciation right, retirement or pension accrual, insurance benefit, other fringe benefit or expense allowance, whether or not taxable to the Executive as income.

(b) ANNUAL PERFORMANCE BONUS. The Executive will be eligible to receive an annual cash performance bonus of up to 50% of his then base salary (the "Annual Performance Bonus"). The Compensation Committee shall consider and make a bonus determination not later than 60 days after the end of each fiscal year during the Employment Period, starting with the fiscal year ending December 31, 2004. Bonus awards shall be based upon the performance by the Executive as measured against objective and reasonable criteria mutually agreed and approved in advance by the Executive, and the Compensation Committee of the Board of Directors. To the extent that less than all of the criteria are achieved, the Executive shall be paid a pro rata percentage of the Annual Performance Bonus. Notwithstanding the foregoing, the Executive shall be entitled to the full Annual Performance Bonus for any year in which a Sale (as defined in Subsection (e) below) is closed.

(c) OPTION GRANT. The Executive concurrently with entering into this Agreement will be granted a non-qualified option (the "NSO Option") by the Company to purchase 1,500,000 shares of the Company's Common Stock. The terms of the NSO Option will be as set forth in the form of non-qualified option attached hereto as EXHIBIT A.

(d) OTHER BENEFITS. In addition to the compensation described in this Section 4, and such other amounts, not constituting base salary, as may be provided to the Executive from time to time by the Board, the Executive will be entitled during the Employment Period to participate in any retirement plans, bonus plans, welfare benefit plans and other employee benefit plans of the Company that may be in effect from time to time with respect to executives of the Company generally, to the extent the Executive is eligible under the terms of those plans. Executive shall also be entitled to 15 days of paid vacation per year and receive a monthly automobile allowance of no less than $600. The Company shall also reimburse the Executive for all reasonable and necessary business expenses incurred by him in the course of performing his duties hereunder.

(e) DEFINITIONS. A "Sale" shall mean the sale of all or substantially all of the Company's assets, a merger or combination with or into another entity, unless such merger or combination does not result in a change in ownership of the Company's voting securities of more than 50%, or the sale or transfer of more than 50% of the Company's voting securities.

SECTION 5. TERMINATION.

The Executive's employment hereunder shall terminate under the following circumstances:

(a) DEATH OR DISABILITY. This Agreement shall terminate upon the death or disability of the Executive. "Disability" shall mean that the Executive is no longer able to perform the essential functions of the President and Chief Executive Officer of the Company for a continuous period of six (6) months or a total of nine (9) months in any one-year period. If any question arises as to whether the Executive has been so disabled, the Executive shall submit to an examination by a physician mutually acceptable to the Board of Directors of the Company and the Executive and following such examination, the physician shall submit to the Company and to the Executive a report in reasonable detail setting forth his or her opinion as to whether the Executive was so disabled. Such report shall for the purposes of this Agreement be conclusive of the issue. Notwithstanding the foregoing, in the event of a disability (as defined above), the Company shall take no action that violates the applicable provisions of the Americans With Disabilities Act. If this Agreement terminates due to the death or disability of the Executive, the Company shall promptly pay to the Executive's estate or to the Executive any and all amounts then owed to the Executive, including all accrued salary, vacation pay, other benefits, and any applicable portion of the Annual Performance Bonus.

(b) TERMINATION BY THE COMPANY WITHOUT CAUSE. The Company may at any time by action of a majority of the entire membership of its Board of Directors, other

than the Executive, terminate the Executive's employment without Cause (as defined below) by giving the Executive notice of the effective date of termination (which effective date may be the date of such notice) (the "Date of Termination"). A voluntary termination by the Executive within sixty (60) days after the Company has reduced his status, reduced his responsibilities, reduced his salary, relocated the Company's corporate offices more than 35 miles from its current location, or breached any provision of this Agreement (a "Deemed Termination Event") will be deemed to be termination by the Company without Cause. The Executive will provide ten (10) days prior written notice to the Company of any such voluntary termination by reason of a Deemed Termination Event, and during such 10-day period the Company shall have an opportunity to cure the Deemed Termination Event. If a cure is effected within such 10-day period, the provisions of this Section 5(b) shall no longer be applicable with respect to the Event so cured. If the Company shall terminate the Executive without Cause hereunder or if Executive terminates his employment due to a Deemed Termination Event, the Company shall have the obligation to pay the Executive the following:

(1) Through the Date of Termination the Company shall pay the Executive his full base salary at his then current annual rate of pay, and continue any benefits in effect at the time notice of termination is given (except if the termination is due to a reduction in salary, then the annual base salary used to calculate the severance payment will be the base salary in effect prior to the decrease in base).

(2) The Company shall, as severance payment, continue to pay the Executive his then current annual base salary (except if the termination is due to a reduction in salary, then the annual base salary used to calculate the severance payment will be the base salary in effect prior to the decrease in base) for the one year period following the Date of Termination (less required withholding), payable in periodic intervals consistent with those then in effect for payment of salaries to the Company's executives.

(3) The Company shall pay the Executive any and all amounts then owed to the Executive, including all accrued salary, vacation pay, other benefits and any applicable portion of the Annual Performance Bonus.

(c) TERMINATION BY THE COMPANY FOR CAUSE. The Company may at any time by action of a majority of the entire membership of its Board of Directors, other than the Executive, terminate the Executive's employment effective immediately for any of the following reasons (each of which is referred to herein as "Cause") by giving the Executive written notice which specifically identifies the Cause in reasonable detail:

(1) the willful breach of any provision of Section 3 (including but not limited to a continuing refusal to follow reasonable and lawful directives of the Board);

(2) any act of intentional fraud or dishonesty with respect to any aspect of the Company's or any affiliate's business; or

(3) conviction of a felony.

If the Executive's employment is terminated by the Company pursuant to this Section 5(c), then the Company shall have no further obligations hereunder accruing from and after the effective date of termination and shall have all other rights and remedies available under this or any other agreement and at law or in equity. Notwithstanding the foregoing, the Company shall pay to the Executive on the effective termination date any and all amounts then owed to the Executive, including all accrued salary, vacation pay, other benefits and any applicable portion of the Annual Performance Bonus.

(d) TERMINATION BY THE EXECUTIVE. The Executive may terminate this Agreement at any time upon thirty (30) days prior written notice to the Company. The Board of Directors of the Company may in such event elect to waive the period of notice, or any portion thereof, in which event the Executive's date of termination shall be that date within the thirty (30) day notice period determined by the Board. Upon termination of this Agreement by the Executive for any reason other than the occurrence of a Deemed Termination Event under Subsection 5(b) hereof, the Company shall have no further obligations hereunder accruing from and after the effective date of termination. Notwithstanding the foregoing, the Company shall pay

to the Executive on the effective termination date any and all amounts then owed to the Executive, including all accrued salary, vacation pay, other benefits and any applicable portion of the Annual Performance Bonus.

SECTION 6. NONCOMPETITION, NONDISCLOSURE AND INVENTIONS.

The Executive agrees that as a condition of his employment he will reaffirm simultaneously herewith and be bound by the terms of a Noncompetition, Nondisclosure and Inventions Agreement (the "Nondisclosure and Inventions Agreement") in substantially the form set forth as EXHIBIT B hereto, the terms of which are incorporated herein by reference. The Executive's obligations under the Nondisclosure and Inventions Agreement shall survive the termination of this Agreement as set forth therein.

SECTION 7. INDEMNIFICATION.

In addition to any indemnification provided to the Executive by the Company's Certificate of Incorporation and/or By-laws, the Company will enter into an indemnification agreement with the Executive in the form of EXHIBIT C.

SECTION 8. CONFLICTING AGREEMENTS.

The Executive hereby warrants and covenants that his employment by the Company will not result in a breach of the terms, conditions or provisions of any agreement to which the Executive is subject, and that he has not made and will not make any agreements in conflict with this Agreement.

SECTION 9. SUCCESSORS AND ASSIGNS.

This Agreement is intended to bind and inure to the benefit of and be enforceable by the Executive and the Company, except that the Executive may not assign any of his rights or obligations under this Agreement and the Company may not assign any of its rights or obligations under this Agreement without the prior written consent of the other party.

SECTION 10. SEVERABILITY.

Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect such provision in any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

SECTION 11. NOTICE.

Any notice provided for in this Agreement must be in writing and must be either personally delivered, mailed by first class mail (postage prepaid and return receipt requested), sent by facsimile transmission or sent by reputable overnight courier service, to the recipient at the address indicated below:

To the Company:	NeuroMetrix, Inc. 62 Fourth Ave. Waltham, MA 02451 Facsimile: (781) 890-1556
With a copy to:	Goodwin Procter LLP Exchange Place Boston, MA 02109 Attn: H. David Henken, P.C.
To the Executive:	Shai N. Gozani, M.D., Ph.D. 187 Mason Terrace Brookline, MA 02446 Facsimile: ___

or to such other address or to the attention of such other person as the recipient party shall have specified by prior written notice to the sending party. Any notice under this Agreement will be deemed to have been given when so delivered or sent or if mailed, five days after so mailed.

SECTION 12. AMENDMENTS AND WAIVERS.

Any provision of this Agreement may be amended or waived only with the prior written consent of the Executive and a majority of the Compensation Committee of the Board of

Directors of the Company. Notwithstanding the foregoing, the failure of either party to require the performance of any term or obligation of this Agreement, or the waiver by either party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

SECTION 13. ENTIRE AGREEMENT.

This Agreement and the exhibits hereto embody the complete agreement and understanding between the parties and supersede and preempt any prior understandings, agreements or representations by or between the parties, written or oral, which may have related to the subject matter hereof in any way, including the Employment Contract, dated June 3, 1996, by and between the Company and the Executive (the "Prior Employment Agreement"), which will be treated as if it was amended and restated in its entirety as of the date hereof by this Agreement, except with respect to Section 10(a) and, to the extent it relates thereto, Section 10(c) of the Prior Employment Agreement, which will continue in full force and effect following the date of this Agreement.

SECTION 14. GOVERNING LAW.

All questions concerning the construction, validity and interpretation of this agreement will be governed by the internal law, and not the law of conflicts, of the Commonwealth of Massachusetts.

SECTION 15. REMEDIES.

Each of the parties to this Agreement will be entitled to enforce his or its rights under this Agreement specifically, to recover damages (including, without limitation, reasonable fees and expenses of counsel) by reason of any breach of any provision of this Agreement and to exercise all other rights existing in his or its favor. The parties hereto agree and acknowledge that money damages may not be an adequate remedy for any breach or threatened breach of the provisions of this Agreement and that any party may in his or its sole discretion apply to any court of law or equity of competent jurisdiction for specific performance and/or injunctive relief in order to enforce or prevent any violations of the provisions of this Agreement.

SECTION 16. CAPTIONS.

The captions set forth in this Agreement are for convenience only, and shall not be considered as part of this Agreement or as in any way limiting or amplifying the terms and provisions hereof.

[Remainder of page intentionally left blank]

In witness whereof, the parties have signed, sealed and delivered this Agreement as of the date first above written.

NEUROMETRIX, INC.

By:/s/ Nicholas Alessi

Name: Nicholas Alessi
Title: Director of Finance and Treasurer

EXECUTIVE:

/s/ Shai N. Gozani

Shai N. Gozani, M.D., Ph.D.

EXHIBIT 10.10

June 19, 2002

Mr. Gary L. Gregory
4951 Mission Hill Place
Tucson, AZ 85718

Dear Gary:

On behalf of NeuroMetrix, Inc. and the Board of Directors, we are pleased to offer you the position of Executive Vice President of Worldwide Sales. The terms of this employment offer are as follows:

- - START DATE: July 1, 2002

- - TITLE & RESPONSIBILITIES: Executive Vice President of Worldwide Sales reporting only to the Chief Executive Officer, President, Chief Operating Officer or Board of Directors. Responsible for the oversight of worldwide sales, corporate accounts or any other services and duties in connection with the business, affairs and operations of NeuroMetrix as may be assigned or delegated to you that are not inconsistent with your title and responsibilities from time to time by or under the authority of only the Chief Executive Officer, President, Chief Operating Officer or Board of Directors.

- - BASE SALARY: At a rate of $200,000 per year. The Base Salary shall not be subject to decrease. The Base Salary shall be subject to increase in the sole and absolute discretion of the Chief Executive Officer or Board of Directors.

- - VARIABLE COMPENSATION:

- - You will be eligible to receive a target of 50% of your annual base salary as variable compensation based upon your performance as set forth in more detail below. You understand that, as a result of the Variable Compensation program, as outlined in this letter, you will not be eligible to take place in the Company's annual cash bonus program.

VARIABLE COMPENSATION FOR REMAINDER OF 2002:

- Subject to your continued employment, for the third and fourth quarters of 2002 and year end of 2002, the Company will measure your performance against certain Initial Management Business Objectives (the "Initial MBOs") which the Company shall develop in consultancy with you and your targets will be $20,000 per quarter and $10,000 at year end. The Initial MBOs will set forth certain objectives that are weighted by importance and contain a corresponding payout level for over or under performance against each objective. The Company shall generally endeavor to make any required payment within 45 days but in any event no later than 90 days following the end of the relevant period.

VARIABLE COMPENSATION FOR YEARS AFTER 2002:

- Subject to your continued employment, after 2002, your variable compensation for each quarter and at year end will be measured by a Performance Matrix to be developed by the Company in consultancy with you. The Performance Matrix will set forth Management Objectives (MBOs) which will be weighted by importance and contain a corresponding payout level for over or under performance against each objective. The primary MBO, representing at least 80% of the variable compensation potential is attainment of quarterly and annual sales revenue as defined by the "Sales and Marketing Plan" which will be developed by the Company in consultancy with you.

- The Company will pay you your Variable Compensation at quarterly and year-end intervals, with a target of 10% of your then annual Base Salary per quarter and 10% of your then annual Base Salary at year end. In the event that you meet or exceed the annual MBO targets, the quarterly payouts will be reconciled at year end. The Company shall generally endeavor to make any required payment within 45 days but in any event no later than 90 days following the end of the relevant period.

- - STOCK OPTION: The Company will issue you an incentive stock option (the "Option") to purchase 440,000 shares of the Company's Common Stock to be sold pursuant to a stock option agreement (the "Option Agreement") under the Company's Amended and Restated 1998 Equity Incentive Plan (the "Plan") at an exercise price of $0.5625 per share. The Option Agreement will provide that the Option will be subject to a vesting schedule that will require you to remain employed with the Company for three and one-half (3.5) years to earn the right to purchase all of the shares. Except as provided in the last sentence of this paragraph, pursuant to the Option Agreement, you will not be entitled to purchase any shares if your employment with the Company terminates for any reason within the first twelve months of your employment. The Option Agreement will provide that at the end of the twelfth month you will be entitled to purchase 12/42 of the shares and then 1/42 per full month of employment thereafter. The Option Agreement will provide that in the event of the termination of your employment for any reason, you shall be entitled to exercise any vested portion of the Option until the tenth anniversary of the date of the Option. Your participation in the Plan and the grant of the Option is subject to all terms of the Plan and the Option Agreement and is further contingent upon your execution of the Company's standard stock-related agreements referenced below. Notwithstanding the foregoing, in the event you are entitled to severance as provided under the heading "Severance" below and you execute the Release (as defined below), (i) if the first day of the Severance Period occurs within the first six (6) months of the commencement of your employment, then 9/42 of the shares shall be deemed vested as of the first day of the Severance Period and (ii) if the first day of the Severance Period occurs after the first six months of the commencement of your employment, then, 1/42 of the shares for each full month of your employment, plus another 9/42 of the shares shall be deemed vested as of the first day of the Severance Period.

After you have been employed with the Company for two (2) years (but not before) in the sole and absolute discretion of the Chief Executive Officer, President or Board of Directors, you may be entitled to participate in other equity compensation programs available to employees of the Company as part of the Company's annual bonus program.

- - RELOCATION ALLOWANCE: The Company will cover up to $70,000 of the reasonable and customary actual selling, moving, home acquisition and closing costs related to your relocation to the Boston area, based upon direct billing to the Company or your submission of supporting receipts on a timely basis. You understand and agree that, in the event that you voluntarily terminate your employment for any reason other than as described in clause (ii) under the heading "Severance" below within the first year of commencing work for NeuroMetrix, that you will reimburse the Company for the actual expenses incurred by the Company in accordance with this provision within 7 days of your resignation and that, to the extent you fail to remit the full amount to the Company, the Company will retain the right to offset any amounts that you continue to owe against any monies due to you by the Company after your resignation, in addition to any other legal remedies that the Company may pursue.

- - ALLOWANCE FOR COST OF LIVING INCREASE: Within one month of the commencement of your employment, the Company will make a one-time payment to you of $25,000 to offset the increase in your cost of living as a result of your move to the Boston area. You understand and agree that, in the event that you voluntarily terminate your employment for any reason other than as described in clause (ii) under the heading "Severance" below within the first year of commencing work for NeuroMetrix, that you will reimburse this $25,000 to the Company within 7 days of your resignation and that, to the extent you fail to remit the full amount to the Company, the Company will retain the right to offset any amounts that you continue to owe against any monies due to you by the Company after your resignation, in addition to any other legal remedies that the Company may pursue.

- - BENEFITS: The Company will provide medical insurance coverage and other benefits on the same terms and conditions as provided to the Company's employees or other senior executives from time to time.

- - CAR ALLOWANCE: You will receive a monthly car allowance of $600 per month.

- - PAID TIME OFF: You will be eligible to take the following number of paid vacation days per full year of employment:

July 1, 2002 - June 30, 2003:	10 days
July 1, 2003 - June 30, 2004:	10 days
July 1, 2004 - June 30, 2005 and each year thereafter:	15 days

Vacation days will accrue on a monthly basis commencing on the first day of

employment. You also will be eligible for paid-time-off holidays and personal days recognized by the Company.

- - EMPLOYMENT REQUIREMENTS AND TERM: You will be required to sign the Company's standard form Confidentiality and Non-compete Agreement. Notwithstanding anything to the contrary herein or in any other communication between you and the Company, your employment with the Company will be on an at-will basis.

- - SEVERANCE: If (i) the Company terminates your employment for any reason other than your willful misconduct or (ii) if you resign following not less than thirty (30) days' prior written notice to the Company that the Company has materially breached this agreement (with such written notice to describe such material breach in detail) and provided that such material breach has, in fact, occurred and remains uncured by the Company during such thirty (30) day period, then you will be entitled to receive continuation of your Base Salary and Car Allowance for a period of nine months from the date of termination (the "Severance Period") subject to your execution of a release of any and all claims that you may then have against the Company in connection with your employment (the "Release"). During the Severance Period, the Company will continue to contribute to your medical insurance coverage, which, subject to your eligibility, will be extended to you under the law known as COBRA at the same rate as if you continued to be employed by the Company.

- - CHANGE IN CONTROL: In the event that a Change in Control (as defined below) results in termination of your employment under any circumstances described in clauses (i) or (ii) of the preceding paragraph or your resignation as a result of your required relocation to a worksite more than 50 miles from the Company's then current worksite before the Change in Control, you shall be eligible to obtain the severance benefits outlined in the preceding paragraph, except that the Option Agreement will provide, upon such termination or resignation (if not already vested because of the Change in Control), for the automatic vesting of any unvested and outstanding portion of the Option. For purposes of this Agreement, a "Change in Control" shall mean a consolidation or merger in which the Company is not the surviving corporation or which results in the acquisition of substantially all the Company's outstanding shares by a single person or entity or by a group of persons and/or entities acting in concert, or the sale or transfer of substantially all the Company's assets.

- - ARBITRATION OF DISPUTES: Any dispute arising hereunder or arising out of your employment, termination thereof, or any other relations with the Company, whether sounding in tort or contract, by statute or otherwise, including, but not limited to claims of employment discrimination, shall be settled by arbitration in Boston, Massachusetts, in accordance with the National Rules for the Resolution of Employment Disputes of the American Arbitration Association before a single Arbitrator. Notwithstanding the foregoing, disputes arising under the Confidentiality and Non-compete Agreement shall not be subject to arbitration.

- - TAXATION: You understand that payments made pursuant to this agreement may be subject to applicable federal and state withholdings.

- - ENTIRE AGREEMENT: This Agreement, the Confidentiality and Non-Compete Agreement and the Option Agreement set forth the entire agreement and understanding between you and the Company regarding all subjects covered herein, the

terms of which may not be changed or modified except by agreement in writing signed by you and an appropriate designee of the Board of Directors.

- - SEVERABILITY: Should any provision of this agreement, or portion thereof, be found invalid and unenforceable, the remaining provisions shall continue in force and effect.

- - GOVERNING LAW: This agreement shall be governed, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to principles of conflict of law.

Please contact me if you have any questions regarding this offer. Should the above meet with your approval, please acknowledge your acceptance of this offer by signing as indicated below. This offer shall expire if not accepted in writing within seven days of the date of this letter.

We are delighted to offer you the opportunity to join NeuroMetrix. We are

confident that you will find the work challenging and rewarding and that you will bring real value to NeuroMetrix.

Sincerely,

/s/ Shai N. Gozani
- ------------------
Shai Gozani
Chief Executive Officer

ACCEPTED: /s/ Gary L. Gregory Date: June 24, 2002

Gary L. Gregory

EXHIBIT 10.11

NEUROMETRIX, INC.

STOCK OPTION AGREEMENT (1998 PLAN)

NeuroMetrix, Inc., a Delaware corporation (the "Company") hereby grants to Gary L. Gregory, presently of 4951 Mission Hill Place, Tucson, AZ 85718 (the "Grantee"), an option (the "Option") to purchase 440,000 shares of the Company's Common Stock, pursuant to the Company's 1998 Equity Incentive Plan (the "Plan"), a copy of which is attached hereto and is incorporated herein in its entirety by this reference. The Grantee hereby accepts the Option granted subject to the terms and provisions set forth in the Plan and the following additional terms and provisions:

1. The Option is an incentive option.

2. The price at which shares of Common Stock may be purchased pursuant to the Option is $0.5625 per share, both the price and the number of shares being subject to adjustment only as provided in the Plan.

3. (a) So long as the Grantee remains an employee of the Company, or an employee of a subsidiary corporation of the Company, this Option may be exercised only to the extent of the number of shares as to which this Option is exercisable at such time (the "Vested Amount") according to the following schedule: (i) commencing on July 1, 2003, the Vested Amount shall be 12/42 of the number of shares covered hereby; (ii) on July 31, 2003 and at the end of each full month of employment thereafter the Vested Amount shall increase by 1/42 of the number of shares covered hereby; provided, however, that the Vested Amount shall not exceed 440,000 shares and the number of shares as to which this Option has been previously exercised shall be subtracted from the Vested Amount. This Option may not be exercised at all during the first year after the date hereof or after the tenth anniversary of the date hereof (the "Expiration Date").

(b) If the Grantee retires from the employ of the Company during the period that this Option may be exercised, this Option shall be exercisable by the Grantee on or prior to the Expiration Date, but only as to the Vested Amount immediately prior to retirement.

(c) If the Grantee ceases to be eligible to participate in the Plan by reason of his or her death during the period that this Option may be exercised, this Option shall be exercisable either by the Grantee's executor or administrator or, if not so exercised, for the legatees or distributees of the Grantee's estate, on or prior to the Expiration Date, but only as to the Vested Amount immediately prior to death.

(d) If the Grantee ceases to be eligible to participate in the Plan by reason of the Grantee's permanent and total disability (as determined conclusively by the Company) during the period that this Option may be exercised, this Option shall be exercisable by the Grantee on or prior to the Expiration Date, but only as to the Vested Amount immediately prior to such cessation.

(e) If the Grantee ceases to be eligible to participate in the Plan for any reason other than retirement, death or permanent and total disability during the period that this Option may be

exercised, this Option shall be exercisable by the Grantee on or prior to the Expiration Date, but only as to the Vested Amount immediately prior to such cessation.

(f) Notwithstanding the foregoing provisions of this section 4, in the event that Grantee is entitled to severance as provided under the heading "Severance" in the letter dated June 19, 2001 from the Company to the Grantee (the "Offer Letter") and Grantee executes the Release (as defined in the Offer Letter), (i) if the first day of the Severance Period (as defined in the Offer Letter) is on or prior to January 1, 2003, then, as of the first day of the Severance Period, the Vested Amount shall be 9/42 of the number of shares covered hereby and (ii) if the first day of the Severance Period occurs after January 1, 2003, then, as of the first day of the Severance Period, the Vested Amount shall be 9/42 of the number of shares covered hereby plus an additional 1/42 of the number of shares covered hereby for each full month of Grantee's employment; provided, however, that the Vested Amount shall not exceed 440,000 shares and the number of shares as to which this Option has been previously exercised shall be subtracted from the Vested Amount. The Vested Amount shall not

increase following the commencement of the Severance Period.

(g) Notwithstanding anything to the contrary in this Agreement, in the event that a Change of Control (as defined in the Offer Letter) results in (i) termination of Grantee's employment under circumstances that entitle Grantee to severance as provided in the Offer Letter or (ii) Grantee's resignation as a result of Grantee's required relocation to a worksite more than 50 miles from the Company's then current worksite before the Change in Control, then upon such termination or resignation any unvested and outstanding portion of the Option (if not already vested because of the Change in Control) shall become exercisable.

WARNING: SUBJECT TO THE PROVISIONS OF SECTION 3(g) OF THIS AGREEMENT, THE OPTION EXERCISE PERIOD MAY BE CUT SHORT IN THE EVENT OF A CHANGE IN CONTROL OF THE COMPANY. SEE SECTION 11.4 OF THE PLAN.

4. The Option shall not be exercisable unless either (a) a registration statement under the Securities Act of 1933, as amended, with respect to the Option and the shares to be issued on the exercise thereof shall have become, and continue to be, effective, or (b) the Grantee (i) shall have represented, warranted and agreed, in form and substance satisfactory to the Company, at the time of exercising the Option, that he or she is acquiring the shares for his or her own account, for investment and not with a view to or in connection with any distribution, (ii) shall have agreed to restrictions on transfer in form and substance satisfactory to the Company and (iii) shall have agreed to an endorsement which makes appropriate reference to such representations, warranties, agreements and restrictions on the certificate(s) representing the shares.

SHARES ISSUED UPON EXERCISE OF THE OPTION WILL BE SUBJECT TO ALL RESTRICTIONS ON TRANSFER IMPOSED BY THE COMPANY'S CERTIFICATE OF INCORPORATION, AS AMENDED, OR BY-LAWS, AS AMENDED, BY STOCKHOLDERS AGREEMENT, OR BY APPLICABLE STATE OR FEDERAL SECURITIES LAWS.

5. The Option may be exercised, subject to such conditions as the Company's Board of Directors may require in accordance with the Plan, by the giving of written notice, by certified or registered mail, to the Company's Treasurer at its principal place of business in Waltham, Massachusetts, of the election to purchase shares pursuant hereto, which notice

shall specify the number of shares to be so purchased, accompanied by full payment for the shares purchased, together with any tax or excise due in respect of issue of such shares, in cash or by certified or bank cashier's check.

6. Notwithstanding anything to the contrary contained herein, no shares shall be issued to the Grantee pursuant to the Option until the Company and the Grantee have made appropriate arrangements for the withholding of applicable income taxes, if any, attributable to the exercise of the Option with respect to such shares, and the Company may require the Grantee to make a cash payment to the Company in the amount of such taxes required to be withheld.

7. In the event the Company proposes an initial public offering of any of its equity securities pursuant to a registration statement under the Securities Act (whether for its own account or the account of others), and if requested in writing by the Company and an underwriter of the proposed offering of common stock or other securities of the Company to sign any "Lock-Up Agreement (the "Lock-Up Agreement"), the Grantee shall agree to sign the Lock-Up Agreement whereby he or she shall not sell, grant any option or right to buy or sell, or otherwise transfer or dispose of in any manner, to the public in open market transactions, any Shares or other equity securities of the Company acquired upon exercise of this Option and held by such Grantee during whatever time period is requested by the Company and the underwriter for restrictions on trading or transfer (the "Lock-Up Period") following the effective date of the registration statement of the Company filed under the Securities Act. The Company may impose stop-transfer instruction with respect to the securities subject to the foregoing restrictions until the end of the Lock-Up Period. Such Lock-Up Period shall not exceed 180 days in length.

THE OPTION IS NOT TRANSFERABLE BY THE GRANTEE OTHERWISE THAN BY WILL OR THE LAWS OF DESCENT AND DISTRIBUTION AND, DURING THE LIFETIME OF THE GRANTEE, MAY BE EXERCISED ONLY BY THE GRANTEE.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of July 1, 2002.

NEUROMETRIX, INC.

By: /s/ Shai N. Gozani

Authorized Signature

ACCEPTED:

/s/ Gary L. Gregory

Gary L. Gregory, Grantee

NEUROMETRIX, INC.

1998 EQUITY INCENTIVE PLAN

OPTION EXERCISE FORM

TO: Treasurer, NEUROMETRIX, INC.

FROM: _____

I elect to exercise my option to purchase shares of NEUROMETRIX, INC., common stock as follows:

Date of Option Grant: July 1, 2002

Exercise Price: $0.5625 per share

Number of Shares to be Purchased: _____

Total Exercise Price Enclosed: $_____

Full payment, in cash, certified check or bank cashier's check, for the shares I am electing to purchase is enclosed with this notice. I understand that issuance of the purchased shares may be conditioned on my payment of any tax or excise due thereon and on fulfillment of requirements specified in Section 6 of the Stock Option Agreement between NEUROMETRIX, INC., and me.

Optionholder's Signature

Date:

Received by:

- ---

Date:

NEUROMETRIX, INC.

STOCK OPTION AGREEMENT (1998 PLAN)

NeuroMetrix, Inc., a Delaware corporation (the "Company") hereby grants to Gary L. Gregory, presently of 4951 Mission Hill Place, Tucson, AZ 85718 (the "Grantee"), an option (the "Option") to purchase 80,000 shares of the Company's Common Stock, pursuant to the Company's 1998 Equity Incentive Plan (the "Plan"), a copy of which is attached hereto and is incorporated herein in its entirety by this reference. The Grantee hereby accepts the Option granted subject to the terms and provisions set forth in the Plan and the following additional terms and provisions:

1. The Option is an incentive option.

2. The price at which shares of Common Stock may be purchased pursuant to the Option is $0.5625 per share, both the price and the number of shares being subject to adjustment only as provided in the Plan.

3. (a) So long as the Grantee remains an employee of the Company, or an employee of a subsidiary corporation of the Company, this Option may be exercised only to the extent of the number of shares as to which this Option is exercisable at such time (the "Vested Amount") according to the

following schedule: (i) commencing on June 5, 2004, the Vested Amount shall be 12/42 of the number of shares covered hereby; (ii) on July 5, 2004 and at the end of each full month of employment thereafter the Vested Amount shall increase by 1/42 of the number of shares covered hereby; provided, however, that the Vested Amount shall not exceed 80,000 shares and the number of shares as to which this Option has been previously exercised shall be subtracted from the Vested Amount. This Option may not be exercised at all during the first year after the date hereof or after the tenth anniversary of the date hereof (the "Expiration Date").

(b) If the Grantee retires from the employ of the Company during the period that this Option may be exercised, this Option shall be exercisable by the Grantee on or prior to the Expiration Date, but only as to the Vested Amount immediately prior to retirement.

(c) If the Grantee ceases to be eligible to participate in the Plan by reason of his or her death during the period that this Option may be exercised, this Option shall be exercisable either by the Grantee's executor or administrator or, if not so exercised, for the legatees or distributees of the Grantee's estate, on or prior to the Expiration Date, but only as to the Vested Amount immediately prior to death.

(d) If the Grantee ceases to be eligible to participate in the Plan by reason of the Grantee's permanent and total disability (as determined conclusively by the Company) during the period that this Option may be exercised, this Option shall be exercisable by the Grantee on or prior to the Expiration Date, but only as to the Vested Amount immediately prior to such cessation.

(e) If the Grantee ceases to be eligible to participate in the Plan for any reason other than retirement, death or permanent and total disability during the period that this Option may be exercised, this Option shall be exercisable by the Grantee on or prior to the Expiration Date, but only as to the Vested Amount immediately prior to such cessation.

(f) Notwithstanding the foregoing provisions of this section 4, in the event that Grantee is entitled to severance as provided under the heading "Severance" in the letter dated June 19, 2001 from the Company to the Grantee (the "Offer Letter") and Grantee executes the Release (as defined in the Offer Letter), (i) if the first day of the Severance Period (as defined in the Offer Letter) is on or prior to January 1, 2003, then, as of the first day of the Severance Period, the Vested Amount shall be 9/42 of the number of shares covered hereby and (ii) if the first day of the Severance Period occurs after January 1, 2003, then, as of the first day of the Severance Period, the Vested Amount shall be 9/42 of the number of shares covered hereby plus an additional 1/42 of the number of shares covered hereby for each full month of Grantee's employment; provided, however, that the Vested Amount shall not exceed 80,000 shares and the number of shares as to which this Option has been previously exercised shall be subtracted from the Vested Amount. The Vested Amount shall not increase following the commencement of the Severance Period.

(g) Notwithstanding anything to the contrary in this Agreement, in the event that a Change of Control (as defined in the Offer Letter) results in (i) termination of Grantee's employment under circumstances that entitle Grantee to severance as provided in the Offer Letter or (ii) Grantee's resignation as a result of Grantee's required relocation to a worksite more than 50 miles from the Company's then current worksite before the Change in Control, then upon such termination or resignation any unvested and outstanding portion of the Option (if not already vested because of the Change in Control) shall become exercisable.

WARNING: SUBJECT TO THE PROVISIONS OF SECTION 3(g) OF THIS AGREEMENT, THE OPTION EXERCISE PERIOD MAY BE CUT SHORT IN THE EVENT OF A CHANGE IN CONTROL OF THE COMPANY. SEE SECTION 11.4 OF THE PLAN.

4. The Option shall not be exercisable unless either (a) a registration statement under the Securities Act of 1933, as amended, with respect to the Option and the shares to be issued on the exercise thereof shall have become, and continue to be, effective, or (b) the Grantee (i) shall have represented, warranted and agreed, in form and substance satisfactory to the Company, at the time of exercising the Option, that he or she is acquiring the shares for his or her own account, for investment and not with a view to or in connection with any distribution, (ii) shall have agreed to restrictions on transfer in form and substance satisfactory to the Company and (iii) shall have agreed to an endorsement which makes appropriate reference to such representations, warranties, agreements and restrictions on the certificate(s) representing the shares.

SHARES ISSUED UPON EXERCISE OF THE OPTION WILL BE SUBJECT TO ALL RESTRICTIONS ON TRANSFER IMPOSED BY THE COMPANY'S CERTIFICATE OF INCORPORATION, AS AMENDED, OR BY-LAWS, AS AMENDED, BY STOCKHOLDERS AGREEMENT, OR BY APPLICABLE STATE OR FEDERAL SECURITIES LAWS.

5. The Option may be exercised, subject to such conditions as the Company's Board of Directors may require in accordance with the Plan, by the giving of written notice, by certified or registered mail, to the Company's Treasurer at its principal place of business in Waltham, Massachusetts, of the election to purchase shares pursuant hereto, which notice shall specify the number of shares to be so purchased, accompanied by full payment for the

shares purchased, together with any tax or excise due in respect of issue of such shares, in cash or by certified or bank cashier's check.

6. Notwithstanding anything to the contrary contained herein, no shares shall be issued to the Grantee pursuant to the Option until the Company and the Grantee have made appropriate arrangements for the withholding of applicable income taxes, if any, attributable to the exercise of the Option with respect to such shares, and the Company may require the Grantee to make a cash payment to the Company in the amount of such taxes required to be withheld.

7. In the event the Company proposes an initial public offering of any of its equity securities pursuant to a registration statement under the Securities Act (whether for its own account or the account of others), and if requested in writing by the Company and an underwriter of the proposed offering of common stock or other securities of the Company to sign any "Lock-Up Agreement (the "Lock-Up Agreement"), the Grantee shall agree to sign the Lock-Up Agreement whereby he or she shall not sell, grant any option or right to buy or sell, or otherwise transfer or dispose of in any manner, to the public in open market transactions, any Shares or other equity securities of the Company acquired upon exercise of this Option and held by such Grantee during whatever time period is requested by the Company and the underwriter for restrictions on trading or transfer (the "Lock-Up Period") following the effective date of the registration statement of the Company filed under the Securities Act. The Company may impose stop-transfer instruction with respect to the securities subject to the foregoing restrictions until the end of the Lock-Up Period. Such Lock-Up Period shall not exceed 180 days in length.

THE OPTION IS NOT TRANSFERABLE BY THE GRANTEE OTHERWISE THAN BY WILL OR THE LAWS OF DESCENT AND DISTRIBUTION AND, DURING THE LIFETIME OF THE GRANTEE, MAY BE EXERCISED ONLY BY THE GRANTEE.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of April 8, 2004.

NEUROMETRIX, INC.
By: /s/ Shai N. Gozani

Authorized Signature

ACCEPTED:
/s/ Gary L. Gregory

Gary L. Gregory, Grantee

NEUROMETRIX, INC.

1998 EQUITY INCENTIVE PLAN

OPTION EXERCISE FORM

TO: Treasurer, NEUROMETRIX, INC.

FROM: _____

I elect to exercise my option to purchase shares of NEUROMETRIX, INC., common stock as follows:

Date of Option Grant: April 8, 2004

Exercise Price: $0.5625 per share

Number of Shares to be Purchased: _____

Total Exercise Price Enclosed: $_____

Full payment, in cash, certified check or bank cashier's check, for the shares I am electing to purchase is enclosed with this notice. I understand that issuance of the purchased shares may be conditioned on my payment of any tax or excise due thereon and on fulfillment of requirements specified in Section 6 of the Stock Option Agreement between NEUROMETRIX, INC., and me.

Optionholder's Signature

Date:

Received by:

- ---

Date:

EXHIBIT 10.12

NEUROMETRIX, INC.

CONFIDENTIALITY & NON-COMPETE AGREEMENT

In consideration of and as a condition to my employment on an at-will basis by NeuroMetrix, Inc. (the "Company"), the granting of shares of common, no par value stock of the Company, and the compensation now and hereafter paid to me by the Company and other good and valuable consideration, the sufficiency of which I hereby acknowledge, I hereby execute this Confidentiality & Non-Compete Agreement (the "Agreement") and agree to the following:

1. CONFIDENTIAL INFORMATION.

a) COMPANY INFORMATION. I agree at all times during the term of my employment and thereafter to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation without the prior written authorization of a duly authorized officer of the Company, any Confidential Information of the Company. I understand that "Confidential Information" means any Company proprietary information, technical data, trade secrets or know-how, including, but not limited to, research and development information, product plans, products, services, customer lists and customers, Work Product (as defined below), suppliers, software developments, inventions, processes, formulas, technology, designs, drawings, engineering information, hardware configuration information, marketing information, costs, pricing, finances or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or inspection of parts or equipment either before or after the commencement of my employment. I further agree that all Confidential Information shall at all times remain the property of the Company. I understand that Confidential Information does not include any of the foregoing items which has become publicly known or made generally available through no wrongful act of mine.

b) THIRD-PARTY INFORMATION. I recognize that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation or to use it except as necessary in carrying out my work for the Company consistent with the Company's agreement with such third party.

2. WORK PRODUCT.

a) ASSIGNMENT OF WORK PRODUCT. I agree that I will promptly make full written disclosure to the Company and will hold in trust for the sole right and benefit of the Company, and I hereby assign to the Company, or its designee, all my right, title and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements or trade secrets, of whatever nature and whether or not patentable or registrable under copyright or similar laws, which I may solely or jointly with others conceive or develop or reduce to practice, or cause to be conceived or developed or

reduced to practice, during the period of time I am in the employ of the Company which relates to the business of the Company or to the Company's anticipated business as of the end of my employment (collectively referred to as "Work Product"); and I further agree that the foregoing shall also apply to Work Product which is conceived, developed, or reduced to practice during a period of one (1) year after the end of my employment. Without limiting the foregoing, I further acknowledge that all original works of authorship which are made my me (solely or jointly with others) within the scope of my employment and which are protectable by copyright are "works made for hire", as that term is defined in the United States Copyright Act.

b) MAINTENANCE OF RECORDS. I agree to keep and maintain adequate and current written records of all Work Product made by me (solely or jointly with others) during the term of my employment by the Company. The records will be in form of notes, sketches, drawings,

and any other format that may be specified by the Company. The records will be available to and remain the sole property of the Company at all times.

c) PATENT AND COPYRIGHT REGISTRATIONS. I agree to assist the Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in the Work Product and any copyrights, patents, mask work rights or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto and the execution of all applications, specifications, oaths, assignments and all other instruments which the Company shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns and nominees to sole and exclusive rights, title and interest in and to such Work Product, and any copyright, patents, mask work rights or other intellectual property rights relating thereto. This provision shall survive the termination of my employment by the Company, whether with or without cause.

3. RETURNING COMPANY PROPERTY. I agree that, at any time upon request of the Company, and in any event at the time of the termination of my employment by the Company, I will deliver to the Company (and will not keep in my possession or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any of the aforementioned items, containing Confidential Information or otherwise belonging to the Company, its successors or assigns, whether prepared by me or supplied to me by the Company.

4. CONFLICTS.

a) CONFLICTING EMPLOYMENT. I agree that, during the term of my employment by the Company, I will not engage in any other employment, occupation, consulting or other business activity related to the business in which the Company is now involved or becomes involved during the term of my employment, nor will I engage in any other activities that conflict with my obligations to the Company.

NO RESTRICTIONS. I am subject to no contractual or other restriction or obligation which will in any way limit my activities on behalf of the Company. I hereby represent and

warrant to the Company that I do not claim rights in, or otherwise exclude from this Agreement, any Work Product (as defined above).

5. COVENANT AGAINST COMPETITION.

a) For the purposes of this Section:

i) "Competing Product" means any product, process, or service of any person or organization other than the Company, in existence or under development, (A) which is identical to, substantially the same as, or an adequate substitute for any product, process, or service of the Company, in existence or under development, on which I work during the time of my employment by the Company or about which I acquire Confidential Information, and (B) which is (or could reasonably be anticipated to be) marketed or distributed in such a manner and in such a geographic area as to actually compete with such product, process or services of the Company.

ii) "Competing Organization" means any person or organization, including myself, engaged in, or about to become engaged in, research on or the acquisition, development, production, distribution, marketing, or providing of a Competing Product.

b) As a material inducement to the Company to employ me, and in order to protect the Company's Confidential Information and good will, I agree to the following stipulations:

i) For a period of twelve (12) months after termination of my employment by the Company, whether with or without cause, I will not directly or indirectly solicit or divert or accept business relating in any manner to Competing Products or to products, processes or services of the Company from any of the customers or accounts of the Company with which I had any

contact as a result of my employment.

ii) For a period of twelve (12) months after termination of my employment by the Company or its affiliates for any reason, whether with or without cause, I will not render services, directly or indirectly, as an employee, consultant or otherwise, to any Competing Organization in connection with research on or the acquisition, development, production, distribution, marketing, or production of any Competing Product.

iii) For a period of twelve (12) months after termination of my employment by the Company, whether with or without cause, I will not directly or indirectly solicit or take away, or attempt to solicit or take away, employees of the Company, either for my own business or for any other person or entity.

6. ENFORCEABILITY AND SEVERABILITY. In the event that any provision of this Agreement shall be determined to be unenforceable by any court of competent jurisdiction by reason of its extending for too great a period of time or over too large a geographic area or over too great a

range of activities, it shall be interpreted to extend only over the maximum period of time, geographic area or range of activities as to which it may be enforceable.

If any provision of this Agreement shall be determined to be invalid, illegal or otherwise unenforceable by any court of competent jurisdiction, the validity, legality and enforceability of the other provisions of this Agreement shall not be affected thereby. Any invalid, illegal or unenforceable provision of this Agreement shall be severable, and after any such severance, all other provisions hereof shall remain in full force and effect.

7. BREACH.

a) EQUITABLE REMEDIES. I hereby expressly acknowledge that any breach or threatened breach of any of the terms and/or conditions set forth in this Agreement will result in substantial, continuing and irreparable injury to the Company. Therefore, I hereby agree that, in addition to any other remedy that may be available to the Company, the Company shall be entitled to injunctive or other equitable relief by a court of appropriate jurisdiction in the event of breach or threatened breach of the terms of this Agreement.

b) TOLLING. If any provisions of this Agreement are violated, then the time limitations set forth in this Agreement shall be extended for a period of time equal to the period of time during which such breach occurs, and, in the event the Company is required to seek relief from such breach before any court, board or other tribunal, then the time limitation shall be extended for a period of time equal to the pendency of such proceedings, including all appeals.

8. GENERAL PROVISIONS.

a) ARBITRATION OF DISPUTES. Any dispute arising out of this Agreement, my employment with the Company or termination therefrom, or any other relations with the Company, whether sounding in tort or contract, by statute or otherwise, shall be settled by arbitration in Boston, Massachusetts, in accordance with the Commercial Arbitration Rules of the American Arbitration Association before a single Arbitrator who shall have experience in the area of the matter in dispute. The Arbitrator may grant relief in the nature of injunctions (other than reinstatement) or other relief in such dispute or controversy. The decision of the arbitrator shall be final, conclusive and binding on the parties. Judgment may be entered on the Arbitrator's decision in any court having jurisdiction. The Company and I shall each pay one-half of the cost and expenses of such arbitration, and each party shall separately pay its or his/her own counsel fees and other costs in connection with the arbitration.

b) ENTIRE AGREEMENT. This Agreement supersedes all previous agreements, written or oral, between the Company and me relating to the subject matter of this Agreement, sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and merges all prior discussions between us with respect hereto. No modification of or amendment to this Agreement,

nor any waiver of any rights under this Agreement, will be effective unless in writing signed by the party to be charged. Any subsequent change or changes in my duties, job title or compensation will not affect the validity or scope of this Agreement.

c) SUCCESSORS AND ASSIGNS. This Agreement shall inure to the benefit of the Company and its legal representatives, successors and assigns, and shall be binding upon me and my heirs, legal representatives, successors and assigns.

d) GOVERNING LAW. This Agreement will be governed by the laws of the Commonwealth of Massachusetts, without regard to conflicts of law principles.

e) HEADINGS. The headings in this Agreement are for convenience of reference only, and they shall not limit or otherwise affect the interpretation of any term or provision hereof.

I ACKNOWLEDGE THAT BEFORE PLACING MY SIGNATURE HEREUNDER, I HAVE READ ALL OF THE PROVISIONS OF THIS AGREEMENT AND HAVE RECEIVED A COPY HEREOF TODAY.

Executed as a document under seal effective as of June 28, 2002.

Signed:

/s/ Gary L. Gregory

For NeuroMetrix, Inc.

By: /s/ Shai N. Gozani

Authorized Signature

EXHIBIT 10.14

LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT No. 3561 (this "AGREEMENT") is entered into as of May 21,2003, by and between LIGHTHOUSE CAPITAL PARTNERS IV, L.P. ("LENDER") AND NEUROMETRIX, INC., a Delaware corporation ("BORROWER").

RECITALS

Borrower wishes to borrow money from time to time from Lender and Lender desires to lend money to Borrower. This Agreement sets forth the terms on which Lender will lend to Borrower and Borrower will repay the loan to Lender.

AGREEMENT

The parties agree as follows:

1. DEFINITIONS AND CONSTRUCTION

1.1 DEFINITIONS. As used in this Agreement, the following terms shall have the following definitions:

"ADVANCE" means each extension of credit by Lender to Borrower under this Agreement.

"AFFILIATE" means any Person that owns or controls directly or indirectly five percent (5%) or more of the stock of another entity, any Person that controls or is controlled by or is under common control with such Persons or any Affiliate of such Persons or each of such Person's officers, directors, joint venturers or partners.

"BASIC RATE" means a PER ANNUM fixed rate of interest (based on a year of 360 days and actual days elapsed) equal to eleven percent (11%).

"BORROWER'S BOOKS" means all of Borrower's books and records including: ledgers; records concerning Borrower's assets or liabilities, the Collateral, business operations or financial condition; and all computer programs, or tape files, and the equipment, containing such information.

"BUSINESS DAY" means any day that is not a Saturday, Sunday, or other day on which banks in the State of California are authorized or required to close.

"CODE" means the Uniform Commercial Code as adopted and in effect in the State of California, as amended from time to time.

"COLLATERAL" means the Property described on EXHIBIT A-1 attached hereto.

"COMMITMENT" means $3,000,000.00.

"COMMITMENT TERMINATION DATE" means December 31, 2003.

"CONTINGENT OBLIGATION" means, as applied to any Person, any direct or indirect liability, contingent or otherwise; of that Person with respect to any indebtedness, lease, dividend, letter of credit or other obligation in each case of another, including any such obligation directly or indirectly guaranteed, endorsed (otherwise than for collection or deposit in the ordinary course of business), co-made or discounted or sold with recourse by that Person, or in respect of which that Person is otherwise directly or indirectly liable. The amount of any Contingent Obligation shall be equal to the amount of the obligation so guaranteed or otherwise supported.

"CONTROL AGREEMENT" means an agreement in the form of EXHIBIT A-2 attached hereto executed by Lender, Borrower and each applicable financial institution and/or securities/investment intermediary in which such financial institution and/or intermediary agrees that Lender has a security interest in any account of Borrower.

"DEFAULT" means any event which with the passing of time or the giving of notice or both would become an Event of Default hereunder.

"DEFAULT RATE" means the PER ANNUM rate of interest equal to fourteen percent (14%), but such rate shall in no event be more than the highest rate permitted by applicable law to be charged on commercial loans.

"EVENT OF DEFAULT" has the meaning given to such term in Section 8.

"FACILITY FEE" has the meaning given to such term in Section 25(a).

"FINAL PAYMENT" means eleven percent (11%) of the amount of the Advances hereunder.

"FUNDING DATE" means any date on which an Advance is made to or on account of Borrower under this Agreement.

"GOVERNMENTAL AUTHORITY" means (a) any federal, state, county, municipal or foreign, government, or political subdivision thereof, (b) any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body, (c) any court or administrative tribunal or (d) with respect to any Person, any arbitration tribunal or other non-governmental authority to whose jurisdiction that Person has consented.

"INDEBTEDNESS" means (a) all indebtedness for borrowed money or the deferred purchase price of Property or services, including reimbursement and other obligations with respect to surety bonds and letters of credit, (b) all obligations evidenced by notes, bonds, debentures or similar instruments, (c) all capital lease obligations, and (d) all Contingent Obligations.

"INTELLECTUAL PROPERTY SECURITY AGREEMENT" means an agreement in the form of EXHIBIT D or such other form as Lender may agree to accept.

"INTERIM PAYMENT" has the meaning given to such term in Section 2.4(b).

"LENDER'S EXPENSES" means all reasonable costs or expenses (including reasonable attorneys' fees and expenses) incurred in connection with the preparation and negotiation (in an amount not to exceed $10,000.00) and enforcement of the Loan Documents; and Lender's reasonable attorneys' fees and expenses incurred in amending, modifying, enforcing or defending the Loan Documents, including in the exercise of any rights or remedies afforded hereunder or under applicable law, whether or not suit is brought.

"LIEN" means any pledge, bailment, lease, mortgage, hypothecation, conditional sales and title retention agreement, charge, claim, encumbrance or other lien in favor of any Person.

"LOAN COMMENCEMENT DATE" means the first day of the calendar month next following the six (6) month anniversary of the Funding Date of an Advance.

"LOAN DOCUMENTS" means, collectively, this Agreement, the Warrant, and all other documents, instruments and agreements entered into between Borrower and Lender in connection with this Agreement, all as amended or extended from time to time.

"LOAN REPAYMENT FACTOR" means an amount equal to 3.7930%.

"MATERIAL ADVERSE CHANGE" means in Lender's sole judgment, that there has been, or will imminently occur: (i) a material adverse change in the general affairs, management, results of operations, condition (financial or otherwise) or prospects of Borrower, whether or not arising from transactions in the ordinary course of business, or (ii) a material adverse deviation by Borrower in the conduct of its business as now conducted; or (iii) a material impairment of the value of the Collateral or the priority of Lender's security interests in the Collateral, or (iv) a material impairment of the prospect of repayment of any portion of the Obligations.

"MATURITY DATE" means, with respect to each Advance, the last day of the Repayment Period for such Advance, or if earlier, the date of prepayment under Section 2.6.

"MINIMUM FUNDING AMOUNT" means $500,000.00.

"NOTICE OF BORROWING" means a supplement to this Agreement in substantially the form of EXHIBIT C.

"OBLIGATIONS" means all debt, principal, interest, fees, charges, expenses and attorneys' fees and costs and other amounts, obligations, covenants, and duties owing by Borrower to Lender of any kind and description (whether pursuant to or evidenced by the Loan Documents, or by any other agreement between Lender and Borrower, and whether or not for the payment of money), whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, including the principal and interest due with respect to the Advances, and including any debt, liability, or obligation owing from Borrower to others that Lender may have obtained by assignment or otherwise (but only such debts, liabilities or obligations that were consented to by the Borrower as being Obligations hereunder), and further including all interest not paid when

due and all Lender's Expenses that Borrower is required to pay or reimburse by the Loan Documents, by law, or otherwise.

"PAYMENT DATE" has the meaning given to that term in Section 2.4(a).

"PERMITTED INDEBTEDNESS" means the following:

(a) any loans made from time to time by Lender, and

(b) Indebtedness secured by the Permitted Liens in SECTION (b) of the definition of Permitted Liens, as approved by Lender in its sole discretion;

(c) Indebtedness incurred in the ordinary course of business with respect to the deferred purchase price of Property or services provided such Indebtedness does not cause any Liens other than Permitted Liens to arise; and

(d) Indebtedness existing on the date hereof and disclosed on SCHEDULE 3.

"PERMITTED INVESTMENTS" means the following:

(a) investments shown on SCHEDULE 3 and existing as of the date hereof;

(b) (i) marketable direct obligations issued or unconditionally guaranteed by the United States or its agency or any State maturing within one (1) year from its acquisition, (ii) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor's Corporation or Moody's Investor Service, Inc., and (iii) bank certificates of deposit issued maturing no more than one (1) year after issue; and (iv) shares of any so-called "money market fund" or any mutual fund which has at least 85% of its assets invested in investments of the type described in clauses (i), (ii), or (iii) above.

(c) investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transaction in the ordinary course of business;

(d) investments accepted in connection with transfers permitted by SECTION 7.2;

(e) investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrower or its Subsidiaries pursuant to employee stock purchase plans or agreements approved by Borrower's Board of Directors;

(f) investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers and suppliers and in settlement of delinquent

obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business, PROVIDED HOWEVER, the amount as set forth in this paragraph (f) shall not exceed Two Hundred Fifty Thousand Dollars ($250,000) in the aggregate;

(g) investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the ordinary course of business; PROVIDED that this paragraph (g) shall not apply to investments of Borrower in any Subsidiary; and

(h) investments in joint ventures that include (i) the licensing or development of intellectual property or (ii) providing of technical support, in each case consistent with the conduct of Borrower's business as now conducted or proposed to be conducted and PROVIDED no Liens other than Permitted Liens arise as a result thereof.

"PERMITTED LIENS" means the following:

(a) The Lien created by this Agreement;

(b) Any Liens existing as of the date hereof and disclosed in SCHEDULE 1;

(c) Liens for taxes, fees, assessments or other governmental charges or levies, either not delinquent or being contested in good faith by appropriate proceedings;

(d) Liens to secure payment of worker's compensation, employment insurance, old age pensions or other social security obligations of Borrower in the ordinary course of business of Borrower, and

(e) Liens incurred in connection with the extension, renewal or refinancing of the indebtedness secured by Liens of the type described in clause (b) above, PROVIDED that any extension, renewal or replacement Lien shall be limited to the Property encumbered by the existing Lien and the principal amount of the indebtedness being extended, renewed or refinanced does not increase.

"PERSON" means and includes any individual, any partnership, any corporation, any business trust, any joint stock company, any limited liability company, any unincorporated association or any other entity and any domestic or foreign national, state or local government, any political subdivision thereof, and any department, agency, authority or bureau of any of the foregoing.

"PROPERTY" means any interest in any kind of property or asset, whether real, personal or mixed, whether tangible or intangible.

"REPAYMENT PERIOD" means the period beginning on the Loan Commencement Date and continuing for thirty (30) calendar months.

"RESPONSIBLE OFFICER" means each of the President and the Chief Financial Officer of Borrower or such other Person as Borrower shall in writing certify to Lender as being a Responsible Officer.

"SCHEDULED PAYMENTS" has the meaning given to such term in SECTION 2.4(a).

"SUBSIDIARY" means any corporation of which a majority of the outstanding capital stock entitled to vote for the election of directors (otherwise than as the result of a default) is owned by Borrower directly or indirectly through Subsidiaries.

"TERM" means the period from and after the date hereof until the payment in full of all amounts and liabilities payable under this Agreement and the other Loan Documents, including principal and interest on the Advances.

"WARRANT" means the Warrant in favor of Lender to purchase securities of Borrower substantially in the form of EXHIBIT B.

1.2 OTHER INTERPRETIVE PROVISIONS. References in this Agreement to "Articles," "Sections," "Exhibits," "Schedules" and "Annexes" are to recitals, articles, sections, exhibits, schedules and annexes herein and hereto unless otherwise indicated. References in this Agreement and each of the other Loan Documents to any document, instrument or agreement shall include (a) all exhibits, schedules, annexes and other attachments thereto, (b) all documents, instruments or agreements issued or executed in replacement thereof, and (c) such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified and supplemented from time to time and in effect at any given time. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement or any other Loan Document shall refer to this Agreement or such other Loan Document, as the case may be, as a whole and not to any particular provision of this Agreement or such other Loan Document, as the case may be. The words "include" and "including" and words or similar import when used in this Agreement or any other Loan Document shall not be construed to be limiting or exclusive. Unless otherwise indicated in this Agreement or any other Loan Document, all accounting terms used in this Agreement or any other Loan Document shall be construed, and all accounting and financial computations hereunder or thereunder shall be computed, in accordance with generally accepted accounting principles as in effect in the United States of America from time to time.

2. LOAN AND TERMS OF PAYMENT

2.1 COMMITMENT. Subject to the terms and conditions of this Agreement and relying upon the representations and warranties herein set forth as and when made or deemed to be made, Lender agrees to lend to Borrower, from time to time prior to the Commitment Termination Date, the Advances; PROVIDED that the aggregate principal amount of the Advances shall not exceed the Commitment at such time. If prepaid, the principal of the Advances may not be re-borrowed.

2.2 USE OF PROCEEDS; THE ADVANCES.

(a) USE OF PROCEEDS. The proceeds of the Advances shall be used solely for working capital purposes.

(b) THE ADVANCES. The Advances shall be repayable in consecutive monthly installments in accordance with the terms of SECTION 2.4. Lender may, and is hereby authorized by Borrower to, endorse in Lender's books and records appropriate notations regarding Lender's interest in the Advances; PROVIDED, HOWEVER, that the failure to make, or an error in making, any such notation shall not limit or otherwise affect the Obligations of Borrower hereunder.

2.3 PROCEDURE FOR MAKING ADVANCES.

(a) NOTICE. Whenever Borrower desires that Lender make an Advance, Borrower shall so notify Lender in writing (or by telephone with prompt confirmation in writing) at least five (5) Business Days in advance of the desired Funding Date, which notice shall be irrevocable. Each such notification shall be promptly confirmed by a Notice of Borrowing in substantially the form of EXHIBIT C hereto. Lender's obligation to make Advances shall be expressly subject to the satisfaction of the conditions set forth in SECTIONS 3.1 and 3.2.

(b) INTEREST RATE. Borrower shall pay interest on the unpaid principal amount of each Advance from the date of the Advance until such Advance has been paid in full, at a PER ANNUM rate of interest equal to the Basic Rate. All computations of interest on each Advance shall be based on a year of 360 days for actual days elapsed. Notwithstanding any other provision hereof, the amount of interest payable hereunder shall not in any event exceed the maximum amount permitted by the law applicable to interest charged on commercial loans.

(c) DISBURSEMENT. Subject to the satisfaction of the conditions set forth in SECTIONS 3.1 and 3.2 with respect to the initial Advance and the satisfaction of the conditions set forth in SECTION 3.2 with respect to each subsequent Advance, Lender shall disburse the Advances.

(d) TERMINATION OF COMMITMENT TO LEND. Notwithstanding anything in the Loan Documents; Lender's obligation to lend the undisbursed portion of the Commitment to Borrower hereunder shall terminate on the earlier of (i) at the Lender's sole election, the occurrence and continuance of any Event of Default hereunder, and (ii) the Commitment Termination Date.

2.4 AMORTIZATION OF PRINCIPAL AND INTEREST; INTERIM PAYMENT, FINAL PAYMENT.

(a) PRINCIPAL AND INTEREST PAYMENTS ON PAYMENT DATES. Borrower shall make payments of principal in advance and interest monthly in advance for each Advance

(collectively, "SCHEDULED PAYMENTS"), commencing on the Loan Commencement Date with respect to such Advance and continuing thereafter during the Repayment Period on the first Business Day of each month (each a "PAYMENT DATE"), in an amount equal to the Loan Repayment Factor multiplied by the amount of the Advance as of the Loan Commencement Date. In any event, all unpaid principal and accrued interest shall be due and payable in full on the last Payment Date with respect to such Advance.

(b) INTERIM PAYMENT. In addition to the Scheduled Payments, Borrower shall pay to Lender, monthly in advance, an amount (the "INTERIM PAYMENT") equal to accrued interest on the principal amount of each Advance calculated at the Basic Rate from the Funding Date of such Advance (and thereafter recalculated on the first Business Day of each calendar month during which an Interim Payment is due), until commencement of the Repayment Period with respect to the Advance.

(c) FINAL PAYMENT. In addition to unpaid principal and accrued interest and all other amounts due on such date, Borrower shall pay the Final Payment with respect to the Advances on the Maturity Date with respect to each Advance, unless sooner paid under SECTION 2.6(b).

2.5 FEES. Borrower shall pay to Lender the following:

(a) FACILITY FEE. A Facility Fee equal to one percent (1%) of each Advance amount shall be due and payable on the Funding Date of such Advance and shall be fully earned and non-refundable as of such date;

(b) COMMITMENT FEE. A Commitment Fee equal to Ten Thousand Dollars ($10,000) which has been paid by Borrower to Lender, which fee shall be applied to amounts due under the Agreement;

(c) LATE FEE. A late charge on any Scheduled Payments or other sums due hereunder which are past due, in an amount equal to two percent (2%) of the past due amount payable on demand.

2.6 PREPAYMENTS.

(a) MANDATORY PREPAYMENT UPON AN ACCELERATION. If the Advances are accelerated following the occurrence of an Event of Default, then Borrower shall immediately pay to Lender (i) all unpaid Interim Payments and/or Scheduled Payments with respect to the Advances due prior to the date of prepayment, (ii) the outstanding principal amount of the Advances and any unpaid accrued interest, (iii) the Final Payment, and (iv) all other sums, if any, that shall have become due and payable hereunder with respect to the Advances.

(b) VOLUNTARY PREPAYMENT. Borrower may voluntarily prepay the Advances or prepay in total any particular Advance, PROVIDED that each of the following conditions is satisfied: Borrower pays to Lender (i) all unpaid Interim Payments and/or Scheduled Payments with respect to the Advances being prepaid which are due prior to the date of prepayment, (ii) the outstanding principal amount of the Advances being prepaid and any unpaid accrued interest (iii) the Final Payment with respect to the Advances being prepaid, and (iv) all other sums, if any, that shall have become due and payable hereunder with respect to the Advances. Lender shall not be required to accept the Partial prepayment of any Advance.

(c) NO OTHER PREPAYMENT. Borrower may not prepay any Advance except pursuant to SECTION 2.6 (a) AND (b) above in which event the prepayment shall be made as described in such section.

2.7 OTHER PAYMENT TERMS.

(a) PLACE AND MANNER. Borrower shall make all payments due to Lender by payments to Lender at the address specified in SECTION 11, in lawful money of the United States and in same day or immediately available funds.

(b) DATE. Whenever any payment due hereunder shall fall due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall be included in the computation of interest or fees, as the case may be.

(c) DEFAULT RATE. If either (i) any amounts required to be paid by Borrower under this Agreement or the other Loan Documents, (including principal, interest; and any fees or other amounts) remain unpaid after such amounts are due, or (ii) an Event of Default has occurred and is continuing, Borrower shall pay interest on the aggregate, outstanding balance hereunder from the date due or from the date of the Event of Default, as applicable, until such past due amounts are paid in full or until all Events of Default are cured, as applicable, at a PER ANNUM rate equal to the Default Rate. All computations of such interest shall be based on a year of 360 days for actual days elapsed.

2.8 MINIMUM FUNDING AMOUNT{the "MINIMUM FUNDING AMOUNT"}. Except with the prior consent of Lender, in Lender's sole discretion, the amount of the requested Advance shall not be less than the Minimum Funding Amount.

2.9 CREDITING PAYMENTS. The receipt by Lender of any wire transfer of funds, check, or other item of payment shall be immediately applied conditionally to reduce Obligations, but shall not be considered a payment on account unless such wire transfer is of immediately available federal funds and is made to the appropriate deposit account of Lender or unless and until such check or other item of payment is honored when presented for payment. Notwithstanding anything to the contrary contained herein, any wire transfer or payment

received by Lender after 11:00 a.m. California time shall be deemed to have been received by Lender as of the opening of business on the immediately following Business Day.

2.10 TERM. This Agreement shall become effective upon acceptance by Lender and shall continue in full force and effect for a term ending on the Maturity Date of the final Advance; provided however, that nothing in this

SECTION 2.10 shall be deemed to modify or limit Lender's rights and remedies with respect to the collection or enforcement of any Obligations which are outstanding at such time, or the enforcement of Lender's rights and remedies if an Event of Default has occurred or is continuing at such time, or Lender's ability to assert any indemnity claims against Borrower.

3. CONDITIONS OF ADVANCES

3.1 CONDITIONS PRECEDENT TO INITIAL ADVANCE. The obligation of Lender to make the initial Advance is subject to the condition precedent that Lender shall have received, in form and substance satisfactory to Lender, all of the following:

(a) This Agreement duly executed by Borrower.

(b) The Warrant to be issued to Lender duly executed by Borrower.

(c) The Intellectual Property Security Agreement to be issued to Lender duly executed by Borrower.

(d) Copies of the contracts and agreements referenced in SECTION 5.14, and any third party consents related thereto required by the terms thereof in connection with Borrower's performance of the Loan Documents.

(e) An officer's certificate of Borrower with copies of the following documents attached: (i) the certificate of incorporation and by-laws of Borrower certified by Borrower as being in full force and effect on the Funding Date, (ii) incumbency and representative signatures, and (iii) resolutions authorizing the execution and delivery of this Agreement and each of the other Loan Documents.

(f) A good standing certificate from Borrower's state of incorporation and the state in which Borrower's principal place of business is located, together with certificates of the applicable governmental authorities stating that Borrower is in compliance with the franchise tax laws of each such state, each dated as of a recent date.

(g) Evidence of the insurance coverage required by SECTION 6.8 of this Agreement.

(h) Payment of any unreimbursed Lender's Expenses not to exceed $10,000.00; provided that the Commitment Fee shall be applied to such payment.

(i) All necessary consents of shareholders and other third parties with respect to the execution, delivery and performance of this Agreement, the Warrant and the other Loan Documents.

(j) Such other documents, and completion of such other matters, as Lender may deem necessary or appropriate.

3.2 CONDITIONS PRECEDENT TO ALL ADVANCES. The obligation of Lender to make each Advance, including the initial Advance, is further subject to the following conditions:

(a) A certificate executed and delivered in favor of Lender that no Default or Event of Default shall have occurred or is continuing.

(b) Borrower shall have executed a Notice of Borrowing with respect to the proposed Advance.

(c) The Pledge and Security Agreement between Borrower and Comerica Bank shall have been executed and delivered by each of Comerica Bank and the Borrower to the other.

(d) Lender shall have received such documents, instruments and agreements, including UCC financing statements or amendments to UCC financing statements, as Lender shall reasonably request to evidence the perfection and priority of the security interests granted to Lender pursuant to SECTION 4, including the filing of UCC termination statements terminating the UCC financing statements naming Comerica Bank as secured party, as filed in the jurisdiction of Massachusetts.

(e) Borrower shall have delivered to Lender a subordination agreement, release, or estoppel letter, as appropriate, from any Person having an existing Lien (other than a Permitted Lien) superior to the Lien of Lender on any item of Collateral.

(f) Borrower shall have delivered to Lender a Control Agreement with respect to each depository and securities account of Borrower, if such Control Agreement has not previously been delivered to Lender.

(g) Borrower shall have paid the Facility Fee with respect to the Advance.

(h) Such other documents, and completion of such other matters, as Lender may reasonably deem necessary or appropriate to evaluate whether an Event of Default

has occurred or is continuing and whether there has otherwise been a Material Adverse Change or to affirm or reinstate Lender's security interest and priority in the Collateral.

3.3 COVENANT TO DELIVER. Borrower agrees (not as a condition but as a covenant) to deliver to Lender each item required to be delivered to Lender as a condition to each Advance, if such Advance is made. Borrower expressly agrees that the extension of such Advance prior to the receipt by Lender of any such item shall not constitute a waiver by Lender of Borrower's obligation to deliver such item.

4. CREATION OF SECURITY INTEREST

4.1 GRANT OF SECURITY INTEREST. Borrower grants to Lender a valid, first priority, continuing security interest in all presently existing and hereafter acquired or arising Collateral, subject only to the Permitted Liens, in order to secure prompt, full and complete payment of any and all Obligations and in order to secure prompt, full and complete performance by Borrower of each of its covenants and duties under each of the Loan Documents.

4.2 DURATION OF SECURITY INTEREST. Lender's security interest in the Collateral shall continue until the payment in full and the satisfaction of all Obligations, whereupon such security interest shall terminate. Lender shall, at Borrower's sole cost and expense, execute such further documents and take such further actions as may be necessary to effect the release contemplated by this SECTION 4.2, including duly executing and delivering termination statements for filing in all relevant jurisdictions under the Code.

4.3 POSSESSION OF COLLATERAL. So long as no Event of Default has occurred and is continuing, Borrower shall remain in full possession, enjoyment and control of the Collateral (except only as may be otherwise required by Lender for perfection of its security interest therein) and shall be entitled to manage, operate and use the same and each part thereof with the rights and franchises appertaining thereto; PROVIDED, HOWEVER, that the possession, enjoyment, control and use of the Collateral shall at all times be subject to the observance and performance of the terms of this Agreement.

4.4 DELIVERY OF ADDITIONAL DOCUMENTATION REQUIRED. Borrower shall from time to time execute and deliver to Lender, all financing statements and other documents such Lender may reasonably request, in form satisfactory to Lender, to perfect and continue Lender's first priority, perfected security interests in the Collateral, subject only to Permitted Liens, and in order to consummate fully all of the transactions contemplated under the Loan Documents.

4.5 RIGHT TO INSPECT. Lender (through any of its officers, employees, or agents) shall have the right, upon reasonable prior notice, from time to time during Borrower's usual business hours, to inspect Borrower's Books and to make copies thereof and to check, test, and appraise the Collateral in order to verify Borrower's financial condition or the amount, condition of, or any other matter relating to, the Collateral.

5. REPRESENTATIONS AND WARRANTIES

Borrower represents, warrants and covenants as follows:

5.1 DUE ORGANIZATION AND QUALIFICATION. Borrower is a corporation duly existing and in good standing under the laws of its state of incorporation and qualified and licensed to do business in, and is in good standing in, any state in which the conduct of its business or its ownership of Property requires that it be so qualified or in which the Collateral is located, except for such states as to which any failure so to qualify would not have a material adverse effect on Borrower.

5.2 AUTHORITY. Borrower has all necessary power and authority to execute, deliver, and perform in accordance with the terms thereof, the Loan Documents to which it is a party. Borrower has all requisite power and authority to own and operate its properties and to carry on its businesses as now conducted.

5.3 SUBSIDIARIES. Borrower has no Subsidiaries, except those listed in SCHEDULE 2 hereto.

5.4 CONFLICT WITH OTHER INSTRUMENTS, ETC. Neither the execution and delivery of any Loan Document to which Borrower is a party nor the consummation of the transactions therein contemplated nor compliance with the terms, conditions and provisions thereof will conflict with or result in a breach of any of the terms, conditions or provisions of the articles of incorporation and the by-laws, or other organizational documents of Borrower or any law or any regulation, order, writ, injunction or decree of any court or governmental instrumentality or except to the extent that any contract identified on SCHEDULE 3 requires any consent or approval, which consent or approval shall be obtained on or prior to the date hereof, any material agreement or instrument to which Borrower is a pasty or by which it or any of its properties is bound or to which it or any of its properties is subject, or constitute a default thereunder or result in the creation or imposition of any Lien, other than Permitted Liens.

5.5 AUTHORIZATION; ENFORCEABILITY. The execution and delivery of this Agreement, the granting of the security interest in the Collateral, the incurring of the Advances, the execution and delivery of the other Loan Documents to which Borrower is a party and the consummation of the transactions herein and therein contemplated have each been duly authorized by all necessary action on the part of Borrower. The Loan Documents have been duly executed and delivered and constitute legal, valid and binding obligations of Borrower, enforceable in accordance with their respective terms, except as the enforceability thereof may be limited by bankruptcy, insolvency or other similar laws of general application relating to or affecting the enforcement of creditors' rights or by general principles of equity.

5.6 NO PRIOR ENCUMBRANCES. Except as set forth in SCHEDULE 1, Borrower has good and marketable title in and to, or an enforceable right to use, the Collateral, free and clear of liens, claims, security interests, or encumbrances, except for the first priority lien held by the Lender and except for other Permitted Liens. Except as disclosed in SCHEDULE 1, Borrower

has not acquired any part of the Collateral from an assignor outside the ordinary course of such assignor's business.

5.7 LOCATION OF CHIEF EXECUTIVE OFFICE, PRINCIPAL PLACE OF BUSINESS AND COLLATERAL. Borrower has not done business under any name other than that specified on the signature page hereof. The chief executive office, principal place of business, and the place where Borrower maintains its records concerning the Collateral are presently located at the address set forth in SECTION 11. The Collateral is presently located at the addresses set forth in SECTION 11.

5.8 LITIGATION. There are no actions or proceedings pending by or against Borrower before any court or administrative agency in which an adverse decision could reasonably be expected to have a material adverse effect on Borrower or the aggregate value of the Collateral. Borrower does not have knowledge of any such pending or threatened actions or proceedings. Borrower will promptly notify Lender in writing if any action, proceeding or governmental investigation involving Borrower is commenced that may result in damages to Borrower of One Hundred Thousand Dollars ($100,000) or more.

5.9 FINANCIAL STATEMENTS. All financial statements relating to Borrower or any Affiliate that have been delivered, are set forth on SCHEDULE 4, and may hereafter be required to be delivered by Borrower to Lender present fairly in all material respects Borrower's financial condition as of the date thereof and the periods covered thereby and Borrower's results of operations for the periods then ended.

5.10 SOLVENCY. Borrower is solvent and able to pay its debts (including trade debts) as they mature.

5.11 TAXES. Borrower has filed or caused to be filed all tax returns required to be filed, and has paid, or has made adequate provision for the payment of, or has contested in good faith and has adequately reserved against the payment of, all taxes that are due and payable.

5.12 CONSENTS AND APPROVALS. No approval, authorization or consent

of any trustee or holder of any indebtedness or obligation of Borrower or of any other Person under any such material agreement, contract, lease or license or similar document or instrument to which Borrower is a party or by which Borrower is bound, is required to be obtained by Borrower in order to make or consummate the transactions contemplated under the Loan Documents except for such approvals, authorizations and consents obtained on or prior to the date hereof required to be so obtained for Borrower's performance of the Loan Documents. All consents and approvals of, filings and registrations with, and other actions in respect of, all Governmental Authorities required to be obtained by Borrower in order to make or consummate the transactions contemplated under the Loan Documents have been, or prior to the time when required will have been, obtained, given, filed or taken and are or will be in full force and effect.

5.13 TRADEMARKS, PATENTS, COPYRIGHTS, FRANCHISES AND LICENSES. Borrower possesses and owns or has an enforceable right to use all necessary trademarks, trade names, copyrights, patents, patent rights, franchises and licenses which are material to the conduct of its business as now operated.

5.14 MATERIAL CONTRACTS. All currently effective contracts and agreements (whether written or oral) to which Borrower is a party are identified on SCHEDULE 3 hereto. There are no material defaults under any such contract or agreement by Borrower. Borrower has made available to Lender, as requested by Lender, true and correct copies of all such contracts or agreements (or, with respect to oral contracts or agreements, written descriptions of the material terms thereof).

5.15 FULL DISCLOSURE. No representation, warranty or other statement made by Borrower in any Loan Document, certificate or written statement furnished to Lender contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained in such certificates or statements not misleading in light of the circumstances in which they were made.

6. AFFIRMATIVE COVENANTS

Borrower covenants and agrees that, until the full and complete payment of the Obligations and the termination of the Commitments, Borrower shall do all of the following:

6.1 GOOD STANDING. Borrower shall maintain its corporate existence and its good standing in its jurisdiction of incorporation and maintain qualification in each jurisdiction in which the failure to so qualify could have a material adverse effect on the financial condition, operations or business of Borrower. Borrower shall maintain in force all licenses, approvals and agreements, the loss of which could have a material adverse effect on its financial condition, operations or business.

6.2 GOVERNMENT COMPLIANCE. Borrower shall comply with all statutes, laws, ordinances and government rules and regulations to which it is subject, noncompliance with which could materially adversely affect the financial condition, operations or business of Borrower.

6.3 FINANCIAL STATEMENTS, REPORTS, CERTIFICATES. Borrower shall deliver to Lender: (a) as soon as available, but in any event within thirty (30) days after the end of each calendar month, a company prepared balance sheet, income statement and cash flow statement covering Borrower's operations during such period, certified by a Responsible Officer, (b) commencing with the 2002 fiscal year, as soon as available, but in any event within one hundred and twenty (120) days after the end of Borrower's fiscal year, audited financial statements of Borrower prepared in accordance with generally accepted accounting principles, consistently applied, together with an unqualified opinion on such financial statements of a nationally recognized or other independent public accounting firm reasonably acceptable to

Lender, PROVIDED, HOWEVER, for the 2002 fiscal year only, Borrower shall provide such audited financial statements within one hundred and fifty (150) days after the end of Borrower fiscal year, (c) promptly upon becoming available, copies of all statements, reports and notices sent or made available generally by Borrower to its security holders; (d) immediately upon receipt of notice thereof, a report of any material legal actions pending or threatened in writing against Borrower, and (e) such other financial information as Lender may reasonably request from time to time.

6.4 CERTIFICATES OF COMPLIANCE. Each time financial statements are furnished pursuant to SECTION 6.3 above, there shall be delivered to Lender

a certificate signed by a Responsible Officer (each an "OFFICER'S CERTIFICATE") with respect to such financial reports to the effect that: (i) no Event of Default or Default has occurred and is continuing hereunder since the date of this Agreement or, if later, since the date of the prior Officer's Certificate or, if such an event or condition has occurred and is continuing, the nature and extent thereof and the action Borrower proposes to take with respect thereto, and (ii) Borrower is in compliance with the provisions of SECTIONS 6 AND 7.

6.5 NOTICE OF DEFAULTS. As soon as possible, and in any event within five (5) days after the discovery of a Default or an Event of Default, provide Lender with an Officer's Certificate of Borrower setting forth the facts relating to or giving rise to such Default or Event of Default and the action which Borrower proposes to take with respect thereto.

6.6 TAXES. Borrower shall make due and timely payment or deposit of all federal, state, and local taxes, assessments, or contributions required of it by law or imposed upon any properties belonging to it, and will execute and deliver to Lender, on demand, appropriate certificates attesting to the payment or deposit thereof; and Borrower will make timely payment or deposit of all tax payments and withholding taxes required of it by applicable laws, including those laws concerning F.I.C.A., F.U.T.A., state disability, and local, state, and federal income taxes, and will, upon request, furnish Lender with proof satisfactory to Lender indicating that Borrower has made such payments or deposits; provided that Borrower need not make any payment if the amount or validity of such payment is contested in good faith by appropriate proceedings and is adequately reserved against by Borrower.

6.7 USE; MAINTENANCE.

(a) Borrower, at its expense, shall cause the Collateral to be operated in accordance with sound business practices and, if applicable, with past practices. So long as no Default or Event of Default has occurred and is continuing, Borrower shall have the right to quietly possess and use the Collateral as provided herein without interference by Lender.

(b) Borrower, at its expense, shall maintain the Collateral consistent with sound business practices, and if applicable, past practices, in good condition, reasonable wear and tear excepted, and will comply in all material respects with all laws, rules and regulations to which the use and operation of the Collateral by Borrower may be or become subject. Such obligation shall extend to repair and replacement of any partial loss or damage to

the Collateral, regardless of the cause. If maintenance is mandated by manufacturer, Borrower shall obtain and keep in effect, at all times during the Term maintenance service contracts with qualified suppliers. All parts furnished in connection with such maintenance or repair shall immediately become part of the Collateral. All such maintenance, repair and replacement services shall be timely paid for and discharged by Borrower with the result that no Lien will attach to the Collateral.

6.8 INSURANCE.

(a) Borrower, at its own expense, shall obtain and maintain in amounts and coverages satisfactory to Lender (a) insurance against loss or damage to the Collateral, (b) commercial general liability insurance, including contractual liability, products liability and completed operations coverage according to standard industry practices, and (c) such other insurance against such other risks of loss and with such terms as shall be reasonably satisfactory to or reasonably required by Lender as to carriers, amounts and otherwise. The amount of insurance covering loss or damage to the Collateral shall be the greater of (i) the replacement value of the Collateral (as new) or (ii) the outstanding principal amount of the funds disbursed hereunder and all other then outstanding amounts payable under the Loan Documents.

(b) The amount of commercial general public liability insurance (other than products liability coverage and completed operations insurance) shall be at least $2,000,000 per occurrence. The amount of such products liability and completed operations insurance shall be at least $2,000,000 per occurrence. The deductible with respect to insurance against loss or damage to the Collateral and product liability insurance shall not exceed $25,000; otherwise there shall be no deductible with respect to any insurance required to be maintained hereunder without the prior written approval of Lender. Each such insurance policy shall: (i) name Lender loss payee or additional insured, as appropriate, (ii) provide for insurer's waiver of its right of subrogation against Lender and Borrower, (iii) provide that such insurance shall not be invalidated by any action of, or breach of warranty by, Borrower and waive set-off counterclaim or offset against Lender, (iv) provide

that Borrower's insurance shall be primary without a right of contribution of Lender's insurance, if any, or any obligation on the part of Lender to pay premiums of Borrower, and (v) require the insurer to give Lender at least thirty (30) days prior written notice of cancellation. Borrower shall, on or prior to the first disbursement of funds hereunder and prior to each policy renewal, furnish to Lender certificates of insurance. Borrower shall give Lender prompt notice of any damage to, or loss of, any Collateral.

6.9 LOSS; DAMAGE; DESTRUCTION AND SEIZURE.

(a) Borrower shall bear the risk of the Collateral being lost, stolen, destroyed, damaged beyond repair, rendered permanently unfit for use, or seized by a governmental authority for any reason whatsoever at any time until the expiration or termination of the Term.

(b) So long as no Event of Default has occurred and is continuing, any proceeds of insurance maintained pursuant to SECTION 6.8 received by Lender or Borrower with respect to an item of Collateral, the repair of which is practicable, shall, at the election of Borrower, (i) be applied either to the repair or replacement of such Collateral or, upon Lender's receipt of evidence of the repair or replacement of the Collateral reasonably satisfactory to Lender, to the reimbursement of Borrower for the cost of such repair or replacement, or (ii) with respect to any items of Collateral valued at Two Hundred Thousand Dollars ($200,000) or less, apply the insurance proceeds to Borrower's general working capital or (iii) with respect to items of Collateral valued in excess of Two Hundred Thousand Dollars ($200,000) and with prior notice to and the consent of Lender, which consent shall not be unreasonably withheld, apply the insurance proceeds to Borrower's general working capital. All replacement parts and equipment acquired by Borrower in replacement of Collateral pursuant to this SECTION 6.9(b) shall immediately become part of the Collateral upon acquisition by Borrower. Borrower shall take such actions and provide such documentation as may be reasonably requested by Lender to protect and preserve its security interest and otherwise to avoid any impairment of Lender's rights under the Loan Documents in connection with such repair or replacement.

6.10 BOARD OBSERVATION AND CONSULTATION RIGHTS.

(a) During the Term, Lender, shall be entitled, upon execution of a confidentiality agreement mutually acceptable to Lender and Borrower, to receive (at the same time as other members of Borrower's Board of Directors) notice of all meetings of the Board of Directors and all materials disseminated to the Directors, and to have a representative attend all meetings of the Board of Directors.

(b) Up and until a such time as the Borrower consummates an initial public offering of its securities and becomes subject to the reporting requirements of the 1934 Exchange Act, as amended, at such time as Lender grants a participation to one of its affiliated entities subject to ERISA requirements, Borrower will execute a Management Rights Letter in the form attached hereto as Exhibit F.

6.11 FURTHER ASSURANCES. At any time and from time to time Borrower shall execute and deliver such further instruments and take such further action as may reasonably be requested by Lender to effect the purposes of this Agreement.

6.12 EQUITY PARTICIPATION RIGHT. Borrower shall use reasonable best efforts to grant Lender, exercisable at Lender's sole discretion, the option to purchase for cash up to $250,000.00 of preferred stock in Borrower's next round of venture capital preferred stock financing which is not a Strategic Round (as defined below) upon the same terms and conditions as all other financial investors investing up to $250,000.00 at the same time. Borrower shall provide Lender at least seven (7) days' prior written notice of the proposed closing date of such preferred stock financing together with available drafts of the investment documents for such financing in such state as the drafts may be at the time the notice is provided. Following Borrower's receipt of a written indication from Lender that Lender is interested in participating in the financing, Borrower shall circulate to Lender subsequent drafts of investment documents

generally provided to all other potential investors in the financing. For purposes hereof, a "Strategic Round" shall mean the issuance and sale of preferred stock of the Borrower in which one or more "strategic investors" is purchasing more than fifty percent (50%) of the preferred stock issued and sold

in such transaction, which purchase is made by the "strategic investor" in connection with a separate transaction between an Affiliate of such investor and Borrower, including, for example, a licensing, development, sale or joint venture agreement.

7. NEGATIVE COVENANTS

Borrower covenants and agrees that until the full and complete payment of the Obligations and termination of the Commitments, Borrower will not do any of the following:

7.1 CHIEF EXECUTIVE OFFICE; LOCATION OF COLLATERAL. During the continuance of this Agreement, change the state of incorporation, chief executive office or principal place of business or remove or cause to be removed, except in the ordinary course of Borrower's business, the Collateral or the records concerning the Collateral from the premises listed in SECTION 11 without thirty (30), days prior written notice to Lender.

7.2 EXTRAORDINARY TRANSACTIONS AND DISPOSAL OF ASSETS. Enter into any transaction not in the ordinary and usual course of Borrower's business, including the sale, lease, license or other disposition of, moving, relocation, or transfer, whether by sale or otherwise, of Borrower's assets, other than (i) sales of inventory in the ordinary and usual course of Borrower's business as presently conducted and (ii) sales or other dispositions in the ordinary course of business of assets that have become worn out or obsolete or that are promptly being replaced.

Notwithstanding anything contained in this SECTION 7.2, the Borrower may do any of the following: (i) transfer licenses and similar arrangements for use of its intellectual property, or enter into joint venture and co-development arrangements, in each case in the ordinary course of its business for adequate consideration, which transactions are consistent with the conduct of Borrower's business as now conducted or proposed to be conducted (it being acknowledged that joint ventures and co-development arrangements are in the ordinary course of Borrower's business) (ii) declare and make any dividend payment payable in its equity securities, (iii) convert any of its convertible securities into other securities pursuant to the terms of such convertible securities or otherwise in exchange therefor, (iv) repurchase stock from former employees of Borrower in accordance with the terms of repurchase, vesting or similar agreements between Borrower and such employees in its ordinary course of business, (v) repurchase equity securities with the proceeds from the issuance of equity securities, (vi) repurchase, redeem, retire, defease or otherwise acquire for value equity securities in connection with or pursuant to any employees benefit plan or stock option plan of the Borrower; (vii) provided no Event of Default has occurred and is continuing or is not caused thereby, mergers, consolidations or acquisitions, which after giving effect thereto, Borrower is the surviving entity, and (viii) enter into Permitted Investments.

7.3 RESTRUCTURE. Change Borrower's name; make any material change in Borrower's financial structure or business operations (other than through the sale of stock to equity investors or in Permitted Investments); cause, permit, or suffer any material change in Borrower's ownership other than in connection with the sale of stock to equity investors, or suspend operation of Borrower's business.

7.4 LIENS. Create, incur, assume or suffer to exist any Lien or any other encumbrance of any kind with respect to any of its Property, whether now owned or hereafter acquired, except for Permitted Liens.

7.5 INDEBTEDNESS. Create, incur, assume or suffer to exist any Indebtedness other than Permitted Indebtedness.

7.6 INVESTMENTS. Make any Investment in any Person, other than Permitted Investments; and other than as permitted under SECTION 7.2(1), or permit any Subsidiary to do so.

7.7 DISTRIBUTIONS. Except as permitted by SECTION 7.2, pay any dividends or make any distribution or payment or redeem, retire or purchase any capital stock, except for the repurchase of stock in accordance with the existing terms of Borrower's stock option and incentive plans, which terms have been approved by the Board of Directors of the Borrower.

7.8 TRANSACTIONS WITH AFFILIATES. Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower except for transactions that are (i) in the ordinary course of Borrower's business, on terms no less favorable to Borrower than would be obtained in an arm's length transaction with a non-affiliated Person or (ii) are approved by a majority of the disinterested members of the Borrower's Board of Directors or a

committee thereof.

7.9 COMPLIANCE. Become an "investment company" under the Investment Company Act of 1940 or undertake as one of its important activities extending credit to purchase or carry margin stock, or use the proceeds of any Credit Extension for that purpose; fail to meet the minimum funding requirements of ERISA, permit a Reportable Event or Prohibited Transaction, as defined in ERISA, to occur; fail to comply with the Federal Fair Labor Standards Act or violate any other law or regulation, if the violation could reasonably be expected to have a material adverse effect on Borrower's business or operations or would reasonably be expected to cause a Material Adverse Change, or permit any of its Subsidiaries to do so.

8. EVENTS OF DEFAULT

Any one or more of the following events shall constitute an Event of Default by Borrower under this Agreement:

8.1 PAYMENT DEFAULT. If Borrower fails to pay when due and payable or when declared due and payable in accordance with the Loan Documents, any portion of the Obligations and Borrower has failed to cure such Default within three (3) days.

8.2 CERTAIN COVENANT DEFAULTS. If Borrower fails to perform any obligation under SECTIONS 6.8, 6.9, or 6.10, or violates any of the covenants contained in SECTION 7 of this Agreement and Borrower has failed to cure such Default within five (5) Business Days.

8.3 OTHER COVENANT DEFAULT. If Borrower fails or neglects to perform, keep, or observe any other material term, provision, condition, covenant, or agreement contained in this Agreement, in any of the other Loan Documents, or in any other present or future agreement between Borrower and Lender and as to any default under such other term, provision, condition, covenant or agreement that can be cured, has failed to cure such default within thirty (30) days after the occurrence of such default.

8.4 MATERIAL ADVERSE CHANGE. If there occurs a Material Adverse Change; provided however, that any time following the termination of the Commitment Termination Date, Borrower shall be permitted not more than fifteen (15) days after Borrower learns of or knows of the Material Adverse Change to cure such Material Adverse Change to the reasonable satisfaction of Lender.

8.5 ATTACHMENT. If any material portion of Borrower's assets is attached, seized, subjected to a writ or distress warrant, or is levied upon, or comes into the possession of any trustee, receiver or Person acting in a similar capacity and such attachment, seizure, writ or distress warrant or levy has not been removed, discharged or rescinded within ten (10) days, or if Borrower is enjoined, restrained, or in any way prevented by court order from continuing to conduct all or any material part of its business affairs, or if a judgment or other claim becomes a lien or encumbrance upon any material portion of Borrower's assets, or if a notice of lien, levy, or assessment is filed of record with respect to any of Borrower's assets by the United States Government, or any department, agency, or instrumentality thereof, or by any state, county, municipal, or governmental agency, and the same is not paid within ten (10) days after Borrower receives notice thereof, PROVIDED that none of the foregoing shall constitute an Event of Default where such action or event is stayed or an adequate bond has been posted pending a good faith contesting by Borrower.

8.6 OTHER AGREEMENTS. If there is a default in any agreement to which Borrower is a party with a third party or parties resulting in a right by such third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in excess of Two Hundred Fifty Thousand Dollars ($250,000).

8.7 JUDGMENTS. If a judgment or judgments for the payment of money in an amount, individually or in the aggregate, of at least Two Hundred Fifty Thousand Dollars ($250,000) shall be rendered against Borrower and shall remain unsatisfied and unstayed for a period of thirty(30) days.

8.8 REDEMPTION OR REPURCHASE. Borrower shall, after the date of this Agreement, redeem or repurchase (a) any shares of any class or series of its preferred stock or (b) more than Fifty Thousand Dollars ($50,000) in the aggregate of common stock, in each case whether pursuant to a mandatory redemption or otherwise.

8.9 MISREPRESENTATIONS. If any material misrepresentation or material misstatement exists now or hereafter in any warranty, representation, statement, or report made to Lender by Borrower or any officer, employee, agent, or director of Borrower; provided that at any time subsequent to the Commitment Date, Borrower shall be permitted thirty (30) days to cure such Default.

8.10 ENFORCEABILITY. If any Loan Document shall in any material respect cease to be, or Borrower shall assert that any Loan Document is not, a legal, valid and binding obligation of Borrower enforceable in accordance with its terms.

8.11 INVOLUNTARY BANKRUPTCY OR INSOLVENCY. If a proceeding shall have been instituted in a court having jurisdiction in the premises seeking a decree or order for relief in respect of Borrower in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or for the appointment of a receiver, liquidator, assignee, custodian, trustee (or similar official) of Borrower or for any substantial part of its property, or for the winding-up or liquidation of its affairs, and such proceeding shall remain undismissed or unstayed and in effect for a period of sixty (60) consecutive days or such court shall enter a decree or order granting the relief sought in such proceeding.

8.12 VOLUNTARY BANKRUPTCY OR INSOLVENCY. If Borrower shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, shall consent to the entry of an order for relief in an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian (or other similar official) of Borrower or for any substantial part of its property, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action in furtherance of any of the foregoing.

9. LENDER'S RIGHTS AND REMEDIES

9.1 RIGHTS AND REMEDIES. Upon the occurrence and continuance of any Event of Default, Lender shall have no further obligation to advance money or extend credit to or for the benefit of Borrower. In addition, upon the occurrence and during the continuance of an Event of Default, Lender shall have the rights, options, duties and remedies of a secured party as permitted by law and, in addition to and without limitation of the foregoing, Lender may, at its election, without notice of election and without demand, do any one or more of the following, all of which are authorized by Borrower:

(a) Declare all Obligations, whether evidenced by this Agreement, by any of the other Loan Documents, or otherwise, including the outstanding principal amount of, and accrued interest on, each Advance, immediately due and payable (PROVIDED that upon the occurrence of an Event of Default described in SECTION 8.11 or 8.12 all Obligations shall become immediately due and payable without any action by Lender);

(b) Without notice to or demand upon Borrower, make such payments and do such acts as Lender consider necessary or reasonable to protect its security interest in the Collateral. Borrower agrees to assemble the Collateral if Lender so requires, and to make the Collateral available to Lender as Lender may designate. Borrower authorizes Lender to enter the premises where the Collateral is located, to take and maintain possession of the Collateral, or any part of it, and to pay, purchase, contest, or compromise any encumbrance, charge, or lien which in Lender's determination appears to be prior or superior to its security interest and to pay all expenses incurred in connection therewith. With respect to any of Borrower's owned premises, Borrower hereby grants Lender a license to enter into possession of such premises and to occupy the same, without charge, for up to one hundred twenty (120) days in order to exercise any of Lender's rights or remedies provided herein, at law, in equity, or otherwise;

(c) Without prior notice to Borrower (provided that notice is provided to Borrower within a commercially reasonable time thereafter), set off and apply to the Obligations any and all indebtedness at any time owing to or for the credit or the account of Borrower;

(d) Ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell (in the manner provided for herein) the Collateral. Lender is hereby granted a license or other right, solely to enable Lender to exercise its rights and remedies pursuant to and in accordance with the provisions of this SECTION 9.1, to use, without charge, Borrower's labels, patents, copyrights, rights of use of any name, trade secrets, trade names, trademarks, service marks, and advertising matter, or any Property of a similar nature, as it pertains to the Collateral, in completing

production of, advertising for sale, and selling any Collateral and, in connection with Lender's exercise of its rights under this SECTION 9.1, Borrower's rights under all licenses and all franchise agreements shall inure to Lender's benefit;

(e) Sell the Collateral at either a public or private sale, or both, by way of one or more contracts or transactions, for cash or on terms, in such manner and at such places (including Borrower's premises) as Lender determines are commercially reasonable;

(f) Lender may credit bid and purchase at any public sale; and

(g) Any deficiency that exists after disposition of the Collateral as provided above will be paid immediately by Borrower.

9.2 WAIVER BY BORROWER. Upon the occurrence of an Event of Default, to the extent permitted by law, Borrower covenants that it will not at any time insist upon or plead, or

in any manner whatever claim or take any benefit or advantage of, any stay or extension of law now or at any time hereafter in force, nor claim, take nor insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisement of the Collateral or any part thereof prior to any sale or sales thereof to be made pursuant to any provision herein contained, or to the decree, judgment or order of any court of competent jurisdiction; nor, after such sale or sales, claim or exercise any right under any statute now or hereafter made or enacted by any state or otherwise to redeem the Property so sold or any part thereof.

9.3 EFFECT OF SALE. Any sale, whether under any power of sale hereby given or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of Borrower in and to the Property sold, and shall be a perpetual bar, both at law and in equity, against Borrower, its successors and assigns, and against any and all Persons claiming the Property sold or any part thereof under, by or through Borrower, its successors or assigns.

9.4 POWER OF ATTORNEY IN RESPECT OF THE COLLATERAL. Borrower does hereby irrevocably appoint Lender (which appointment is coupled with an interest) on the occurrence and during the continuance of an Event of Default, the true and lawful attorney in fact of Borrower with full power of substitution, for it and in its name: (a) to ask, demand, collect, receive, receipt for, sue for, compound and give acquittance for any and all rents, issues, profits, avails, distributions, income, payment draws and other sums in which a security interest is granted under SECTION 4 with full power to settle, adjust or compromise any claim thereunder as fully as if Lender were a Borrower itself, (b) to receive payment of and to endorse the name of Borrower to any items of Collateral (including checks, drafts and other orders for the payment of money) that come into Lender's possession or under Lender's control, (c) to make all demands, consents and waivers, or take any other action with respect to, the Collateral, (d) in Lender's discretion to file any claim or take any other action or proceedings, either in its own name or in the name of Borrower or otherwise, which Lender may reasonably deem necessary or appropriate to protect and preserve the right, title and interest of Lender in and to the Collateral, or (e) to otherwise act with respect thereto as though Lender were the outright owner of the Collateral.

9.5 LENDER'S EXPENSES. If Borrower fails to pay any amounts or furnish any required proof of payment due to third persons or entities, as required under the terms of this Agreement, then Lender may do any or all of the following: (a) make payment of the same or any part thereof; (b) set up such reserves in Borrower's loan account as Lender deems necessary to protect Lender from the exposure created by such failure; or (c) obtain and maintain insurance policies of the type discussed in SECTION 6.8 of this Agreement, and take any action with respect to such policies as Lender reasonably deems prudent. Any amounts paid or deposited by Lender shall constitute Lender's Expenses, shall be immediately due and payable, and shall bear interest at the then applicable rate hereinabove provided, and shall be secured by the Collateral. Any payments made by Lender shall not constitute an agreement by Lender to make Similar payments in the future or a waiver by Lender of any Event of Default under this Agreement.

9.6 REMEDIES CUMULATIVE. Lender's rights and remedies under this Agreement, the Loan Documents, and all other agreements shall be cumulative.

Lender shall have all other rights and remedies not inconsistent herewith as provided under the Code, by law, or in equity. No exercise by Lender of one right or remedy shall be deemed an election, and no waiver by Lender of any Event of Default on Borrower's part shall be deemed a continuing waiver. No delay by Lender shall constitute a waiver, election, or acquiescence by it.

9.7 APPLICATION OF COLLATERAL PROCEEDS. The proceeds and/or avails of the Collateral, or any part thereof, and the proceeds and the avails of any remedy hereunder (as well as any other amounts of any kind held by Lender at the time off or received by Lender after, the occurrence of an Event of Default hereunder) shall be paid to and applied as follows:

(a) FIRST, to the payment of out-of-pocket costs and expenses, including all amounts expended to preserve the value of the Collateral, of foreclosure or suit, if any, and of such sale and the exercise of any other rights or remedies, and of all proper fees, expenses, liability and advances, including reasonable legal expenses and attorneys' fees, incurred or made hereunder by Lender,

(b) SECOND, to the payment to Lender of the amount then owing or unpaid on the Advances for Scheduled Payments, the unpaid principal amount of the Advances, and all other Obligations with respect to all Advances, and in case such proceeds shall be insufficient to pay in full the whole amount so due, owing or unpaid upon the Advances, then to the unpaid interest thereon, then to the unpaid principal amount of the Advances, and then to the payment of other amounts then payable to Lender under any of the Loan Documents; and

(c) THIRD to the payment of the surplus, if any, to Borrower, its successors and assigns, or to whomsoever may be lawfully entitled to receive the same.

9.8 REINSTATEMENT OF RIGHTS. If Lender shall have proceeded to enforce any right under this Agreement or any other Loan Document by foreclosure, sale, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely, then and in every such case (unless otherwise ordered by a court of competent jurisdiction), Lender shall be restored to its former position and rights hereunder with respect to the Property subject to the security interest created under this Agreement.

10. WAIVERS; INDEMNIFICATION

10.1 DEMAND; PROTEST. Except as otherwise reserved by Borrower in the Loan Documents, Borrower waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees at any time held by Lender on which Borrower may in any way be liable.

10.2 LENDER'S LIABILITY FOR COLLATERAL. So long as Lender complies with its obligations, if any, under Section 9-207 of the Code, Lender shall not in any way or manner be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage thereto occurring or arising in any manner or fashion from any cause; (c) any diminution in the value thereof, or (d) any act or default of any carrier, warehouseman, bailee, forwarding agency, or other Person whomsoever. All risk of loss, damage or destruction of the Collateral shall be borne by Borrower.

10.3 INDEMNIFICATION. Whether or not the transactions contemplated hereby shall be consummated:

(a) GENERAL INDEMNITY. Borrower shall pay, indemnify, and hold bender and each of its officers, directors, employees, counsel, partners, agents and attorneys-in-fact (each, an "INDEMNIFIED PERSON") harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, charges, expenses or disbursements (including Lender's Expenses and reasonable attorney's fees) of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement and any other Loan Documents, or the transactions contemplated hereby and thereby, and with respect to any investigation, litigation or proceeding (including any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, dissolution or relief of debtors or any appellate proceeding) related to this Agreement or the Advances or the use of the proceeds thereof; whether or not any Indemnified Person is a party thereto (all the foregoing collectively, the "INDEMNIFIED LIABILITIES"); PROVIDED, that Borrower shall have no obligation hereunder to any Indemnified Person with respect to Indemnified Liabilities arising from the gross negligence

or willful misconduct of such Indemnified Person.

(b) SURVIVAL; DEFENSE. The obligations in this SECTION 10.3 shall survive payment of all other Obligations. At the election of any Indemnified Person, Borrower shall defend such Indemnified Person using legal counsel satisfactory to such Indemnified Person in such Person's sole discretion, at the sole cost and expense of Borrower. All amounts owing under this SECTION 10.3 shall be paid within thirty (30) days after written demand.

11. NOTICES

Unless otherwise provided in this Agreement, all notices or demands by any party relating to this Agreement or any other agreement entered into in connection herewith shall be in writing and (except for financial statements and other informational documents which may be sent by first-class mail, postage prepaid) shall be personally delivered or sent by certified mail, postage prepaid, return receipt requested, or by prepaid facsimile to Borrower or to Lender, as the case may be, at their respective addresses set forth below:

If to Borrower: NeuroMetrix, Inc.
62 Fourth Avenue
Waltham, MA 02451

Attention: Chief Financial Officer
FAX: 781-980-1556

With a copy to: Goodwin Procter LLP
53 State Street
Boston, MA 02109
Attention H. David Henken, P.C.
Fax: 617-523-1231

If to Lender: Lighthouse Capital Partners IV, LP
500 Drake's Landing Road
Greenbrae, California 94904-3011
Attention: Contract Administrator
FAX: (415) 925-3387

The parties hereto may change the address at which they are to receive notices hereunder, by notice in writing in the foregoing manner given to the other.

12. GENERAL PROVISIONS

12.1 SUCCESSORS AND ASSIGNS. This Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of each of the parties; PROVIDED, HOWEVER, that neither this Agreement nor any rights hereunder may be assigned by Borrower without Lender's prior written consent, which consent may be granted or withheld in Lender's sole discretion. Lender shall have the right without the consent of Borrower at any time after the Commitment Termination Date to sell, transfer, negotiate, or grant participations (a "Lender Assignment") in all or any part of, or any interest in such Lender's rights and benefits hereunder to a Person that is not a competitor of the Borrower and who has executed a confidentiality agreement with Borrower reasonably acceptable to Borrower; provided that Lender will provide Borrower with not less than thirty (30) days prior notice of the proposed Lender Assignment.

12.2 TIME OF ESSENCE. Time is of the essence for the performance of all obligations set forth in this Agreement.

12.3 SEVERABILITY OF PROVISIONS. Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

12.4 ENTIRE AGREEMENT; CONSTRUCTION; AMENDMENTS AND WAIVERS.

(a) This Agreement and each of the other Loan Documents dated as of the date hereof taken together, constitute and contain the entire agreement between Borrower and Lender and supersede any and all prior agreements, negotiations, correspondence,

understandings and communications between the parties, whether written or oral, respecting the subject matter hereof.

(b) This Agreement is the result of negotiations between and has been reviewed by each of Borrower and Lender executing this Agreement as of the date hereof and their respective counsel; ACCORDINGLY, this Agreement shall be deemed to be the product of the parties hereto, and no ambiguity shall be construed in favor of or against Borrower or Lender.

(c) Any and all amendments, modifications, discharges or waivers of, or consents to any departures from any provision of this Agreement or of any of the other Loan Documents shall not be effective without the written consent of Lender. Any waiver or consent with respect to any provision of the Loan Documents shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on Borrower in any case shall entitle Borrower to any other or further notice or demand in similar or other circumstances. Any amendment, modification, waiver or consent effected in accordance with this SECTION 12.4 shall be binding upon Lender and on Borrower.

12.5 RELIANCE BY LENDER. All covenants, agreements, representations and warranties made herein by Borrower shall, notwithstanding any investigation by Lender, be deemed to be material to and to have been relied upon by Lender.

12.6 NO SET-OFFS BY BORROWER. All sums payable by Borrower pursuant to this Agreement or any of the other Loan Documents shall be payable without notice or demand and shall be payable in United States Dollars without set-off or reduction of any manner whatsoever.

12.7 COUNTERPARTS. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement.

12.8 SURVIVAL. All covenants, representations and warranties made in this Agreement shall continue in full force and effect so long as any Obligations remain outstanding. The obligations of Borrower to indemnify Lender with respect to the expenses, damages, losses, costs and liabilities described in SECTION 10.3 shall survive until all applicable statute of limitations periods with respect to actions that may be brought against Lender have run.

13. TAX REPORTING. Borrower and Lender hereby acknowledge and agree that (i) the Warrant to purchase stock is part of an investment unit within the meaning of Section 1273(c)(2) of the Internal Revenue Code and that pursuant to Treas. Reg. Section 1.1273-2(h), US$100.00 of the issue price of the investment unit will be allocable to the Warrant and the balance shall be allocable to the Loans and (ii) each agrees to prepare their respective federal income tax returns in a manner consistent with the foregoing agreement.

14. RELATIONSHIP OF PARTIES. Borrower and Lender acknowledge, understand and agree that the relationship between the Borrower, on the one hand, and Lender, on the other, is, and at all times shall remain solely that of a borrower and lender. Lender shall not under any circumstances be construed to be a partner or joint venturer of Borrower or any of its Affiliates; nor shall the Lender under any circumstances be deemed to be in a relationship of confidence or trust or a fiduciary relationship with Borrower or any of its Affiliates, or to owe any fiduciary duty to Borrower or any of its Affiliates. Lender does not undertake or assume any responsibility or duty to Borrower or any of its Affiliates to select, review, inspect, supervise, pass judgment upon or otherwise inform the Borrower or any of its Affiliates of any matter in connection with its or their Property, any Collateral held by Lender or the operations of Borrower or any of its Affiliates. Borrower and each of its Affiliates shall rely entirely on their own judgment with respect to such matters, and any review, inspection, supervision, exercise of judgment or supply of information undertaken or assumed by Lender in connection with such matters is solely for the protection of Lender and neither Borrower nor any Affiliate is entitled to rely thereon.

15. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH OF BORROWER AND LENDER HEREBY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA. BORROWER AND LENDER HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

BORROWER:	LENDER:
NEUROMETRIX, INC.	LIGHTHOUSE CAPITAL PARTNERS IV, L.P.
	By: LIGHTHOUSE MANAGEMENT PARTNERS IV, L.L.C., ITS GENERAL PARTNER
By:/s/ Shai Gozani	
Name: Shai Gozani	By:/s/ Dennis Ryan
Title: President and CEO	Name: Dennis Ryan
	Title: Chief Operating Officer

Exhibit A-1 - Collateral Description
Exhibit A-2 - Control Agreement
Exhibit B - Form of Preferred Stock Warrant
Exhibit C - Form of Notice of Borrowing
Exhibit D - Form of Intellectual Property Security Agreement
Exhibit E - Form of Ancillary Documents
Exhibit F - Management Rights Letter

DISCLOSURE SCHEDULES:

Schedule 1 - Existing Liens
Schedule 2 - Subsidiaries
Schedule 3 - Permitted Investments and Permitted Indebtedness
Schedule 4 - Financial Statements
Schedule 5 - Schedule of Material Contracts
Schedule 6 - Indebtedness

EXHIBIT 10.15

THIS WARRANT HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"), OR ANY APPLICABLE STATE SECURITIES LAWS, AND. MAY NOT BE SOLD OR TRANSFERRED UNLESS SUCH SALE OR TRANSFER IS IN ACCORDANCE WITH THE REGISTRATION REQUIREMENTS OF SUCH ACT AND APPLICABLE LAWS OR SOME OTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF SUCH ACT AND APPLICABLE LAWS IS AVAILABLE WITH RESPECT THERETO.

PREFERRED STOCK PURCHASE WARRANT

Warrant No. W-1 Number of Shares: 400,000
Series E-1 Voting Convertible Preferred Stock
(subject to adjustment)

NEUROMETRIX, INC.

Effective as of May 21, 2003

Void after May 21, 2010

1. ISSUANCE. This Preferred Stock Purchase Warrant (the "WARRANT") is issued to LIGHTHOUSE CAPITAL PARTNERS IV, L.P. by NEUROMETRIX INC, a Delaware corporation (hereinafter with its successors called the "COMPANY").

2. PURCHASE PRICE; NUMBER OF SHARES.

(a) The registered holder of this Warrant (the "HOLDER"), commencing on the date hereof, is entitled upon surrender of this Warrant with the subscription form annexed hereto duly executed, at the principal office of the Company, to purchase from the Company, at a price per share of $1.50 (the "PURCHASE PRICE"), 400,000 fully paid and nonassessable shares of the Company's Series E-1 Voting Convertible Preferred Stock, $0.001 par value (the "Preferred Stock").

(b) On December 31, 2003, the number of shares of Preferred Stock issuable upon the exercise of this Warrant (the "EXERCISE QUANTITY") shall automatically and without further action on the part of the Company or the Holder be reduced to 333,333 shares in the event Company has drawn $2,000,000 or less of the Commitment Amount under the Loan Agreement.

In addition to other terms which may be defined herein, the following terms, as used in this Warrant, shall have the following meanings:

(i) "Commitment Amount " means $3,000,000.00.

(ii) "Loan Agreement" means that certain Loan and Security Agreement No. 3561 dated May 21, 2003 between the Company and Lighthouse Capital Partners IV, L.P..

Any term not defined herein shall have the meaning as set forth in the Loan Agreement.

Until such time as this Warrant is exercised in full or expires, the Purchase Price and the securities issuable upon exercise of this Warrant are subject to adjustment as hereinafter provided. The person or persons in whose name or names any certificate representing shares of Preferred Stock is issued hereunder shall be deemed to have become the holder of record of the shares represented thereby as at the close of business on the date this Warrant is exercised with respect to such shares, whether or not the transfer books of the Company shall be closed.

3. PAYMENT OF PURCHASE PRICE. The Purchase Price may be paid (i) in cash or by check, (ii) by the surrender by the Holder to the Company of any promissory notes or other obligations issued by the Company, with all such notes and obligations so surrendered being credited against the Purchase Price in an amount equal to the principal amount thereof plus accrued interest to the date of surrender, or (iii) by any combination of the foregoing.

4. NET ISSUE ELECTION. The Holder may elect to receive, without the payment by the Holder of any additional consideration, shares of Preferred Stock equal to the value of this Warrant or any portion hereof by the surrender of this Warrant or such portion to the Company, with the net issue election notice annexed hereto duly executed, at the principal office of the Company. Thereupon, the Company shall issue to the Holder such number of fully paid and nonassessable shares of Preferred Stock as is computed using the following formula:

$$X - \frac{Y(A-B)}{A}$$

where: X = the number of shares of Preferred Stock to be issued to the Holder pursuant to this SECTION 4.

Y = the number of shares of Preferred Stock covered by this Warrant in respect of which the net issue election is made pursuant to this SECTION 4.

A = the Fair Market Value (defined below) of one share of Preferred Stock, as determined at the time the net issue election is made pursuant to this SECTION 4.

B = the Purchase Price in effect under this Warrant at the time the net issue election is made pursuant to this SECTION 4.

"FAIR MARKET VALUE" of a share of Preferred Stock (or fully paid and nonassessable shares of the Company's common stock, $0.0001 par value (the "COMMON STOCK") if the Preferred Stock has been automatically converted into Common Stock) as of the date that the net issue election is made (the "DETERMINATION DATE") shall mean:

(i) If the net issue election is made in connection with and contingent upon the closing of the sale of the Company's Common Stock to the public in a public offering pursuant to a Registration Statement under the 1933 Act (a "PUBLIC OFFERING"), and if the Company's Registration Statement relating to such Public Offering ("REGISTRATION STATEMENT") has been declared effective by the Securities and Exchange Commission, then the initial "Price to Public" specified in the final prospectus with respect to such offering multiplied by the number of shares of Common Stock into which each share of Preferred Stock is then convertible.

(ii) If the net issue election is not made in connection with and contingent upon a Public Offering, then as follows:

(A) If traded on a securities exchange or the Nasdaq National Market, the fair market value of the Common Stock shall be deemed to be the average of the closing or last reported sale prices of the Common Stock on such exchange or market over the five day period ending five trading days prior to the Determination Date, and the fair market value of the Preferred Stock shall be deemed to be such fair market value of the Common Stock multiplied by the number of shares of Common Stock into which each share of Preferred Stock is then convertible;

(B) If otherwise traded in an over-the-counter market, the fair market value of the Common Stock shall be deemed to be the average of the closing ask prices of the Common Stock over the five day period ending five trading days prior to the Determinations Date, and the fair market value of the Preferred Stock shall be deemed to be such fair market value of the Common Stock multiplied by the number of shares of Common Stock into which each share of Preferred Stock is then convertible; and

(C) If there is no public market for the Common Stock, then fair market value shall be determined in good faith by the Company's Board of Directors.

5. PARTIAL EXERCISE. This Warrant may be exercised in part, and the Holder shall be entitled to receive a new warrant, which shall be dated as of the date of this Warrant, covering the number of shares in respect of which this Warrant shall not have been exercised.

6. FRACTIONAL SHARES. In no event shall any fractional share of Preferred Stock be issued upon any exercise of this Warrant. If, upon exercise of this Warrant in its entirety, the Holder would, except as provided in this Section 6, be entitled to receive a fractional share of Preferred Stock, then the Company shall issue the next higher number of full shares of Preferred Stock, issuing a full share with respect to such fractional share.

7. EXPIRATION DATE; AUTOMATIC EXERCISE. This Warrant shall expire at the close of business on the earlier to occur of (i) May 21, 2010, or (ii) two years after the closing of the initial Public Offering; of the Company on the NASDAQ or other stock exchange in the United States, and shall be void thereafter (the "EXPIRATION DATE").

Notwithstanding the term of this Warrant fixed pursuant to this Section 7, and provided Holder has received advance written notice of at least twenty (20) days and has not earlier exercised this Warrant, and provided this Warrant has not been assumed by the successor entity (or parent thereof), upon the consummation of a Merger (as defined below), this Warrant shall automatically be exercised pursuant to Section 4 hereof, without any action by Holder. "MERGER" means: (i) a sale of all or substantially all of the Company's assets to an Unaffiliated Entity (as defined below), or (ii) the merger, consolidation or acquisition of the Company with, into or by an Unaffiliated Entity (other than a merger or consolidation for the principle purpose of changing the domicile of the Company or a bona fide round of preferred stock equity financing), that results in the transfer of fifty percent (50%) or more of the outstanding voting power of the Company. "UNAFFILIATED ENTITY" means any entity that is owned or controlled by parties who own less than twenty percent (20%) of the combined voting power of the voting securities of the Company immediately prior to such merger, consolidation or acquisition. The Company agrees to promptly give the Holder written notice of any proposed Merger and written notice of termination of any proposed Merger. Notwithstanding anything to the contrary in this Warrant, the Holder may rescind any exercise of its purchase rights after a notice of termination of the proposed Merger if the exercise of this Warrant occurred after the Company notified the Holder that the Merger was proposed or if the exercise was otherwise precipitated by such proposed Merger, provided, however that such rescission right must be exercised within thirty (30) days of receipt of such written notice of termination of the proposed Merger. In the event of such rescission, this Warrant will continue to be exercisable on the same terms and conditions.

8. RESERVED SHARES; VALID ISSUANCE. The Company covenants that it will at all times from and after the date hereof reserve and keep available such number of its authorized shares of Preferred Stock and Common Stock free from all preemptive or similar rights therein, as will be sufficient to permit, respectively, the exercise of this Warrant in full and the conversion into shares of Common Stock of all shares of Preferred Stock receivable upon such exercise. The Company further covenants that such shares as may be issued pursuant to such exercise and/or conversion will, upon issuance, be duly and validly issued, fully paid and nonassessable and free from all taxes, liens and charges with respect to the issuance thereof.

9. STOCK SPLITS AND DIVIDENDS. If after the date hereof the Company shall subdivide the Preferred Stock, by split-up or otherwise, or combine the Preferred Stock, or issue additional shares of Preferred Stock in payment of a stock dividend on the Preferred Stock, the number of shares of Preferred Stock issuable on the exercise of this Warrant shall forthwith be proportionately increased in the case of a subdivision or stock dividend, or proportionately decreased in the case of a combination, and the Purchase Price shall forthwith be proportionately decreased in the cast of a subdivision or stock dividend, or proportionately increased in the case of a combination.

10. ADJUSTMENTS FOR DILUTING ISSUANCES. The other antidilution rights applicable to the Preferred Stock and the Common Stock of the Company are set forth in the Amended and Restated Certificate of Incorporation, as amended from time to time (the "ARTICLES"), a true and complete copy in its current form which is attached hereto as EXHIBIT A. Such rights shall not be restated, amended or modified in any manner which affects the Holder differently than the holders of Series E-1 Preferred without such Holder's prior written consent The Company shall

promptly provide the Holder hereof with any restatement, amendment or modification to the Articles promptly after the same has been made.

11. MERGERS AND RECLASSIFICATIONS. Except in connection with an exercise under SECTION 7, if after the date hereof the Company shall enter into any Reorganization (as hereinafter defined), then, as a condition of such Reorganization, lawful provisions shall be made, and duly executed documents evidencing the same from the Company or its successor shall be delivered to the Holder, so that the Holder shall thereafter have the right to purchase, at a total price not to exceed that payable upon the exercise of this Warrant in full, the kind and amount of shares of stock and other securities and property receivable upon such Reorganization by a holder of the number of shares of Preferred Stock which might have been purchased by the Holder immediately prior to such Reorganization, and in any such case appropriate provisions shall be made with respect to the rights and interest of the Holder to the end that the provisions hereof (including without limitation, provisions for the adjustment of the Purchase Price and the number of shares issuable hereunder and the

provisions relating to the net issue election) shall thereafter be applicable in relation to any shares of stock or other securities and property thereafter deliverable upon exercise hereof. For the purposes of this SECTION 11, the term "REORGANIZATION" shall include without limitation any reclassification, capital reorganization or change of the Preferred Stock (other than as a result of a subdivision, combination or stock dividend provided for in SECTION 9 hereof), or any consolidation of the Company with, or merger of the Company into, another corporation or other business organization (other than a merger in which the Company is the surviving corporation and which does not result in any reclassification or change of the outstanding Preferred Stock), or any sale or conveyance to another corporation or other business organization of all or substantially all of the assets of the Company.

12. CERTIFICATE OF ADJUSTMENT. Whenever the Purchase Price is adjusted, as herein provided, the Company shall promptly deliver to the Holder a certificate of the Company's chief financial officer setting forth the Purchase Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

13. NOTICES OF RECORD DATE, ETC. In the event of:

(a) any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or any statutory right to subscribe for, purchase, sell or otherwise acquire or dispose of any shares of stock of any class or any other securities or property, or to receive any other right;

(b) any reclassification of the capital stock of the Company, capital reorganization of the Company, consolidation or merger involving the Company, or sale or conveyance of all or substantially all of its assets; or

(c) any voluntary or involuntary dissolution, liquidation or winding-up of the Company;

then in each such event the Company will provide or cause to be provided to the Holder a written notice thereof. Such notice shall be provided at least twenty (20) business days prior to the date specified in such notice on which any such action is to be taken.

14. REPRESENTATIONS, WARRANTIES AND COVENANTS. This Warrant is issued and delivered by the Company and accepted by each Holder on the basis of the following representations, warranties and covenants made by the Company:

(a) The Company has all necessary authority to issue, execute and deliver this Warrant and to perform its obligations hereunder. This Warrant has been duly authorized issued, executed and delivered by the Company and is the valid and binding obligation of the Company, enforceable in accordance with its terms.

(b) The shares of Preferred Stock issuable upon the exercise of this Warrant have been duly authorized and reserved for issuance by the Company and, when issued in accordance with the teams hereof, will be validly issued, fully paid and nonassessable.

(c) The issuance, execution and delivery of this Warrant do not, and the issuance of the shares of Preferred Stock upon the exercise of this Warrant in accordance with the terms hereof will not, (i) violate or contravene the Company's Articles or by-laws, or any law, statute, regulation, rule, judgment or order applicable to the Company, (ii) violate, contravene or result in a breach of default under any contract, agreement or instrument to which the Company is a party or by which the Company or any of its assets are bound or (iii) require the consent or approval of or the filing of any notice or registration with any person or entity except for such consents or approvals as have been obtained as of the date hereof.

(d) So long as this Warrant has not terminated or any shares of Preferred Stock issued upon exercise of this Warrant are outstanding, Holder shall be entitled to receive such financial and other information as the Holder would be entitled to receive under the Stock Purchase Agreement applicable to the Preferred Stock issuable hereunder without regard or limitation with respect to minimum holdings of Preferred Stock.

(e) As of the date hereof, the authorized capital stock of the Company consists of (i) 30,000,000 shares of Common Stock, par value $0.0001 per share, of which 4,137,208 shares are issued and outstanding and 23,589,151 shares have been reserved for issuance upon conversion of Preferred Stock (including 400,000 shares reserved for issuance upon conversion of shares of

Series E-1 Voting Convertible Preferred Stock issuable upon exercise of this Warrant with respect to Preferred Stock or for issuance upon exercise of this Warrant with respect to Common Stock) and (ii) 21,164,763 shares of Preferred Stock, par value $0.001 per share, of which (A) 875,000 shares have been designated as Series A Voting Convertible Preferred Stock, all of which shares are issued and outstanding, (B) 625,000 shares have been designated as Series B Voting Convertible Preferred Stock, all of which shares are issued and outstanding, (C) 2,850,000 shares have been designated as Series C-1 Voting Convertible Preferred Stock, all of which shares are issued and outstanding, (D) 1,148,100 shares have been designated as Series C-2 Non Voting Convertible Preferred Stock, all of which shares are issued and outstanding, (E) 6,222,220 shares have been designated as Series D Voting Convertible Preferred Shock, all of which shares are issued or outstanding, (F) 7,111,110 shares have been

designated as Series E Voting Convertible Preferred Stock, of which 4,444,445 shares are issued and outstanding, and (G) 2,333,334 shares have been designated as Series E-1 Voting Convertible Preferred Stock, of which 1,333,334 shares are issued and outstanding and 400,000 shares have been reserved for issuance upon exercise of this Warrant Attached hereto as EXHIBIT B is a capitalization table summarizing the capitalization of the Company. Once per calendar quarter, the Company will provide Holder with a current capitalization table indicating changes, if any, to the number of outstanding shares of common stock and preferred stock.

15. REGISTRATION RIGHTS. The Company hereby grants to the Holder, on a pari passu basis with all other parties thereto, all the registration and related rights of a "holder of Registrable Shares" under Section 9 of that certain Series E-1 Convertible Preferred Stock Purchase Agreement, dated as of December 20, 2002, as amended from time to time, among the Company and the other parties thereto (the "RIGHTS AGREEMENT"), and agrees that any and all shares of Common Stock held by the Holder issued or issuable upon conversion of the shares of Preferred Stock issued or issuable upon the exercise of this Warrant (or, if this Warrant becomes a warrant to purchase shares of Common Stock, Common Stock issued or issuable upon the exercise of this Warrant) shall be "Registrable Shares" within the meaning of the Rights Agreement. The Holder agrees to comply with all obligations of a holder of Registrable Shares under the provisions of the Rights Agreement, including without limitation the "Lock-Up" and Market Standstill provisions in Section 9.13 of the Rights Agreement.

16. AMENDMENT. The terms of this Warrant may be amended, modified or waived only with the written consent of the Holder and the Company.

17. REPRESENTATIONS AND COVENANTS OF THE HOLDER. This Warrant has been entered into by the Company in reliance upon the following representations and covenants of the Holder, which by its execution hereof the Holder hereby confirms:

(a) INVESTMENT PURPOSE. The right to acquire Preferred Stock or the Preferred Stock issuable upon exercise of the Holder's rights contained herein will be acquired for investment and not with a view to the sale or distribution of any part thereof, and the Holder has no present intention of selling or engaging in any public distribution of the same except pursuant to a registration or exemption.

(b) ACCREDITED INVESTOR. Holder is an "accredited investor'" within the meaning of the Securities and Exchange Rule 501 of Regulation D, as presently in effect.

(c) PRIVATE ISSUE. The Holder understands (i) that the Preferred Stock issuable upon exercise of the Holder's rights contained herein is not registered under the 1933 Act or qualified under applicable state securities laws on the ground that the issuance contemplated by this Warrant will be exempt from the registration and qualifications requirements thereof; and (ii) that the Company's reliance on such exemption is predicated on the representations set forth in this Section 17.

(d) SUITABILITY. The Holder confirms that the Holder understands and has fully considered for purposes of this investment the risks of this investment and understands that (i) this investment is suitable only for an investor which is able to bear the economic

consequences of losing its entire investment; (ii) the Company is an early-stage enterprise with limited operating history, and limited revenues and no net income from operations to date; (iii) the purchase of the Warrant and the purchase of the shares of Preferred Stock issuable on exercise of this Warrant

is a speculative investment which involves a high degree of risk of loss of the entire investment; and (iv) there are substantial restrictions on the transferability of, and there will be no public market for, the shares of Preferred Stock, and accordingly, it may not be possible for the Holder to liquidate its investment.

(e) LACK OF LIQUIDITY. The Holder confirms that it is able (i) to bear the economic risk of this investment (ii) to hold the Warrant and any shares of Preferred Stock purchased by the Holder hereunder for an indefinite period of time, and (iii) presently to afford a complete loss of the Holder's investment.

(f) FINANCIAL RISK. The Holder has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of its investment and has the ability to bear the economic risks of its investment.

(g) ACCESS TO MANAGEMENT. The Holder confirms that, in making the Holder's decision to acquire the Warrant or purchase shares of Preferred Stock (or Common Stock) pursuant to the Warrant, the Holder has relied solely upon independent investigations made by the Holder, and that the Holder has been given the opportunity to ask questions of, and to receive answers from, management or other persons acting on behalf of the Company concerning the Company and the terms and conditions of this investment, and to obtain any additional information, to the extent such persons possess such information

(h) JURISDICTION OF ORGANIZATION. The Holder has its principal place of business in the State of California.

(i) AUTHORITY. The Holder has full power and authority to execute, deliver and perform the Warrant in accordance with its terms. The Holder has not been organized, reorganized, or recapitalized specifically for the purpose of investing in the Company.

18. NOTICES, TRANSFERS, ETC.

(a) Any notice or written communication required or permitted to be given to the Holder may be given by certified mail or delivered to the Holder at the address most recently provided by the Holder to the Company.

(b) Subject to compliance with applicable federal and state securities laws, this Warrant may be transferred by the Holder with respect to (i) an affiliate, any or all of the shares purchasable hereunder, and (ii) with respect to a person that is not an affiliate, all, but not less than all of the shares purchasable hereunder, provided such transferee is not a competitor of the Company or an affiliate of such a competitor. Upon surrender of this Warrant to the Company, together with (i) the assignment notice annexed hereto duly executed, for transfer of this Warrant in whole or in part by the Holder, (ii) an executed assignment and assumption agreement whereby the transferee agrees to be bound by all the terms of this Warrant, (iii) a certificate of the transferee representing to the Company that the representations and warranties of the Holder in SECTION 16 are true and correct with respect the transferee as of the date of

transfer, and (iv) if requested by the Company or its transfer agent, a legal opinion addressed to the Company concluding that the transfer is exempt from the registration requirements of the Securities Act of 1933, as amended, the Company shall issue a new warrant of the same denomination to the assignee. Upon surrender of this Warrant to the Company, together with the assignment hereof properly endorsed by the Holder for transfer with respect to a portion of the shares of Preferred Stock purchasable hereunder, the Company shall issue a new warrant to the assignee, in such denomination as shall be requested by the Holder hereof, and shall issue to such Holder a new warrant covering the number of shares in respect of which this Warrant shall not have been transferred.

(c) In case this Warrant shall be mutilated, lost, stolen or destroyed the Company shall issue a new warrant of like tenor and denomination and deliver the same (i) in exchange and substitution for and upon surrender and cancellation of any mutilated Warrant, or (it) in lieu of any Warrant lost, stolen or destroyed, upon receipt of an affidavit of the Holder and indemnity reasonably acceptable to the Company and other evidence reasonably satisfactory to the Company of the loss, theft or destruction of such Warrant.

19. GOVERNING LAW. The provisions and terms of this Warrant shall be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to its principles regarding conflicts of laws.

20. SUCCESSORS AND ASSIGNS. This Warrant shall be binding upon the

Company's successors and assigns and shall inure to the benefit of the Holder's successors, legal representatives and permitted assigns.

21. BUSINESS DAYS. If the last or appointed day for the taking of any action required or the expiration of any rights granted herein shall be a Saturday or Sunday or a legal holiday in California, then such action may be taken or right may be exercised on the next succeeding day which is not a Saturday or Sunday or such a legal holiday.

22. CONVERSION TO COMMON STOCK WARRANT. If, for any reason, all outstanding shares of Preferred Stock are converted into shares of Common Stock prior to the exercise in full of this Warrant (a "Common Stock Conversion"), then, effective upon such conversion, this Warrant shall automatically and without any further action on the part of the Company or the Holder become a Warrant for the purchase of shares of Common Stock. The Holder shall thereupon have the right to purchase that number of shares of Common Stock equal to the number of shares of Common Stock which would have been receivable by the Holder if the Holder had exercised this Warrant for shares of Preferred Stock immediately prior to the Common Stock Conversion and had participated in the Common Stock Conversion (the "Common Stock Number"), at a price per share of Common Stock equal to (x) the total, price payable upon the exercise of this Warrant in full, divided by (y) the Common Stock Number. In such event appropriate provisions shall be made with respect to the rights and interest of the Holder to the end that the provisions hereof (including, without limitation, the provisions for the adjustment of the Purchase Price and of the number of shares purchasable upon exercise of this Warrant) shall thereafter be applicable to any shares of Common Stock deliverable upon the exercise hereof.

23. VALUE. The Company and the Holder agree that the value of this Warrant on the date of grant is $100.

Dated: May 21, 2003

NEUROMETRIX, INC.

By: /s/ Shai N. Gozani

Name: Shai N. Gozani

Title: President and CEO

SUBSCRIPTION

To: _____

Date: _____

The undersigned hereby subscribes for _____ shares of Preferred Stock covered by this Warrant. The certificate(s) for such shares shall be issued in the name of the undersigned or as otherwise indicated below:

Signature

Name for Registration

Mailing Address

NET ISSUE ELECTION NOTICE

To: _____ Date: _____

The undersigned hereby elects under SECTION 4 to surrender the right to purchase

shares of Preferred Stock pursuant to this Warrant. The certificate(s) for such shares issuable upon such net issue election shall be issued in the name of the undersigned or as otherwise indicated below:

Signature

Name for Registration

Mailing Address

ASSIGNMENT

For value received _____ hereby sells, assigns and transfers unto _____ [Please print or typewrite name and address of Assignee] the within Warrant, and does hereby irrevocably constitute and appoint _____ its attorney to transfer the within Warrant on the books of the within named Company with full power of substitution on the premises.

Dated:

Signature

Name for Registration

In the Presence of:

EXHIBIT 10.17

NEUROMETRIX, INC.

NON-STATUTORY STOCK OPTION AGREEMENT (1998 PLAN)

NeuroMetrix, Inc., a Delaware corporation (the "Company") hereby grants to Shai N. Gozani, M.D., Ph.D. presently of 187 Mason Terrace, Brookline, Massachusetts (the "Grantee"), an option (the "Option") to purchase 1,500,000 shares of the Company's Common Stock, pursuant to the Company's 1998 Equity Incentive Plan, as amended (the "Plan"), a copy of which is attached hereto and is incorporated herein in its entirety by this reference. The Grantee hereby accepts the Option granted subject to the terms and provisions set forth in the Plan and the following additional terms and provisions:

1. The Option is a non-statutory stock option.

2. The price at which shares of Common Stock may be purchased pursuant to the Option is $1.50 per share, unless the Company consummates an initial public offering of its Common Stock on or before December 31, 2004 ("IPO") in which the offering price per share is greater than $1.50 (equitably adjusted in the event of any stock split, stock dividend, combination, reclassification, recapitalization, reorganization or other similar event), in which case the applicable purchase price shall be the IPO price per share. The price and the number of shares are also subject to adjustment as provided in the Plan.

3. (a) No portion of this Option may be exercised until such portion shall have become exercisable. Subject to the provisions of Sections (c), (d) and (e) hereof, the Option shall become exercisable according to the following schedule: (i) prior to the first anniversary of the Vesting Start Date (as defined below), the Option may not be exercised; and (ii) commencing on the first anniversary of the Vesting Start Date, the Option will be exercisable to the extent of one sixteenth (1/16th) of the total number of shares covered hereby for each full calendar quarter following the Vesting Start Date that Grantee has been employed by the Company, or a subsidiary of the Company, less the number of shares as to which this Option has been previously exercised. On any given date, the portion of the Option that is then exercisable is referred to as the "Vested Amount." Notwithstanding any of the other provisions of the Option, no portion of the Option may be exercised after the tenth anniversary of the Vesting Start Date (the "Expiration Date"). The "Vesting Start Date" is June 21, 2004.

(b) The Option may be exercised to the extent of the Vested Amount at any time on or before the Expiration Date, regardless of whether the Grantee's employment with the Company and its subsidiaries has terminated for any reason.

(c) If a Sale (as defined in the Employment Agreement, dated as of June 21, 2004, by and between the Grantee and the Company (the "Employment Agreement")) occurs within one year of the Vesting Start Date and prior to the termination of the Grantee's employment with the Company and all of its subsidiaries, then, subject to the consummation of the Sale, the Vested Amount will equal one-half of the total number of shares covered hereby. If a Sale occurs on or after the first anniversary of the Vesting Start Date and prior to the termination of the Grantee's employment with the Company and all of its subsidiaries, then,

subject to the consummation of the Sale, the Vested Amount will be increased by one-fourth of the total number of shares covered hereby, provided that the Vested Amount will not exceed the total number of shares covered hereby, less the number of shares as to which this Option has been previously exercised.

(d) If the Company terminates the Grantee without Cause (as defined in the Employment Agreement) or if the Grantee terminates his employment due to a Deemed Termination Event (as defined in the Employment Agreement) at any time after the date hereof, then the Vested Amount will equal one-fourth of the total number of shares covered hereby plus an additional one sixteenth (1/16th) of the total number of shares covered hereby for each full calendar quarter following the Vesting Start Date that Grantee has been employed by the Company, or a subsidiary of the Company, less the number of shares as to which this Option has been previously exercised; provided that the Vested Amount may not exceed the total number of shares covered hereby, less the number of shares as to which this Option has been previously exercised.

(e) If (i) the Company terminates the Grantee without Cause, (ii) the Grantee terminates his employment due to a Deemed Termination Event, or (iii) the Grantee is terminated as a result of his death or Disability (as defined in the Employment Agreement), and a Sale occurs within nine months after the

effective date of a termination described in (i), (ii) or (iii) above, then, subject to the consummation of the Sale, the Option will become fully exercisable for the total number of shares covered hereby, less the number of shares as to which the Option has been previously exercised.

(f) If the Company terminates the Grantee for Cause or the Grantee terminates the Employment Agreement other than due to a Deemed Termination Event, then the Option will immediately expire with respect to all shares other than the Vested Amount on the date of termination.

WARNING: THE OPTION EXERCISE PERIOD MAY BE CUT SHORT IN THE EVENT OF A CHANGE IN CONTROL OF THE COMPANY. SEE SECTION 11.4 OF THE PLAN.

4. The Option shall not be exercisable unless either (a) a registration statement under the Securities Act of 1933, as amended, with respect to the Option and the shares to be issued on the exercise thereof shall have become, and continue to be, effective, or (b) the Grantee (i) shall have represented, warranted and agreed, in form and substance satisfactory to the Company, at the time of exercising the Option, that he or she is acquiring the shares for his or her own account, for investment and not with a view to or in connection with any distribution, (ii) shall have agreed to restrictions on transfer in form and substance satisfactory to the Company and (iii) shall have agreed to an endorsement which makes appropriate reference to such representations, warranties, agreements and restrictions on the certificate(s) representing the shares.

SHARES ISSUED UPON EXERCISE OF THE OPTION WILL BE SUBJECT TO ALL RESTRICTIONS ON TRANSFER IMPOSED BY THE COMPANY'S CERTIFICATE OF

INCORPORATION, AS AMENDED, OR BY LAWS, AS AMENDED, BY STOCKHOLDERS AGREEMENT OR BY APPLICABLE STATE OR FEDERAL SECURITIES LAWS.

5. The Option may be exercised, subject to such conditions as the Company's Board of Directors may require in accordance with the Plan, by the giving of written notice, by certified or registered mail, to the Company's Treasurer at its principal place of business of the election to purchase shares pursuant hereto, which notice shall specify the number of shares to be so purchased, accompanied by full payment for the shares purchased, together with any tax or excise due in respect of issue of such shares, in cash, by certified or bank cashier's check or by assigning and surrendering to the Company shares of Common Stock which have been owned by the Grantee for at least six months prior to the date of assignment, with the Fair Market Value (as defined in the Plan) of those shares being credited by the Company against payment of the applicable option exercise price.

6. Notwithstanding anything to the contrary contained herein, no shares shall be issued to the Grantee pursuant to the Option until the Company and the Grantee have made appropriate arrangements for the withholding of applicable income taxes, if any, attributable to the exercise of the Option with respect to such shares, and the Company may require the Grantee to make a cash payment to the Company in the amount of such taxes required to be withheld.

7. In the event the Company proposes an initial public offering of any of its equity securities pursuant to a registration statement under the Securities Act (whether for its own account or the account of others), and if requested in writing by the Company and an underwriter of the proposed offering of common stock or other securities of the Company to sign any "Lock-Up Agreement (the "Lock-Up Agreement"), the Grantee shall agree to sign the Lock-Up Agreement whereby he or she shall not sell, grant any option or right to buy or sell, or otherwise transfer or dispose of in any manner, to the public in open market transactions, any Shares or other equity securities of the Company acquired upon exercise of this Option and held by such Grantee during whatever time period is requested by the Company and the underwriter for restrictions on trading or transfer (the "Lock-Up Period") following the effective date of the registration statement of the Company filed under the Securities Act. The Company may impose stop-transfer instructions with respect to the securities subject to the foregoing restrictions until the end of the Lock-Up Period. Such Lock-Up Period shall not exceed 180 days in length.

THE OPTION IS NOT TRANSFERABLE BY THE GRANTEE OTHERWISE THAN BY WILL OR THE LAWS OF DESCENT AND DISTRIBUTION AND, DURING THE LIFETIME OF THE GRANTEE, MAY BE EXERCISED ONLY BY THE GRANTEE.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of June 21, 2004.

NEUROMETRIX, INC.

By: /s/ Nicholas J. Alessi

Authorized Signature

ACCEPTED:

/s/ Shai N. Gozani

Shai N. Gozani, M.D., Ph.D., Grantee

NEUROMETRIX, INC.

1998 EQUITY INCENTIVE PLAN

OPTION EXERCISE FORM

TO: Treasurer, NEUROMETRIX, INC.

FROM: _____

I elect to exercise my option to purchase shares of NEUROMETRIX, INC., common stock as follows:

Date of Option Grant: _____

Exercise Price: $_____ per share

Number of Shares to be Purchased: _____

Total Exercise Price Enclosed (Cash or Check): $_____

Total Number of Shares Enclosed for Transfer: _____

Full payment, in cash, certified check, bank cashier's check or shares of Common Stock that have been owned by me for at least six months (duly enclosed for transfer or together with instruments of transfer), for the shares I am electing to purchase is enclosed with this notice. I understand that issuance of the purchased shares may be conditioned on my payment of any tax or excise due thereon and on fulfillment of requirements specified in Section 6 of the Stock Option Agreement between NEUROMETRIX, INC., and me.

Optionholder's Signature

Date:

Received by:

- ---

Date:

EXHIBIT 10.18

SECOND AMENDMENT TO AMENDED AND RESTATED 1998 EQUITY INCENTIVE PLAN

The NeuroMetrix, Inc. Amended and Restated 1998 Equity Incentive Plan, as amended (the "Plan"), is hereby amended as follows:

Section 5.1 of the Plan is hereby deleted in its entirety and replaced with the following:

> 5.1 NUMBER OF SHARES. Awards may be made under the Plan for up to 5,000,000 Shares, of which up to 5,000,000 Shares may be ISOs. Shares issued under the Plan may consist in whole or in part of authorized but unissued Shares or treasury Shares.

This amendment shall be effective as of the date on which it is approved by the stockholders of NeuroMetrix, Inc.

APPROVED BY BOARD: June 2, 2004

APPROVED BY STOCKHOLDERS: June 18, 2004

EXHIBIT 10.20

INDEMNIFICATION AGREEMENT

This Agreement made and entered into this 21st day of June, 2004 (the "Agreement"), by and between NeuroMetrix, Inc., a Delaware corporation (the "Company," which term shall include, where appropriate, any Entity (as hereinafter defined) controlled directly or indirectly by the Company) and Shai N. Gozani, M.D., Ph.D. (the "Indemnitee"):

WHEREAS, it is essential to the Company that it be able to retain and attract as directors and executive officers the most capable persons available;

WHEREAS, increased corporate litigation has subjected directors and executive officers to litigation risks and expenses, and the limitations on the availability of directors and officers liability insurance have made it increasingly difficult for the Company to attract and retain such persons;

WHEREAS, the Company's By-laws (the "By-laws") require it to indemnify its directors and officers to the fullest extent permitted by law and permit it to make other indemnification arrangements and agreements;

WHEREAS, the Company desires to provide Indemnitee with specific contractual assurance of Indemnitee's rights to full indemnification against litigation risks and expenses (regardless, among other things, of any amendment to or revocation of the By-laws or any change in the ownership of the Company or the composition of its Board of Directors);

WHEREAS, the Company intends that this Agreement provide Indemnitee with greater protection than that which is provided by the Company's By-laws; and

WHEREAS, Indemnitee is relying upon the rights afforded under this Agreement in continuing as a director and executive officer of the Company.

NOW, THEREFORE, in consideration of the promises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

1. DEFINITIONS.

(a) "Corporate Status" describes the status of a person who is serving or has served (i) as a director or officer of the Company, (ii) in any capacity with respect to any employee benefit plan of the Company, or (iii) as a director, partner, trustee, officer, employee, or agent of any other Entity at the request of the Company. For purposes of subsection (iii) of this Section 1(a), if Indemnitee is serving or has served as a director, partner, trustee, officer, employee or agent of a Subsidiary, Indemnitee shall be deemed to be serving at the request of the Company.

(b) "Entity" shall mean any corporation, partnership, limited liability company, joint venture, trust, foundation, association, organization or other legal entity.

(c) "Expenses" shall mean all fees, costs and expenses incurred by Indemnitee in connection with any Proceeding (as defined below), including, without limitation, attorneys' fees, disbursements and retainers (including, without limitation, any such fees, disbursements and retainers incurred by Indemnitee pursuant to Sections 10 and 11(c) of this Agreement), fees and disbursements of expert witnesses, private investigators and professional advisors (including, without limitation, accountants and investment bankers), court costs, transcript costs, fees of experts, travel expenses, duplicating, printing and binding costs, telephone and fax transmission charges, postage, delivery services, secretarial services, and other disbursements and expenses.

(d) "Indemnifiable Expenses," "Indemnifiable Liabilities" and "Indemnifiable Amounts" shall have the meanings ascribed to those terms in Section 3(a) below.

(e) "Liabilities" shall mean judgments, damages, liabilities, losses, penalties, excise taxes, fines and amounts paid in settlement.

(f) "Proceeding" shall mean any threatened, pending or completed claim, action, suit, arbitration, alternate dispute resolution process, investigation, administrative hearing, appeal, or any other

proceeding, whether civil, criminal, administrative, arbitrative or investigative, whether formal or informal, including a proceeding initiated by Indemnitee pursuant to Section 10 of this Agreement to enforce Indemnitee's rights hereunder.

(g) "Subsidiary" shall mean any corporation, partnership, limited liability company, joint venture, trust or other Entity of which the Company owns (either directly or through or together with another Subsidiary of the Company) either (i) a general partner, managing member or other similar interest or (ii) (A) 50% or more of the voting power of the voting capital equity interests of such corporation, partnership, limited liability company, joint venture or other Entity, or (B) 50% or more of the outstanding voting capital stock or other voting equity interests of such corporation, partnership, limited liability company, joint venture or other Entity.

2. SERVICES OF INDEMNITEE. In consideration of the Company's covenants and commitments hereunder, Indemnitee agrees to serve or continue to serve as a director of the Company. However, this Agreement shall not impose any obligation on Indemnitee or the Company to continue Indemnitee's service to the Company beyond any period otherwise required by law or by other agreements or commitments of the parties, if any.

3. AGREEMENT TO INDEMNIFY. The Company agrees to indemnify Indemnitee as follows:

(a) PROCEEDINGS OTHER THAN BY OR IN THE RIGHT OF THE COMPANY. Subject to the exceptions contained in Section 4(a) below, if Indemnitee was or is a party or is threatened to be made a party to any Proceeding (other than an action by or in the right of the Company) by reason of Indemnitee's Corporate Status, Indemnitee shall be indemnified by the Company against all Expenses and Liabilities incurred or paid by Indemnitee in connection with such Proceeding (referred to herein as "Indemnifiable Expenses" and "Indemnifiable Liabilities," respectively, and collectively as "Indemnifiable Amounts").

(b) PROCEEDINGS BY OR IN THE RIGHT OF THE COMPANY. Subject to the exceptions contained in Section 4(b) below, if Indemnitee was or is a party or is threatened to be made a party to any Proceeding by or in the right of the Company by reason of Indemnitee's Corporate Status, Indemnitee shall be indemnified by the Company against all Indemnifiable Expenses.

(c) CONCLUSIVE PRESUMPTION REGARDING STANDARD OF CARE. In making any determination required to be made under Delaware law with respect to entitlement to indemnification hereunder, the person, persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee submitted a request therefor in accordance with Section 5 of this Agreement, and the Company shall have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption.

4. EXCEPTIONS TO INDEMNIFICATION. Indemnitee shall be entitled to indemnification under Sections 3(a) and 3(b) above in all circumstances other than with respect to any specific claim, issue or matter involved in the Proceeding out of which Indemnitee's claim for indemnification has arisen, as follows:

(a) PROCEEDINGS OTHER THAN BY OR IN THE RIGHT OF THE COMPANY. If indemnification is requested under Section 3(a) and it has been finally adjudicated by a court of competent jurisdiction that, in connection with such specific claim, issue or matter, Indemnitee failed to act (i) in good faith and (ii) in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, or, with respect to any criminal Proceeding, Indemnitee had reasonable cause to believe that Indemnitee's conduct was unlawful, Indemnitee shall not be entitled to payment of Indemnifiable Amounts hereunder.

(b) PROCEEDINGS BY OR IN THE RIGHT OF THE COMPANY. If indemnification is requested under Section 3(b) and

(i) it has been finally adjudicated by a court of competent jurisdiction that, in connection with such specific claim, issue or matter, Indemnitee failed to act (A) in good faith and (B) in a manner Indemnitee reasonably

believed to be in or not opposed to the best interests of the Company, Indemnitee shall not be entitled to payment of Indemnifiable Expenses hereunder; or

(ii) it has been finally adjudicated by a court of competent jurisdiction that Indemnitee is liable to the Company with respect to such specific claim, Indemnitee shall not be entitled to payment of Indemnifiable Expenses hereunder with respect to such claim, issue or matter unless the Court of Chancery or another court in which such Proceeding was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification for such Indemnifiable Expenses which such court shall deem proper; or

(iii) it has been finally adjudicated by a court of competent jurisdiction that Indemnitee is liable to the Company for an accounting of profits made from the purchase or sale by the Indemnitee of securities of the Company pursuant to the provisions of Section 16(b) of the Securities Exchange Act of 1934, the rules and regulations promulgated thereunder and amendments thereto or similar provisions of any federal, state or local statutory law, Indemnitee shall not be entitled to payment of Indemnifiable Expenses hereunder.

(c) INSURANCE PROCEEDS. To the extent payment is actually made to the Indemnitee under a valid and collectible insurance policy in respect of Indemnifiable Amounts in connection with such specific claim, issue or matter, Indemnitee shall not be entitled to payment of Indemnifiable Amounts hereunder except in respect of any excess beyond the amount of payment under such insurance.

5. PROCEDURE FOR PAYMENT OF INDEMNIFIABLE AMOUNTS. Indemnitee shall submit to the Company a written request specifying the Indemnifiable Amounts for which Indemnitee seeks payment under Section 3 of this Agreement and the basis for the claim. The Company shall pay such Indemnifiable Amounts to Indemnitee within sixty (60) calendar days of receipt of the request. At the request of the Company, Indemnitee shall furnish such documentation and information as are reasonably available to Indemnitee and necessary to establish that Indemnitee is entitled to indemnification hereunder.

6. INDEMNIFICATION FOR EXPENSES OF A PARTY WHO IS WHOLLY OR PARTLY SUCCESSFUL. Notwithstanding any other provision of this Agreement, and without limiting any such provision, to the extent that Indemnitee is, by reason of Indemnitee's Corporate Status, a party to and is successful, on the merits or otherwise, in any Proceeding, Indemnitee shall be indemnified against all Expenses reasonably incurred by Indemnitee or on Indemnitee's behalf in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with each successfully resolved claim,

issue or matter. For purposes of this Agreement, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, by reason of settlement, judgment, order or otherwise, shall be deemed to be a successful result as to such claim, issue or matter.

7. EFFECT OF CERTAIN RESOLUTIONS. Neither the settlement or termination of any Proceeding nor the failure of the Company to award indemnification or to determine that indemnification is payable shall create a presumption that Indemnitee is not entitled to indemnification hereunder. In addition, the termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, had reasonable cause to believe that Indemnitee's action was unlawful.

8. AGREEMENT TO ADVANCE EXPENSES; UNDERTAKING. The Company shall advance all Expenses incurred by or on behalf of Indemnitee in connection with any Proceeding, including a Proceeding by or in the right of the Company, in which Indemnitee is involved by reason of such Indemnitee's Corporate Status within ten (10) calendar days after the receipt by the Company of a written statement

from Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. To the extent required by Delaware law, Indemnitee hereby undertakes to repay any and all of the amount of Indemnifiable Expenses paid to Indemnitee if it is finally determined by a court of competent jurisdiction that Indemnitee is not entitled under this Agreement to indemnification with respect to such Expenses. This undertaking is an unlimited general obligation of Indemnitee.

9. PROCEDURE FOR ADVANCE PAYMENT OF EXPENSES. Indemnitee shall submit to the Company a written request specifying the Indemnifiable Expenses for which Indemnitee seeks an advancement under Section 8 of this Agreement, together with documentation evidencing that Indemnitee has incurred such Indemnifiable Expenses. Payment of Indemnifiable Expenses under Section 8 shall be made no later than ten (10) calendar days after the Company's receipt of such request.

10. REMEDIES OF INDEMNITEE.

(a) RIGHT TO PETITION COURT. In the event that Indemnitee makes a request for payment of Indemnifiable Amounts under Sections 3 and 5 above or a request for an advancement of Indemnifiable Expenses under Sections 8 and 9 above and the Company fails to make such payment or advancement in a timely manner pursuant to the terms of this Agreement, Indemnitee may petition the Court of Chancery to enforce the Company's obligations under this Agreement.

(b) BURDEN OF PROOF. In any judicial proceeding brought under Section 10(a) above, the Company shall have the burden of proving that Indemnitee is not entitled to payment of Indemnifiable Amounts hereunder.

(c) EXPENSES. The Company agrees to reimburse Indemnitee in full for any Expenses incurred by Indemnitee in connection with investigating, preparing for,

litigating, defending or settling any action brought by Indemnitee under Section 10(a) above, or in connection with any claim or counterclaim brought by the Company in connection therewith, whether or not Indemnitee is successful in whole or in part in connection with any such action.

(d) FAILURE TO ACT NOT A DEFENSE. The failure of the Company (including its Board of Directors or any committee thereof, independent legal counsel, or stockholders) to make a determination concerning the permissibility of the payment of Indemnifiable Amounts or the advancement of Indemnifiable Expenses under this Agreement shall not be a defense in any action brought under Section 10(a) above, and shall not create a presumption that such payment or advancement is not permissible.

11. DEFENSE OF THE UNDERLYING PROCEEDING.

(a) NOTICE BY INDEMNITEE. Indemnitee agrees to notify the Company promptly upon being served with any summons, citation, subpoena, complaint, indictment, information, or other document relating to any Proceeding which may result in the payment of Indemnifiable Amounts or the advancement of Indemnifiable Expenses hereunder; provided, however, that the failure to give any such notice shall not disqualify Indemnitee from the right, or otherwise affect in any manner any right of Indemnitee, to receive payments of Indemnifiable Amounts or advancements of Indemnifiable Expenses unless the Company's ability to defend in such Proceeding is materially and adversely prejudiced thereby.

(b) DEFENSE BY COMPANY. Subject to the provisions of the last sentence of this Section 11(b) and of Section 11(c) below, the Company shall have the right to defend Indemnitee in any Proceeding which may give rise to the payment of Indemnifiable Amounts hereunder; provided, however that the Company shall notify Indemnitee of any such decision to defend within ten (10) calendar days of receipt of notice of any such Proceeding under Section 11(a) above. The Company shall not, without the prior written consent of Indemnitee, consent to the entry of any judgment against Indemnitee or enter into any settlement or compromise which (i) includes an admission of fault of Indemnitee or (ii) does not include, as an unconditional term thereof, the full release of Indemnitee from all liability in respect of such Proceeding, which release shall be in form and substance reasonably satisfactory to Indemnitee. This Section 11(b) shall not apply to a Proceeding brought by Indemnitee under Section 10(a) above or pursuant

to Section 19 below.

(c) INDEMNITEE'S RIGHT TO COUNSEL. Notwithstanding the provisions of Section 11(b) above, if in a Proceeding to which Indemnitee is a party by reason of Indemnitee's Corporate Status, (i) Indemnitee reasonably concludes that he or she may have separate defenses or counterclaims to assert with respect to any issue which may not be consistent with the position of other defendants in such Proceeding, (ii) a conflict of interest or potential conflict of interest exists between Indemnitee and the Company, or (iii) if the Company fails to assume the

defense of such proceeding in a timely manner, Indemnitee shall be entitled to be represented by separate legal counsel of Indemnitee's choice at the expense of the Company. In addition, if the Company fails to comply with any of its obligations under this Agreement or in the event that the Company or any other person takes any action to declare this Agreement void or unenforceable, or institutes any action, suit or proceeding to deny or to recover from Indemnitee the benefits intended to be provided to Indemnitee hereunder, Indemnitee shall have the right to retain counsel of Indemnitee's choice, at the expense of the Company, to represent Indemnitee in connection with any such matter.

12. REPRESENTATIONS AND WARRANTIES OF THE COMPANY. The Company hereby represents and warrants to Indemnitee as follows:

(a) AUTHORITY. The Company has all necessary power and authority to enter into, and be bound by the terms of, this Agreement, and the execution, delivery and performance of the undertakings contemplated by this Agreement have been duly authorized by the Company.

(b) ENFORCEABILITY. This Agreement, when executed and delivered by the Company in accordance with the provisions hereof, shall be a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or similar laws affecting the enforcement of creditors' rights generally.

13. INSURANCE. The Company shall, from time to time, make the good faith determination whether or not it is practicable for the Company to obtain and maintain a policy or policies of insurance with a reputable insurance company providing the Indemnitee with coverage for losses from wrongful acts. For so long as Indemnitee shall remain a director or officer of the Company and with respect to any such prior service, in all policies of director and officer liability insurance, Indemnitee shall be named as an insured in such a manner as to provide Indemnitee the same rights and benefits as are accorded to the most favorably insured of the Company's officers and directors. Notwithstanding the foregoing, the Company shall have no obligation to obtain or maintain such insurance if the Company determines in good faith that such insurance is not reasonably available, if the premium costs for such insurance are disproportionate to the amount of coverage provided, or if the coverage provided by such insurance is limited by exclusions so as to provide an insufficient benefit. The Company shall promptly notify Indemnitee of any good faith determination not to provide such coverage.

14. CONTRACT RIGHTS NOT EXCLUSIVE. The rights to payment of Indemnifiable Amounts and advancement of Indemnifiable Expenses provided by this Agreement shall be in addition to, but not exclusive of, any other rights which Indemnitee may have at any time under applicable law, the Company's Certificate of Incorporation or By-laws, or any other agreement, vote of stockholders or directors (or a committee of directors), or otherwise, both as to action in Indemnitee's official capacity and as to action in any other capacity as a result of Indemnitee's Corporate Status.

15. SUCCESSORS. This Agreement shall be (a) binding upon all successors and assigns of the Company (including any transferee of all or a substantial portion of the business, stock and/or assets of the Company and any direct or indirect successor by merger or consolidation or otherwise by operation of law) and (b) binding on and shall inure to the benefit of the heirs, personal representatives, executors and administrators of Indemnitee. This Agreement shall continue for the benefit of Indemnitee and such heirs, personal representatives, executors and administrators after Indemnitee has ceased to have Corporate Status.

16. SUBROGATION. In the event of any payment of Indemnifiable Amounts under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of contribution or recovery of Indemnitee against other persons, and Indemnitee shall take, at the request of the Company, all reasonable action necessary to secure such rights, including the execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

17. CHANGE IN LAW. To the extent that a change in Delaware law (whether by statute or judicial decision) shall permit broader indemnification or advancement of expenses than is provided under the terms of the By-laws and this Agreement, Indemnitee shall be entitled to such broader indemnification and advancements, and this Agreement shall be deemed to be amended to such extent.

18. SEVERABILITY. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement, or any clause thereof, shall be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, in whole or in part, such provision or clause shall be limited or modified in its application to the minimum extent necessary to make such provision or clause valid, legal and enforceable, and the remaining provisions and clauses of this Agreement shall remain fully enforceable and binding on the parties.

19. INDEMNITEE AS PLAINTIFF. Except as provided in Section 10(c) of this Agreement and in the next sentence, Indemnitee shall not be entitled to payment of Indemnifiable Amounts or advancement of Indemnifiable Expenses with respect to any Proceeding brought by Indemnitee against the Company, any Entity which it controls, any director or officer thereof, or any third party, unless the Board of Directors of the Company has consented to the initiation of such Proceeding. This Section shall not apply to counterclaims or affirmative defenses asserted by Indemnitee in an action brought against Indemnitee.

20. MODIFICATIONS AND WAIVER. Except as provided in Section 17 above with respect to changes in Delaware law which broaden the right of Indemnitee to be indemnified by the Company, no supplement, modification or amendment of this Agreement shall be binding unless executed in writing by each of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions of this Agreement (whether or not similar), nor shall such waiver constitute a continuing waiver.

21. GENERAL NOTICES. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given (a) when delivered by hand, (b) when transmitted by facsimile and receipt is acknowledged, or (c) if mailed by certified

or registered mail with postage prepaid, on the third business day after the date on which it is so mailed:

(i) If to Indemnitee, to:

Shai N. Gozani, M.D., Ph.D.
187 Mason Terrace
Brookline, MA 02446
Facsimile: _____

(ii) If to the Company, to:

NeuroMetrix, Inc.
62 Fourth Avenue
Waltham, MA 02451
Facsimile: (781) 890-1556
Attention: President

or to such other address as may have been furnished in the same manner by any party to the others.

22. GOVERNING LAW; CONSENT TO JURISDICTION; SERVICE OF PROCESS. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to its rules of conflict of laws. Each of the Company and the Indemnitee hereby irrevocably and unconditionally consents to submit to the exclusive jurisdiction of the Court of Chancery of the State of Delaware and the courts of the United States of America located in the State of Delaware (the "Delaware Courts") for any litigation arising out of or relating to this Agreement and the transactions contemplated hereby (and agrees not to commence any litigation relating thereto except in such courts), waives any objection to the laying of venue of any such litigation in the Delaware Courts

and agrees not to plead or claim in any Delaware Court that such litigation brought therein has been brought in an inconvenient forum. Each of the parties hereto agrees, (a) to the extent such party is not otherwise subject to service of process in the State of Delaware, to appoint and maintain an agent in the State of Delaware as such party's agent for acceptance of legal process, and (b) that service of process may also be made on such party by prepaid certified mail with a proof of mailing receipt validated by the United States Postal Service constituting evidence of valid service. Service made pursuant to (a) or (b) above shall have the same legal force and effect as if served upon such party personally within the State of Delaware. For purposes of implementing the parties' agreement to appoint and maintain an agent for service of process in the State of Delaware, each such party does hereby appoint Corporation Service Company, 2711 Centerville Road Suite 400, Wilmington, New Castle County, Delaware 19808, as such agent and each such party hereby agrees to complete all actions necessary for such appointment.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

NEUROMETRIX, INC.

By: /s/ Nicholas J. Alessi

Name: Nicholas J. Alessi
Title: Director of Finance and Treasurer

INDEMNITEE

/s/ Shai N. Gozani

QuickLinks -- Click here to rapidly navigate through this document

Exhibit 23.2

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the use in this Amendment No. 1 to the Registration Statement on Form S-1 (No. 333-115440) of our report dated May 11, 2004 relating to the financial statements and financial statement schedule of NeuroMetrix, Inc. which appear in such Registration Statement. We also consent to the references to us under the headings "Experts" and "Selected Financial Data" in such Registration Statement.

/s/ PricewaterhouseCoopers LLP
Boston, Massachusetts
June 21, 2004

QuickLinks