

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549

Form 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the quarterly period ended March 31, 2024

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from to

Commission file number 001-37809



NeuroBo Pharmaceuticals, Inc.

(Exact name of Registrant as specified in its charter)

Delaware  
(State or other jurisdiction of incorporation or organization)

47-2389984  
(IRS Employer Identification No.)

545 Concord Avenue, Suite 210  
Cambridge, Massachusetts  
(Address of principal executive offices)

02138  
(Zip Code)

(857) 702-9600  
(Registrant's telephone number, including area code)

Not applicable  
(Former name, former address and former fiscal year, if changed since last report)

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

<u>Title of Each Class</u>	<u>Trading Symbol(s)</u>	<u>Name of Each Exchange On Which Registered</u>
Common stock, \$0.001 par value	NRBO	The Nasdaq Stock Market LLC

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

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

Large accelerated filer  Accelerated filer   
Non-accelerated filer  Smaller reporting company   
Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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

As of May 6, 2024, the registrant had 4,906,002 shares of common stock, \$0.001 par value per share, outstanding.

NEUROBO PHARMACEUTICALS, INC.

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*Unless the context requires otherwise, references in this Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2024 (this “Report”) to “we,” “us,” “the Company,” “NeuroBo” and “our” refer to NeuroBo Pharmaceuticals, Inc. (the “Company”) and its subsidiaries.*

### **Special Note Regarding Forward-Looking Statements**

This Report contains “forward-looking statements” within the meaning of the safe harbor provisions of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E the Securities Exchange Act of 1934, as amended (the “Exchange Act”). All statements that address future operating performance, events or developments that we expect or anticipate will occur in the future are forward-looking statements, including without limitation, our expectations regarding our ability to execute on our commercial strategy, the timeline for regulatory submissions, regulatory steps and potential regulatory approval of our current and future product candidates, the ability to realize the benefits of the license agreement with Dong-A ST Co. Ltd., a related party, (“Dong-A”), including the impact on future financial and operating results of NeuroBo; the cooperation of our contract manufacturers, clinical study partners and others involved in the development of our current and future product candidates; our ability to initiate clinical trials on a timely basis; our ability to recruit subjects for our clinical trials; costs related to the license agreement, known and unknown, including costs of any litigation or regulatory actions relating to the license agreement; changes in applicable laws or regulations; effects of changes to our stock price on the terms of the license agreement and any future fundraising and other risks and uncertainties described in our filings with the SEC. Forward-looking statements are based on management’s current expectations and assumptions about future events, which are inherently subject to uncertainties, risks and changes in circumstances that are difficult to predict. These statements may be identified by words such as “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “intend,” “may,” “ongoing,” “plan,” “potential,” “predict,” “project,” “should,” “will,” “would” or the negative of these terms or other comparable terminology, although not all forward-looking statements contain these words. In addition, statements that “we believe,” “we expect,” “we anticipate” and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this Report and management believes that these forward-looking statements are reasonable as and when made. However, you should not place undue reliance on forward-looking statements because they speak only as of the date when made.

Forward-looking statements are based on management’s current expectations and assumptions about future events, which are inherently subject to uncertainties, risks and changes in circumstances that are difficult to predict, including without limitation, the risks and uncertainties described in our Annual Report on Form 10-K for the fiscal year ended December 31, 2023. In some instances, you can identify forward-looking statements by words such as “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “intend,” “may,” “ongoing,” “plan,” “potential,” “predict,” “project,” “should,” “will,” “would” or the negative of these terms or other comparable terminology, although not all forward-looking statements contain these words. In addition, statements that “we believe,” “we expect,” “we anticipate” and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this Report and management believes that these forward-looking statements are reasonable as and when made. However, you should not place undue reliance on forward-looking statements because they speak only as of the date when made. We undertake no obligation to update or revise forward-looking statements to reflect changed assumptions, the occurrence of unanticipated events or changes to future operating results or expectations, except as required by law.

We operate in an evolving environment. New risk factors and uncertainties may emerge from time to time, and it is not possible for us to predict all risk factors and uncertainties. We may not actually achieve the plans, projections or expectations disclosed in forward-looking statements, and actual results, developments or events could differ materially from those disclosed in the forward-looking statements. Forward-looking statements are subject to a number of risks and uncertainties, including without limitation, the possibility that regulatory authorities do not accept our application or approve the marketing of our products, the possibility we may be unable to raise the funds necessary for the development and commercialization of our products, and those described in this and our other filings with the SEC.

**Part I - Financial Information****Item 1. Financial Statements****NeuroBo Pharmaceuticals, Inc.**  
**Condensed Consolidated Balance Sheets**  
(In thousands, except per share amounts)

	As of	
	March 31, 2024	December 31, 2023
	(Unaudited)	
<b>Assets</b>		
Current assets:		
Cash	\$ 15,988	\$ 22,435
Prepaid expenses and other current assets	776	77
<b>Total current assets</b>	<b>16,764</b>	<b>22,512</b>
Property and equipment, net	47	46
Right-of-use asset	186	202
Other assets	21	21
<b>Total assets</b>	<b>\$ 17,018</b>	<b>\$ 22,781</b>
<b>Liabilities and stockholders' equity</b>		
Current liabilities:		
Accounts payable (including related party payable of \$794 and \$0 as of March 31, 2024 and December 31, 2023, respectively)	\$ 2,079	\$ 821
Accrued liabilities (including related party payable of \$175 and \$789 as of March 31, 2024 and December 31, 2023, respectively)	3,948	4,414
Warrant liabilities	728	658
Lease liability, short-term	70	67
<b>Total current liabilities</b>	<b>6,825</b>	<b>5,960</b>
Lease liability, long-term	117	136
<b>Total liabilities</b>	<b>6,942</b>	<b>6,096</b>
Commitments and contingencies (Note 4)		
Stockholders' equity		
Preferred stock, \$0.001 par value per share; 10,000 shares authorized as of March 31, 2024 and December 31, 2023; no shares issued or outstanding as of March 31, 2024 and December 31, 2023	—	—
Common stock, \$0.001 par value per share, 100,000 shares authorized as of March 31, 2024 and December 31, 2023; 4,906 shares issued and outstanding as of March 31, 2024 and December 31, 2023	5	5
Additional paid-in capital	125,050	124,945
Accumulated deficit	(114,979)	(108,265)
<b>Total stockholders' equity</b>	<b>10,076</b>	<b>16,685</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 17,018</b>	<b>\$ 22,781</b>

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

**NeuroBo Pharmaceuticals, Inc.**  
**Condensed Consolidated Statements of Operations**  
(Unaudited - In thousands, except share and per share amounts)

	Three Months Ended March 31,	
	2024	2023
Operating expenses:		
Research and development	\$ 4,904	\$ 637
General and administrative	1,977	1,883
Total operating expenses	6,881	2,520
Loss from operations	(6,881)	(2,520)
Other income (expense):		
Change in fair value of warrant liabilities	(70)	(84)
Interest income	237	—
Total other income	167	(84)
Loss before income taxes	(6,714)	(2,604)
Provision for income taxes	—	—
Net loss and comprehensive net loss	(6,714)	(2,604)
Loss per share of common stock, basic and diluted	\$ (1.32)	\$ (0.51)
Weighted average shares of common stock, basic and diluted	5,089,408	5,059,003

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

**NeuroBo Pharmaceuticals, Inc.**  
**Condensed Consolidated Statements of Changes in Stockholders' Equity**  
(Unaudited - In thousands)

	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total Equity
	Shares	Amount			
As of January 1, 2023	3,179	\$ 3	\$ 117,542	\$ (95,795)	\$ 21,750
Issuance of stock from exercise of warrants	218	—	1,436	—	1,436
Stock-based compensation	—	—	(74)	—	(74)
Net loss	—	—	—	(2,604)	(2,604)
As of March 31, 2023	3,397	3	118,904	(98,399)	20,508
As of January 1, 2024	4,906	\$ 5	\$ 124,945	\$ (108,265)	\$ 16,685
Stock-based compensation	—	—	105	—	105
Net loss	—	—	—	(6,714)	(6,714)
As of March 31, 2024	4,906	5	125,050	(114,979)	10,076

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

**NeuroBo Pharmaceuticals, Inc.**  
**Condensed Consolidated Statements of Cash Flows**  
(Unaudited - In thousands)

	Three Months Ended March 31,	
	2024	2023
Operating activities		
Net loss	\$ (6,714)	\$ (2,604)
Adjustments to reconcile net loss to net cash used in operating activities:		
Stock-based compensation	105	(74)
Non-cash lease expense	1	—
Depreciation	4	1
Change in fair value of warrant liabilities	70	84
Change in operating assets and liabilities:		
Prepaid expenses and other assets	(699)	(502)
Accounts payable	1,258	411
Accrued and other liabilities	(467)	137
Net cash used in operating activities	(6,442)	(2,547)
Investing activities		
Purchases of property and equipment	(5)	(4)
Net cash used in investing activities	(5)	(4)
Financing activities		
Net cash provided by financing activities	—	—
Net decrease in cash	(6,447)	(2,551)
Cash at beginning of period	22,435	33,364
Cash at end of period	\$ 15,988	\$ 30,813
Supplemental non-cash investing and financing transactions:		
Reclassification of warrant liabilities upon exercise of warrants	\$ —	\$ 1,436

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

**NeuroBo Pharmaceuticals, Inc.**  
**Notes to the Condensed Consolidated Financial Statements**  
(Unaudited)

**1. Business, basis of presentation, new accounting standards and summary of significant accounting policies**

**General**

NeuroBo Pharmaceuticals, Inc. (the “Company”), a Delaware corporation, and its subsidiaries are referred to collectively in these notes to the financial statements of the Company as “NeuroBo,” “we,” “our” and “us.” We are a clinical-stage biotechnology company focused primarily on developing and commercializing novel pharmaceuticals to treat cardiometabolic diseases. NeuroBo has two programs currently focused on treatment of metabolic dysfunction-associated steatohepatitis (“MASH”) and obesity. MASH was formerly known as non-alcoholic steatohepatitis (“NASH”). The American Association for the Study of Liver Diseases and its European and Latin American counterparts changed the name to metabolic dysfunction-associated steatohepatitis to reflect the complexity of the disease.

- DA-1241 is a novel G-Protein-Coupled Receptor 119 (“GPR119”) agonist with development optionality as a standalone and/or combination therapy for both MASH and type 2 diabetes. Agonism of GPR119 in the gut promotes the release of key gut peptides GLP-1, GIP, and PYY. These peptides play a further role in glucose metabolism, lipid metabolism and weight loss. DA-1241 has beneficial effects on glucose, lipid profile and liver inflammation, supported by potential efficacy demonstrated during in vivo preclinical studies.
- DA-1726 is a novel oxyntomodulin analogue functioning as a GLP-1 receptor (“GLP1R”) and glucagon receptor (“GCGR”) dual agonist for the treatment of obesity that is to be administered once weekly subcutaneously. DA-1726 acts as a dual agonist of GLP1R and GCGR.

While we primarily focus our financial resources and management’s attention on the development of DA-1241 and DA-1726, we also have four legacy therapeutic programs designed to impact a range of indications in viral, neurodegenerative and cardiometabolic diseases which we continue to consider for out-licensing and divestiture opportunities.

Our operations have consisted principally of performing research and development (“R&D”) activities, preclinical developments, clinical trials, and raising capital. Our activities are subject to significant risks and uncertainties, including failing to secure additional funding before sustainable revenues and profit from operations are achieved.

**Common stock reverse stock splits**

In December 2023, we completed a one-for-eight reverse stock split of our common stock (the “2023 Reverse Stock Split”). As a result, every eight shares of our issued and outstanding common stock were combined, converted and changed into one share of our common stock. Any fraction of a share of our common stock that was created as a result of the reverse stock split was rounded down to the next whole share and our stockholders received cash equal to the market value of the fractional share, determined by multiplying such fraction by the closing sales price of our common stock as reported on Nasdaq Capital Market LLC (“Nasdaq”) on the last trading day before the reverse stock split. The 2023 Reverse Stock Split was initially approved by our stockholders at the annual meeting of stockholders in June 2023. At the annual meeting, the stockholders approved a proposal to amend our certificate of incorporation to affect a reverse split of our outstanding common stock at a ratio in the range of one-for-five to one-for-eight to be determined at the discretion of our Board of Directors (“Board”). Following the annual meeting, our Board approved a one-for-eight reverse stock split of our issued and outstanding shares of common stock.

The 2023 Reverse Stock Split did not impact the number of authorized shares of common stock of 100,000,000 shares. For the reverse stock split, a proportionate adjustment was made to the per share exercise price and the number of shares issuable upon the exercise of all outstanding stock options, and warrants to purchase shares of our common stock, the number of shares issuable upon vesting of restricted stock units (“RSUs”) and the number of shares reserved for issuance pursuant to our equity incentive compensation plans. Specifically, for the Series A and B warrants issued in November 2022 that were outstanding on the effective date of the 2023 Reverse Stock Split, the number of outstanding warrants did



**NeuroBo Pharmaceuticals, Inc.**  
**Notes to the Condensed Consolidated Financial Statements**  
(Unaudited)

not change; instead, the warrants have an exchange ratio of eight warrants for one share of our common stock.

In the accompanying condensed consolidated financial statements and these notes to the condensed consolidated financial statements, all historical numbers of shares of common stock and per share data have been adjusted to give effect to the 2023 Reverse Stock Split. Additionally, since the common stock par value was unchanged, historical amounts for common stock and additional paid-in capital have been adjusted to give effect to the 2023 Reverse Stock Split.

**Going concern**

The determination as to whether we can continue as a going concern contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. Our condensed consolidated financial statements have been prepared assuming that we will continue as a going concern and do not include any adjustments that might result from the outcome of this uncertainty. This basis of accounting contemplates the recovery of our assets and the satisfaction of our liabilities in the normal course of business.

As reflected in the condensed consolidated financial statements, we had \$16.0 million in cash as of March 31, 2024. We have experienced net losses and negative cash flows from operating activities since our inception and had an accumulated deficit of \$115.0 million as of March 31, 2024. We have incurred a net loss of \$6.7 million and used cash of \$6.4 million for operating activities for the three months ended March 31, 2024. Due in large part to the ongoing Phase 2a clinical trial for DA-1241 and Phase 1 clinical trial for DA-1726, we expect to continue to incur net losses and negative cash flows from operating activities for the foreseeable future. These conditions raise substantial doubt about our ability to continue as a going concern.

We believe that our existing cash will be sufficient to fund our operations into the fourth quarter of 2024. We plan to continue to fund our operations through a combination of equity offerings, debt financings, or other sources, potentially including collaborations, out-licensing and other similar arrangements. There can be no assurance that we will be able to obtain any sources of financing on acceptable terms, or at all. To the extent that we can raise additional funds by issuing equity securities, our stockholders may experience significant dilution. Any debt financing, if available, may involve restrictive covenants that impact our ability to conduct our business. If we are unable to raise additional capital, we may slow down or stop our ongoing and planned clinical trials until such time as additional capital is raised and this may have a material adverse effect on us.

**A. Basis of presentation**

We prepared the condensed consolidated financial statements included in this Report following the requirements of the United States (“U.S.”) Securities and Exchange Commission (“SEC”) for interim reporting. As permitted under those rules, certain notes or other financial information that are normally required by accounting principles generally accepted in the U.S. (“GAAP”) for complete financial statements can be condensed or omitted. However, except as disclosed herein, there has been no material change in the information disclosed in the notes included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2023 (“2023 Form 10-K”).

Revenues, expenses, assets, liabilities, and equities can vary during each quarter of the year. Therefore, the results and trends in these interim financial statements may not be representative of those for the full year. In our opinion, all adjustments necessary for a fair statement of the financial statements, which are of a normal and recurring nature, have been made for the interim periods reported. The information included in this Report should be read in conjunction with the consolidated financial statements and accompanying notes included in our 2023 Form 10-K. Certain amounts in the condensed consolidated financial statements and accompanying notes may not add due to rounding, and all percentages have been calculated using unrounded amounts.

**B. New accounting standards**

*Adoption of new accounting standards*

New accounting standards or accounting standards updates were assessed and determined to be either not applicable or did

**NeuroBo Pharmaceuticals, Inc.**  
**Notes to the Condensed Consolidated Financial Statements**  
(Unaudited)

not have a material impact on our condensed consolidated financial statements or processes.

*Accounting standards issued but not yet adopted*

In December 2023, the FASB issued ASU 2023-09, Income Taxes (Topic 740): Improvements to Income Tax Disclosures. This ASU amends the guidance in Accounting Standards Codification (“ASC”) 740, Income Taxes, to improve the transparency of income tax disclosures by amending the required rate reconciliation disclosures as well as requiring disclosure of income taxes paid disaggregated by jurisdiction. As amended, the rate reconciliation disclosure will be required to be presented in both percentages and reporting currency amounts, with consistent categories and greater disaggregation of information. This ASU also includes amendments intended to improve the effectiveness of income tax disclosures and eliminate certain existing disclosure requirements related to uncertain tax positions and unrecognized deferred tax liabilities. The amendments are effective for fiscal years beginning after December 15, 2024 and should be applied prospectively. Early adoption is permitted. We are currently evaluating the amendments to identify potential impacts to our notes to the consolidated financial statements and processes.

Other recently issued accounting standards not yet adopted by us are not expected, upon adoption, to have a material impact on our condensed consolidated financial statements.

**C. Estimates and assumptions**

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, expenses, and related disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of expenses during the reporting period. The most significant estimates in our consolidated financial statements relate to accrued expenses and the fair value of stock-based compensation and warrants. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable, the results of which form the basis for making judgments about the carrying values of assets and liabilities. Actual results could differ from those estimates. Changes in estimates are reflected in reported results in the period in which they become known.

**D. Significant accounting policies**

Our significant accounting policies are described in “Note 1. Business, basis of presentation, new accounting standards and summary of significant accounting policies” in the audited consolidated financial statements and notes thereto for the year ended December 31, 2023, which is included in our 2023 Form 10-K.

**2. Prepaid and other current assets**

Prepaid and other current assets consist of the following (in thousands):

	As of	
	March 31, 2024	December 31, 2023
Clinical costs	\$ 195	\$ 13
Interest receivable	73	—
Other	508	64
Total	\$ 776	\$ 77

**NeuroBo Pharmaceuticals, Inc.**  
**Notes to the Condensed Consolidated Financial Statements**  
(Unaudited)

### 3. Property and equipment

Property and equipment consist of the following (in thousands):

	As of	
	March 31, 2024	December 31, 2023
Office equipment	\$ 85	\$ 80
Less accumulated depreciation	(38)	(34)
Property and equipment, net	\$ 47	\$ 46

### 4. Accrued liabilities

Accrued liabilities consist of the following (in thousands):

	As of	
	March 31, 2024	December 31, 2023
External R&D costs (including related party payable of \$175 and \$789 as of March 31, 2024 and December 31, 2023, respectively)	\$ 3,336	\$ 3,822
Employee related costs	210	118
Professional service fees	337	308
Other	65	166
Total	\$ 3,948	\$ 4,414

### 5. Related party

We entered into a license agreement with Dong-A pursuant to which we received an exclusive global license (except for the territory of the Republic of Korea and certain other jurisdictions) to two proprietary compounds for specified indications (the “2022 License Agreement”) upon meeting certain financing milestones. The 2022 License Agreement covers the rights to DA-1241 for treatment of MASH and DA-1726 for treatment of obesity and MASH. The 2022 License Agreement also provides that we may develop DA-1241 for the treatment of type 2 diabetes mellitus.

In connection with the 2022 License Agreement, we entered into a shared services agreement with Dong-A (the “Shared Services Agreement”), relating to DA-1241 and DA-1726, pursuant to which Dong-A may provide technical support, preclinical development, and clinical trial support services on terms and conditions acceptable to both parties. In addition, the Shared Services Agreement provides that Dong-A will manufacture all of our clinical requirements of DA-1241 and DA-1726 under the terms provided in the Shared Services Agreement.

We incurred R&D expenses of \$175 thousand and \$326 thousand for the three months ended March 31, 2024 and 2023, respectively under the Shared Services Agreement, which are included in operating expenses in the accompanying condensed consolidated statements of operations. As of March 31, 2024, we have an aggregate payable to Dong-A of \$969 thousand under the Shared Services Agreement, of which \$794 thousand is included in accounts payable and \$175 thousand is included in accrued liabilities in the accompanying condensed consolidated balance sheets. As of December 31, 2023 we have a payable to Dong-A of \$789 thousand under the Shared Services Agreement, which is included in accrued liabilities in the accompanying condensed consolidated balance sheets.

For additional information on the 2022 License Agreement, the Shared Service Agreement and other agreements with Dong-A, refer to “Note 5. Related party” in the audited consolidated financial statements and notes thereto for the year ended December 31, 2023, which is included in our 2023 Form 10-K.

**NeuroBo Pharmaceuticals, Inc.**  
**Notes to the Condensed Consolidated Financial Statements**  
(Unaudited)

## 6. Commitments and contingencies

### Operating lease

In August 2023, we entered into a non-cancelable operating lease for our new corporate headquarters in Cambridge, Massachusetts. The initial lease term is for three years with an option to renew for an additional two-year term. The lease commenced in September 2023 and expires in August 2026. We recorded lease rental expense of \$22 thousand for the three months ended March 31, 2024 and made cash lease payments of \$21 thousand during the three months ended March 31, 2024.

Our lease liability, which represents the net present value of future lease payments, was calculated utilizing a discount rate of 11%, which corresponds to our estimated incremental borrowing rate.

Additionally, we had short-term operating leases for our former corporate headquarters located in Boston, Massachusetts and such lease was terminated in January 2024. For our former corporate headquarters, no rental expenses were recorded for the three months ended March 31, 2024 and rental expense of \$5 thousand was recorded for the three months ended March 31, 2023.

## 7. Stockholders' equity

### Warrants

The following tables summarize our outstanding warrants:

Warrant Issuance	Shares of Common Stock Issuable for Outstanding Warrants		Exercise Price	Expiration Date
	As of			
	March 31, 2024	December 31, 2023		
July 2018 <sup>(1)</sup>	6	6	\$ 44,820.00	July 2028
April 2020 <sup>(1)</sup>	159	159	\$ 3,000.00	April 2025
January 2021 <sup>(1)</sup>	10,421	10,421	\$ 1,447.20	July 2026
October 2021 <sup>(1)</sup>	15,390	15,390	\$ 900.00	April 2025
November 2022 Series B <sup>(2)</sup>	177,938	177,938	\$ -	December 2027
Total	203,914	203,914		

(1) The number of outstanding warrants was adjusted for the impact of each of the common stock reverse stock splits completed in 2023 and 2022. Accordingly, the number of outstanding warrants is equal to the number of shares of common stock issuable for outstanding warrants.

(2) The number of outstanding warrants was not impacted by the 2023 Reverse Stock Split. Accordingly, the number of outstanding warrants is equal to eight times the number of shares of common stock issuable for outstanding warrants.

The outstanding warrants are all exercisable as of March 31, 2024 and December 31, 2023. Additionally, the November 2022 Series B warrants have a cashless exercise provision whereby eight warrants can be exchanged for one share of common stock for no additional consideration, which results in an effective per warrant exercise price of zero rather than the \$3.00 as stated in the warrants.

During the three months ended March 31, 2023, 345,333 Series A warrants issued in November 2022 and 1,395,333 Series B warrants issued in November 2022 were exchanged for 43,167 shares and 174,417 shares of our common stock, respectively. Additionally, as of December 31, 2023, the Series A warrants issued in November 2022 were fully exchanged for shares of our common stock.

**NeuroBo Pharmaceuticals, Inc.**  
**Notes to the Condensed Consolidated Financial Statements**  
(Unaudited)

**8. Stock-based compensation**

Stock-based compensation expense was included in general and administrative and research and development as follows (in thousands):

	Three Months Ended March 31,	
	2024	2023
General and administrative	\$ 71	\$ (85)
Research and development	33	11
Total stock-based compensation	\$ 104	\$ (74)

For stock options and RSUs granted under the 2019 Equity Incentive Plan, the 2021 Inducement Plan and the 2022 Equity Incentive Plan (the “2022 Plan”), as of March 31, 2024, unrecognized stock-based compensation cost totaled \$786 thousand. The unrecognized stock-based expense is expected to be recognized over a weighted average period of 1.3 years.

*Stock-based award plans*

As of March 31, 2024, there were (i) 2,569 outstanding stock options under the 2019 Plan, and (ii) 3,125 outstanding stock options and 194,954 outstanding RSUs under the 2022 Plan. As of March 31, 2024, we had an aggregate of 416,227 shares available for future issuance, of which 4,166 shares were available under the 2021 Inducement Plan and 412,061 shares were available under the 2022 Plan.

*Stock options*

The following table summarizes the status of our outstanding and exercisable options and related transactions for the period presented (in thousands, except share and per share amounts):

	Outstanding				Exercisable			
	Shares of Common Stock Issuable for Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (years)	Aggregate Intrinsic Value	Shares of Common Stock Issuable for Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (years)	Aggregate Intrinsic Value
As of January 1, 2024	4,700	\$ 398.30	8.6	\$ —	4,577	\$ 391.04	8.6	\$ —
Granted	—	—	—	—				
Forfeited/Cancelled	—	—	—	—				
As of March 31, 2024	4,700	\$ 398.30	8.3	\$ —	4,607	\$ 392.96	8.3	\$ —

The weighted average fair value per share of stock options granted for three months ended March 31, 2023 was \$3.63. We estimated the grant date fair value of stock options granted to employees, consultants, and directors using the Black-Scholes option pricing model. We do not have history to support a calculation of volatility and expected term; as such, we have used a weighted-average volatility considering the volatilities of several guideline companies. In identifying similar entities, we considered characteristics such as industry, length of trading history, and stage of life cycle. The assumed dividend yield was based on our expectation of not paying dividends in the foreseeable future. The average expected life of the stock options was determined based on the mid-point between the vesting date and the end of the contractual term, known as the “simplified method,” or the contractual term in cases where the “simplified method” was precluded. The risk-free interest rate is determined by reference to implied yields available from U.S. Treasury securities with a remaining term equal to the expected life assumed at the date of grant.

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The assumptions used in the Black-Scholes option-pricing model are as follows:

	Three Months Ended March 31, 2023
Expected stock price volatility	82.9 %
Expected life of stock options (years)	5.0
Expected dividend yield	— %
Risk free interest rate	3.54 %

*Restricted Stock Units*

The following table summarizes the status of our RSUs and related transactions for the period presented (in thousands, except share and per share amounts):

	Outstanding			Vested		
	Shares of Common Stock Issuable for RSUs	Average Grant Date Fair Value Price	Aggregate Intrinsic Value	Shares of Common Stock Issuable for RSUs	Average Grant Date Fair Value Price	Aggregate Intrinsic Value
As of January 1, 2024	141,361	\$ 4.55	\$ 523	5,468	\$ 4.02	\$ 20
Granted	53,593	6.24				
Vested				—	—	
Released	—	—		—	—	—
Forfeited/Cancelled	—	—				
As of March 31, 2024	194,954	\$ 5.02	\$ 797	5,468	\$ 4.02	\$ 22

We estimated the grant date fair value of restricted stock units granted to employees, consultants, and directors based on the closing sales price of our common stock as reported on Nasdaq on the date of grant.

**9. Income taxes**

We do not expect to pay any significant federal or state income taxes as a result of (i) the losses recorded during the three months ended March 31, 2024 and 2023, (ii) additional losses expected for the remainder of 2024 or losses recorded in 2023, or (iii) net operating loss carry forwards from prior years.

We recorded a full valuation allowance of the net operating losses for the three months ended March 31, 2024 and 2023. Accordingly, there were no benefits for income taxes recorded for the three months ended March 31, 2024 and 2023. Additionally, as of March 31, 2024 and December 31, 2023, we maintain a full valuation allowance for all deferred tax assets.

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**10. Loss per share of common stock**

The following table sets forth the computation of basic and diluted loss per share of common stock (in thousands, except share and per share amounts):

	Three Months Ended March 31,	
	2024	2023
<b>Numerator:</b>		
Net loss	\$ (6,714)	\$ (2,604)
<b>Denominator:</b>		
Weighted average shares of common stock, basic	5,089,408	5,059,003
Effect of dilutive securities	—	—
Weighted average shares of common stock, diluted	5,089,408	5,059,003
Loss per share of common stock, basic and diluted	\$ (1.32)	\$ (0.51)

Our basic weighted average shares of common stock for the three months ended March 31, 2024 include the (i) November 2022 Series B warrants since these warrants are exchangeable into common stock for which no additional consideration is required from the holder and (ii) vested RSUs in which their release was deferred in accordance with the respective award agreement. Our basic weighted average shares of common stock for the three months ended March 31, 2023 include both the November 2022 Series A and Series B warrants since these warrants were exchangeable into common stock for which no additional consideration is required from the holder.

Since we reported a net loss for the three months ended March 31, 2024 and 2023, our potentially dilutive securities are deemed to be anti-dilutive, accordingly, there was no effect of dilutive securities. Therefore, our basic and diluted loss per share of common stock and our basic and diluted weighted average shares of common stock are the same for three months ended March 31, 2024 and 2023.

The following table sets forth the outstanding securities which were not included in the calculation of diluted earnings per share of common stock for three months ended March 31, 2024 and 2023:

	As of March 31,	
	2024	2023
Stock options	4,700	6,140
RSUs	189,486	—
Warrants (excluding the November 2022 warrants)	25,976	28,529

**11. Fair value of financial instruments**

Fair value is a market-based measurement, not an entity specific measurement and is defined as “the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.” Fair value measurements are defined on a three-level hierarchy:

Level 1: Unadjusted quoted prices for identical assets or liabilities in active markets;

Level 2: Quoted prices for similar assets and liabilities in active markets, quoted prices in markets that are not active, or inputs which are observable, whether directly or indirectly, for substantially the full term of the asset or liability;

Level 3: Unobservable inputs that reflect our own assumptions about the assumptions market participants would use in pricing the asset or liability in which there is little, if any, market activity for the asset or liability at the measurement date.

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The following table sets forth our financial assets and liabilities, subject to fair value measurements on a recurring basis, by level within the fair value hierarchy (in thousands):

Description	As of March 31, 2024				As of December 31, 2023			
	Total	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3
<b>Liabilities:</b>								
Warrant liabilities	\$ 728	\$ —	\$ 728	\$ —	\$ 658	\$ —	\$ 658	\$ —
<b>Total liabilities at fair value</b>	<b>\$ 728</b>	<b>\$ —</b>	<b>\$ 728</b>	<b>\$ —</b>	<b>\$ 658</b>	<b>\$ —</b>	<b>\$ 658</b>	<b>\$ —</b>

The Series A and Series B warrants, issued in November 2022, are considered to be derivative instruments; accordingly, we recorded their estimated fair value as warrant liabilities. We estimated the fair value of these warrants using the trading market price of our common stock due to the cashless exercise provision of these warrants, which results in an effective per warrant exercise price of zero rather than \$3.00 as stated in the warrants.

## 12. Subsequent events

Management has evaluated subsequent events to determine if events or transactions occurring through the filing date of this Report require adjustment to or disclosure in the condensed consolidated financial statements. There were no events that require adjustment to or disclosure in the condensed consolidated financial statements.



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**Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations**

The following discussion of our financial condition and results of operations should be read in conjunction with the condensed consolidated financial statements and related notes included elsewhere in this Report and the audited financial statements and related notes for the fiscal year ended December 31, 2023 included in our 2023 Form 10-K. This discussion contains forward-looking statements based upon current expectations that involve risks and uncertainties. See “Special Note Regarding Forward-Looking Statements. Our actual results may differ materially from those contained in or implied by any forward-looking statements as a result of various factors, including, but not limited to, the risks and uncertainties described under Part II, Item 1A. Risk Factors, elsewhere in this Report.

Certain amounts in the following discussion and analysis may not add due to rounding, and all percentages have been calculated using unrounded amounts.

**Overview**

We are a clinical-stage biotechnology company focused primarily on developing and commercializing novel pharmaceuticals to treat cardiometabolic diseases. NeuroBo has two programs currently focused on treatment of metabolic dysfunction-associated steatohepatitis (“MASH”) and obesity. MASH was formerly known as non-alcoholic steatohepatitis (“NASH”). The American Association for the Study of Liver Diseases and its European and Latin American counterparts changed the name to metabolic dysfunction-associated steatohepatitis to reflect the complexity of the disease.

- DA-1241 is a novel G-Protein-Coupled Receptor 119 (“GPR119”) agonist with development optionality as a standalone and/or combination therapy for both MASH and type 2 diabetes. Agonism of GPR119 in the gut promotes the release of key gut peptides GLP-1, GIP, and PYY. These peptides play a further role in glucose metabolism, lipid metabolism and weight loss. DA-1241 has beneficial effects on glucose, lipid profile and liver inflammation, supported by potential efficacy demonstrated during in vivo preclinical studies.
- DA-1726 is a novel oxyntomodulin analogue functioning as a GLP-1 receptor (“GLP1R”) and glucagon receptor (“GCGR”) dual agonist for the treatment of obesity that is to be administered once weekly subcutaneously. DA-1726 acts as a dual agonist of GLP1R and GCGR.

Our operations have consisted principally of performing research and development (“R&D”) activities, clinical development and raising capital. Our activities are subject to significant risks and uncertainties, such as failing to secure additional funding before sustainable revenues and profit from operations are achieved. For more information on our business and product candidates, see “Part I, Item 1. Business” in our 2023 Form 10-K.

*DA-1241*

We are currently conducting a Phase 2a trial of DA-1241 for the treatment of MASH in the U.S. The Phase 2a trial has two parts and each of the parts is designed to be a 16-week, multicenter, randomized, double-blind, placebo-controlled, parallel clinical study to evaluate the efficacy and safety of DA-1241 in subjects with presumed MASH while we follow the trend for type 2 diabetes mellitus. Part 2 of the Phase 2a trial will also explore the efficacy of DA-1241 in combination with sitagliptin versus placebo. The Phase 2a trial opened enrollment in August 2023 and is expected to enroll a total of 87 subjects, with a planned maximum of 98 subjects to account for early discontinuations, who will be randomized into 4 treatment groups and will be dosed with: DA-1241 50 mg, DA-1241 100 mg, DA-1241 100 mg/Sitagliptin 100 mg, or Placebo in a 1:2:2:2 ratio.

In April 2024, we completed enrollment of Part 1 of the Phase 2a trial in which approximately 49 patients with presumed MASH were randomized into Part 1 with a 1:2:1 ratio into 3 treatment groups: DA-1241 50 mg, DA-1241 100 mg, or placebo. Part 2 of the Phase 2a trial is currently enrolling and is expected to enroll approximately 37 subjects who will be randomized in a 2:1 ratio into 2 treatment groups: DA-1241 100 mg/sitagliptin 100 mg or placebo. Currently, we are expecting to report the full trial data in the second half of this year.

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For additional information on DA-1241, see “Part I, Item 1. Business, Our Pipeline, DA-1241 Treatment of MASH” in our 2023 Form 10-K.

*DA-1726*

We are currently conducting a Phase 1 trial of DA-1726 for the treatment of obesity in the U.S. The Phase 1 trial is designed to be a randomized, placebo-controlled, double-blind, two-part study to investigate the safety, tolerability, pharmacokinetics (PK), and pharmacodynamics (PD) of single and multiple ascending doses of DA-1726 in obese, otherwise healthy subjects. Part 1 of the Phase 1 trial opened is a single ascending dose (“SAD”) study and is expected to enroll approximately 45 participants, randomized into one of 5 planned cohorts. Each cohort will be randomized in a 6:3 ratio of DA-1726 or placebo. Part 2 of Phase 1 is designed as a multiple ascending dose (“MAD”) study and is expected to enroll approximately 36 participants, who will be randomized at the same 6:3 ratio into 4 planned cohorts, each to receive 4 weekly administrations of DA-1726 or placebo.

Part 1 of Phase 1 opened enrollment in March 2024 and dosed its first patient in April 2024. Currently, we are expecting to report top-line data from the SAD Part 1 study in the third quarter of 2024 and the MAD Part 2 study in the first quarter of 2025.

For additional information on DA-1726, see “Part I, Item 1. Business, Our Pipeline, DA-1726 Treatment of Obesity” in our 2023 Form 10-K.

**Recent developments**

- April 2024: Dosed the first patient in the SAD Part 1 of our two-part Phase 1 clinical trial of DA-1726 for the treatment of obesity.
- April 2024: Completed enrollment of Part 1 of our two-part Phase 2a trial evaluating the efficacy and safety of DA-1241 in MASH. Approximately 49 patients with presumed MASH were randomized into Part 1 with a 1:2:1 ratio into 3 treatment groups: DA-1241 50 mg, DA-1241 100 mg, or placebo.
- March 2024: Received SRC approval recommending that the two-part Phase 2a trial of DA-1241 for the treatment of MASH continue without modification following a blinded safety review of the first six months of study conduct.
- March 2024: Announced the appointment of Marshall Woodworth as Chief Financial Officer, following his tenure as Acting Chief Financial Officer.
- February 2024: Received first site Institutional Review Board (IRB) approval for Alexander Prezioso, M.D., Investigator, Clinical Pharmacology of Miami, in Hialeah, FL, to proceed with the Phase 1 clinical trial of DA-1726 for the treatment of obesity.
- February 2024: Announced that the FDA has cleared its Investigational New Drug (IND) application for the Phase 1 trial DA-1726 in obesity.
- January 2024: Reported positive pre-clinical safety data of DA-1241 in combination with sitagliptin, a DPP4 inhibitor. The pre-clinical results demonstrated that once daily oral administration in rats, of sitagliptin alone (180 mg/kg/day), DA-1241 alone (100 mg/kg/day), or sitagliptin in combination with DA-1241 (up to 180/100 mg/kg/day sitagliptin+DA-1241) for 13 weeks, was well tolerated with no adverse effects. Additionally, the company announced it had opened enrollment for Part 2 of its Phase 2a clinical trial of DA-1241 when co-administered with sitagliptin for the treatment of MASH.

**Key operating information**

Except for the financial amounts for the presented periods in this Report (see financial amounts in the below results of operations and the condensed consolidated balance sheets included elsewhere in this Report), there have been no material

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changes to our key operating information since December 31, 2023. Refer to our 2023 Form 10-K for a complete discussion of our key operating information.

**Results of operations**

**Three months ended March 31, 2024 compared to three months ended March 31, 2023**

The following table summarizes our results of operations (in thousands, except share and per share amounts):

	Three Months Ended March 31,		Change
	2024	2023	
<b>Operating expenses:</b>			
Research and development	\$ 4,904	\$ 637	\$ 4,267
General and administrative	1,977	1,883	94
<b>Total operating expenses</b>	<b>6,881</b>	<b>2,520</b>	<b>4,361</b>
Loss from operations	(6,881)	(2,520)	(4,361)
<b>Other income (expense):</b>			
Change in fair value of warrant liabilities	(70)	(84)	14
Interest income	237	—	237
<b>Total other income</b>	<b>167</b>	<b>(84)</b>	<b>251</b>
Loss before income taxes	(6,714)	(2,604)	(4,110)
Provision for income taxes	—	—	—
<b>Net loss</b>	<b>\$ (6,714)</b>	<b>\$ (2,604)</b>	<b>\$ (4,110)</b>
Loss per share of common stock, basic and diluted	\$ (1.32)	\$ (0.51)	\$ (0.81)
Weighted average shares of common stock, basic and diluted	5,089,408	5,059,003	30,405

*Operating expenses and loss from operations*

Our total operating expenses and loss from operations for the three months ended March 31, 2024 were \$6.9 million, an increase of \$4.4 million, or 173.1%, compared to the three months ended March 31, 2023. This increase was attributable to (i) \$4.3 million in higher R&D expenses and (ii) \$0.1 million in higher general and administrative expenses.

Our R&D expenses were \$4.9 million for the three months ended March 31, 2024, an increase of \$4.3 million, or 669.9%, compared to the three months ended March 31, 2023. This increase was primarily related to increased R&D activities for DA-1241 and DA-1726 for the three months ended March 31, 2024 following commencement of the (i) Phase 2a clinical trial for DA-1241 and (ii) Phase 1 trial for DA-1726 compared to the three months ended March 31, 2023 when R&D activities were starting to ramp up following the acquisition of DA-1241 and DA-1726 in the fourth quarter of 2022. Specifically, the \$4.3 million increase in R&D expenses was primarily attributable to (i) \$3.9 million in higher expenditures for investigational drug manufacturing costs, non-clinical and preclinical services, clinical trials and consulting and (ii) \$0.4 million in higher employee compensation and benefits. Included in R&D expenses for the three months ended March 31, 2024 was \$0.2 million of investigational drug manufacturing costs and non-clinical and preclinical expenses incurred under the Shared Services Agreement with Dong-A as compared to \$0.3 million for the three months ended March 31, 2023.

Our general and administrative expenses for the three months ended March 31, 2024 were \$2.0 million, an increase of \$0.1 million, or 5.0%, compared to the three months ended March 31, 2023. This increase in general and administrative expenses was primarily attributable to \$0.2 million in higher non-cash stock-based compensation, partially offset by \$0.1 million in lower legal and professional fees.

*Other income*

Our other income for the three months ended March 31, 2024 was \$0.2 million compared to other expense of \$0.1 million for the three months ended March 31, 2023. This change was mainly attributable to \$0.2 million of interest income earned on our cash balance for the three months ended March 31, 2024, of which there was none for the three months ended

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March 31, 2023.

*Provision for income taxes*

Our effective tax rate for the three months ended March 31, 2024 and 2023 was zero percent as we have recorded a full valuation allowance for the income tax benefits attributable to our pre-tax losses.

*Net loss*

For the three months ended March 31, 2024, we had a net loss of \$6.7 million, or \$1.32 per share of basic and diluted common stock, compared to a net loss of \$2.6 million, or \$0.51 per share of basic and diluted common stock for the three months ended March 31, 2023.

**Liquidity and capital resources**

Our primary use of cash is to fund our R&D activities and clinical development activities. We have funded our operations primarily through public offerings of our common stock and private placements of equity. As of March 31, 2024, we had cash totaling \$16.0 million. We maintain cash at financial institutions that at times may exceed the Federal Deposit Insurance Corporation ("FDIC") insured limits of \$250 thousand per bank. Our cash balance includes liquid insured deposits, which are obligations of the program banks in which the deposits are held and qualify for FDIC insurance protection per depositor in each recognized legal category of account ownership in accordance with the rules of the FDIC. To date, we have not experienced any losses related to these funds.

We believe that our existing cash will be sufficient to fund our operations into the fourth quarter of 2024. We plan to continue to fund our operations through a combination of equity offerings, debt financings, or other sources, potentially including collaborations, out-licensing and other similar arrangements. There can be no assurance that we will be able to obtain any sources of financing on acceptable terms, or at all. To the extent that we can raise additional funds by issuing equity securities, our stockholders may experience significant dilution. Any debt financing, if available, may involve restrictive covenants that impact our ability to conduct our business. If we are unable to raise additional capital, we may slow down or stop our ongoing and planned clinical trials until such time as additional capital is raised and this may have a material adverse effect on us.

**Cash flows**

The principal use of cash in operating activities is to fund our current expenditures in support of our R&D activities and clinical development activities. Financing activities currently represent the principal source of our cash flow.

The following table reflects the major categories of cash flows (in thousands).

	Three Months Ended March 31,	
	2024	2023
Net cash used in operating activities	\$ (6,442)	\$ (2,547)
Net cash used in investing activities	(5)	(4)
Net cash provided by financing activities	—	—
Net decrease in cash	\$ (6,447)	\$ (2,551)

*Operating Activities*

Net cash used in operating activities was \$6.4 million for the three months ended March 31, 2024, an increase of \$3.9 million, or 152.9%, compared to \$2.5 million for the three months ended March 31, 2023. Net cash used in operating activities for the three months ended March 31, 2024 consisted of net loss of \$6.7 million, partially offset by (i) net non-cash expenses of \$0.2 million and (ii) net cash provided by operating assets and liabilities of \$0.1 million. Net cash used in operating activities for the three months ended March 31, 2023 consisted primarily of net loss of \$2.6 million, partially offset by net cash used by operating assets and liabilities of \$0.1 million.

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For additional details, see the condensed consolidated statements of cash flows in the condensed consolidated financial statements included elsewhere in this Report.

**Going concern**

The determination as to whether we can continue as a going concern contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. Our condensed consolidated financial statements, included elsewhere in this Report, have been prepared assuming that we will continue as a going concern and do not include any adjustments that might result from the outcome of this uncertainty. This basis of accounting contemplates the recovery of our assets and the satisfaction of our liabilities in the normal course of business.

As reflected in the condensed consolidated financial statements, we had \$16.0 million in cash as of March 31, 2024. We have experienced net losses and negative cash flows from operating activities since our inception and had an accumulated deficit of \$115.0 million as of March 31, 2024. We have incurred a net loss of \$6.7 million and used cash of \$6.4 million for operating activities for the three months ended March 31, 2024. Due in large part to the ongoing Phase 2a clinical trial for DA-1241 and Phase 1 clinical trial for DA-1726, we expect to continue to incur net losses and negative cash flows from operating activities for the foreseeable future. These conditions raise substantial doubt about our ability to continue as a going concern.

We believe that our existing cash will be sufficient to fund our operations into the fourth quarter of 2024. We plan to continue to fund our operations through a combination of equity offerings, debt financings, or other sources, potentially including collaborations, licenses and other similar arrangements. There can be no assurance that we will be able to obtain any sources of financing on acceptable terms, or at all. To the extent that we can raise additional funds by issuing equity securities, our stockholders may experience significant dilution. Any debt financing, if available, may involve restrictive covenants that impact our ability to conduct our business. If we are unable to raise additional capital, we may slow down or stop our ongoing and planned clinical trials until such time as additional capital is raised and this may have a material adverse effect on us.

**Critical accounting estimates**

Our condensed consolidated financial statements included in this Report have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP").

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, expenses, and related disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of expenses during the reporting period. The most significant estimates in our consolidated financial statements relate to accrued expenses and the fair value of stock-based compensation and warrants. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable, the results of which form the basis for making judgments about the carrying values of assets and liabilities. Actual results could differ from those estimates. Changes in estimates are reflected in reported results in the period in which they become known.

There have been no material changes to our critical accounting estimates and judgments since December 31, 2023. Refer to our 2023 Form 10-K for a complete discussion of our critical accounting estimates and judgments.

**Recent accounting pronouncements**

Information regarding (i) adoption of new accounting standards and (ii) accounting standards issued but not yet adopted is included in "Note 1. Business, basis of presentation, new accounting standards and summary of significant accounting policies " to the condensed consolidated financial statements included in this Report.

**Item 3. Quantitative and Qualitative Disclosures about Market Risk**

Not applicable.

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**Item 4. Controls and Procedures**

**Evaluation of disclosure controls and procedures**

As required by Rules 13a-15(b) and 15d-15(b) under the Exchange Act, our management, with the participation of our principal executive officer (“PEO”) and principal financial officer (“PFO”), evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of the end of the period covered by this Report. Based upon that evaluation, our PEO and PFO concluded that our disclosure controls and procedures were not effective as of the end of the period covered by this Report, as a result of material weaknesses in our internal control over financial reporting, which are discussed further below.

***Previously identified material weaknesses in internal control over financial reporting***

In connection with the preparation of the financial statements included in our 2023 Form 10-K, management identified the following material weaknesses: (i) lack of segregation of duties over cash disbursements and financial reporting, (ii) logical access over computer applications, and (iii) lack of supervision and review over financial reporting. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. Specifically, there was a lack of segregation of duties involved in the execution of wire transfers, preparing journal entries, and review over clinical trial accruals, and certain individuals in the accounting department have administrative access to the financial reporting systems. See “Remediation efforts to address the material weaknesses” below for steps we are taking to correct these material weaknesses.

**Remediation efforts to address the material weaknesses**

We are in the process of remediating, but have not yet remediated, the material weaknesses, as described above, related to lack of segregation of duties over cash disbursements and financial reporting, logical access over computer applications, and lack of supervision and review over financial reporting. Under the oversight of the audit committee, management has developed a detailed plan and timetable for the implementation of appropriate remedial measures to address the material weaknesses. As of the date of this report, we have taken the following actions:

- we have added additional personnel to the accounting department to allow for increased segregation of duties;
- we have implemented a change management review process for access to systems used for financial reporting systems;
- we have enhanced the controls over disbursements, separating the functions of initiating and approving to two separate individuals; and
- we have implemented enhanced controls relating to the review and oversight of financial reporting, including the preparation of journal entries, and clinical trial accruals.

Management believes that we have made considerable progress toward remediation of these material weaknesses and anticipates a full remediation during 2024.

**Inherent limitations of disclosure controls and procedures**

Our management, including our PEO and PFO, does not expect that our disclosure controls and procedures will prevent all errors and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of a simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the control. The design of any system of controls is also based in part upon certain assumptions about the likelihood of

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future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

**Changes in internal control Over financial reporting**

Other than the remediation activities listed above, there have been no changes in our internal control over financial reporting during the quarter ended March 31, 2024 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**Part II - Other Information**

**Item 1. Legal Proceedings**

From time to time, we may be involved in various claims and legal proceedings arising out of our ordinary course of business. We are not currently a party to any claims or legal proceedings that, in the opinion of our management, are likely to have a material adverse effect on our business and condensed consolidated financial statements. Regardless of outcome, litigation can have an adverse impact on us because of defense and settlement costs, diversion of management resources and other factors.

**Item 1A. Risk Factors**

Our business, financial condition and operating results can be affected by a number of factors, whether currently known or unknown, including but not limited to those described in Part I, Item 1A of the 2023 Form 10-K under the heading “Risk Factors,” any one or more of which could, directly or indirectly, cause our actual financial condition and operating results to vary materially from past, or from anticipated future, financial condition and operating results. Any of these factors, in whole or in part, could materially and adversely affect our business, financial condition, operating results and stock price. There have been no material changes to our risk factors since the 2023 Form 10-K.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

None.

**Item 3. Defaults upon Senior Securities**

None.

**Item 4. Mine Safety Disclosures**

None.

**Item 5. Other Information**

**Non-Employee Director Compensation Policy**

As part of a regular review of the corporate governance practices of the Company and in an effort to continue to attract and retain qualified members of the Board of Directors of the Company (the “*Board*”), after consultation with compensation experts and upon recommendation of the Compensation Committee, the Board approved an Amended and Restated Non-Employee Director Compensation Policy (the “*A&R Non-Employee Director Compensation Policy*”), which provides annual cash and equity compensation for non-employee directors of the Board, on the terms and conditions contained therein. The A&R Non-Employee Director Compensation Policy is intended to enable the Company to attract qualified directors, provide them with compensation at a level that is consistent with the Company’s compensation

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objectives, and in the case of equity-based compensation, align our directors' interests with those of our stockholders. The A&R Non-Employee Director Compensation Policy was effective as of May 7, 2024.

#### **Annual Cash Retainer**

Under the A&R Non-Employee Director Compensation Policy, each of our non-employee directors of the Board is entitled to receive the following cash compensation for services on the Board and committees thereof, as follows:

Position	Amount
Base Board Retainer	\$ 40,000
Non-Executive Chair of the Board (in addition to above Base Retainer)	\$ 35,000
Chair of Audit Committee	\$ 18,000
Chair of Compensation Committee	\$ 12,000
Chair of Nominating and Corporate Governance Committee	\$ 10,000
Member of Audit Committee (non-Chair)	\$ 9,000
Member of Compensation Committee (non-Chair)	\$ 6,000
Member of Nominating and Corporate Governance Committee (non-Chair)	\$ 5,000

The annual cash compensation amounts are payable in equal quarterly installments, in arrears following the end of each quarter in which the service occurred, pro-rated for any partial quarters.

#### **Equity Compensation**

##### *Initial Grant*

For each non-employee director who is first elected or appointed to the Board in 2024 prior to the effective date of the A&R Non-Employee Director Compensation Policy or on or following the effective date of the A&R Non-Employee Director Compensation Policy, at the close of business on the date of such non-employee director's initial election or appointment to the Board, each such non-employee director will be automatically, and without further action by the Board or the Compensation Committee, granted a restricted stock unit award (an "*RSU Award*") covering a number of restricted stock units equal to (a) \$40,000 divided by (b) the average Fair Market Value (as defined in the Company's 2022 Equity Incentive Plan, as amended) of a share of the Company's common stock (the "*Common Stock*") for the 30 consecutive market trading days ending on and including the last market trading day prior to the grant date of such RSU Award, rounded down to the nearest whole unit (each, an "*Initial Grant*"). 50% of each Initial Grant will be vested as of the date of grant and the remainder will vest in two equal installments on each subsequent anniversary of the date of grant, subject to such non-employee director's continuous service with the Company on each vesting date.

##### *Annual Grant and Prorated Annual Grant*

At the close of business after the first Annual Meeting following the effective date of the A&R Non-Employee Director Compensation Policy and on the date of each subsequent annual meeting of the Company's stockholders held following the initial Annual Meeting (each, an "*Annual Meeting*"), each person who is then a non-employee director will be automatically, and without further action by the Board or the Compensation Committee, granted an RSU Award covering a number of restricted stock units equal to (i) \$20,000 divided by (ii) the average Fair Market Value of a share of Common Stock for the 30 consecutive market trading days ending on and including the last market trading day prior to the grant date of such RSU Award, rounded down to the nearest whole unit (each, an "*Annual Grant*").

In addition, for each non-employee director who is first elected or appointed to the Board after the first Annual Meeting of the Company's stockholders following the effective date of the A&R Non-Employee Director Compensation Policy on a date other than the date of an Annual Meeting of the Company's stockholders, at the close of business on the thirtieth (30<sup>th</sup>) day following such non-employee director's initial election or appointment to the Board, such non-employee director will be automatically, and without further action by the Board or the Compensation Committee, granted an RSU Award covering a number of restricted stock units equal to (i) \$20,000 divided by (ii) the average Fair Market Value of a share of Common Stock for the 30 consecutive market trading days ending on and including the last market trading day prior to the



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grant date of such RSU Award, multiplied by a fraction, the numerator of which equals 365 minus the total number of days, as of the grant date of such RSU Award, that have occurred since the last Annual Meeting and the denominator of which equals 365, rounded down to the nearest whole unit (each, a “*Prorated Annual Grant*”).

Each Annual Grant and Prorated Annual Grant will vest in full on the earlier of (i) the one-year anniversary of the grant date of the Annual Grant or Prorated Annual Grant, as applicable, and (ii) the date immediately prior to the date of the Annual Meeting following the grant date of such Annual Grant or Prorated Annual Grant, as applicable, subject to such non-employee director’s continuous service with the Company on each vesting date.

*Retainer Grant*

Each non-employee director may elect to forego receiving payment of all (but not less than all) of the annual cash retainers described above that he or she is otherwise eligible to receive for the period during the Company’s fiscal year that the election applies commencing on the first day of such fiscal year (or if the non-employee director makes the election in the Company’s fiscal year that the election applies, on the first day of the Company’s fiscal quarter following the Company’s fiscal quarter in which the election is made) and ending on the last day of such fiscal year and instead receive an RSU Award (the “*Retainer Grant*”), provided such election is timely made and complies with certain other requirements specified in the A&R Non-Employee Director Compensation Policy. If a non-employee director timely makes the election described above in accordance with the A&R Non-Employee Director Compensation Policy, on the first day of the Company’s fiscal year that the election applies (or if the non-employee director makes the election in the Company’s fiscal year that the election applies, on the first day of the Company’s fiscal quarter following the Company’s fiscal quarter in which the election is made), the non-employee director will be automatically granted a Retainer Grant covering a number of RSUs equal to the (i) aggregate amount of the annual cash retainers that the non-employee director is eligible to receive under the A&R Non-Employee Director Compensation Policy for the applicable period to which the election applies divided by (ii) the average Fair Market Value of a share of Common Stock for the 30 consecutive market trading days ending on and including the last market trading day prior to the grant date of such Retainer Grant, rounded down to the nearest whole unit. Each Retainer Grant will vest in equal quarterly installments over the period commencing on the grant date of the Retainer Grant and ending on the last day of the fiscal year in which the Retainer Grant is granted, subject to the non-employee director’s continuous service on each vesting date.

*Deferral of Settlement of RSU Awards*

Each non-employee director may elect to defer the delivery of shares in settlement of any RSU Award granted under the A&R Non-Employee Director Compensation Policy that would otherwise be delivered to such non-employee director on or following the date such award vests pursuant to the terms of a deferral election such non-employee director makes in accordance with the A&R Non-Employee Director Compensation Policy.

*Change of Control; Death; Disability*

Each RSU Award held by a non-employee director that is granted under the A&R Non-Employee Director Compensation Policy, including the awards described above, will fully vest upon such non-employee director’s death or disability (as defined in the Company’s 2022 Equity Incentive Plan, as amended), or immediately prior to the consummation of a change in control (as defined in the Company’s 2022 Equity Incentive Plan, as amended), in each case to extent such award is outstanding immediately prior to the occurrence of such event.

*Non-Employee Director Compensation Limit*

The aggregate value of all compensation granted or paid, to any non-employee director with respect to any fiscal year of the Company, including awards granted and cash fees paid by the Company to such non-employee director, will not exceed the limits set forth in the Company’s 2022 Equity Incentive Plan, as amended, currently, (1) \$750,000 in total value or (2) if such non-employee director first joins the Board during such fiscal year, \$1,500,000 in total value.

All RSU Awards shall be issued pursuant to the terms of the Company’s 2022 Equity Incentive Plan, as amended.

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The foregoing description of the A&R Non-Employee Director Compensation Policy is not complete and is subject to and qualified in its entirety by reference to the A&R Non-Employee Director Compensation Policy, a copy of which is attached hereto as Exhibit 10.1 and is incorporated herein by reference.

**Item 6. Exhibits**

Exhibit Number	Description of Document
3.1*	<a href="#">Third Amended and Restated Bylaws of Registrant.</a>
10.1*	<a href="#">Amended and Restated Non-Employee Director Compensation Policy, dated May 7, 2024.</a>
31.1*	<a href="#">Certification of Principal Executive Officer Pursuant to Exchange Act Rule 13a-14(a) or 15d-14(a), as Adopted Pursuant to Section 302 of The Sarbanes Oxley Act of 2002.</a>
31.2*	<a href="#">Certification of Principal Financial Officer Pursuant to Exchange Act Rule 13a-14(a) or 15d-14(a), as Adopted Pursuant to Section 302 of The Sarbanes Oxley Act of 2002.</a>
32.1**	<a href="#">Certification of Principal Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
32.2**	<a href="#">Certification of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
101.INS*	Inline XBRL Instance Document
101.SCH*	Inline XBRL Taxonomy Extension Schema Document
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)

\* Filed herewith

\*\* Furnished herewith. The certifications attached as Exhibit 32.1 and 32.2 that accompany this Quarterly Report on Form 10-Q are deemed furnished and not filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of NeuroBo Pharmaceuticals, Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date of this Quarterly Report on Form 10-Q, irrespective of any general incorporation language contained in such filing.

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**Signatures**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized, on May 9, 2024.

**NEUROBO PHARMACEUTICALS, INC.**

/s/ Hyung Heon Kim  
Hyung Heon Kim  
President and Chief Executive Officer

/s/ Marshall H. Woodworth  
Marshall H. Woodworth  
Chief Financial Officer

**THIRD AMENDED AND RESTATED  
BYLAWS  
OF  
NEUROBO PHARMACEUTICALS, INC.**

**ARTICLE I  
OFFICES**

**Section 1. REGISTERED OFFICE.** The registered office of the corporation shall be fixed in the Certificate of Incorporation, as amended (the "*Certificate of Incorporation*").

**Section 2. OTHER OFFICES.** The corporation shall also have and maintain an office or principal place of business at such place as may be fixed by the corporation's board of directors (the "*Board of Directors*"), and may also have offices at such other places, both within and outside of the State of Delaware as the Board of Directors may from time to time determine or the business of the corporation may require.

**ARTICLE II  
CORPORATE SEAL**

**Section 3. CORPORATE SEAL.** The Board of Directors may adopt a corporate seal. If adopted, the corporate seal shall consist of a die bearing the name of the corporation and the inscription, "*Corporate Seal-Delaware*." Said seal may be used by causing it, a facsimile, or other electronic means thereof to be impressed or affixed or reproduced or otherwise.

**ARTICLE III  
STOCKHOLDERS' MEETINGS**

**Section 4. PLACE OF MEETINGS.** Meetings of the stockholders of the corporation may be held at such place, either within or outside of the State of Delaware, as may be determined from time to time by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the Delaware General Corporation Law (the "*DGCL*"), or that stockholders not physically present at a meeting of stockholders may, by means of remote communication, participate in the meeting and be deemed to be present in person and vote at the meeting, whether such meeting is to be held at a designated place or solely by means of remote communication, subject to such guidelines and procedures as the Board of Directors may adopt in accordance with the requirements of applicable law and the DGCL.

**Section 5. ANNUAL MEETINGS.**

(a) The annual meeting of the stockholders of the corporation, for the purpose of election of directors and for such other business as shall properly come before it in accordance with these Third Amended and Restated Bylaws (the "*Bylaws*"), shall be held on such date and at such time as may be designated from time to time by the Board of Directors. 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 of stockholders: (i) pursuant to the corporation's notice of meeting of stockholders (with respect to business other than nominations); (ii) brought specifically by or at the direction of the Board of Directors; or (iii) by any stockholder of the corporation who was a stockholder of record at the time of giving the stockholder's notice provided for in Section 5(b) below, at the record date for the meeting and at the time of the meeting, who is entitled to vote at the meeting and who complied with the notice procedures and other provisions and requirements set forth in this Section 5 (a "*Notifying Stockholder*"). For the avoidance of doubt, clause (iii) above shall be the exclusive means for a stockholder to make nominations and submit other business (other than matters properly included in the corporation's notice of meeting of stockholders and proxy statement under Rule 14a-8 under the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (the "*1934 Act*")) before an annual meeting of stockholders.

(b) At an annual meeting of the stockholders, only such business shall be conducted as is a proper matter for stockholder action under the DGCL and as shall have been properly brought before the meeting.

(i) For nominations for the election to the Board of Directors to be properly brought before an annual meeting by a Notifying Stockholder pursuant to clause (iii) of Section 5(a), the Notifying Stockholder must deliver written notice to the Secretary of the corporation at the principal executive offices of the corporation on a timely basis as set forth in Section 5(b)(iii) and must update and supplement such written notice on a timely basis as set forth in Section 5(c). Such Notifying Stockholder's notice shall set forth: (A) as to each nominee such Notifying Stockholder proposes to nominate at the meeting: (1) the name, age, business address and residence address of such nominee; (2) the principal occupation or employment of such nominee and a description of the qualifications and business or professional experience of each proposed nominee; (3) a description of any position of such nominee as an executive officer or director of any principal competitor (as defined below) of the corporation within the three years preceding the submission of the notice; (4) the class and number of shares of each class of capital stock or other securities of the corporation which are owned of record and beneficially by such nominee; (5) the date or dates on which such securities were acquired and the investment intent of such acquisition; (6) a description of all Derivative Transactions (as defined below) by each nominee during the previous twelve month period, including the date of the transactions and the class, series and number of securities involved in, and the material economic terms of, such Derivative Transactions; (7) a description of any business or personal interests that could place such nominee in a potential conflict of interest with the Corporation or any of its subsidiaries; (8) a written representation and agreement, in the form provided by the Secretary upon written request of the Notifying Stockholder, which shall include the representations and agreements described in Section 5(e), within five business days of such written request, that such nominee (I) if elected, intends to tender promptly following such person's failure to receive the required vote for election or re-election at the next meeting at which such person would face election or re-election, an irrevocable resignation effective upon acceptance of such resignation by the Board of Directors, (II) agrees to be named as a nominee in a proxy statement and proxy card relating to such meeting of stockholders, (III) agrees to serve as a director for the full term for which such person is standing for election, if elected, (IV) would be in compliance with and will comply with all of the corporation's publicly-available corporate governance, policies and guidelines applicable to directors, and (V) agrees to comply with all applicable rules or regulations of any stock exchange applicable to the corporation; and (9) such other information concerning such nominee as would be required to be disclosed in a proxy statement soliciting proxies for the election of such nominee as a director in an election contest (even if an election contest is not involved), or that is otherwise required to be disclosed pursuant to Section 14 of the 1934 Act and the rules and regulations promulgated thereunder including, without limitation, Regulation 14A and Rule 14a-19, and such nominee's written consent to the corporation's public disclosure of the foregoing; and (B) the information required by Section 5(b)(iv). Such notice must be accompanied by the completed and signed written questionnaire with respect to the background and qualifications of such nominee in accordance with Section 5(e) (which questionnaire shall be in the form provided by the Secretary of the corporation upon written request within five business days of such request). The corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as an independent director of the corporation under the listing standards of the principal U.S. exchange upon which the corporation's capital stock is listed, any applicable rules of the Securities and Exchange Commission and publicly disclosed standards, if any, used by the Board of Directors in determining the independence of the corporation's directors or that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such proposed nominee. In addition, the Board of Directors may require any proposed nominee to submit to interviews with the Board of Directors or any committee thereof, and such nominee will make themselves available for any such interviews within ten (10) days following any reasonable request therefor from the Board of Directors or any committee thereof.

(ii) Other than proposals sought to be included in the corporation's proxy materials pursuant to Rule 14a-8 under the 1934 Act, for business other than nominations for the election to the Board of Directors to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of Section 5(a), the Notifying Stockholder must deliver written notice to the Secretary of the corporation at the principal executive offices of the corporation on a timely basis as set forth in Section 5(b)(iii), and must update and supplement such written notice on a timely basis as set forth in Section 5(c). Such stockholder's notice shall set forth: (A) as to each matter such stockholder proposes to bring before the meeting, a reasonably brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend these Bylaws, the Certificate of Incorporation or any other instrument or document, the language of the proposed amendment), and any material interest including any anticipated benefit of such business to any Proponent other than solely as a result of its ownership of the corporation's capital stock, that is material to any Proponent individually, or to the Proponents in the aggregate; and (B) the information required by Section 5(b)(iv).

(iii) To be timely, the written notice required by Section 5(b)(i) or Section 5(b)(ii) must be received by the Secretary of the corporation at the principal executive offices of the corporation not later than the close of business on the 90<sup>th</sup> day nor earlier than the close of business on the 120<sup>th</sup> day prior to the first anniversary of the preceding year's annual meeting; *provided, however*, that, subject to the last sentence of this Section 5(b)(iii), in the event that the date of the annual meeting is advanced more than 30 days prior to or delayed by more than 30 days after the anniversary of the preceding year's annual meeting, notice by the Notifying Stockholder to be timely must be so received no earlier than the close of business on the 120<sup>th</sup> day prior to such annual meeting and not later than the close of business on the later of the 90<sup>th</sup> day prior to such annual meeting or the close of business on the 10<sup>th</sup> day following the day on which public announcement of the date of such meeting is first made. In no event shall an adjournment, recess, judicial stay, rescheduling or postponement of an annual meeting for which notice has been given, or the public announcement thereof has been made, commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. The number of nominees a stockholder may nominate for election at a meeting of the stockholders shall not exceed the number of directors to be elected at such meeting.

(iv) The written notice required by Section 5(b)(i) or Section 5(b)(ii) shall also set forth, as of the date of the notice and as to the Notifying Stockholder and the beneficial owner, if any, and any person or entity acting in concert with the Notifying Stockholder, or on whose behalf the nomination or proposal is made (each, a **"Proponent"** and collectively, the **"Proponents"**): (A) the name and address of each Proponent, including, if applicable, their name and address as they appear on the corporation's books, if different; (B) the class, series and number of shares of each class of capital stock or other securities of the corporation that are, directly or indirectly, owned beneficially and of record by each Proponent (within the meaning of Rule 13d-3 under the 1934 Act, except that beneficially owned shall include any shares of stock or other securities of the corporation as to which a person has a right to acquire beneficial ownership at any time in the future); (C) a description of any agreement, arrangement or understanding (whether oral or in writing) with respect to such nomination or proposal between or among any Proponent and any of its affiliates or associates, and any others (including their names) acting in concert, or otherwise under the agreement, arrangement or understanding, with any of the foregoing; (D) a representation that the Proponents are holders of record or beneficial owners, as the case may be, of shares of the corporation entitled to vote at the meeting and intend to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice (with respect to a notice under Section 5(b)(i)) or to propose the business that is specified in the notice (with respect to a notice under Section 5(b)(ii)); (E) a representation as to whether the Proponents or any of them intend to, or are a part of a group that intends to, (I) deliver a proxy statement and/or form of proxy to at least the number of holders of the corporation's voting shares reasonably believed by the Proponents to be sufficient to approve or adopt the business to be proposed or to elect such nominee or nominees, as applicable, and, if required by Rule 14a-19 under the 1934 Act (or a successor rule), to solicit proxies in support of director nominees other than the corporation's nominees in accordance with Rule 14a-19 under the 1934 Act (or a successor rule), (II) engage in a solicitation (within the meaning of Rule 14a-1(I) under the 1934 Act) with respect to the nomination, or other business, as applicable, and if so, the name of each participant (as defined in Item 4 of Schedule 14A under the 1934 Act) in such solicitation, or (III) otherwise to solicit proxies from stockholders in support of such nomination; (F) to the extent known by any Proponent, the name and address of any other stockholder providing financial support or meaningful assistance in furtherance of the proposal or the nomination, as applicable, on the date of the Notifying Stockholder's notice; (G) a description of all Derivative Transactions (as defined below) by each Proponent during the previous 12-month period, including the date of the transactions and the class, series and number of securities involved in, and the material economic terms of, such Derivative Transactions; (H) any other information relating to the Proponents, if any, that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to Section 14 of the 1934 Act and the rules and regulations promulgated thereunder; (I) any material interest of the Proponents in the proposed business and/or the election of directors described in the notice; and (J) a description of any "participants" (as such term is used in Rule 13d-5 under the 1934 Act, or any successor rule), any associates, family members living in the same household of the Notifying Stockholder and any person or entity who is a member of a "group" (as such term is used in Rule 13d-5 under the 1934 Act, or any successor rule) with the Notifying Stockholder.

(c) A Notifying Stockholder providing written notice required by Section 5(b)(i) or Section 5(b)(ii) shall (A) update and supplement such notice in writing, if necessary, so that the information provided or required to be provided in such notice is true and correct in all material respects as of (i) the record date for the meeting and (ii) the date that is five business days prior to the meeting and, in the event of any adjournment or postponement

thereof, five business days prior to such adjourned or postponed meeting; and (B) if a Notifying Stockholder has provided notice pursuant to Section 5(b)(i), notify the corporation if (i) the Notifying Stockholder no longer intends to solicit proxies in support of director nominees other than the corporation's nominees in accordance with Rule 14a-19 under the 1934 Act (or a successor rule) or (ii) the Notifying Stockholder fails to comply with the requirements of Rule 14a-19 under the 1934 Act (or a successor rule) or any other rule or regulation thereunder (such Notifying Stockholder or a related Proponent shall promptly notify the corporation of such failure), including the provision to the corporation of notices required thereunder in a timely manner, or fail to timely provide reasonable evidence sufficient to satisfy the corporation that the Notifying Stockholder has met the requirements of Rule 14a-19(a)(3) under the 1934 Act (or a successor rule) pursuant to the second following sentence; if any of the events described in this clause (B) occur or the related notices are provided, then the corporation shall disregard any proxies or votes solicited for such proposed nominee, the nomination of such proposed nominee will be disregarded and no vote on the election of such proposed nominee will occur (notwithstanding that proxies in respect of such proposed nominee may have been received by the corporation). In the case of an update and supplement pursuant to clause (A)(i) of this Section 5(c), such update and supplement shall be received by the Secretary of the corporation at the principal executive offices of the corporation not later than five business days after the record date for the meeting. In the case of an update and supplement pursuant to clause (A)(ii) of this Section 5(c), such update and supplement shall be received by the Secretary of the corporation at the principal executive offices of the corporation not later than two business days prior to the date for the meeting, and, in the event of any adjournment or postponement thereof, two business days prior to such adjourned or postponed meeting. If any Notifying Stockholder provides notice pursuant to Rule 14a-19 under the 1934 Act (or a successor rule), such Notifying Stockholder or a related Proponent will deliver to the Secretary, no later than five (5) business days prior to the applicable meeting date, reasonable evidence that the requirements of Rule 14a-19(a)(3) under the 1934 Act (or a successor rule) have been satisfied.

(d) Notwithstanding anything in Section 5(b)(iii) to the contrary, in the event that the number of directors in an Expiring Class (as defined below) is increased and there is no public announcement of the appointment of a director to such class, or, if no appointment was made, of the vacancy in such class, made by the corporation at least 10 days before the last day a stockholder may deliver a notice of nomination in accordance with Section 5(b)(iii), a stockholder's notice required by this Section 5 and which complies with the requirements in Section 5(b)(i), other than the timing requirements in Section 5(b)(iii), shall also be considered timely, but only with respect to nominees for any new positions in such Expiring Class created by such increase, if it shall be received by the Secretary of the corporation 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.

(e) A person shall not be eligible for election or re-election as a director unless the person (A) is nominated in accordance with clause (ii) of Section 5(a), or (B) is nominated in accordance with clause (iii) of Section 5(a) and has delivered to the Secretary a completed and signed written questionnaire with respect to the background and qualification of such proposed nominee and the background of any other person or entity on whose behalf the nomination is being made (which questionnaire shall be in the form provided by the Secretary upon written request) and a written representation and agreement (in the form provided by the Secretary of the corporation upon written request) that such person: (i) is not and will not become a party to (A) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the corporation, will act or vote on any issue or question (a "**Voting Commitment**") that has not been disclosed to the corporation in the questionnaire or (B) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the corporation, with such person's fiduciary duties under applicable law; (ii) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director of the corporation that has not been disclosed to the corporation in such representation and agreement, (iii) in such person's individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected as a director of the corporation, and will comply with, all applicable publicly disclosed corporate governance, conflict of interest, confidentiality, Regulation FD, code of conduct and ethics, and stock ownership and trading policies and guidelines of the corporation, and (iv) will make such other acknowledgments, enter into such agreements and provide such information as the Board of Directors requires of all directors, including promptly submitting all completed and signed questionnaires required of the corporation's directors. Except as otherwise required by law, the chairperson of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made, or proposed, as the case may be, in accordance with the procedures set forth in these

Bylaws and, if any proposed nomination or business is not in compliance with these Bylaws, or the Notifying Stockholder and its related Proponents do not act in accordance with the representations required in these Bylaws, including those in Section 5(b)(iv)(D) and Section 5(b)(iv)(E), and Rule 14a-19 under the 1934 Act (or a successor rule), to declare that such proposal or nomination shall not be presented for stockholder action at the meeting and shall be disregarded and that such proposed business shall not be considered or transacted, notwithstanding that proxies in respect of such nominations or such business may have been solicited or received by the corporation.

(f) Notwithstanding the foregoing provisions of this Section 5, in order to include information with respect to a stockholder proposal in the proxy statement and form of proxy for a stockholders' meeting, a stockholder must also comply with all applicable requirements of state and federal law, including the 1934 Act and the rules and regulations thereunder, the Certificate of Incorporation and these Bylaws. Notwithstanding the provisions of Section 5, unless otherwise required by law, no stockholder shall solicit proxies in support of director nominees other than the corporation's nominees unless such stockholder has complied with Rule 14a-19 (or a successor rule) under the 1934 Act in connection with the solicitation of such proxies, including the provision to the corporation of notices required thereunder in a timely manner. Nothing in these Bylaws shall be deemed to affect any rights of stockholders to request inclusion of proposals in the corporation's proxy statement pursuant to Rule 14a-8 under the 1934 Act; *provided, however*, that any references in these Bylaws to the 1934 Act or the rules and regulations thereunder are not intended to and shall not limit the requirements applicable to proposals and/or nominations to be considered pursuant to Section 5(a)(iii).

(g) For purposes of Section 5 and Section 6,

(i) **"affiliates"** and **"associates"** shall have the meanings set forth in Rule 405 under the Securities Act of 1933, as amended.

(ii) **"Derivative Transaction"** shall mean any agreement, arrangement, interest or understanding entered into by, or on behalf or for the benefit of, any Proponent or any nominee, as applicable, whether record or beneficial:

- (1) the value of which is derived in whole or in part from the value of any class or series of shares or other securities of the corporation;
- (2) which otherwise provides any direct or indirect opportunity to gain or share in any gain derived from a change in the value of securities of the corporation;
- (3) the effect or intent of which is to mitigate loss, manage risk or benefit of security value or price changes; or
- (4) which provides the right to vote or increase or decrease the voting power of, such Proponent or nominee, as applicable, or any of its affiliates or associates, with respect to any securities of the corporation,

which agreement, arrangement, contract, interest or understanding may include, without limitation, any option, warrant, debt position, note, bond, convertible security, swap, stock appreciation right, short position, repurchase, profit interest, hedge, right to dividends, voting agreement, performance-related fee or arrangement to borrow or lend shares (whether or not subject to payment, settlement, exercise or conversion in any such class or series), and any proportionate interest of such Proponent or nominee, as applicable, in the securities of the corporation held by any general or limited partnership, or any limited liability company, of which such Proponent or nominee, as applicable is, directly or indirectly, a general partner or managing member.

(iii) **"Expiring Class"** shall mean a class of directors whose term shall expire at the next annual meeting of stockholders.



(iv) **“principal competitor”** shall mean any entity that develops or provides products or services that compete with or are alternatives to the principal products developed or produced or services provided by the corporation or its affiliates.

(v) **“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 1934 Act.

#### **Section 6. SPECIAL MEETINGS.**

(a) Special meetings of the stockholders of the corporation may be called, for any purpose as is a proper matter for stockholder action under the DGCL, by (i) the Chairperson of the Board of Directors, (ii) the Chief Executive Officer, or (iii) the Board of Directors pursuant to a resolution adopted by a majority of the total number of authorized directors (whether or not there exist any vacancies in previously authorized directorships at the time any such resolution is presented to the Board of Directors for adoption).

(b) The Board of Directors shall determine the date, time and place, if any, of such special meeting. Upon determination of the date, time and place, if any, of the meeting, the Secretary of the corporation shall cause a notice of meeting to be given to the stockholders entitled to vote, in accordance with the provisions of Section 7. No business may be transacted at such special meeting other than as specified in the corporation’s notice of meeting.

(c) Nominations of persons for election to the Board of Directors may only be made at a special meeting of stockholders at which directors are to be elected pursuant to the corporation’s notice of meeting (i) by or at the direction of the Board of Directors or (ii) by one or more stockholders of the corporation, holding shares in the aggregate entitled to cast not less than 10% of the votes at that meeting, who are stockholders of record at the time of giving notice provided for in this paragraph, at the record date for the meeting and at the time of the meeting, who shall be entitled to vote at the meeting and shall deliver written notice to the Secretary of the corporation setting forth the information required by Section 5(b)(i) and Section 5(b)(iv), and otherwise comply with the procedures and other requirements of this Section 6. In the event the corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder of record may nominate a person or persons (as the case may be), for election to such position(s) as specified in the corporation’s notice of meeting, if written notice setting forth the information required by Section 5(b)(i), shall be received by the Secretary of the corporation at the principal executive offices of the corporation not later than the close of business on the later of the 90<sup>th</sup> day prior to such meeting or the 10<sup>th</sup> day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. The stockholder shall also update and supplement such information as required under Section 5(c). In no event shall an adjournment, recess, judicial stay, rescheduling or postponement of a special meeting for which notice has been given, or the public announcement thereof has been made, commence a new time period (or extend any time period) for the giving of a stockholder’s notice as described above. The number of nominees a stockholder may nominate for election at a special meeting of the stockholders shall not exceed the number of directors to be elected at such meeting. If the corporation shall subsequently increase the number of directors subject to election at the applicable meeting, such notice as to any additional nominees shall be due on the later of (x) the conclusion of the time period provided for in this subsection (c) above or (y) the tenth (10<sup>th</sup>) day following the date of public announcement of such increase.

(d) Except as otherwise required by law, the chairperson of the meeting shall have the power and duty to determine whether a nomination was made in accordance with the procedures set forth in these Bylaws and, if any proposed nomination is not in compliance with these Bylaws, or the Notifying Stockholder does not act in accordance with the representations required in these Bylaws, including those in Section 5(b)(iv)(D) and Section 5(b)(iv)(E), and Rule 14a-19 (or a successor rule) under the 1934 Act, to declare that such nomination shall not be presented for stockholder action at the special meeting and shall be disregarded, notwithstanding that proxies in respect of such nominations may have been solicited or received.

(e) Notwithstanding the foregoing provisions of this Section 6, a Notifying Stockholder must also comply with all applicable requirements of the state and federal law, including the 1934 Act and the rules and regulations thereunder, the Certificate of Incorporation and these Bylaws, with respect to matters set forth in this Section 6. Notwithstanding the provisions of this Section 6, unless otherwise required by law, no Notifying

Stockholder or related Proponent shall solicit proxies in support of director nominees other than the corporation's nominees unless such Notifying Stockholder and its related Proponent(s) have complied with Rule 14a-19 (or a successor rule) under the 1934 Act in connection with the solicitation of such proxies, including the provision to the corporation of notices required thereunder in a timely manner. Nothing in these Bylaws shall be deemed to affect any rights of stockholders to request inclusion of proposals in the corporation's proxy statement pursuant to Rule 14a-8 under the 1934 Act; *provided, however*, that any references in these Bylaws to the 1934 Act or the rules and regulations thereunder are not intended to and shall not limit the requirements applicable to nominations for the election to the Board of Directors to be considered pursuant to Section 6(c).

**Section 7. NOTICE OF MEETINGS.** Except as otherwise provided by law, notice, given in writing or by electronic transmission, of each meeting of stockholders shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting, such notice to specify the place, if any, date and hour, in the case of special meetings, the purpose or purposes of the meeting, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at any such meeting and the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting. If mailed, notice is deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation. If sent via electronic transmission, notice is deemed given as of the sending time recorded at the time of transmission. Notice of the time, place, if any, and purpose of any meeting of stockholders may be waived in writing, signed by the person entitled to notice thereof, or by electronic transmission by such person, either before or after such meeting, and will be waived by any stockholder by such person's attendance thereat in person, by remote communication, if applicable, or by proxy, except when the stockholder 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. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given. The Board of Directors may postpone, reschedule or cancel any meeting of stockholders previously scheduled by the Board of Directors.

**Section 8. QUORUM AND REQUIRED VOTE.** At all meetings of stockholders, except where otherwise provided by law, by Certificate of Incorporation, or by these Bylaws, the presence, in person, by remote communication, if applicable, or by proxy duly authorized, of the holders of one-third of the voting power of the outstanding shares of stock entitled to vote shall constitute a quorum for the transaction of business. In the absence of a quorum, any meeting of stockholders may be adjourned, from time to time, either by the chairperson of the meeting or by vote of the holders of a majority of the voting power of the shares represented thereat, but no other business shall be transacted at such meeting. The stockholders present at a duly called or convened meeting, at which a quorum is present, may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. Except as otherwise provided by law or by applicable stock exchange rules, or by the Certificate of Incorporation or these Bylaws, in all matters other than the election of directors, the affirmative vote of the majority of voting power of the shares present in person, by remote communication, if applicable, or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the stockholders. Except as otherwise provided by law, or by applicable stock exchange rules, the Certificate of Incorporation or these Bylaws, directors shall be elected by a plurality of the votes of the shares present in person, by remote communication, if applicable, or represented by proxy at the meeting and entitled to vote on the election of directors. Where a separate vote by a class or classes or series is required, except where otherwise provided by law, or by applicable stock exchange rules, or by the Certificate of Incorporation or these Bylaws, one-third of the voting power of the outstanding shares of such class or classes or series, present in person, by remote communication, if applicable, or represented by proxy duly authorized, shall constitute a quorum entitled to take action with respect to that vote on that matter. Except where otherwise provided by law, or by applicable stock exchange rules, or by the Certificate of Incorporation or these Bylaws, the affirmative vote of the majority (plurality, in the case of the election of directors) of shares of such class or classes or series present in person, by remote communication, if applicable, or represented by proxy at the meeting shall be the act of such class or classes or series.

**Section 9. ADJOURNMENT AND NOTICE OF ADJOURNED MEETINGS.** Any meeting of stockholders, whether annual or special, may be adjourned from time to time, whether or not a quorum is present at the meeting, either by the chairperson of the meeting or by the vote of the holders of a majority of the voting power of the shares present in person, by remote communication, if applicable, or represented by proxy at the meeting. When

a meeting is adjourned (including an adjournment taken to address a technical failure to convene or continue a meeting using remote communication) to another time or place, if any, notice need not be given of the adjourned meeting if the time and place, if any, of such adjourned meeting, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced (i) at the meeting at which the adjournment is taken, (ii) displayed during the time scheduled for the meeting, on the same electronic network used to enable stockholders and proxy holders to participate in the meeting by means of remote communication, or (iii) set forth in the notice of meeting given in accordance with these Bylaws. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 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.

**Section 10. VOTING RIGHTS.** For the purpose of determining those stockholders entitled to vote on the subject matter at any meeting of the stockholders, except as otherwise provided by law, only persons in whose names shares stand on the stock records of the corporation on the record date, as provided in Section 12, shall be entitled to vote at any meeting of stockholders. Every person entitled to vote shall have the right to do so either in person, by remote communication, if applicable, or by an agent or agents authorized by a proxy granted in accordance with the DGCL. An agent so appointed need not be a stockholder. No proxy shall be voted after three years from its date of creation unless the proxy provides for a longer period. Such a proxy may be prepared, transmitted and delivered in any manner permitted by applicable law, including Rule 14a-19 promulgated under the 1934 Act. Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Directors

**Section 11. JOINT OWNERS OF STOCK.** If shares or other securities having voting power stand of record in the names of two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, tenants by the entirety, or otherwise, or if two or more persons have the same fiduciary relationship respecting the same shares, unless the Secretary of the corporation is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect: (a) if only one votes, such act binds all; (b) if more than one votes, the act of the majority so voting binds all; or (c) if more than one votes, but the vote is evenly split on any particular matter, each faction may vote the securities in question proportionally, or may apply to the Delaware Court of Chancery for relief as provided in Section 217(b) of the DGCL. If the instrument filed with the Secretary shows that any such tenancy is held in unequal interests, a majority or even-split for the purpose of clause (c) of this Section 11 shall be a majority or even-split in interest.

**Section 12. LIST OF STOCKHOLDERS.** The corporation shall prepare, no later than the tenth day before each meeting of stockholders, a complete list of the stockholders entitled to vote at said meeting, arranged in alphabetical order, showing the address of each stockholder and the number and class of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of ten days ending on the day before the meeting date, (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (b) during ordinary business hours, at the principal place of business of the corporation. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. Except as otherwise provided by law, the stock ledger shall be the only evidence as to the stockholders entitled to examine the list of stockholders required by this Section 12 or to vote in person or by proxy at any meeting of the stockholders.

**Section 13. ACTION WITHOUT MEETING.** No action shall be taken by the stockholders except at an annual or special meeting of stockholders called in accordance with these Bylaws, and no action shall be taken by the stockholders by consent or electronic transmission.

**Section 14. ORGANIZATION.**

(a) At every meeting of stockholders, the Chairperson of the Board of Directors, or, if a Chairperson has not been appointed or is absent, the President, or, if the President is absent, a chairperson of the

meeting chosen by a majority in interest of the stockholders entitled to vote, present in person or by proxy, shall act as chairperson. The Secretary, or, in the Secretary's absence, an Assistant Secretary directed to do so by the President, shall act as secretary of the meeting.

(b) The Board of Directors of the corporation shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as it shall deem necessary, appropriate or convenient. Subject to such rules and regulations of the Board of Directors, if any, the chairperson of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairperson, are necessary, appropriate or convenient for the proper conduct of the meeting, including, without limitation, establishing an agenda or order of business for the meeting, rules and procedures for maintaining order at the meeting and the safety of those present, limitations on attendance at or participation in such meeting to stockholders of record of the corporation and their duly authorized and constituted proxies and such other persons as the chairperson shall permit, restrictions on entry to the meeting after the time fixed for the commencement thereof, limitations on the time allotted to questions or comments by participants and regulation of the opening and closing of the polls for balloting on matters which are to be voted on by ballot. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting. Unless and to the extent determined by the Board of Directors or the chairperson of the meeting, meetings of stockholders shall not be required to be held in accordance with rules of parliamentary procedure.

(c) In advance of any meeting of the stockholders, the Board of Directors, by resolution, the Chairperson of the Board of Directors or the Chief Executive Officer shall appoint one or more inspectors to act at the meeting and make a written report thereof. One or more other persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of the stockholders, the chairperson of the meeting shall appoint one or more inspectors to act at the meeting. Unless otherwise required by applicable law, inspectors may be officers, employees or agents of the corporation. Each inspector, before entering upon the discharge of the duties of inspector, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector's ability. The inspector shall have the duties prescribed by law and shall take charge of the polls and, when the vote is completed, shall execute and deliver to the corporation a certificate of the result of the vote taken and of such other facts as may be required by applicable law.

#### **ARTICLE IV** **DIRECTORS**

**Section 15. NUMBER.** The authorized number of directors of the corporation shall be fixed in accordance with the Certificate of Incorporation. Directors need not be stockholders unless so required by the Certificate of Incorporation.

**Section 16. POWERS.** The business and affairs of the corporation shall be managed by or under the direction of the Board of Directors, except as may be otherwise provided by law or by the Certificate of Incorporation.

**Section 17. CLASSES OF DIRECTORS.**

(a) Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, the directors shall be divided into three classes designated as Class I, Class II and Class III, respectively. Initially, directors shall be assigned to each class in accordance with a resolution or resolutions adopted by the Board of Directors. At the first annual meeting of stockholders following the initial classification of the Board of Directors, the term of office of the Class I directors shall expire and Class I directors shall be elected for a full term of three years. At the second annual meeting of stockholders following such initial classification, the term of office of the Class II directors shall expire and Class II directors shall be elected for a full term of three years. At the third annual meeting of stockholders following such initial classification, the term of office of the Class III directors shall expire and Class III directors shall be elected for a full term of three years. At each succeeding annual meeting of stockholders, directors shall be elected for a full term of three years to succeed the directors of the class whose terms expire at such annual meeting.

(b) Notwithstanding the foregoing provisions of this Section 17, each director shall serve until such director's successor is duly elected and qualified or until such director's earlier death, resignation or removal.

No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

**Section 18. VACANCIES.**

(a) Unless otherwise provided in the Certificate of Incorporation, and subject to the rights of the holders of any series of Preferred Stock, any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other causes and any newly created directorships resulting from any increase in the number of directors shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled only by the affirmative vote of a majority of the directors then in office, even though less than a quorum of the Board of Directors, or by a sole remaining director, and not by the stockholders, *provided, however*, that whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the Certificate of Incorporation, vacancies and newly created directorships of such class or classes or series shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected, and not by the stockholders. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the director for which the vacancy was created or occurred and until such director's successor shall have been elected and qualified. A vacancy in the Board of Directors shall be deemed to exist under this Bylaw in the case of the death, removal or resignation of any director.

**Section 19. RESIGNATION.** Any director may resign at any time by delivering notice in writing or by electronic transmission to the Secretary of the corporation, such resignation to specify whether it will be effective at a particular time. If no such specification is made, the resignation shall be deemed effective at the time of delivery of the resignation to the Secretary of the corporation. A verbal resignation shall not be deemed effective until confirmed by the director in writing or by electronic transmission to the Secretary of the corporation. When one or more directors shall resign from the Board of Directors, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office for the unexpired portion of the term of the director whose place shall be vacated and until such director's successor shall have been duly elected and qualified.

**Section 20. REMOVAL.**

(a) Subject to the rights of any series of Preferred Stock to elect additional directors under specified circumstances, neither the Board of Directors nor any individual director may be removed without cause.

(b) Subject to any limitations imposed by applicable law, any individual director or directors may be removed with cause by the affirmative vote of the holders of at least 66 2/3% of the voting power of all then outstanding shares of capital stock of the corporation entitled to vote generally at an election of directors.

**Section 21. MEETINGS.**

(a) **Regular Meetings.** Unless otherwise restricted by the Certificate of Incorporation, regular meetings of the Board of Directors may be held at any time or date and at any place within or outside of the State of Delaware which has been designated by the Board of Directors, with notice thereof given to all directors, either orally or in writing, by telephone, including a voice-messaging system or other system designed to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means. No further notice shall be required for regular meetings of the Board of Directors.

(b) **Special Meetings.** Unless otherwise restricted by the Certificate of Incorporation, special meetings of the Board of Directors may be held at any time and place within or outside the State of Delaware whenever called by the Chairperson of the Board, the Chief Executive Officer or a majority of the authorized number of directors.

(c) **Meetings by Electronic Communications Equipment.** Any member of the Board of Directors, or of any committee thereof, may participate in a meeting by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.

(d) **Notice of Special Meetings.** Notice of the time and place of all special meetings of the Board of Directors shall be orally or in writing, by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means, during normal business hours, at least 24 hours before the date and time of the meeting. If notice is sent by U.S. mail, it shall be sent by first class mail, charges prepaid, at least three days before the date of the meeting. Notice of any meeting may be waived in writing, or by electronic transmission, at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends the 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.

(e) **Waiver of Notice.** The transaction of all business at any meeting of the Board of Directors, or any committee thereof, however called or noticed, or wherever held, shall be as valid as though it had been transacted at a meeting duly held after regular call and notice, if a quorum be present and if, either before or after the meeting, each of the directors not present who did not receive notice shall sign a written waiver of notice or shall waive notice by electronic transmission. All such waivers shall be filed with the corporate records or made a part of the minutes of the meeting.

## **Section 22. QUORUM AND VOTING.**

(a) Unless the Certificate of Incorporation requires a greater number, and except with respect to questions related to indemnification arising under Section 43 for which a quorum shall be one-third of the exact number of directors fixed from time to time, a quorum of the Board of Directors shall consist of a majority of the exact number of directors fixed from time to time by the Board of Directors in accordance with the Certificate of Incorporation; *provided, however*, at any meeting whether a quorum be present or otherwise, a majority of the directors present may adjourn from time to time until the time fixed for the next regular meeting of the Board of Directors, without notice other than by announcement at the meeting.

(b) At each meeting of the Board of Directors at which a quorum is present, all questions and business shall be determined by the affirmative vote of a majority of the directors present, unless a different vote be required by law, the Certificate of Incorporation or these Bylaws.

**Section 23. ACTION WITHOUT MEETING.** Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, 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 all members of the Board of Directors or committee, as the case may be, consent thereto in writing or by electronic transmission, and such writing or writings or transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or committee. 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.

**Section 24. FEES AND COMPENSATION.** Directors shall be entitled to such compensation for their services as may be approved by the Board of Directors, including, if so approved, by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, for attendance at each regular or special meeting of the Board of Directors and at any meeting of a committee of the Board of Directors. Nothing herein contained shall be construed to preclude any director from serving the corporation in any other capacity as an officer, agent, employee, or otherwise and receiving compensation therefor.

## **Section 25. COMMITTEES.**

(a) **Executive Committee.** The Board of Directors may appoint an Executive Committee to consist of one or more members of the Board of Directors. The Executive Committee, to the extent permitted by law

and provided in the resolution of the Board of Directors shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to (i) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopting, amending or repealing any Bylaw of the corporation.

**(b) Other Committees.** The Board of Directors may, from time to time, appoint such other committees as may be permitted by law. Such other committees appointed by the Board of Directors shall consist of one or more members of the Board of Directors and shall have such powers and perform such duties as may be prescribed by the resolution or resolutions creating such committees, but in no event shall any such committee have the powers denied to the Executive Committee in these Bylaws.

**(c) Term.** The Board of Directors, subject to any requirements of any outstanding series of Preferred Stock and the provisions of subsections (a) or (b) of this Section 25, may at any time increase or decrease the number of members of a committee or terminate the existence of a committee. The membership of a committee member shall terminate on the date of such committee member's death or voluntary resignation from the committee or from the Board of Directors. The Board of Directors may at any time for any reason remove any individual committee member and the Board of Directors may fill any committee vacancy created by death, resignation, removal or increase in the number of members of the committee. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee, and, in addition, in the absence or disqualification of any member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such committee member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

**(d) Meetings.** Unless the Board of Directors shall otherwise provide, regular meetings of the Executive Committee or any other committee appointed pursuant to this Section 25 shall be held at such times and places as are determined by the Board of Directors, or by any such committee, and when notice thereof has been given to each member of such committee, no further notice of such regular meetings need be given thereafter. Special meetings of any such committee may be held at any place which has been determined from time to time by such committee, and may be called by any director who is a member of such committee, upon notice to the members of such committee of the time and place of such special meeting given in the manner provided for the giving of notice to members of the Board of Directors of the time and place of special meetings of the Board of Directors. Notice of any special meeting of any committee may be waived in writing or by electronic transmission at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends such special 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. Unless otherwise provided by the Board of Directors in the resolutions authorizing the creation of the committee, a majority of the authorized number of members of any such committee shall constitute a quorum for the transaction of business, and the act of a majority of those present at any meeting at which a quorum is present shall be the act of such committee.

**Section 26. Organization.** At every meeting of the directors, the Chairperson of the Board of Directors, or, if a Chairperson has not been appointed or is absent, the Chief Executive Officer (if a director), or, if a Chief Executive Officer is absent, the President (if a director), or if the President is absent, the most senior Vice President (if a director), or, in the absence of any such person, a Chairperson of the meeting chosen by a majority of the directors present, shall preside over the meeting. The Secretary of the corporation, or in the Secretary's absence, any Assistant Secretary or other officer or director directed to do so by the Chairperson, shall act as secretary of the meeting.

## **ARTICLE V** **OFFICERS**

**Section 27. OFFICERS DESIGNATED.** The officers of the corporation shall include, if and when designated by the Board of Directors, the Chairperson of the Board of Directors, the Chief Executive Officer, the President, one or more Vice Presidents, the Secretary, the Chief Financial Officer and the Treasurer. The Board of

Directors may also appoint one or more Assistant Secretaries and Assistant Treasurers and such other officers and agents with such powers and duties as it shall deem necessary. The Board of Directors may assign such additional titles to one or more of the officers as it shall deem appropriate. Any one person may hold any number of offices of the corporation at any one time unless specifically prohibited therefrom by law. The salaries and other compensation of the officers of the corporation shall be fixed by or in the manner designated by the Board of Directors. The election of an officer shall not of itself create any contract rights.

**Section 28. TENURE AND DUTIES OF OFFICERS.**

(a) **General.** All officers shall hold office at the pleasure of the Board of Directors and until their successors shall have been duly elected and qualified, unless sooner removed. Any officer elected or appointed by the Board of Directors may be removed at any time by the Board of Directors. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors.

(b) **Duties of Chairperson of the Board of Directors.** The Chairperson of the Board of Directors, when present, shall preside at all meetings of the stockholders and the Board of Directors. The Chairperson of the Board of Directors shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers, as the Board of Directors shall designate from time to time. If there is no President or Chief Executive Officer, unless otherwise determined by the Board of Directors, then the Chairperson of the Board of Directors shall also serve as the president of the corporation and shall have the powers and duties prescribed in paragraph (c) of this Section 28.

(c) **Duties of Chief Executive Officer.** The Chief Executive Officer shall preside at all meetings of the stockholders and at all meetings of the Board of Directors, unless the Chairperson of the Board of Directors has been appointed and is present. Unless an officer has been appointed Chief Executive Officer of the corporation, the President shall be the chief executive officer of the corporation. To the extent that a Chief Executive Officer has been appointed and no President has been appointed, all references in these Bylaws to the President shall be deemed references to the Chief Executive Officer. The Chief Executive Officer shall (i) subject to the oversight and control of the Board of Directors, have general supervision, direction and control of the business and officers of the corporation and (ii) perform other duties commonly incident to the office and shall also perform such other duties and have such other powers, as the Board of Directors shall designate from time to time.

(d) **Duties of President.** The President shall preside at all meetings of the stockholders and at all meetings of the Board of Directors, unless the Chairperson of the Board of Directors, or the Chief Executive Officer has been appointed and is present. Unless another officer has been appointed Chief Executive Officer of the corporation, the President shall be the Chief Executive Officer of the corporation and shall, subject to the oversight and control of the Board of Directors, have general supervision, direction and control of the business and officers of the corporation. The President shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers, as the Board of Directors shall designate from time to time.

(e) **Duties of Vice Presidents.** The Vice Presidents may assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. The Vice Presidents shall perform other duties commonly incident to their office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer, or, if the Chief Executive Officer has not been appointed or is absent, the President shall designate from time to time.

(f) **Duties of Secretary.** The Secretary shall attend all meetings of the stockholders and of the Board of Directors and shall record all acts and proceedings thereof in the minute book of the corporation. The Secretary shall give notice in conformity with these Bylaws of all meetings of the stockholders and of all meetings of the Board of Directors and any committee thereof requiring notice. The Secretary shall perform all other duties provided for in these Bylaws and other duties commonly incident to the office and shall also perform such other duties and have such other powers, as the Board of Directors shall designate from time to time. The President may direct any Assistant Secretary or other officer to assume and perform the duties of the Secretary in the absence or disability of the Secretary, and each Assistant Secretary shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.



(g) **Duties of Chief Financial Officer.** The Chief Financial Officer shall keep or cause to be kept the books of account of the corporation in a thorough and proper manner and shall render statements of the financial affairs of the corporation in such form and as often as required by the Board of Directors or the President. The Chief Financial Officer, subject to the order of the Board of Directors, shall have the custody of all funds and securities of the corporation. The Chief Financial Officer shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time. To the extent that a Chief Financial Officer has been appointed and no Treasurer has been appointed, all references in these Bylaws to the Treasurer shall be deemed references to the Chief Financial Officer. The President may direct the Treasurer, if any, or any Assistant Treasurer, or the Controller or any Assistant Controller to assume and perform the duties of the Chief Financial Officer in the absence or disability of the Chief Financial Officer, and each Treasurer and Assistant Treasurer and each Controller and Assistant Controller shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

(h) **Duties of Treasurer.** Unless another officer has been appointed Chief Financial Officer of the corporation, the Treasurer shall be the chief financial officer of the corporation and shall keep or cause to be kept the books of account of the corporation in a thorough and proper manner and shall render statements of the financial affairs of the corporation in such form and as often as required by the Board of Directors or the President, and, subject to the order of the Board of Directors, shall have the custody of all funds and securities of the corporation. The Treasurer shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

**Section 29. DELEGATION OF AUTHORITY.** The Board of Directors may from time to time delegate the powers or duties of any officer to any other officer or agent, notwithstanding any provision hereof.

**Section 30. RESIGNATIONS.** Any officer may resign at any time by giving notice in writing or by electronic transmission to the Board of Directors or to the President or to the Secretary. Any such resignation shall be effective when received by the person or persons to whom such notice is given, unless a later time is specified therein, in which event the resignation shall become effective at such later time. Unless otherwise specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective. Any resignation shall be without prejudice to the rights, if any, of the corporation under any contract with the resigning officer.

**Section 31. REMOVAL.** Any officer may be removed from office at any time, either with or without cause, by the affirmative vote of a majority of the directors in office at the time, or by the unanimous written consent of the directors in office at the time, or by any committee or by the Chief Executive Officer or by other superior officers upon whom such power of removal may have been conferred by the Board of Directors, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officer or agent elected or appointed by the President may be removed by the President whenever in the President's judgment the best interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

**ARTICLE VI**  
**EXECUTION OF CORPORATE INSTRUMENTS AND VOTING OF SECURITIES**  
**OWNED BY THE CORPORATION**

**Section 32. EXECUTION OF CORPORATE INSTRUMENTS.**

(a) The Board of Directors may, in its discretion, determine the method and designate the signatory officer or officers, or other person or persons, to execute on behalf of the corporation any corporate instrument or document, or to sign on behalf of the corporation the corporate name without limitation, or to enter into contracts on behalf of the corporation, except where otherwise provided by law or these Bylaws, and such execution or signature shall be binding upon the corporation.

(b) All checks and drafts drawn on banks or other depositaries on funds to the credit of the corporation or in special accounts of the corporation shall be signed by such person or persons as the Board of Directors shall authorize so to do.

(c) Unless authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

**Section 33. VOTING OF SECURITIES OWNED BY THE CORPORATION.** All stock and other securities of other corporations owned or held by the corporation for itself, or for other parties in any capacity, shall be voted, and all proxies with respect thereto shall be executed, by the person authorized so to do by resolution of the Board of Directors, or, in the absence of such authorization, by the Chairperson of the Board of Directors, the Chief Executive Officer, the President, or any Vice President.

## **ARTICLE VII SHARES OF STOCK**

**Section 34. FORM AND EXECUTION OF CERTIFICATES.** The shares of the corporation shall be represented by certificates, or shall be uncertificated shares that may be evidenced by a book-entry system maintained by the registrar of such stock if so provided by resolution or resolutions of the Board of Directors. Certificates for the shares of stock of the corporation, if any, shall be in such form as is consistent with the Certificate of Incorporation and applicable law. Every holder of stock represented by certificate shall be entitled to have a certificate signed by or in the name of the corporation by the Chairperson of the Board of Directors, the Chief Executive Officer, or the President or any Vice President and by the Chief Financial Officer, Treasurer or Assistant Treasurer or the Secretary or Assistant Secretary, certifying the number of shares owned by such holder in the corporation. Any or all of the signatures on the certificate may be facsimile or other electronic means. In case any officer, transfer agent, or registrar who has signed or whose facsimiles or other electronic signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued with the same effect as if he or she were such officer, transfer agent, or registrar at the date of issue.

**Section 35. LOST CERTIFICATES.** A new certificate or certificates shall be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost, stolen, or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen, or destroyed. The corporation may require, as a condition precedent to the issuance of a new certificate, certificates or uncertificated shares, the owner of such lost, stolen, or destroyed certificate or certificates, or the owner's legal representative, to agree to indemnify the corporation in such manner as it shall require or to give the corporation a surety bond in such form and amount as it may direct as indemnity against any claim that may be made against the corporation with respect to the certificate alleged to have been lost, stolen, or destroyed or the issuance of such new certificate, certificates or uncertificated shares.

**Section 36. TRANSFERS.**

(a) Transfers of record of shares of stock of the corporation shall be made in the manner prescribed by law and in these Bylaws. Transfers of stock shall be made on the books administered by or on behalf of the corporation only by the direction of the registered holder thereof, or by such holder's attorney duly authorized in writing, and, in the case of stock represented by certificate, upon the surrender to the corporation of the certificate or certificates for such shares, which shall be cancelled before a new certificate or uncertificated shares shall be issued.

(b) The corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the corporation to restrict the transfer of shares of stock of the corporation of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

**Section 37. FIXING RECORD DATES.**

(a) 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, 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 shall, subject to applicable law, not be more than 60 nor less than 10 days before the date of such meeting, subject to the provisions of Section 5. If no 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. A determination of stockholders of record entitled to notice of or to vote at a 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.

(b) In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders 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 record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

**Section 38. REGISTERED STOCKHOLDERS.** The corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person whether or not it shall have express or other notice thereof, except as otherwise provided by the DGCL.

#### **ARTICLE VIII OTHER SECURITIES OF THE CORPORATION**

**Section 39. EXECUTION OF OTHER SECURITIES.** All bonds, debentures and other corporate securities of the corporation, other than stock certificates (covered in Section 34), may be signed by the Chairperson of the Board of Directors, the Chief Executive Officer, President or any Vice President, or such other person as may be authorized by the Board of Directors; *provided, however*; that where any such bond, debenture or other corporate security shall be authenticated by the manual signature, or where permissible facsimile signature, of a trustee under an indenture pursuant to which such bond, debenture or other corporate security shall be issued, the signatures of the persons signing such bond, debenture or other corporate security may be the imprinted facsimile of the signatures of such persons. Interest coupons appertaining to any such bond, debenture or other corporate security, authenticated by a trustee as aforesaid, shall be signed by the Treasurer or an Assistant Treasurer of the corporation or such other person as may be authorized by the Board of Directors, or bear imprinted thereon the facsimile signature of such person. In case any officer who shall have signed or attested any bond, debenture or other corporate security, or whose facsimile signature shall appear thereon or on any such interest coupon, shall have ceased to be such officer before the bond, debenture or other corporate security so signed or attested shall have been delivered, such bond, debenture or other corporate security nevertheless may be adopted by the corporation and issued and delivered as though the person who signed the same or whose facsimile signature shall have been used thereon had not ceased to be such officer of the corporation.

#### **ARTICLE IX DIVIDENDS**

**Section 40. DECLARATION OF DIVIDENDS.** Dividends upon the capital stock of the corporation, subject to the provisions of the Certificate of Incorporation and applicable law, if any, may be declared by the Board of Directors pursuant to law at any regular or special meeting. 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 applicable law.

**Section 41. DIVIDEND RESERVE.** 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 Board of 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 Board of Directors shall think conducive to the interests of the corporation, and the Board of Directors may modify or abolish any such reserve in the manner in which it was created.

**ARTICLE X**  
**FISCAL YEAR**

**Section 42. FISCAL YEAR.** The fiscal year of the corporation shall be fixed by resolution of the Board of Directors.

**ARTICLE XI**  
**INDEMNIFICATION**

**Section 43. INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND OTHER AGENTS.**

(a) **Directors and Officers.** The corporation shall indemnify its directors and officers to the extent not prohibited by the DGCL or any other applicable law; *provided, however*, that the corporation may modify the extent of such indemnification by individual contracts with its directors and officers; and, *provided, further*, that the corporation shall not be required to indemnify any director or officer in connection with any proceeding (or part thereof) initiated by such person unless (i) such indemnification is expressly required to be made by law, (ii) the proceeding was authorized by the Board of Directors of the corporation, (iii) such indemnification is provided by the corporation, in its sole discretion, pursuant to the powers vested in the corporation under the DGCL or any other applicable law or (iv) such indemnification is required to be made under subsection (d) of this Section 43.

(b) **Employees and Other Agents.** The corporation shall have power to indemnify its employees and other agents as set forth in the DGCL or any other applicable law. The Board of Directors shall have the power to delegate the determination of whether to indemnify any such employee or other agent to such officers or other persons as the Board of Directors so determines.

(c) **Expenses.** The corporation shall advance to any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director or officer, of the corporation, or is or was serving at the request of the corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, prior to the final disposition of the proceeding, promptly following request therefor, all expenses actually and reasonably incurred by any director or officer in connection with such proceeding provided, however, that if the DGCL requires, an advancement of expenses incurred by a director or officer in such person's capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the corporation of 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 that such indemnitee is not entitled to be indemnified for such expenses under this Section 43 or otherwise.

Notwithstanding the foregoing, unless otherwise determined pursuant to paragraph (e) of this Section 43, no advance shall be made by the corporation to an officer of the corporation (except by reason of the fact that such officer is or was a director of the corporation in which event this paragraph shall not apply) in any action, suit or proceeding, whether civil, criminal, administrative or investigative, if a determination is reasonably and promptly made (i) by a majority vote of directors who were not parties to the proceeding, even if not a quorum, or (ii) by a committee of such directors designated by a majority vote of such directors, even though less than a quorum, or (iii) if there are no such directors, or such directors so direct, by independent legal counsel in a written opinion, that the facts known to the decision-making party at the time such determination is made demonstrate clearly and convincingly that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the corporation.

(d) **Enforcement.** Without the necessity of entering into an express contract, all rights to indemnification and advances to directors and officers under this Section 43 shall be deemed to be contractual rights and be effective to the same extent and as if provided for in a contract between the corporation and the director or officer. Any right to indemnification or advances granted by this Section 43 to a director or officer shall be enforceable by or on behalf of the person holding such right in any court of competent jurisdiction if (i) the claim for indemnification or advances is denied, in whole or in part, or (ii) no disposition of such claim is made within 90 days

of request therefor. To the extent permitted by law, the claimant in such enforcement action, if successful in whole or in part, shall be entitled to be paid also the expense of prosecuting the claim. In connection with any claim for indemnification, the corporation shall be entitled to raise as a defense to any such action that the claimant has not met the standards of conduct that make it permissible under the DGCL or any other applicable law for the corporation to indemnify the claimant for the amount claimed. In connection with any claim by an officer of the corporation (except in any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such officer is or was a director of the corporation) for advances, the corporation shall be entitled to raise a defense as to any such action clear and convincing evidence that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the corporation, or with respect to any criminal action or proceeding that such person acted without reasonable cause to believe that such person's conduct was lawful. 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 action that indemnification of the claimant is proper in the circumstances because the claimant met the applicable standard of conduct set forth in the DGCL or any other applicable law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that claimant has not met the applicable standard of conduct. In any suit brought by a director or officer to enforce a right to indemnification or to an advancement of expenses hereunder, the burden of proving that the director or officer is not entitled to be indemnified, or to such advancement of expenses, under this Section 43 or otherwise shall be on the corporation.

(e) **Non-Exclusivity of Rights.** The rights conferred on any person by this Bylaw shall not be exclusive of any other right which such person may have or hereafter acquire under any applicable law, provision of the Certificate of Incorporation, Bylaws, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding office. The corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advances, to the fullest extent not prohibited by the DGCL, or by any other applicable law.

(f) **Survival of Rights.** The rights conferred on any person by this Bylaw shall continue as to a person who has ceased to be a director or officer, or, if applicable, employee or other agent, and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) **Insurance.** To the fullest extent permitted by the DGCL or any other applicable law, the corporation, upon approval by the Board of Directors, may purchase insurance on behalf of any person required or permitted to be indemnified pursuant to this Section 43.

(h) **Amendments.** Any repeal or modification of this Section 43 shall only be prospective and shall not affect the rights under this Bylaw in effect at the time of the alleged occurrence of any action or omission to act that is the cause of any proceeding against any agent of the corporation.

(i) **Saving Clause.** If this Bylaw or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the corporation shall nevertheless indemnify each director and officer to the full extent not prohibited by any applicable portion of this Section 43 that shall not have been invalidated, or by any other applicable law. If this Section 43 shall be invalid due to the application of the indemnification provisions of another jurisdiction, then the corporation shall indemnify each director and officer to the full extent under any other applicable law.

(j) **Certain Definitions.** For the purposes of this Bylaw, the following definitions shall apply:

(i) The term "**proceeding**" shall be broadly construed and shall include, without limitation, the investigation, preparation, prosecution, defense, settlement, arbitration and appeal of, and the giving of testimony in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative.

(ii) The term “*expenses*” shall be broadly construed and shall include, without limitation, court costs, attorneys’ fees, witness fees, fines, amounts paid in settlement or judgment and any other costs and expenses of any nature or kind incurred in connection with any proceeding.

(iii) The term the “*corporation*” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this [Section 43](#) with respect to the resulting or surviving corporation as he or she would have with respect to such constituent corporation if its separate existence had continued.

(iv) References to a “*director,*” “*officer,*” “*employee,*” or “*agent*” of the corporation shall include, without limitation, situations where such person is serving at the request of the corporation as, respectively, a director, officer, employee, trustee or agent of another corporation, partnership, joint venture, trust or other enterprise.

(v) References to “*other enterprise*” shall include employee benefit plans; references to “*fines*” shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to “*serving at the request of the corporation*” shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “*not opposed to the best interests of the corporation*” as referred to in this [Section 43](#).

## ARTICLE XII NOTICES

### Section 44. NOTICES.

(a) **Notice to Stockholders.** Written notice to stockholders of stockholder meetings shall be given as provided in [Section 7](#). Without limiting the manner by which notice may otherwise be given effectively to stockholders under any agreement or contract with such stockholder, and except as otherwise required by law, written notice to stockholders for purposes other than stockholder meetings may be sent (a) by mail, postage prepaid, addressed to such stockholder at such stockholder’s address as it appears on the records of the corporation, (b) by electronic transmission directed to such stockholder’s electronic mail address as it appears on the record of the corporation or (c) by any other method permitted by law (including, but not limited to, overnight courier service, facsimile or other means of electronic transmission). Any notice shall be deemed to have been given (i) if mailed, when the notice is deposited in the United States mail, postage prepaid, (ii) if delivered by courier service, the earlier of when the notice is received or left at such stockholder’s address or (iii) if given by electronic mail, when directed to such stockholder’s electronic mail address unless such stockholder has notified the corporation in writing or by electronic transmission of an objection to receiving notice by electronic mail or such notice is prohibited by applicable law, the certificate of incorporation or these Bylaws.

(b) **Notice to Directors.** Any notice required to be given to any director may be given by the method stated in subsection (a), as otherwise provided in these Bylaws, or by overnight delivery service, facsimile, telex or telegram, except that such notice other than one which is delivered personally shall be sent to such address as such director shall have filed in writing with the Secretary, or, in the absence of such filing, to the last known post office address of such director.

(c) **Affidavit of Mailing.** An affidavit of mailing, executed by a duly authorized and competent employee of the corporation or its transfer agent appointed with respect to the class of stock affected, or other agent, specifying the name and address or the names and addresses of the stockholder or stockholders, or director

or directors, to whom any such notice or notices was or were given, and the time and method of giving the same, shall in the absence of fraud, be prima facie evidence of the facts therein contained.

(d) **Methods of Notice.** It shall not be necessary that the same method of giving notice be employed in respect of all recipients of notice, but one permissible method may be employed in respect of any one or more, and any other permissible method or methods may be employed in respect of any other or others.

(e) **Notice to Person With Whom Communication is Unlawful.** Whenever notice is required to be given, under any provision of law or of the Certificate of Incorporation or Bylaws of the corporation, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the corporation is such as to require the filing of a certificate under any provision of the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

(f) **Notice to Stockholders Sharing an Address.** Except as otherwise prohibited under the DGCL, any notice given under the provisions of the DGCL, the Certificate of Incorporation or these Bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Such consent shall have been deemed to have been given if such stockholder fails to object in writing to the corporation within 60 days of having been given notice by the corporation of its intention to send the single notice. Any consent shall be revocable by the stockholder by written notice to the corporation.

### **ARTICLE XIII AMENDMENTS**

**Section 45. AMENDMENTS.** Subject to the limitations set forth in Section 43(h) or the provisions of the Certificate of Incorporation, the Board of Directors is expressly empowered to adopt, amend or repeal these Bylaws of the corporation. Any adoption, amendment or repeal of these Bylaws of the corporation by the Board of Directors shall require the approval of a majority of the authorized number of directors present at the meeting of a Board of Directors at which a quorum is present. The stockholders also shall have power to adopt, amend or repeal these Bylaws of the corporation; *provided, however*, that, in addition to any vote of the holders of any class or series of stock of the corporation required by law or by the Certificate of Incorporation, such action by stockholders shall require the affirmative vote of the holders of at least 66 2/3% of the voting power of all of the then-outstanding shares of the capital stock of the corporation entitled to vote generally in the election of directors, voting together as a single class. Any proposal by a stockholder to amend these Bylaws will also be subject to the provisions of Article III.

### **ARTICLE XIV FORUM FOR ADJUDICATION OF DISPUTES**

**Section 46. FORUM FOR ADJUDICATION OF DISPUTES.** Unless the corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if and only if the Court of Chancery of the State of Delaware lacks subject matter jurisdiction, any state court located within the State of Delaware or, if and only if all such state courts lack subject matter jurisdiction, the federal district court for the District of Delaware) shall be the sole and exclusive forum for the following types of actions or proceedings: (a) any derivative action or proceeding brought on behalf of the corporation, (b) any action asserting a claim of breach of a fiduciary duty owed by any director, officer, employee or stockholder of the corporation to the corporation or the corporation's stockholders, (c) any action asserting a claim arising pursuant to any provision of the DGCL, the Certificate of Incorporation or these Bylaws (as either may be amended or restated) or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware or (d) any action asserting a claim governed by the internal affairs doctrine, in all cases to the fullest extent permitted by law and subject to the court's having personal jurisdiction over the indispensable parties named as defendants.

If any action the subject matter of which is within the scope of this Section 46 is filed in a court other than a court located within the State of Delaware (a ***“Foreign Action”***) in the name of any stockholder, such stockholder shall be deemed to have consented to: (i) the personal jurisdiction of the state and federal courts located within the State of Delaware in connection with any action brought in any such court to enforce this Section 46 (an ***“Enforcement Action”***); and (ii) having service of process made upon such stockholder in any such Enforcement Action by service upon such stockholder’s counsel in the Foreign Action as agent for such stockholder. This Section 46 shall not apply to actions brought to enforce a duty or liability created by the 1934 Act or the Securities Act of 1933, as amended, or any claim for which the federal courts have exclusive jurisdiction.

Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the corporation shall be deemed to have notice of and consented to the provisions of this Section 46.

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**NEUROBO PHARMACEUTICALS, INC.**  
AMENDED AND RESTATED  
NON-EMPLOYEE DIRECTOR COMPENSATION POLICY

**Effective Date: May 7, 2024**

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Each member of the Board of Directors (the “**Board**”) of NEUROBO PHARMACEUTICALS, INC., a Delaware corporation (the “**Company**”) who is not also serving as an employee of the Company or any of its subsidiaries (each such member, an “**Non-Employee Director**”) will receive the compensation described in this Amended and Restated Non-Employee Director Compensation Policy (this “**Policy**”). A Non-Employee Director may decline all or any portion of his or her compensation by giving notice to the Company prior to the date cash is to be paid or equity awards are to be granted, as the case may be. This Policy will be effective as of May 7, 2024 (the “**Effective Date**”). This Policy may be amended at any time in the sole discretion of the Board, or by the Compensation Committee of the Board (the “**Compensation Committee**”) at the recommendation of the Board. Unless otherwise defined herein, capitalized terms used in this Policy will have the meaning given to such terms in the Company’s 2022 Equity Incentive Plan, as amended, or if such plan is no longer in use, the meaning given to such terms or any similar terms in the primary successor to such plan (in either case, the “**Plan**”).

**I. ANNUAL CASH COMPENSATION.** Commencing on the Effective Date, each Non-Employee Director will receive the cash compensation set forth below for service on the Board. The annual cash compensation amounts will be payable in equal quarterly installments, in arrears no later than 30 days following the end of each quarter in which the service occurred (each, a “**Quarterly Date**”). Each annual retainer set forth below will be pro-rated based on days served in the applicable fiscal year of the Company, with the pro-rated amount paid for the first fiscal quarter of the Company in which the Non-Employee Director provides the service, and regular full quarterly payments to be paid thereafter. All annual cash fees are vested upon payment. The schedule of annual retainers (the “**Annual Retainers**”) for the Non-Employee Directors is as follows:

<b>Position</b>	<b>Amount</b>
Base Board Retainer	\$ 40,000
Non-Executive Chair of the Board (in addition to above Base Retainer)	\$ 35,000
Chair of Audit Committee	\$ 18,000
Chair of Compensation Committee	\$ 12,000
Chair of Nominating and Corporate Governance Committee	\$ 10,000
Member of Audit Committee (non-Chair)	\$ 9,000
Member of Compensation Committee (non-Chair)	\$ 6,000
Member of Nominating and Corporate Governance Committee (non-Chair)	\$ 5,000

For the avoidance of doubt, the Annual Retainers in the table above are additive and a Non-Employee Director shall be eligible to earn an Annual Retainer for each position in which he or she serves. In addition, the Annual Retainers will be prorated for the first calendar quarter in which the Effective Date occurs, which proration will be based on the number of days of the

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calendar quarter remaining in such quarter after the Effective Date. The Board may adopt a program that allows Non-Employee Directors to defer Annual Retainers.

**II. EQUITY COMPENSATION.** The equity compensation set forth below will be granted under the Plan and the applicable RSU Award Agreement.

**1. AUTOMATIC INITIAL GRANT.** For each Non-Employee Director who is first elected or appointed to the Board on or following the Effective Date, at the close of business on the date of such Non-Employee Director's initial election or appointment to the Board, such Non-Employee Director will be automatically, and without further action by the Board or the Compensation Committee, granted a restricted stock unit award (an "**RSU Award**") covering a number of restricted stock units equal to (a) \$40,000 divided by (b) the average Fair Market Value of a share of the Company's common stock (the "**Common Stock**") for the 30 consecutive market trading days ending on and including the last market trading day prior to the grant date of such RSU Award, rounded down to the nearest whole unit (each, an "**Initial Grant**"). 50% of each Initial Grant will be vested as of the date of grant and the remainder will vest in two equal installments on each subsequent anniversary of the date of grant, subject to the Non-Employee Director's Continuous Service on each vesting date.

**2. AUTOMATIC ANNUAL GRANT AND PRORATED ANNUAL GRANT.**

**(a)** At the close of business after the first Annual Meeting following the Effective Date and on the date of each subsequent annual meeting of the Company's stockholders held following the initial Annual Meeting (each, an "**Annual Meeting**"), each person who is then a Non-Employee Director will be automatically, and without further action by the Board or the Compensation Committee, granted an RSU Award covering a number of restricted stock units equal to (i) \$20,000 divided by (ii) the average Fair Market Value of a share of Common Stock for the 30 consecutive market trading days ending on and including the last market trading day prior to the grant date of such RSU Award, rounded down to the nearest whole unit (each, an "**Annual Grant**").

**(b)** In addition, for each Non-Employee Director who is first elected or appointed to the Board after the first Annual Meeting of the Company's stockholders following the Effective Date on a date other than the date of an Annual Meeting of the Company's stockholders, at the close of business on the thirtieth (30<sup>th</sup>) day following such Non-Employee Director's initial election or appointment to the Board, such Non-Employee Director will be automatically, and without further action by the Board or the Compensation Committee, granted an RSU Award covering a number of restricted stock units equal to (i) \$20,000 divided by (ii) the average Fair Market Value of a share of Common Stock for the 30 consecutive market trading days ending on and including the last market trading day prior to the grant date of such RSU Award, multiplied by a fraction, the numerator of which equals 365 minus the total number of days, as of the grant date of such RSU Award, that have occurred since the last Annual Meeting and the denominator of which equals 365, rounded down to the nearest whole unit (each, a "**Prorated Annual Grant**").

**(c)** Each Annual Grant and Prorated Annual Grant will vest in full on the earlier of (i) the one-year anniversary of the grant date of the Annual Grant or Prorated Annual Grant, as applicable, and (ii) the date immediately prior to the date of the Annual

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Meeting following the grant date of such Annual Grant or Prorated Annual Grant, as applicable, subject to the Non-Employee Director's Continuous Service on the vesting date.

**3. ELECTIONS TO RECEIVE AN RSU AWARD IN LIEU OF ANNUAL CASH RETAINERS.**

(a) **Retainer Grant.** For the fiscal year of the Company in which the Effective Date occurs and each fiscal year of the Company thereafter, each Non-Employee Director may elect (such election, a "**Retainer Grant Election**") to forego receiving payment of all (but not less than all) of the compensation such Non-Employee Director is otherwise eligible to receive in cash under Article I of this Policy for the period during the fiscal year of the Company to which the Retainer Grant Election applies commencing on the Retainer Grant Measurement Date and ending on the last day of the fiscal year of the Company to which the Retainer Grant Election applies (each such period, a "**Retainer Grant Measurement Period**") and receive an RSU Award instead (each, a "**Retainer Grant**") but only if the Retainer Grant Election is timely made in accordance with the requirements of this Section 4. If a Non-Employee Director timely makes a Retainer Grant Election pursuant to Section 4(b), below, on the Retainer Grant Measurement Date (as defined below), such Non-Employee Director will be automatically, and without any further action by the Board or the Compensation Committee, granted a Retainer Grant covering a number of restricted stock units equal to (i) the aggregate amount of cash compensation under Article I of this Policy that such Non-Employee Director is eligible to receive for the applicable Retainer Grant Measurement Period divided by (ii) the average Fair Market Value of a share of Common Stock for the 30 consecutive market trading days ending on and including the last trading day prior to the grant date of such Retainer Grant, rounded down to the nearest whole unit. For purposes of this Policy, "**Retainer Grant Measurement Date**" means the first day of the fiscal year of the Company to which the Retainer Grant Election applies, provided that if the Retainer Grant Election is made in the same fiscal year of the Company to which it applies, then the Retainer Grant Measurement Date means the first day of the fiscal quarter of the Company following the fiscal quarter of the Company in which the Retainer Grant Election is made. Each Retainer Grant will vest as to the Retainer Grant Vesting Percentage on each Quarterly Date following the grant date of the Retainer Grant, subject to such Non-Employee Director's Continuous Service through each vesting date. The "**Retainer Grant Vesting Percentage**" equals (y) 100% multiplied by (z) a fraction, the numerator of which equals one and the denominator of which equals the number of Quarterly Dates occurring during the period commencing on the grant date of the applicable Retainer Grant and ending on the last day of the fiscal year of the Company in which such Retainer Grant was granted.

(b) **Election Mechanics.** For any Retainer Grant Election to be effective, it must be submitted to the Chief Financial Officer of the Company with a copy to the Company's counsel (or such other individual(s) as the Company designates) (i) on or prior to the last day of the calendar year immediately preceding the first calendar year in which the Retention Grant Election will be effective, or (ii) within 30 days after the Non-Employee Director first becomes eligible to participate in this Policy. A Non-Employee Director may only make a Retainer Grant Election during a period in which the Company is not in a quarterly or special blackout period and the Non-Employee Director is not aware of any material non-public information. In addition, a Non-Employee Director may not make a Retainer Grant Election that

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applies to the fiscal year in which he or she first becomes eligible to participate in this Policy after the third Quarterly Date in such fiscal year. Any Retainer Grant Election will be irrevocable, and will be subject to such rules, conditions and procedures as shall be determined by the Board or the Compensation Committee, in its sole discretion, which rules, conditions and procedures shall at all times comply with the requirements of Code Section 409A. Retainer Grant Elections shall be made pursuant to a form of election in substantially the form attached hereto as EXHIBIT A or such other form as approved by the Board or the Compensation Committee. A Non-Employee Director who fails to make a timely Retainer Grant Election will not receive a Retainer Grant and instead will receive the cash compensation under Article I of this Policy.

**III. NON-EMPLOYEE DIRECTOR COMPENSATION LIMIT.** Notwithstanding anything herein to the contrary, the cash compensation and equity compensation that each Non-Employee Director is entitled to receive under this Policy shall be subject to the limits set forth in Section 3(d) of the Plan.

**IV. CHANGE IN CONTROL; DEATH; DISABILITY.** Each RSU Award held by a Non-Employee Director that is granted under this Policy will vest in full upon such Non-Employee Director's death or Disability, or immediately prior to the consummation of a Change in Control, in each case, to extent such RSU Award is outstanding as of immediately prior to the occurrence of such event.

**V. DEFERRAL OF RSU AWARDS.** Each Non-Employee Director may elect to defer the delivery of shares in settlement of any RSU Award granted pursuant to this Policy that would otherwise be delivered to such Non-Employee Director on or following the date such RSU Award vests pursuant to the terms of this Policy (the "**Deferral Election**"). For any such Deferral Election to be effective, it must be submitted to the Chief Financial Officer of the Company with a copy to the Company's counsel (or such other individual(s) as the Company designates) (1) for 2024, within 30 days following the Effective Date, (2) on or prior to the last day of the calendar year immediately prior to the calendar year in which the RSU Award to which the Deferral Election relates is granted or (3) within 30 days of such Non-Employee Director's initial election or appointment to the Board. Any Deferral Election will be irrevocable, and will be subject to such rules, conditions and procedures as shall be determined by the Board or the Compensation Committee, in its sole discretion, which rules, conditions and procedures shall at all times comply with the requirements of Section 409A, unless otherwise specifically determined by the Board or the Compensation Committee. Deferral Elections shall be made pursuant to a form of deferral election in substantially the form attached hereto as EXHIBIT A or such other form as approved by the Board or the Compensation Committee.

**VI. EXPENSES.** The Company will reimburse Non-Employee Directors for ordinary, necessary and reasonable out-of-pocket travel expenses to cover in-person attendance at and participation in Board and committee meetings; *provided*, that the Non-Employee Director timely submits to the Company appropriate documentation substantiating such expenses in accordance with the Company's travel and expense policy, as in effect from time to time.

**Approved by the Board of Directors: May 7, 2024**

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NEUROBO PHARMACEUTICALS, INC.

AMENDED AND RESTATED  
NON-EMPLOYEE DIRECTOR COMPENSATION POLICY

*Restricted Stock Unit Deferral and Retainer Grant Election Form  
For Non-Employee Directors*

Please complete and return this Restricted Stock Unit Deferral and Retainer Grant Election Form (the “*Election Form*”), as described below, [for existing non-employee directors making elections for 2024: within 30 days after the Effective Date of the Policy][for existing non-employee directors making elections for 2025 or any year thereafter: on or before December 31 of each year] [for new non-employee directors: within 30 days following the date you join the Board] (the “*Submission Deadline*”), to the Chief Financial Officer of the Company, with a copy to the Company’s counsel, NeuroBo Pharmaceuticals, Inc., 545 Concord Avenue, Suite 210, Cambridge, Massachusetts 02138.

Neither the provision of this Election Form nor your completion of this Election Form represents a commitment by the Company to grant an Award to you. The grant of an Award remains subject to the terms of the Company’s Amended and Restated Non-Employee Director Compensation Policy as may be hereinafter amended (the “*Policy*”). Terms not otherwise defined herein shall have the meaning set forth in the Policy or the Plan, as applicable.

**I understand that my Election Form will become irrevocable effective as of the Submission Deadline.**

2. PERSONAL INFORMATION:

(Please print) \_\_\_\_\_  
Participant Name: (the “*Participant*”)

3. RETAINER GRANT ELECTION: **By signing below, I elect to forego receiving payment of all (but not less than all) of the compensation I am otherwise eligible to receive in cash under Article I of the Policy for the period during the fiscal year of the Company ended [ \_\_\_\_\_ ] commencing on [ \_\_\_\_\_ ]<sup>1</sup> and ending on [ \_\_\_\_\_ ]<sup>2</sup> and to receive a Retainer Grant in lieu thereof. If I do not timely submit a properly completed Election Form, I will not receive the applicable Retainer Grant and will instead receive the applicable cash compensation under Article I of the Policy.**

1 Applicate Retainer Grant Measurement Date

2 Last day of the fiscal year of the Company to which the Retainer Gant Election applies

4. RSU AWARD AND DEFERRAL ELECTION:

- (a) By signing below, I elect to defer in accordance with this Section 3 100% of my [\_\_\_\_\_]<sup>3</sup> that may be granted to me, if any, under the Plan and pursuant to the Policy in the calendar year following the calendar year in which I tender this election (or if I first became eligible to participate in the Policy in the calendar year in which I tender this election, in the calendar year in which I tender this election).

If I do not timely submit a properly completed Election Form, then my [\_\_\_\_\_]<sup>4</sup> will vest and settle in accordance with the terms of the Policy, the Plan, and the applicable RSU Award Agreement.

- (b) All Awards that are deferred pursuant to this Section 3 are referred to as “*Deferred Awards*” in this Election Form.

- (c) By signing below, I elect to have my Deferred Awards settled as follows:

- (1) Subject to the following paragraph, my Deferred Awards will be settled in a single lump sum installment in whole shares on the earlier of (y) immediately prior to a Change in Control, provided that, for the avoidance of doubt, a transaction will not be deemed a Change in Control unless the transaction qualifies as a “change in control event” within the meaning of Treasury Regulation Section 1.409A-3(i)(5); or (z) within 60 days following my Separation Date or my death, whichever is earlier.

For the purposes of the foregoing, “*Separation Date*” means the date of my retirement or other separation from service with the Company and all of its Affiliates (as determined in accordance with Section 409A(2)(A)(i) of the Code and Treasury Regulation Section 1.409A-1(h)).

- (2) If a distribution hereunder is triggered because of my Separation Date and I am a “specified employee” within the meaning of Section 409A at the time of my Separation Date, then the distribution that I would otherwise be entitled to receive upon the Separation Date will not be settled until the date that is 6 months and 1 day following the Separation Date, unless I die following my Separation Date, in which case, my distribution will commence as soon as practicable following my death.

5. PARTICIPANT ACKNOWLEDGEMENTS AND SIGNATURES:

- (a) I agree to all of the terms and conditions of this Election Form.
- (b) I acknowledge that I have received and read a copy of the Plan’s prospectus and that I am familiar with the terms and provisions of the Plan.

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3 Awards with respect to which the Non-Employee Director is making a deferral election to be included.

4 Awards with respect to which the Non-Employee Director is making a deferral election to be included.

- (c) I agree to the right of the Board or the Compensation Committee to amend or terminate my election under Section 3 at any time and for any reason, with or without notice; provided that such termination or amendment is performed in compliance with Section 409A (as determined by Company legal counsel in its sole and absolute discretion).
- (d) I understand that the obligation of the Company to settle any Deferred Awards is unfunded and that no assets of any kind have been segregated in a trust or otherwise set aside to satisfy any obligation under this Election Form. I also understand that any election to defer the settlement of any Awards pursuant to this Election Form will make me only a general, unsecured creditor of the Company.
- (e) I understand that any amounts deferred will be taxable as ordinary income in the year settled. Notwithstanding, I agree and understand that the Company does not guarantee in any way whatsoever the tax treatment of any deferrals or payments made under the Policy or this Election Form. I understand that I will be responsible for all taxes and any other costs owed with respect to any deferrals or payments made with respect to my Awards.
- (f) I understand that the Company will be under no obligation to settle any Deferred Awards until any applicable tax withholding obligations are satisfied and that if I fail to satisfy any such tax withholding obligations I will forfeit my right to receive the shares subject to my Deferred Award. I understand that the Company has the right (but not the obligation) to withhold taxes from my Deferred Awards (including pursuant to net share withholding) in any amount and through such procedure as the Company deems necessary or desirable to satisfy any income or other tax obligations incurred with respect to my Awards.
- (g) I understand that, upon receipt of any Deferred Awards, in addition to federal taxes, I may owe taxes to the state where I resided at the time of vesting in the Deferred Awards and/or to the state where I reside when the Deferred Awards are settled, if different.
- (h) I understand, acknowledge and agree that the Board or the Compensation Committee has the discretion to make all determinations and decisions regarding any elections set forth on this Election Form.
- (i) I understand that this Election Form and the elections made hereunder are intended to comply with the requirements of Section 409A so that none of [the Deferred Awards or the Retainer Grant] issuable will be subject to the tax acceleration and additional penalty taxes imposed under Section 409A, and any ambiguities herein will be interpreted to so comply. If applicable, I understand that I am solely responsible for any accelerated income taxes and additional taxes and tax penalties imposed by Section 409A.

- (j) I also understand that this Election Form and the elections made hereunder will in all respects be subject to the terms and conditions of the Policy, the applicable Award Agreement and the Plan, as applicable. Should any inconsistency exist between this Election Form, the Policy, the Plan, the Award Agreement under which an Award was granted, and/or any applicable law, then the provisions of either the applicable law (including, but not limited to, Section 409A) or the Plan will control, with the Plan subordinated to the applicable law and the Award Agreement and the Policy subordinated to this Election Form.

By signing this Election Form, I authorize the implementation of the above elections. I understand that my [deferral election and retainer grant election] are irrevocable effective as of the Submission Deadline and may not be changed in the future, except in accordance with the requirements of Section 409A and the procedures specified by the Board or the Compensation Committee.

Signed: \_\_\_\_\_  
Participant Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Agreed to and accepted:**

**NEUROBO PHARMACEUTICALS, INC.**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

***IMPORTANT DEADLINE: Please remember that if you wish to make any election set forth on this Election Form, then the properly completed Election Form must be signed by you and returned ON OR BEFORE THE SUBMISSION DEADLINE to the Chief Financial Officer of the Company, with a copy to the Company's counsel (or such other individual as the Company designates).***



**Certification of Chief Executive Officer  
pursuant to Rule 13a-14(a) or Rule 15d-14(a)**

I, Hyung Heon Kim, certify that:

- (1) I have reviewed this quarterly report on Form 10-Q for the quarterly period ended March 31, 2024 of NeuroBo Pharmaceuticals, Inc.;
- (2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
- (3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
- (4) The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
- (5) The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 9, 2024

/s/ Hyung Heon Kim  
\_\_\_\_\_  
President and Chief Executive Officer  
(Principal Executive Officer)

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**Certification of Chief Financial Officer  
pursuant to Rule 13a-14(a) or Rule 15d-14(a)**

I, Marshall Woodworth, certify that:

- (1) I have reviewed this quarterly report on Form 10-Q for the quarterly period ended March 31, 2024 of NeuroBo Pharmaceuticals, Inc.;
- (2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
- (3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
- (4) The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
- (5) The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 9, 2024

/s/ Marshall Woodworth  
\_\_\_\_\_  
Chief Financial Officer  
(Principal Financial Officer)

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**Certification of Chief Executive Officer  
under Section 906 of the Sarbanes-Oxley Act of 2002  
(18 U.S.C. § 1350)**

In connection with the quarterly report on Form 10-Q for the quarterly period ended March 31, 2024 of NeuroBo Pharmaceuticals, Inc. (the "Company") as filed with the Securities and Exchange Commission (the "Report"), I, Hyung Heon Kim, President and Chief Executive Officer, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 9, 2024

/s/ Hyung Heon Kim  
\_\_\_\_\_  
President and Chief Executive Officer  
(Principal Executive Officer)

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**Certification of Chief Financial Officer**  
**under Section 906 of the Sarbanes-Oxley Act of 2002**  
**(18 U.S.C. § 1350)**

In connection with the quarterly report on Form 10-Q for the quarterly period ended March 31, 2024 of NeuroBo Pharmaceuticals, Inc. (the "Company") as filed with the Securities and Exchange Commission (the "Report"), I, Marshall H. Woodworth, Chief Financial Officer, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 9, 2024

/s/ Marshall H. Woodworth  
\_\_\_\_\_  
Chief Financial Officer  
(Principal Financial Officer)

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