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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

April 14, 2016

Date of Report (Date of earliest event reported)

Discovery Laboratories, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation)

000-26422
(Commission File Number)

94-3171943
(IRS Employer Identification Number)

2600 Kelly Road, Suite 100
Warrington, Pennsylvania 18976
(Address of principal executive offices)

(215) 488-9300
(Registrant's telephone number, including area code)

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On April 15, 2016, Discovery Laboratories, Inc. (the "Company") filed an Amended and Restated Certificate of Incorporation to change its corporate name to Windtree Therapeutics, Inc. effective on April 19, 2016, and to consolidate a prior amendment that was already in effect. The name change was made pursuant to Section 245 of the Delaware General Corporation Law. A copy of the Amended and Restated Certificate of Incorporation is attached to this Current Report on Form 8-K as Exhibit 3.1. In addition, the Amended and Restated By-laws of the Company were also amended and restated effective on April 19, 2016, to reflect the name change to Windtree Therapeutics, Inc. A copy of the By-laws, as amended and restated, is attached hereto as Exhibit 3.2.

On April 14, 2016, the Company filed with the State of Delaware a Certificate of Elimination (the "Certificate of Elimination") of the Certificate of Designations, Preferences and Rights filed on February 6, 2004 (the "Certificate of Designations"), relating to the designation of 50,000 shares of the Company's Preferred Stock of the Company, par value \$.001 per share, as Series A Junior Participating Cumulative Preferred Stock (the "Series A Junior Preferred Stock"). In 2004, the Company entered into a Rights Agreement (the "Rights Agreement") dated as of February 6, 2004, between the Company and Continental Stock Transfer & Trust Company, as Rights Agent, whereby the Company made dividends of preferred stock purchase rights (the "Rights") to the Company's stockholders. The Rights Agreement expired for all purposes on February 6, 2014 and no shares of Series A Junior Preferred Stock were ever issued, whether pursuant to an exercise of a Right or otherwise. The Board of Directors of the Company directed the filing of the Certificate of Elimination to remove the Certificate of Designations from the Company's Certificate of Incorporation. The foregoing descriptions of the Certificate of Designations and the Rights Agreement do not purport to be complete and are qualified in their entirety by reference to the Certificate of Designations and the Rights Agreement, which were filed as Exhibit 2.2 and 2.4, respectively, to the Company's Registration Statement on Form 8-A filed with the SEC on February 6, 2004. The foregoing description of the Certificate of Elimination is qualified in its entirety by reference to the full text of the Certificate of Elimination, a copy of which is attached as Exhibit 3.3 to this Current Report on Form 8-K.

Item 7.01. Regulation FD Disclosure.

On April 18, 2016, the Company issued a press release announcing that it has changed its corporate name to Windtree Therapeutics, Inc. In connection with this announcement, the Company launched a new website under the name windtreetx.com. The Company also posted to this website a new corporate presentation. A copy of the presentation materials is attached as Exhibit 99.1 hereto.

Pursuant to General Instruction B.2 of Form 8-K, the information in this Item 7.01 of this Current Report on Form 8-K and Exhibit 99.1 hereto are being furnished and shall not be deemed "filed" for the purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise be subject to the liabilities of that section, nor is it incorporated by reference into any filing of Discovery Laboratories, Inc. under the Securities Act of 1933 or the Securities Exchange Act of 1934, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

Item 8.01. Other Events.

On April 18, 2016, the Company issued a press release announcing that it has changed its corporate name to Windtree Therapeutics, Inc. A copy of the press release is attached as Exhibit 99.2 hereto and is hereby incorporated by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

- [3.1](#) Amended and Restated Certificate of Incorporation of Windtree Therapeutics, Inc., effective April 19, 2016.
- [3.2](#) Amended and Restated By-Laws of Windtree Therapeutics, Inc., effective April 19, 2016.
- [3.3](#) Certificate of Elimination of the Certificate of Designation of Preferred Stock of the Company dated April 14, 2016.
- [99.1](#) Slide presentation dated April 18, 2016.
- [99.2](#) Press release dated April 18, 2016.

Cautionary Note Regarding Forward-looking Statements:

To the extent that statements in this Current Report on Form 8-K are not strictly historical, including statements as to business strategy, outlook, objectives, future milestones, plans, intentions, goals, future financial conditions, future collaboration agreements, the success of the Company's product development, cash flows, future revenues, the timing of planned clinical trials or otherwise as to future events, such statements are forward-looking, and are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. The forward-looking statements contained in this Current Report are subject to certain risks and uncertainties that could cause actual results to differ materially from the statements made. Such risks and others are further described in the Company's filings with the Securities and Exchange Commission including the most recent reports on Forms 10-K, 10-Q and 8-K, and any amendments thereto. Any forward-looking statement made by the Company in this Current Report on Form 8-K is based only on information currently available to the Company and speaks only as of the date on which it is made. The Company undertakes no obligation to publicly update any forward-looking statement, whether written or oral, that may be made from time to time, whether as a result of new information, future developments or otherwise.

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 hereunto duly authorized.

Discovery Laboratories, Inc.

By: /s/ Craig E. Fraser
Name: Craig E. Fraser
Title: President and Chief Executive Officer

Date: April 18, 2016

**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
DISCOVERY LABORATORIES, INC.**

(Pursuant to Sections 228, 242, and 245 of the
General Corporation Law of the State of Delaware)

The Corporation was originally incorporated on November 6, 1992, under the name “Ansan, Inc.” The Corporation changed its name on November 25, 1997, to Discovery Laboratories, Inc.

This Amended and Restated Certificate of Incorporation was duly adopted in accordance with §245 of the General Corporation Law of the State of Delaware (“Delaware Corporation Law”) and is being filed (i) to restate and integrate previous amendments and (ii) to further amend this Certificate of Incorporation by changing the name of the Corporation as permitted under §242(b)(1) of the Delaware Corporation Law.

ARTICLE ONE

The name of the corporation (hereinafter called the “Corporation”) is Windtree Therapeutics, Inc.

ARTICLE TWO

The address, including street, number, city, and county, of the registered office of the Corporation in the State of Delaware is 2711 Centerville Road, City of Wilmington 19808, County of New Castle; and the name of the registered agent of the Corporation in the State of Delaware at such address is Corporation Service Company.

ARTICLE THREE

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

ARTICLE FOUR

The total number of shares of all classes of stock which the Corporation shall have the authority to issue is 41,000,000 consisting of 36,000,000 shares of common stock, par value \$0.001 per share (the “Common Stock”), and 5,000,000 shares of preferred stock, par value \$0.001 per share (the “Preferred Stock”).

The Board of Directors may divide the Preferred Stock into any number of series, fix the designation and number of shares of each such series, and determine or change the designation, relative rights, preferences, and limitations of any series of Preferred Stock. The Board of Directors (within the limits and restrictions of any resolutions adopted by it originally fixing the number of any shares of any series of Preferred Stock) may increase or decrease the number of shares initially fixed for any series, but no such decrease shall reduce the number below the number of shares then outstanding and shares duly reserved for issuance.

ARTICLE FIVE

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors shall have the power, both before and after receipt of any payment for any of the Corporation's capital stock, to adopt, amend, repeal or otherwise alter the Bylaws of the Corporation without any action on the part of the stockholders; provided, however, that the grant of such power to the Board of Directors shall not divest the stockholders of nor limit their power to adopt, amend, repeal, or otherwise alter the Bylaws.

ARTICLE SIX

Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

ARTICLE SEVEN

The Corporation reserves the rights to adopt, repeal, rescind or amend in any respect any provisions contained in this Certificate of Incorporation in the manner now or hereafter prescribed by applicable law, and all rights conferred on stockholders herein are granted subject to this reservation.

ARTICLE EIGHT

A director of the Corporation shall, to the fullest extent permitted by the General Corporation Law of the State of Delaware as it now exists or as it may hereafter be amended, not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. Neither any amendment nor repeal of this Article EIGHT, nor the adoption of any provision of this Amended and Restated Certificate of Incorporation inconsistent with this Article EIGHT, shall eliminate or reduce the effect of this Article EIGHT in respect of any matter occurring or any cause of action, suit or claim that, but for this Article EIGHT, would accrue or arise prior to such amendment, repeal or adoption of an inconsistent provision.

ARTICLE NINE

This Amended and Restated Certificate of Incorporation was duly adopted in accordance with the provisions of Section 245 of the General Corporation Law of the State of Delaware and shall become effective on April 19, 2016 at 12:01 a.m. Eastern Time.

IN WITNESS WHEREOF, Discovery Laboratories, Inc. has caused this Amended and Restated Certificate of Incorporation to be signed by its duly authorized officer this 15th day of April, 2016.

Discovery Laboratories, Inc.

By: /s/ Craig E. Fraser
Craig E. Fraser
President and Chief Executive Officer

AMENDED AND RESTATED
BY-LAWS OF
WINDTREE THERAPEUTICS, INC.
(A Delaware Corporation)

(Effective: April 19, 2016)

ARTICLE I

Meetings of Stockholders

Section 1. Annual Meeting. The annual meeting of the stockholders of Windtree Therapeutics, Inc. (the "Corporation"), for the election of directors and for the transaction of such other business as may come before the meeting shall be held at such date and time as shall be designated by the Board of Directors (the "Board"), the Chairman of the Board or the President.

Section 2. Special Meeting. Special meetings of the stockholders, unless otherwise prescribed by statute, may be called at any time by the Board, the Chairman of the Board or the Chief Executive Officer. Business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

Section 3. Notice of Meetings. Notice of the place, date and time of the holding of each annual and special meeting of the stockholders and, in the case of a special meeting, the purpose or purposes thereof shall be given personally or by mail in a postage prepaid envelope to each stockholder entitled to vote at such meeting, not less than 10 nor more than 60 days before the date of such meeting, and, if mailed, it shall be directed to such stockholder at his or her address as it appears on the records of the Corporation, unless such stockholder shall have filed with the Secretary of the Corporation a written request that notices to such stockholder be mailed to some other address, in which case it shall be directed to the stockholder at such other address. If mailed, such notice shall be deemed to be delivered when deposited in United States mail so addressed with postage thereon prepaid. Notice of any meeting of stockholders shall not be required to be given to any stockholder who shall attend such meeting in person or by proxy and shall not, at the beginning of such meeting, object to the transaction of any business because the meeting is not lawfully called or convened, or who shall, either before or after the meeting, submit a signed waiver of notice, in person or by proxy. Unless the Board shall fix after the adjournment a new record date for an adjourned meeting, notice of such adjourned meeting need not be given if the time and place to which the meeting shall be adjourned were announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Corporation may transact any business which may 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 4. Place of Meetings. Meetings of the stockholders may be held at such place, within or without the State of Delaware, as the Board or other officer calling the same shall specify in the notice of such meeting, or in a duly executed waiver of notice thereof.

Section 5. Quorum. At all meetings of the stockholders, the holders of a majority of the votes of the shares of stock of the Corporation issued and outstanding and entitled to vote shall be present in person or by proxy to constitute a quorum for the transaction of any business, except when stockholders are required to vote by class, in which event a majority of the issued and outstanding shares of the appropriate class shall be present in person or by proxy, or except as otherwise provided by statute or in the Corporation's Restated Certificate of Incorporation (the "Certificate of Incorporation"). In the absence of a quorum, the holders of a majority of the votes of the shares of stock present in person or by proxy and entitled to vote, or if no stockholder entitled to vote is present, then the chairman of the meeting, as set forth in Section 6 below, may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum may be present, any business may be transacted which might have been transacted at the meeting as originally called.

Section 6. Organization. At each meeting of the stockholders, the Chairman of the Board, or in his absence or inability to act, the President, or in the absence or inability to act of the Chairman of the Board and the President or an Executive Vice President, or in the absence of all the foregoing, any person chosen by a majority of those stockholders present shall act as chairman of the meeting. The Secretary, or, in his absence or inability to act, the Assistant Secretary or any person appointed by the chairman of the meeting shall act as secretary of the meeting and keep the minutes thereof.

Section 7. Order of Business. The order of business at all meetings of the stockholders shall be as determined by the chairman of the meeting.

Section 8. Voting. Except as otherwise provided by statute, the Certificate of Incorporation or any certificate duly filed in the office of the Secretary of State of the State of Delaware, each holder of record of shares of stock of the Corporation having voting power shall be entitled at each meeting of the stockholders to one vote for every share of such stock standing in his name on the record of stockholders of the Corporation on the date fixed by the Board as the record date for the determination of the stockholders who shall be entitled to notice of and to vote at such meeting; or if such record date shall not have been so fixed, then at the close of business on the day next preceding the day on which the meeting is held; or each stockholder entitled to vote at any meeting of stockholders may authorize another person or persons to act for him by a proxy signed by such stockholder or his attorney-in-fact. Any such proxy shall be delivered to the secretary of such meeting at or prior to the time designated in the order of business for so delivering such proxies. No proxy shall be valid after the expiration of three years from the date thereof, unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the stockholder executing it, except in those cases where an irrevocable proxy is permitted by law. Except as otherwise provided by statute, these Amended and Restated By-Laws (the "By-Laws"), or the Certificate of Incorporation, any corporate action to be taken by vote of the stockholders shall be authorized by a majority of the total votes, or when stockholders are required to vote by class by a majority of the votes of the appropriate class, cast at a meeting of stockholders by the holders of shares present in person or represented by proxy and entitled to vote on such action. Unless required by statute, or determined by the chairman of the meeting to be advisable, the vote on any question need not be by written ballot. On a vote by written ballot, each ballot shall be signed by the stockholder voting, or by his proxy, if there be such proxy, and shall state the number of shares voted.

Section 9. Nominations. The procedures governing stockholder nominees of candidates to elections of the Board of Directors or to fill vacancies, as applicable, shall be administered by the Corporation's Nomination Committee. This Section 9 shall be the exclusive means by which a stockholder may make such nominations before any meeting of stockholders (other than matters properly brought under Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and included in the Corporation's notice of meeting). For nominations for election to the Board or for other business to be properly brought by a stockholder before a meeting of stockholders, the stockholder must first have given timely written notice thereof to the Secretary of the Corporation. In addition to other applicable requirements, to be timely, a notice of nominations or other business to be brought before an annual meeting of stockholders must be substantially in the form set forth below and delivered to the Secretary not later than the date set forth in the "Stockholder Proposals" section of the Proxy Statement delivered by the Corporation to its stockholders, and filed with the Securities and Exchange Commission, in connection with the preceding year's annual meeting. If the Corporation did not deliver a Proxy Statement in connection with the preceding year's annual meeting, such notice must be delivered not less than 120 nor more than 150 days prior to the first anniversary of the preceding year's annual meeting; provided, that if the date of an annual meeting is more than 30 days before or more than 60 days after such anniversary, all notices must be delivered not earlier than 90 days prior to such annual meeting and not later than the later of (i) 60 days prior to the annual meeting or (ii) 10 days following the date on which public announcement of the date of such annual meeting is first made by the Corporation. With respect to special meetings of stockholders, such notice must be delivered to the Secretary not more than 90 days prior to such meeting and not later than the later of (i) 60 days prior to such meeting or (ii) 10 days following the date on which public announcement of the date of such meeting is first made by the Corporation. Any stockholder delivering notice to the Secretary under this Section 9, Article I must be a stockholder of record on the date such notice is delivered. The Secretary shall deliver the notice to the Nomination Committee. No stockholder nominee may be a candidate for election at any meeting of stockholders or otherwise elected to fill a vacancy in the Board unless such person has been approved by the Nomination Committee and was nominated in accordance with the procedures set forth in this Section 9, Article I. If the facts warrant, the Board, or the chairman of a stockholders meeting at which Directors are to be elected may determine and declare that a nomination was not made in accordance with the foregoing procedure and, if it is so determined, no election may be made with respect to such nominee. The right of stockholders to make nominations pursuant to the foregoing procedure is subject to the superior rights, if any, of the holders of any class or series of stock having a preference over the common stock. The procedures set forth in this Section 9 of Article I for nomination for the election of Directors by stockholders are in addition to, and not in limitation of, any procedures now in effect or hereafter adopted by or at the direction of the Board or any committee thereof.

If a stockholder attempts to nominate a candidate to the Board and complies with the procedure set forth in this Section 9, Article I but the Nomination Committee rejects such stockholder's nomination, such stockholder may nominate such candidate notwithstanding the decision of the Nomination Committee at the next election of Directors after such candidate was rejected by the Nomination Committee if such stockholder delivers to the Secretary written requests that such person be nominated to the Board from stockholders holding at least 50% of the eligible votes as of the record date of such election.

To be in proper written form, each such notice to the Secretary delivered in connection with a stockholder nomination must set forth as to each person whom the stockholder proposes to nominate for election as a director:

- (i) the name, age, business address and residence address of the person;
- (ii) the principal occupation or employment of the person;
- (iii) the class or series and number of shares of capital stock of the Corporation that are owned beneficially or of record by the person;

- (iv) a representation that the person does not have, nor will not have, any undisclosed voting commitments or other arrangements with respect to such person's actions as a director; and
- (v) any other information relating to the person 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 election of Directors pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder;

Each such notice to the Secretary must also set forth as to the stockholder giving the notice:

- (i) the name and record address of such stockholder;
- (ii) the class or series and number of shares of capital stock of the Corporation that are owned beneficially or of record by such stockholder;
- (iii) a description of all arrangements, material relationships, or understandings between such stockholder and each proposed nominee and any other person or persons (including their names) pursuant to which the nomination(s) are to be made by such stockholder;
- (iv) a representation that such stockholder intends to appear in person or by proxy at the meeting to nominate the persons named in its notice;
- (v) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the Corporation or otherwise (a "Derivative Instrument") directly or indirectly owned beneficially by such stockholder and any other director indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation;
- (vi) any proxy, contract, arrangement, understanding, or relationship pursuant to which such stockholder has a right to vote any shares of any security of the Corporation;
- (vii) any short interest in any security of the Corporation (for purposes of this By-Law a person shall be deemed to have a short interest in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security);
- (viii) any rights to dividends on the shares of the Corporation owned beneficially by such stockholder that are separated or separable from the underlying shares of the Corporation;
- (ix) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such stockholder is a general partner or, directly or indirectly, beneficially owns an interest in a general partner;
- (x) any performance-related fees (other than an asset-based fee) that such stockholder is entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, as of the date of such notice, including without limitation any such interests held by members of such stockholder's immediate family sharing the same household (which information shall be supplemented by such stockholder and beneficial owner, if any, not later than 10 days after the record date for the meeting to disclose such ownership as of the record date; and
- (xi) any other information relating to such stockholder 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 election of Directors pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder.

All notices delivered to the Secretary in connections must be accompanied by a written consent of each proposed nominee to being named as a nominee and to serve as a Director if elected.

Section 10. Stockholder Proposals. The procedures governing stockholder proposals, other than the nomination of a director or directors by a stockholder, (“Other Business”) of business to be conducted at meetings of stockholders shall be administered by the Corporation’s Nomination Committee. This Section 10 shall be the exclusive means by which a stockholder may submit any Other Business that the stockholder proposes to bring before an any meeting of stockholders (other than matters properly brought under Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the “Exchange Act”) and included in the Company’s notice of meeting). At any meeting of the stockholders, only such Other Business shall be conducted as shall have been properly brought before such meeting. To be properly brought before a meeting, Other Business must be: (a) as specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board; (b) otherwise properly brought before the meeting by or at the direction of the Board; or (c) otherwise properly brought before the meeting by a stockholder. For Other Business to be properly brought by a stockholder before a meeting of stockholders, the stockholder must first have given timely written notice thereof to the Secretary of the Corporation. In addition to other applicable requirements set forth in the Exchange Act, to be timely, a notice of other Other Business to be brought before an annual meeting of stockholders must be substantially in the form set forth below and delivered to the Secretary not later than the date set forth in the “Stockholder Proposals” section of the Proxy Statement delivered by the Corporation to its stockholders, and filed with the Securities and Exchange Commission, in connection with the preceding year’s annual meeting. If the Corporation did not deliver a Proxy Statement in connection with the preceding year’s annual meeting, such notice must be delivered not less than 120 nor more than 150 days prior to the first anniversary of the date of the Corporation’s proxy statement delivered to stockholders in connection with the preceding year’s annual meeting; provided, that if (A) the date of an annual meeting is more than 30 days before or more than 60 days after such anniversary, or (B) no proxy statement was delivered to stockholders by the Corporation in connection with the preceding year’s annual meeting, all notices must be delivered not earlier than 90 days prior to such annual meeting and not later than the later of (i) 60 days prior to the annual meeting or (ii) 10 days following the date on which public announcement of the date of such annual meeting is first made by the Corporation. With respect to special meetings of stockholders, such notice must be delivered to the Secretary not more than 90 days prior to such meeting and not later than the later of (i) 60 days prior to such meeting or (ii) 10 days following the date on which public announcement of the date of such meeting is first made by the Corporation. Any stockholder delivering notice to the Secretary under this Section 10 of Article I must be a stockholder of record on the date such notice is delivered. The Nomination Committee must approve each stockholder proposal of other business before such proposal may be voted on at any meeting of stockholders or otherwise. No stockholder proposal of other business before such proposal may be voted on at any meeting of stockholders or otherwise unless such proposal was approved in accordance with the procedures set forth in this Section 10 of Article I. The procedures set forth in this Section 10 of Article I for submission of any Other Business that the stockholder proposes to bring before any meeting of stockholders are in addition to, and not in limitation of, any procedures now in effect or hereafter adopted by or at the direction of the Board or any committee thereof. If the chairman of a meeting of stockholders determines that Other Business was not properly brought before the meeting in accordance with the foregoing procedures, the chairman shall declare to the meeting that the Other Business was not properly brought before the meeting and such Other Business shall not be transacted.

To be in proper written form, a stockholder's notice to the Secretary must set forth as to each matter such stockholder proposes to bring before the meeting:

- (i) a brief description of the Other Business desired to be brought before the meeting and the reasons for conducting such Other Business at the meeting;
- (ii) the name and record address of such stockholder;
- (iii) the class or series and number of shares of capital stock of the Corporation that are owned beneficially or of record by such stockholder;
- (iv) a description of all arrangements or understandings between such stockholder and any other person or persons (including their names) in connection with the proposal of such Other Business by such stockholder and any material interest of such stockholder in such business;
- (v) a representation that such stockholder intends to appear in person or by proxy at the meeting to bring such business before the meeting;
- (vi) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the Corporation or otherwise (a "Derivative Instrument") directly or indirectly owned beneficially by such stockholder and any other director indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation;
- (vii) any proxy, contract, arrangement, understanding, or relationship pursuant to which such stockholder has a right to vote any shares of any security of the Corporation;
- (viii) any short interest in any security of the Corporation (for purposes of this By-Law a person shall be deemed to have a short interest in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security);
- (ix) any rights to dividends on the shares of the Corporation owned beneficially by such stockholder that are separated or separable from the underlying shares of the Corporation;
- (x) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such stockholder is a general partner or, directly or indirectly, beneficially owns an interest in a general partner;
- (xi) any performance-related fees (other than an asset-based fee) that such stockholder is entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, as of the date of such notice, including without limitation any such interests held by members of such stockholder's immediate family sharing the same household (which information shall be supplemented by such stockholder and beneficial owner, if any, not later than 10 days after the record date for the meeting to disclose such ownership as of the record date); and
- (xii) any other information that is required by law to be provided by the stockholder in his capacity as proponent of a stockholder proposal.

Section 11. List of Stockholders. The officer who has charge of the stock ledger of the Corporation, or the transfer agent of the Corporation's stock, if there be one then acting, shall prepare and make, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least 10 days prior to the meeting, either at a place within the city where the meeting is to be held, at the place where the meeting is to be held or at the office of the transfer agent. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

Section 12. Inspectors. The Board may, in advance of any meeting of stockholders, appoint one or more inspectors to act at such meeting or any adjournment thereof. If the inspectors shall not be so appointed or if any of them shall fail to appear or act, the chairman of the meeting may, and on the request of any stockholder entitled to vote thereat shall, appoint inspectors. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector at such meeting with strict impartiality and according to the best of his ability. The inspectors shall determine the number of shares outstanding and the voting power of each, the number of shares represented at the meeting, the existence of a quorum, the validity and effect of proxies, and shall receive votes, ballots or consents, hear and determine all challenges and questions arising in connection with the right to vote, count and tabulate all votes, ballots or consents, determine the result, and do such acts as are proper to conduct the election or vote with fairness to all stockholders. Upon the request of the chairman of the meeting or any stockholder entitled to vote thereat, the inspectors shall make a report in writing of any challenge, request or matter determined by them and shall execute a certificate of any fact found by them. No director or candidate for the office of director shall act as inspector of an election of directors. Inspectors need not be stockholders.

Section 13. Consent of Stockholders in Lieu of Meeting. Unless otherwise provided in the Certificate of Incorporation, any action required by Subchapter VII of the General Corporation Law of the State of Delaware, to be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the corporation by delivery to its registered office in this State, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested.

Board Of Directors

Section 1. General Powers. The business and affairs of the Corporation shall be managed by the Board. The Board may exercise all such authority and powers of the Corporation and do all such lawful acts and things as are not by statute or the Certificate of Incorporation or by these By-Laws directed or required to be exercised or done by the stockholders.

Section 2. Number, Qualifications, Elections and Term of Office. The number of directors of the Corporation ("Directors") shall be fixed from time to time by the vote of a majority of the entire Board then in office and the number thereof may thereafter by like vote be increased or decreased to such greater or lesser number (not less than three) as may be so provided, subject to the provisions of Section 11 of this Article II. All of the Directors shall be of full age and need not be stockholders. Except as otherwise provided by statute or these By-Laws, the Directors shall be elected at the annual meeting of the Stockholders for the election of Directors at which a quorum is present, and the persons receiving a plurality of the votes cast at such meeting shall be elected. Each Director shall hold office until the next annual meeting of the stockholders and until his successors shall have been duly elected and qualified, or until such Director's death, or until such Director shall have resigned, or have been removed, as hereinafter provided in these By-Laws, or as otherwise provided by statute or the Certificate of Incorporation.

Section 3. Place of Meetings. Meetings of the Board may be held at such place, within or without the State of Delaware, as the Board may from time to time determine or as shall be specified in the notice or waiver of notice of such meeting.

Section 4. Annual Meeting. The Board shall meet for the purpose of organization, the election or appointment of officers and the transaction of other business, as soon as practicable after each annual meeting of the stockholders, on the same day and at the same place where such annual meeting shall be held. Notice of such meeting need not be given. Such meeting may be held at any other time or place (within or without the State of Delaware) which shall be specified in a notice thereof given as hereinafter provided in Section 7 of this Article II.

Section 5. Regular Meetings. Regular meetings of the Board shall be held at such time and place as the Board may from time to time determine. If any day fixed for a regular meeting shall be a legal holiday at the place where the meeting is to be held, then the meeting which would otherwise be held on that day shall be held at the same hour on the next succeeding business day. Notice of regular meetings of the Board need not be given except as otherwise required by statute or these By-Laws.

Section 6. Special Meetings. Special meetings of the Board may be called by the Chairman of the Board, two or more directors or the President of the Corporation.

Section 7. Notice of Meetings. Notice of each special meeting of the Board (and of each regular meeting for which notice shall be required) shall be given by the Secretary as hereinafter provided in this Section 7 of Article II, in which notice shall be stated the time and place (within or without the State of Delaware) of the meeting. Notice of each such meeting shall be delivered to each Director either personally or by telephone, telegraph, cable or wireless, at least 24 hours before the time at which such meeting is to be held or by first-class mail, postage prepaid, addressed to him at his residence, or usual place of business, at least three days before the day on which such meeting is to be held. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail. Notice of any such meeting need not be given to any director who shall, either before or after the meeting, submit a signed waiver of notice or who shall attend such meeting without protesting, prior to or at its commencement, the lack of notice to him. Except as otherwise specifically required by these By-Laws, a notice or waiver of notice of any regular or special meeting need not state the purposes of such meeting.

Section 8. Quorum and Manner of Acting. A majority of the entire Board shall be present in person at any meeting of the Board in order to constitute a quorum for the transaction of business at such meeting, and, except as otherwise expressly required by statute or the Certificate of Incorporation, the act of a majority of the Directors present at any meeting at which a quorum is present shall be the act of the Board. Any one or more members of the Board or any committee thereof may participate in a meeting of the Board or such committee by means of a conference telephone or similar communications equipment allowing all participants in the meeting to hear each other at the same time and participation by such means shall constitute presence in person at a meeting. In the absence of a quorum at any meeting of the Board, a majority of the directors present thereat, or if no director be present, the Secretary, may adjourn such meeting to another time and place, or such meeting, unless it be the annual meeting of the Board, need not be held. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called. Except as provided in Article III of these By-Laws, the directors shall act only as a Board and the individual directors shall have no power as such.

Section 9. Organization. At each meeting of the Board, the Chairman of the Board (or, in his or her absence or inability to act, the President, or, in his or her absence or inability to act, another Director chosen by a majority of the Directors present) shall act as chairman of the meeting and preside thereat. The Secretary (or, in his or her absence or inability to act, any person appointed by the chairman of the meeting) shall act as secretary of the meeting and keep the minutes thereof.

Section 10. Resignations. Any Director may resign at any time by giving written notice of his resignation to the Board, the Chairman of the Board, the President or the Secretary. Any such resignation shall take effect at the time specified therein or, if the time when it shall become effective shall not be specified therein, immediately upon its receipt; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 11. Vacancies. Vacancies, including newly created directorships, may be filled by the decision of 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 as provided in this Section for the filling of other vacancies.

Section 12. Removal of Directors. Except as otherwise provided in the Certificate of Incorporation or in these By-Laws, any Director may be removed, either with or without cause, at any time, by the affirmative vote of a majority of the votes of the issued and outstanding shares of stock entitled to vote for the election of the stockholders called and held for that purpose, or by a majority vote of the Board at a meeting called for such purpose, and the vacancy in the Board caused by any such removal may be filled by such stockholders or Directors, as the case may be, at such meeting, and if the stockholders shall fail to fill such vacancy, such vacancy shall be filled in the manner as provided by these By-Laws.

Section 13. Compensation. The Board shall have authority to fix the compensation, including fees and reimbursement of expenses, of Directors for services to the Corporation in any capacity, provided no such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Section 14. Action by the Board. To the extent permitted under the laws of the State of Delaware, any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of the proceedings of the Board or committee.

ARTICLE III

Executive and Other Committees

Section 1. Executive and Other Committees. The Board may, by resolution passed by a majority of the whole Board, designate one or more committees, each committee to consist of two or more of the directors of the Corporation. The Board 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. Any such committee, to the extent provided in the resolution, shall have and may exercise the powers of the Board 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, provided, however, that in the absence or disqualification of any member of such committee or committees, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Each committee shall keep minutes of its proceedings and shall, report such minutes to the Board when required. All such proceedings shall be subject to revision or alteration by the Board; provided, however, that third parties shall not be prejudiced by such revision or alteration.

Section 2. General. A majority of any committee may determine its action and fix the time and place of its meetings, unless the Board shall otherwise provide. Notice of such meetings shall be given to each member of the committee in the manner provided for in Article II, Section 7. The Board shall have the power at any time to fill vacancies in, to change the membership of, or to dissolve any such committee. Nothing herein shall be deemed to prevent the Board from appointing one or more committees consisting in whole or in part of persons who are directors of the Corporation; provided, however, that no such committee shall have or may exercise any authority of the Board.

ARTICLE IV

Officers

Section 1. Number and Qualifications. The officers of the Corporation shall include the Chairman of the Board, the President, one or more Vice Presidents (one or more of whom may be designated an Executive Vice President or a Senior Vice President), the Treasurer and the Secretary. Any two or more offices may be held by the same person. Such officers shall be elected or appointed from time to time by the Board, each to hold office until the meeting of the Board following the next annual meeting of the stockholders, or until his or her successor shall have been duly elected or appointed and shall have qualified, or until such Officer's death, or until such Officer shall have resigned, or have been removed, as hereinafter provided in these By-Laws. The Board may from time to time elect a Vice Chairman of the Board, and the Board may from time to time elect, or the Chairman of the Board, or the President may appoint, such other officers (including one or more Assistant Vice Presidents, Assistant Secretaries and Assistant Treasurers), as may be necessary or desirable for the business of the Corporation. Such other officers and agents shall have such duties and shall hold their offices for such terms as may be prescribed by the Board or by the appointing.

Section 2. Resignation. Any officer of the Corporation may resign at any time by giving written notice of his resignation to the Board, the Chairman of the Board, the President or the Secretary. Any such resignation shall take effect at the time specified therein or, if the time when it shall become effective shall not be specified therein, immediately upon its receipt; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3. Removal. Any officer or agent of the Corporation may be removed, either with or without cause, at any time, by the vote of the majority of the entire Board at any meeting of the Board or, except in the case of an officer or agent elected or appointed by the Board, by the Chairman of the Board or the President. Such removal shall be without prejudice to the contractual rights, if any, of the person so removed.

Section 4. Vacancies. A vacancy in any office, whether arising from death, disability, resignation, removal or any other cause, may be filled for the unexpired portion of the term of the office which shall be vacant, in the manner prescribed in these By-Laws for the regular election or appointment to such office.

Section 5. a. The Chairman of the Board. The Chairman of the Board, if one be elected, shall, if present, preside at each meeting of the stockholders and of the Board and shall be an ex officio member of all committees of the Board. He shall perform all duties incident to the office of Chairman of the Board and such other duties as may from time to time be assigned to him by the Board.

b. The Vice Chairman of the Board. The Vice Chairman of the Board, if one be elected, shall have such powers and perform all such duties as from time to time may be assigned to him by the Board or the Chairman of the Board and, unless otherwise provided by the Board, shall in the case of the absence or inability to act of the Chairman of the Board, perform the duties of the Chairman of the Board and when so acting shall have all the powers of, and be subject to all the restrictions upon, the Chairman of the Board.

Section 6. The President. The President shall be the chief executive officer of the Corporation and shall have general and active supervision and direction over the business and affairs of the Corporation and over its several officers, subject, however, to the direction of the Chairman of the Board and the control of the Board. If no Chairman of the Board is elected or at the request of the Chairman of the Board, or in the case of his absence or inability to act, unless there be a Vice Chairman of the Board so designated to act, the President shall perform the duties of the Chairman of the Board and when so acting shall have all the powers of, and be subject to all the restrictions upon, the Chairman of the Board. He shall perform all duties incident to the office of President and such other duties as from time to time may be assigned to him by the Board or the Chairman of the Board.

Section 7. Vice Presidents. Each Executive Vice President, each Senior Vice President and each Vice President shall have such powers and perform all such duties as from time to time may be assigned to such person by the Board, the Chairman of the Board or the President. They shall in the order of their seniority, have the power and may perform the duties of the Chairman of the Board and the President.

Section 8. The Treasurer. The Treasurer shall exercise general supervision over the receipt, custody and disbursement of corporate funds. He or she shall have such further powers and duties as may be conferred upon him from time to time by the President or the Board of Directors. He or she shall perform the duties of controller if no one is elected to that office.

Section 9. The Secretary. The Secretary shall:

- (a) keep or cause to be kept in one or more books provided for the purpose, the minutes of all meetings of the Board, the committees of the Board and the stockholders;
- (b) see that all notices are duly given in accordance with the provisions of these By-Laws and as required by law;
- (c) be custodian of the records and the seal of the Corporation and affix and attest the seal to all stock certificates of the Corporation (unless the seal be a facsimile, as hereinafter provided) and affix and attest the seal to all other documents to be executed on behalf of the Corporation under its seal;
- (d) see that the books, reports, statements, certificates and other documents and records required by law to be kept and filed are properly kept and filed; and
- (e) in general, perform all the duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Board, the Chairman of the Board, or the President.

Section 10. Officer's Bonds or Other Security. If required by the Board, any officer of the Corporation may be required to give a bond or other security for the faithful performance of his duties, in such amount and with such surety or sureties as the Board may require.

Section 11. Compensation. The compensation of the officers of the Corporation for their services as such officers shall be fixed from time to time by the Board; provided, however, that the Board may delegate to the Chairman of the Board or the President the power to fix the compensation of officers and agents appointed by the Chairman of the Board or the President, as the case may be. An officer of the Corporation shall not be prevented from receiving compensation by reason of the fact that he is also a director of the Corporation, but any such officer who shall also be a Director shall not have any vote in the determination of the amount of compensation paid to him.

ARTICLE V

Indemnification

The Corporation shall, to the fullest extent permitted by the laws of the state of Delaware, indemnify any and all persons whom it shall have power to indemnify against any and all of the costs, expenses, liabilities or other matters incurred by them by reason of having been officers or Directors of the Corporation, any subsidiary of the Corporation or of any other corporation for which such person acted as officer or director at the request of the Corporation.

ARTICLE VI

Contracts, Checks, Drafts, Bank Account, Etc.

Section 1. Execution of Contracts. Except as otherwise required by statute, the Certificate of Incorporation or these By-Laws, any contracts or other instruments may be executed and delivered in the name and on behalf of the Corporation by such officer or officers (including any assistant officer) of the Corporation as the Board may, from time to time, direct. Such authority may be general or confined to specific instances as the Board may determine. Unless authorized by the Board or expressly permitted by these By-Laws, an officer or agent or employee shall not have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it pecuniarily liable for any purpose or to any amount.

Section 2. Loans. Unless the Board shall otherwise determine, either (a) the Chairman of the Board, the Vice Chairman of the Board or the President, singly, or (b) a Vice President, together with the Treasurer, may effect loans and advances at any time for the Corporation or guarantee any loans and advances to any subsidiary of the Corporation, from any bank, trust company or other institution, or from any firm, corporation or individual, and for such loans and advances may make, execute and deliver promissory notes, bonds or other certificates or evidences of indebtedness of the Corporation, or guarantee of indebtedness of subsidiaries of the Corporation, but no officer or officers shall mortgage, pledge, hypothecate or transfer any securities or other property of the Corporation, except when authorized by the Board.

Section 3. Checks, Drafts, Etc. All checks, drafts, bills of exchange or other orders for the payment of money out of the funds of the Corporation, and all notes or other evidences of indebtedness of the Corporation, shall be signed in the name and on behalf of the Corporation by such persons and in such manner as shall from time to time be authorized by the Board.

Section 4. Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board may from time to time designate or as may be designated by any officer or officers of the Corporation to whom such power of designation may from time to time be delegated by the Board. For the purpose of deposit and for the purpose of collection for the account of the Corporation, checks, drafts and other orders for the payment of money which are payable to the order of the Corporation may be endorsed, assigned and delivered by any officer or agent of the Corporation, or in such manner as the Board may determine by resolution.

Section 5. General and Special Bank Accounts. The Board may, from time to time, authorize the opening and keeping of general and special bank accounts with such banks, trust companies or other depositories as the Board may designate or as may be designated by any officer or officers of the Corporation to whom such power of designation may from time to time be delegated by the Board. The Board may make such special rules and regulations with respect to such bank accounts, not inconsistent with the provisions of these By-Laws, as it may deem expedient.

Section 6. Proxies in Respect of Securities of Other Corporations. Unless otherwise provided by resolution adopted by the Board, the Chairman of the Board, the President or a Vice President may from time to time appoint an attorney or attorneys or agent or agents of the Corporation, in the name and on behalf of the Corporation, to cast the votes which the Corporation may be entitled to cast as the holder of stock or other securities in any other corporation, any of whose stock or other securities may be held by the Corporation, at meetings of the holders of the stock or other securities of such other corporation, or to consent in writing, in the name of the Corporation as such holder, to any action by such other corporation, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent, and may execute or cause to be executed, in the name and on behalf of the Corporation, and under its corporate seal, or otherwise, all such written proxies or other instruments as he or she may deem necessary or proper in the premises.

ARTICLE VII

Shares, Etc.

Section 1. Stock Certificates. Shares of stock 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, or a combination of both. To the extent that shares are represented by certificates, such certificates shall be in a form approved by the Board. Each certificate shall be signed in the name of the Corporation by (A) the Chairman or Vice Chairman of the Board or the President or a Vice President, and (B) the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer, and sealed with the seal of the Corporation (which seal may be a facsimile, engraved or printed); provided, however, that where any such certificate is countersigned by a transfer agent other than the Corporation or one of its employees, or is registered by a registrar other than the Corporation or one of its employees, the signature of the officers of the Corporation upon such certificates may be facsimiles, engraved or printed. In case any officer who shall have signed or whose facsimile signature has been placed upon such certificates shall have ceased to be such officer before such certificates shall be issued, they may nevertheless be issued by the Corporation with the same effect as if such officer were still in office at the date of their issue.

Section 2. Books of Account and Record of Shareholders. The books and records of the Corporation may be kept at such places within or without the state of incorporation as the Board of Directors may from time to time determine. The stock record books and the blank stock certificate books shall be kept by the Secretary or by any other officer or agent designated by the Board of Directors.

Section 3. Transfer of Shares. Subject to any restrictions on transfer and unless otherwise provided by the Board, shares of stock may be transferred only on the books of the Corporation by the surrender to the Corporation or its transfer agent of the shares in certificated form, properly endorsed or accompanied by a written assignment or power of attorney properly executed, with transfer stamps (if necessary) affixed, or upon proper instructions from the holder of uncertificated shares, in each case with such proof of the authenticity of signature as the Corporation or its transfer agent may reasonably require. Except as otherwise provided by applicable law, the Corporation shall be entitled to recognize the exclusive right of a person in whose name any share or shares stand on the record of stockholders as the owner of such share or shares for all purposes, including, without limitation, the rights to receive dividends or other distributions and to vote as such owner, and the Corporation may hold any such stockholder of record liable for calls and assessments and the Corporation shall not be bound to recognize any equitable or legal claim to or interest in any such share or shares on the part of any other person whether or not it shall have express or other notice thereof. Whenever any transfers of shares shall be made for collateral security and not absolutely, and both the transferor and transferee request the Corporation to do so, such fact shall be stated in the entry of the transfer.

Section 4. Regulations. The Board may make such additional rules and regulations, not inconsistent with these By-Laws, as it may deem expedient concerning the issue, transfer and registration of certificates for shares of stock of the Corporation. It may appoint, or authorize any officer or officers to appoint, one or more transfer agents or one or more transfer clerks and one or more registrars and may require all certificates for shares of stock to bear the signature or signatures of any of them.

Section 5. Lost, Destroyed or Mutilated Certificates. The holder of any certificate representing shares of stock of the Corporation shall immediately notify the Corporation of any loss, destruction or mutilation of such certificate, and the Corporation may issue a new certificate of stock in the place of any certificate theretofore issued by it which the owner thereof shall allege to have been lost, stolen or destroyed or which shall have been mutilated, and the Board may, in its discretion, require such owner or his legal representative to give the Corporation a bond in such sum, limited or unlimited, and in such form and with such surety or sureties as the Board in its absolute discretion shall determine, to indemnify the Corporation against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate, or the issuance of a new certificate. Anything herein to the contrary notwithstanding, the Board, in its absolute discretion, may refuse to issue any such new certificate, except pursuant to legal proceedings under the laws of the State of Delaware.

Section 6. Fixing of Record Date. In order that the Corporation may determine the stockholders entitled to notice of, or to vote at, any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board may fix in advance a record date, which shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action. 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 may fix a new record date for the adjourned meeting.

ARTICLE VIII

Offices

Section 1. Principal or Registered Office. The principal registered office of the Corporation shall be at such place as may be specified in the Certificate of Incorporation or other certificate filed pursuant to law, or if none be so specified, at such place as may from time to time be fixed by the Board.

Section 2. Other Offices. The Corporation also may have an office or offices other than said principal or registered office, at such place or places either within or without the State of Delaware.

ARTICLE IX

Fiscal Year

The fiscal year of the Corporation shall be determined by the Board.

ARTICLE X

Seal

The Board shall provide a corporate seal which shall contain the name of the Corporation, the words "Corporate Seal" and the year and State of Delaware.

ARTICLE XI

Amendments

Section 1. Stockholders. These By-Laws may be amended or repealed, or new By-Laws may be adopted, at any annual or special meeting of the stockholders, by a majority of the total votes of the stockholders or when stockholders are required to vote by class by a majority of the appropriate class, in person or represented by proxy and entitled to vote on such action; provided, however, that the notice of such meeting shall have been given as provided in these By-Laws, which notice shall mention that amendment or repeal of these By-Laws, or the adoption of new By-Laws, is one of the purposes of such meeting.

Section 2. Board of Directors. These By-Laws may also be amended or repealed or new By-Laws may be adopted by the Board at any meeting of the Board; provided, however, that notice of such meeting shall have been given as provided in these By-Laws, which notice shall mention that amendment or repeal of the By-Laws, or the adoption of new By-Laws, is one of the purposes of such meetings. By-Laws adopted by the Board may be amended or repealed by the stockholders as provided in Section 1 of this Article XI.

ARTICLE XII

Miscellaneous

Section 1. Interested Directors. No contract or other transaction between the Corporation and any other corporation shall be affected and invalidated solely by the fact that any one or more of the Directors of the Corporation is or are interested in or is a director or officer or are directors or officers of such other corporation, and any Director or Directors, individually or jointly, may be a party or parties to or may be interested in any contract or transaction of the Corporation or in which the Corporation is interested; and no contract, act or transaction of the Corporation with any person or persons, firm or corporation shall be affected or invalidated by the fact that any Director of the Corporation is a party or are parties to or interested in such contract, act or transaction, or in any way connected with such person or persons, firms or associations, and each and every person who may become a Director of the Corporation is hereby relieved from any liability that might otherwise exist from contracting with the Corporation for the benefit of himself or herself, any firm, association or corporation in which such Director may be in any way interested.

Section 2. Ratification. Any transaction questioned in any stockholders derivative suit on the grounds of lack of authority, defective or irregular execution, adverse interest of director, officer or stockholder, nondisclosure, miscalculation, or the application of improper principles or practices of accounting, may be ratified before or after judgment, by the Board or, by the stockholders in case less than a quorum of Directors are qualified, and, if so ratified, shall have the same force and effect as if the questioned transaction had been originally duly authorized, and said ratification shall be binding upon the Corporation and its stockholders, and shall constitute a bar to any claim or execution of any judgment, in respect of such questioned transaction.

Effective: April 19, 2016

**CERTIFICATE OF ELIMINATION OF THE
CERTIFICATE OF DESIGNATION OF PREFERRED STOCK
OF
DISCOVERY LABORATORIES, INC.**

(Pursuant to Section 151(g) of the General Corporation Law of the State of Delaware)

Discovery Laboratories, Inc. a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware, (the "Corporation") certifies as follows:

FIRST: The Certificate of Designations, Preferences and Rights filed on February 6, 2004 and constituting part of the Corporation's Amended and Restated Certificate of Incorporation (the "Certificate of Designations") authorizes the issuance of 50,000 shares of Preferred Stock of the Corporation, par value \$.001 per share, designated as Series A Junior Participating Cumulative Preferred Stock (the "Series A Junior Preferred Stock").

SECOND: Pursuant to the provisions of Section 151(g) of the General Corporation Law of the State of Delaware (the "DGCL"), the Board of Directors of the Corporation adopted the following resolutions:

RESOLVED, that none of the authorized shares of the Series A Junior Preferred Stock are outstanding and none of the authorized shares of such series of preferred stock will be issued subject to the Certificate of Designations; and

RESOLVED, that the Secretary of the Corporation is authorized and directed to execute a Certificate of Elimination as provided by Section 151(g) of the DGCL in accordance with Section 103 of the DGCL, substantially in the form attached as an exhibit to these resolutions, with such changes therein as the Secretary may approve and as are permitted by the DGCL to be made by such officer, such approval to be conclusively evidenced by the Secretary's execution of such Certificate of Elimination, and to file the same forthwith in the Office of the Secretary of State of the State of Delaware, and when such Certificate of Elimination becomes effective, all references to the Series A Junior Preferred Stock in the Restated Certificate of Incorporation shall be eliminated.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Elimination to be signed by its duly authorized officer on the 14th day of April, 2016.

DISCOVERY LABORATORIES, INC.

By: /s/ Mary B. Templeton

Mary B. Templeton, Esq.
Senior Vice President,
General Counsel and Corporate Secretary



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April 2016

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Forward Looking Statement

To the extent that statements in this presentation are not strictly historical, including statements about the Company's business strategy, outlook, objectives, plans, intentions, goals, future financial conditions, future collaboration agreements, the success of the Company's product development, or otherwise as to future events, such statements are forward-looking, and are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. The forward-looking statements contained in this presentation are subject to certain risks and uncertainties that could cause actual results to differ materially from the statements made. These risks are further described in the Company's periodic filings with the Securities and Exchange Commission (SEC), including the most recent reports on Forms 10-K, 8-K and 10-Q, and any amendments thereto ("Company Filings").

This presentation under no circumstances shall be construed as an offer to sell or as a solicitation of an offer to buy any of the Company's securities. In addition, the information presented in this deck is qualified in its entirety by the Company Filings. The reader is encouraged to refer to the Company Filings for a fuller discussion of the matters presented here.



Public biotherapeutic / medical device company; Nasdaq: WINT
Based in Warrington, PA with 55 employees
Lead program focused in the acute respiratory area

Experienced Management Team



DukeMedicine



MedImmune



Bristol-Myers Squibb



Very experienced management team
averaging over 20 years of experience developing
drugs and devices and building and leading businesses

High Value-Creating Potential

*Innovative synthetic KL4 surfactant and breakthrough aerosolized delivery system
Initially focused on respiratory distress syndrome (RDS) in premature infants –*

- ✓ Well characterized asset and target application
- ✓ Potential to develop a transformative therapy for an established market that has a clear unmet need
- ✓ Building a data base of potential safety, clinical effect and benefit information
- ✓ Opportunity to build a positive health economic position
- ✓ Strong IP with the potential to build a pipeline of aerosolized KL4 surfactant therapies to address a variety of respiratory diseases
- ✓ Experienced management team focused on rigorous clinical execution and effective cash management

AEROSURF® Aerosolized Surfactant for RDS

Proprietary Synthetic KL4 Surfactant

Designed to be structurally similar to human lung surfactant

Liquid KL4 surfactant (intratracheal instillate) for RDS approved by the FDA

Lyophilized (freeze-dried) KL4 surfactant – developed initially for AEROSURF®



Innovative Aerosol Delivery Technology

Designed specifically to aerosolize and deliver surfactant



Potential to transform the treatment of premature infants with RDS by making surfactant therapy available through non-invasive delivery technology

Respiratory Distress Syndrome (RDS)

Primary characteristic is surfactant deficiency in underdeveloped lungs of premature infants (born with a lack of natural lung surfactant required for open airways and proper gas exchange – O₂ in and CO₂ out)

American Academy of Pediatrics guidelines recommend providing surfactant replacement within the first hours of life¹

Neonatologists believe the **highest unmet need in RDS is the ability to deliver surfactant non-invasively** to patients²



Current Treatment of RDS: Intubate or Not?

Invasive Intubation



Current surfactant replacement therapy (SRT) requires intubation and mechanical ventilation (MV); available surfactants are animal-derived

Invasive intubation and MV can result in serious respiratory conditions and other complications, such as higher risk of infection and bronchopulmonary dysplasia (BPD)

Nasal continuous positive airway pressure (nCPAP)

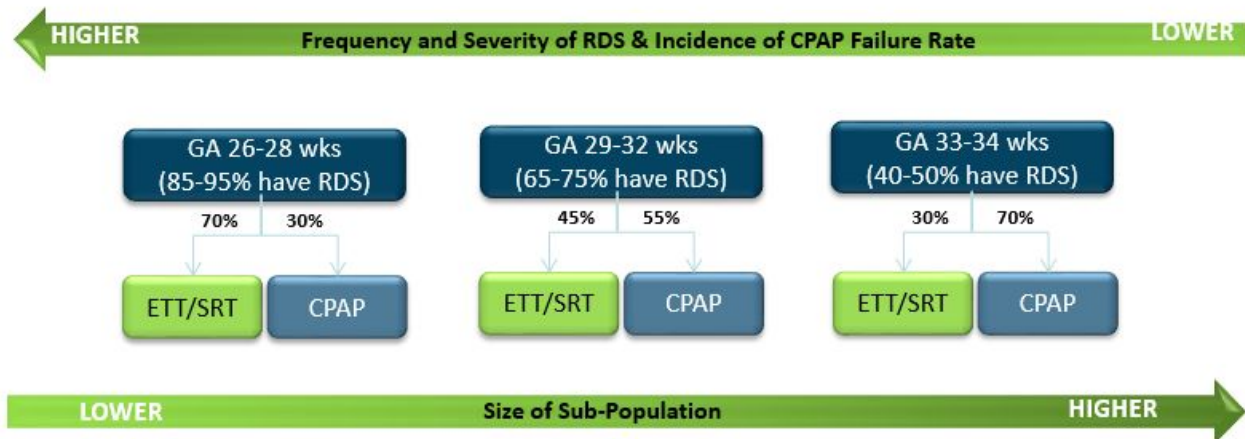


Considered less invasive but **does not address underlying condition – surfactant deficiency**

Many infants respond poorly and require delayed rescue SRT via intubation and MV (“nCPAP failure”)

Earlier SRT produces better outcomes compared to late SRT¹

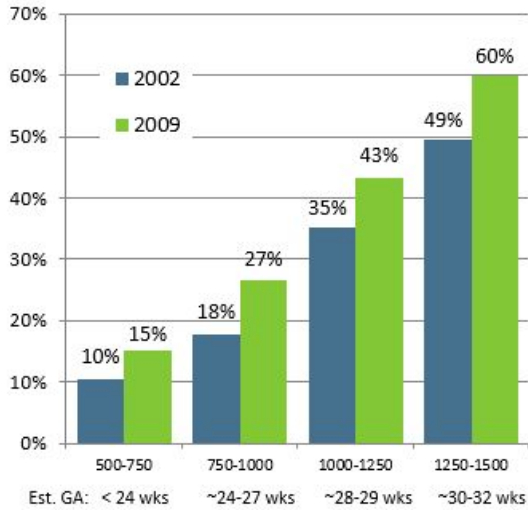
nCPAP Used Across All Gestational Ages (GA) and Severity of RDS



Note: ETT/SRT – administration of surfactant replacement therapy via intubation with an endotracheal tube

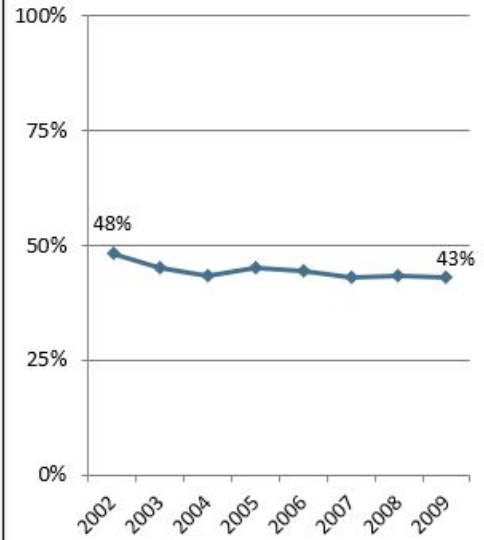
Trends in Non-Invasive Care of Neonates – Increasing Use of nCPAP to Avoid Intubation

First-line nCPAP use has been trending up across all gestational ages up to 32 weeks GA



Source: Soll, Obstetric and Neonatal Care Practices for Infants 501 to 1500 g From 2000 to 2009; *Pediatrics*; July 2013

However, still experience high nCPAP failure rates



Source: Soll, Obstetric and Neonatal Care Practices for Infants 501 to 1500 g From 2000 to 2009; *Pediatrics*; July 2013

What is wanted¹:

- ✓ An approach that effectively delivers surfactant without intubation or mechanical ventilation
- ✓ Possibility of repeat doses
- ✓ Avoids clinical instability associated with bolus administration
- ✓ Administration by non-specialist staff
- ✓ Reduce cost of treating premature infants



“...optimization of less invasive method of surfactant administration will be one of the most important subjects for research in the field of surfactant therapy of RDS in coming years”.

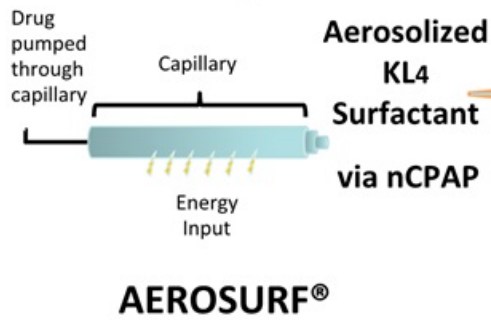
Kribs A. How best to administer surfactant to VLBW infants. Arch Dis Child Fetal Neonatal Ed 2011;doi:10.1136.

1. Pillow & Minocchieri: Neonatology, 2012

Innovative, Proprietary Device Provides the Breakthrough

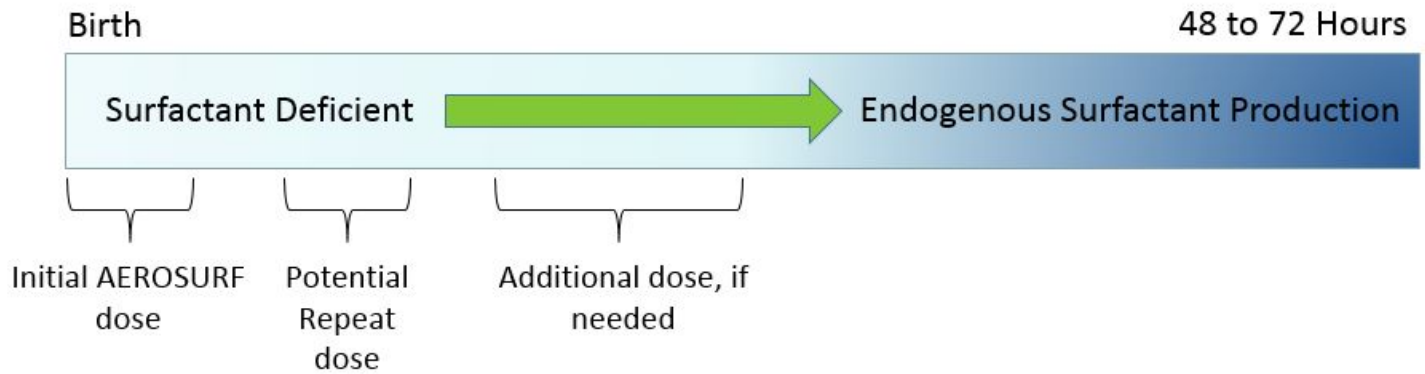


Transformative administration of KL4 surfactant *without invasive intubation and early* in the management of RDS in premature infants



Bridge the Surfactant / RDS Gap in the First 72 Hours

- Provide surfactant therapy to premature infants until they can produce their own endogenous surfactant
- Allow for single or repeat non-invasive doses of aerosolized KL4 surfactant



Phase 2 development program is primarily to assess safety and understand the proper dosing regimen to support premature infants to surfactant self-sufficiency

Comprehensive Phase 2 Program – Completed Trials

	Phase 2a	Phase 2a Expansion
Gestational Age (wks)	29 – 34	
Dose Groups	15 min; 30 min; 45 min (25, 50, 75 TPL mg/kg) (8 active, 8 control per group) Single dose	60 min; 90 min (100 and 150 TPL mg/kg) (8 active, 8 control per group) Primarily single dose
# of patients	48	32
Objective(s)	Safety and tolerability Physiological data suggesting delivery of KL ₄ surfactant to the lungs Performance of Aerosol Delivery System	Safety and tolerability of higher doses and determine therapeutic index (safety window) Continue physiological assessment
# of sites	Initiated with 3; increased to 8 (US)	12 (US)
Timeline / Milestones	Completed May 2015; key objectives achieved	Completed Oct 2015

Primary Objective

Safety and tolerability of AEROSURF® compared to nCPAP alone

Other Key Objectives

Assess physiological data indicating that aerosolized KL4 surfactant is being delivered into the lungs of premature infants

- Gas exchange: FiO_2 requirements and changes in CO_2
- Need for rescue therapy and requirement for invasive respiratory support

Acceptable performance of the Aerosol Delivery System (ADS) in the NICU

Phase 2a Study (29 to 34 wks GA) *Safety and Tolerability - Summary*

The safety and tolerability profile of AEROSURF[®] was generally comparable to the control group

The Independent Safety Review Committee supports proceeding to the next studies in our program

The Aerosol Delivery System delivered KL4 surfactant to the infants in a way that was well tolerated

The adverse events and serious adverse events (SAE) seen were expected for this patient population and generally comparable between AEROSURF[®] and control groups

- Most common adverse events were jaundice, constipation, apnea and anemia
- Most common SAE's were air leaks (including pneumothorax, pneumomediastinum and pulmonary interstitial emphysema)

There was no pattern of increased adverse events or serious adverse events with increasing AEROSURF dose

Phase 2a Study (29 to 34 wks GA) Adverse Events - Incidence of Air Leak

Types of Air Leak	Control (N=40)	AEROSURF® (N=40)
Pneumothorax/Pneumomediastinum	5 (13%)	9 (23%) ^{1, 2}
Pulmonary Interstitial Emphysema	2 (5%)	1 (3%)
Total Number of Infants ³	7 (18%)	9 (23%)

¹ Includes 1 AEROSURF® patient inappropriately enrolled in the trial

² One AEROSURF patient was found to have an air leak prior to dosing

³ All chest x-rays for patients in this study are being reviewed by an independent radiologist for severity of RDS at baseline and to assess the course of RDS

The incidence of air leak in this trial is not unexpected and comparable to what has been reported in the literature for infants in this age group 23-47%⁴

There was no pattern of increased incidence of air leaks with increasing AEROSURF dose (there were no more than 2 air leaks in any dose group)

All air leaks were resolved without complication

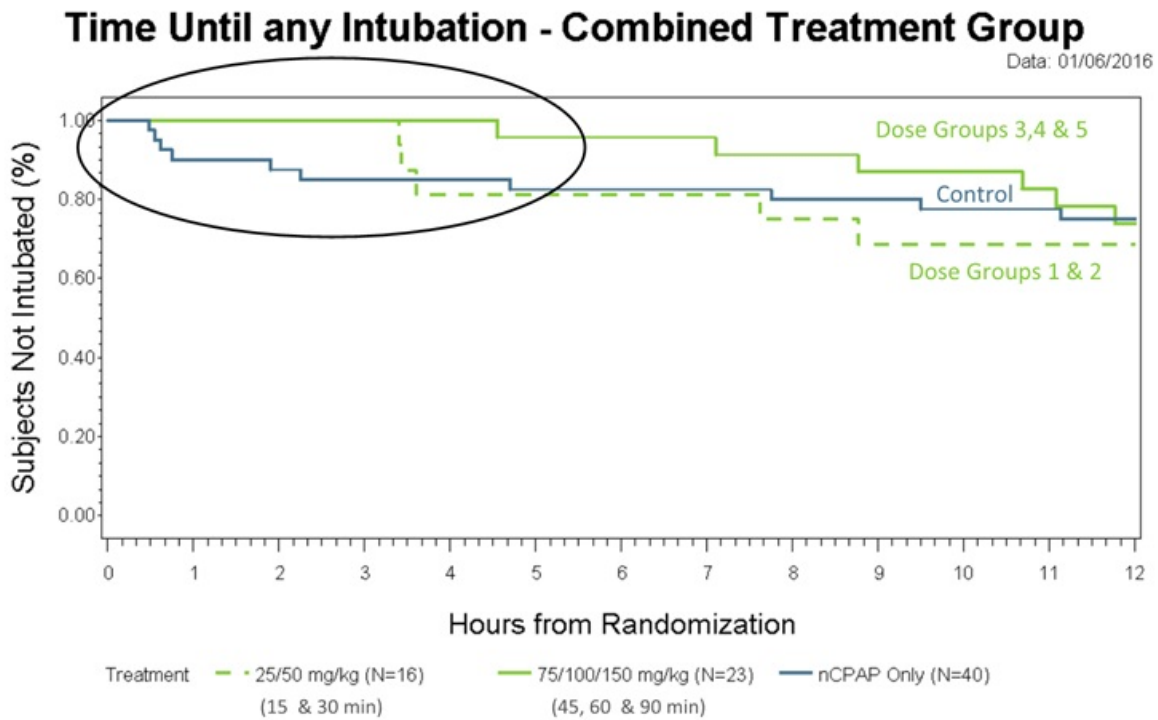
Objective

Establish proof of concept that aerosolized KL4 surfactant is being delivered into the lungs of premature infants by assessing:

- Need for rescue therapy and requirement for invasive respiratory support, and
- Gas exchange

Summary

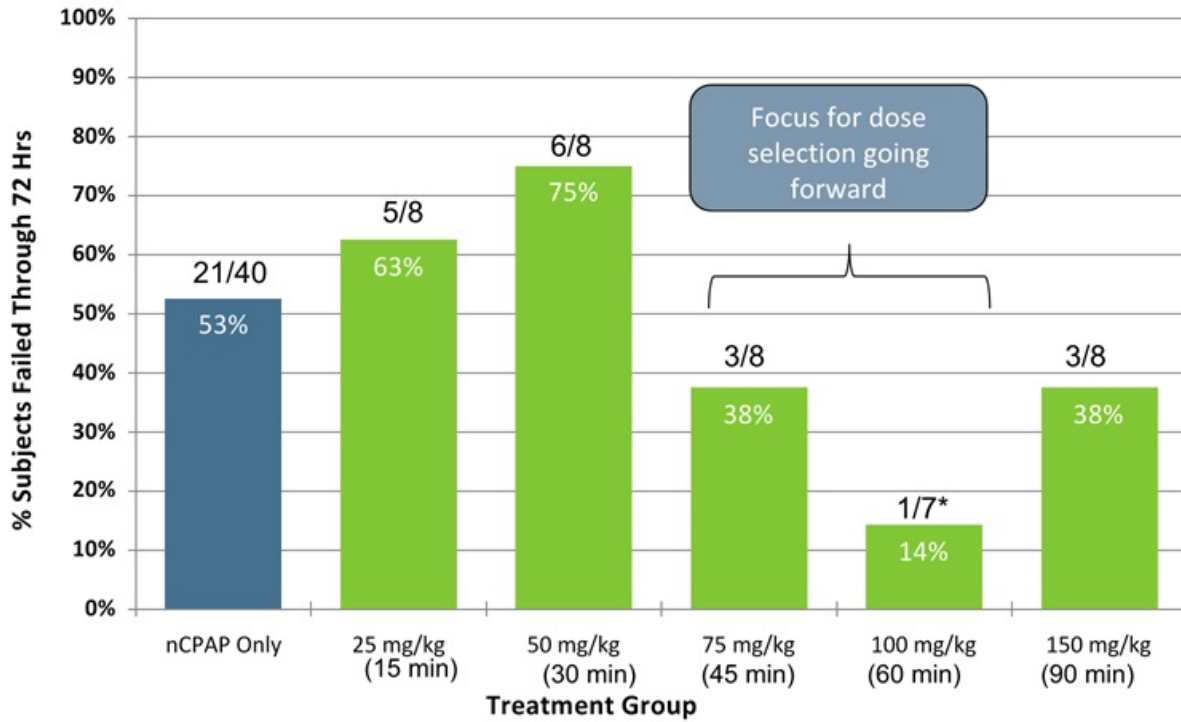
- Aerosolized KL4 surfactant produces physiological changes that are expected with surfactant replacement therapy
- The goal of decreasing nCPAP failure and intubations appears achievable - data to date suggest that AEROSURF® may be decreasing nCPAP failure and the need for intubation
- Repeat dosing may be important to extend this effect to surfactant self-sufficiency



AEROSURF® may prolong the time to intubation; repeat dosing may be important to extend this effect to surfactant self-sufficiency

Phase 2a Study (29 to 34 wks GA)

nCPAP Failure by Treatment Group through 72 hours



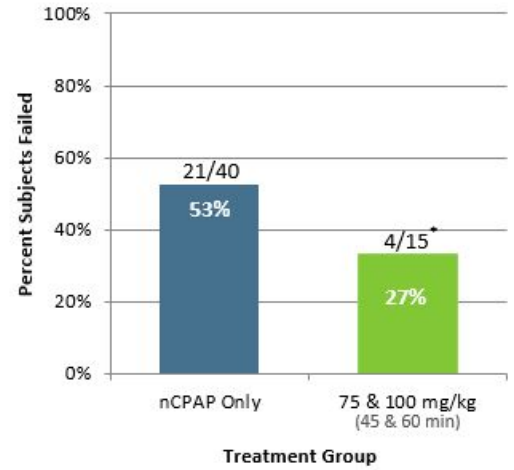
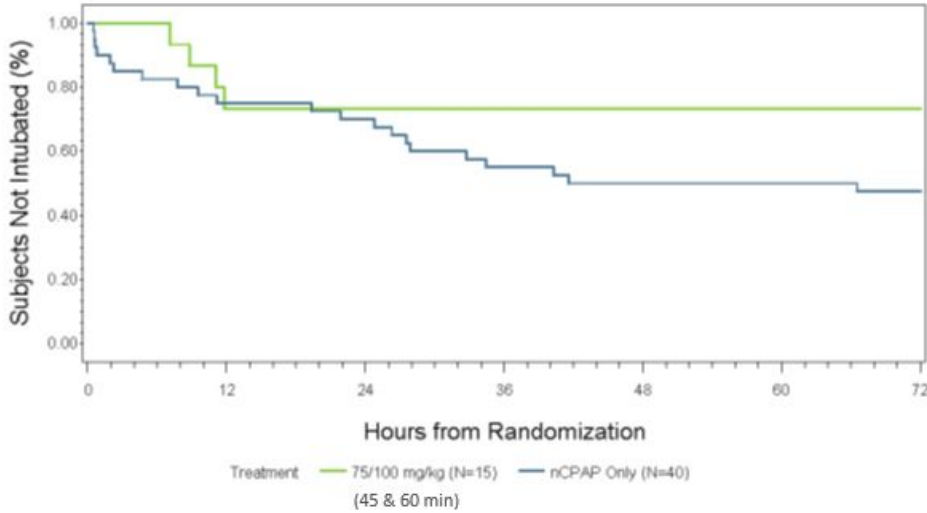
AEROSURF® treatment, primarily in single doses of 45 minutes and greater, appears to be associated with lower rates of nCPAP failure.

* One intubated patient excluded due to being inappropriately enrolled

Time to nCPAP Failure

Time Until any Intubation - Dosing Group 3&4

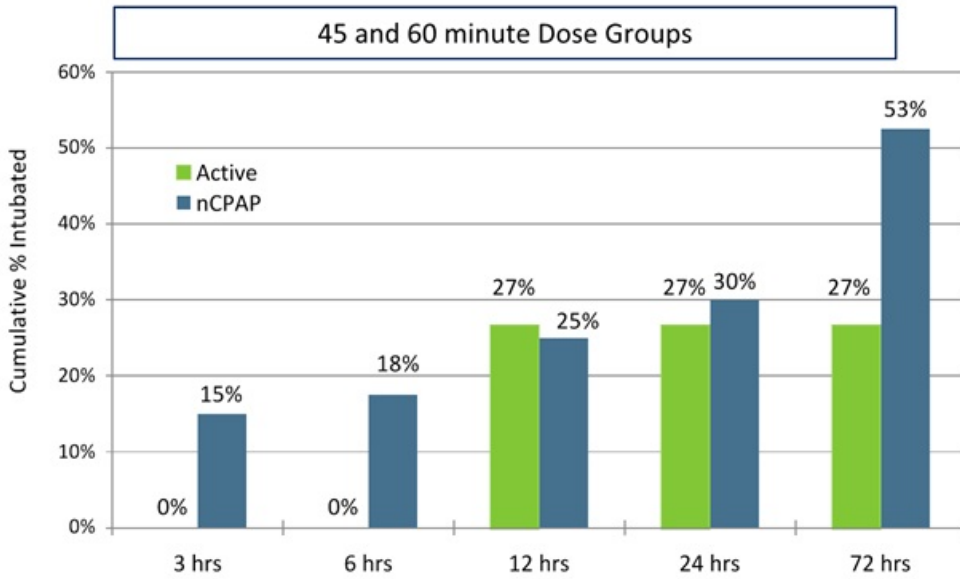
Data: 01/06/2016



At 72 hours post-dosing, 27% of AEROSURF® patients in the combined 45 and 60 minute dose groups required intubation compared to 53% in the control group; a relative reduction in nCPAP failure of 49%

Phase 2a Study (29 to 34 wks GA)

45 and 60 Minute Dose Groups - nCPAP Failure through 72 hours

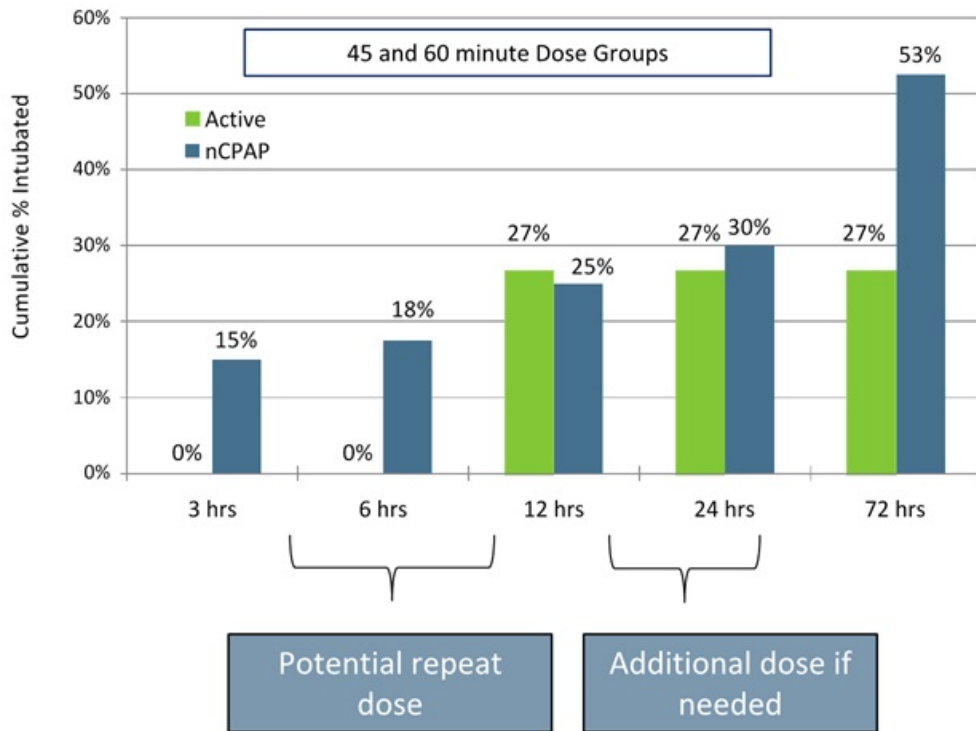


AEROSURF® treated patients experienced a 26% absolute reduction or a 49% relative reduction in nCPAP failure compared to control

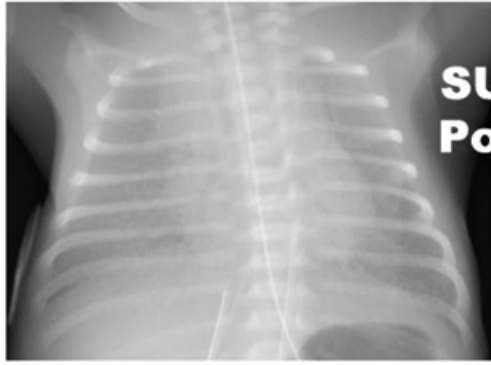
- No AEROSURF patients in the 45 and 60 minute dose groups required intubation at 3 or 6 hours post-dosing compared to 18% (7/40) of control patients
- AEROSURF 45 and 60 minute doses may be reducing the rates of intubation and also prolonging the time to intubation – repeat dosing may be important to extend this effect to surfactant self-sufficiency

Phase 2a Study (29 to 34 wks GA)

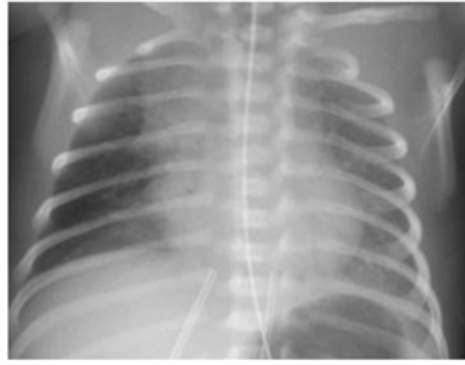
Moving Forward – Window for Repeat Dosing



Phase 2a in 29-34 week GA radiographic changes post-AEROSURF® in a treated patient*



Baseline



~9 Hrs Post-Treatment



Day 2

* These radiographs are illustrative of one particular patient only. They are not intended to imply that the same result can be achieved in another individual infant or group of infants or that the FDA will find AEROSURF® to be safe and effective.

Summary - Encouraging Phase 2a Results in 29 to 34 wks Gestational Age Premature Infants

The goal of decreasing nCPAP failure and intubations appears achievable

- Aerosolized KL4 surfactant produces physiological changes that are expected with surfactant replacement therapy
- Data to date suggest that AEROSURF® may be decreasing nCPAP failure and the need for intubation

Advancing AEROSURF to a phase 2b clinical trial; repeat dosing may be important to enhancing the reduction in nCPAP failures and extend this effect to surfactant self-sufficiency

Overall, the safety and tolerability profile of the AEROSURF group in the trial was generally comparable to the control group

There was acceptable performance by the novel Aerosol Delivery System technology in the NICU

Comprehensive Phase 2 Program – Ongoing Trials

	Phase 2a	Phase 2a Expansion	Phase 2a	Phase 2b
Gestational Age (wks)	29 – 34		26 - 28	26 – 32 (Begin with 29 – 32)
Dose Groups	15 min; 30 min; 45 min (25, 50, 75 TPL mg/kg) (8 active, 8 control per group) Single dose	60 min; 90 min (100 and 150 TPL mg/kg) (8 active, 8 control per group) Primarily single dose	30 min; 45 min (50 and 75 TPL mg/kg) (8 active, 8 control per group) Up to two doses	25 min; 50 min; Control (40 and 80 TPL mg/kg) Up to 3 doses
# of patients	48	32	32	Up to 240
Objective(s)	Safety and tolerability Physiological data suggesting delivery of KL ₄ surfactant to the lungs Performance of Aerosol Delivery System	Safety and tolerability of higher doses and determine therapeutic index (safety window) Continue physiological assessment	Safety and tolerability Physiological assessment	Provide evidence of efficacy on an acceptable endpoint Identify dose regimens for phase 3 study Provide estimate of effect size
# of sites	Initiated with 3; increased to 8 (US)	12 (US)	Up to 20 (US)	50+ (US, EU, Canada, LATAM)
Timeline / Milestones	Completed May 2015; key objectives achieved	Completed Oct 2015	Target enrollment completion – Q2'16; top line data – Q3'16	Target enrollment completion – end of 2016; top line data – Q1'17

Large Global Revenue Opportunity

8 to 10 Million LBW Children Born Every Year Globally



Developed World – 250k to 350k RDS Patients

- Only 50% to 60% of RDS patients currently treated with SRT
- Current market: invasive, undifferentiated, animal-derived products
- Opportunity to expand treatment population and increase the pharmacoeconomic value of SRT

Developing World – 1.0 million+ RDS Patients

- Current SRT market as large as the developed world – fewer than 50% treated with SRT
- Opportunity for growth as access to neonatal care continues to increase world-wide

Regions	Current Annual Revenue Invasive SRT only†	Revenue Potential of AEROSURF‡
US	\$70 - \$75 million	
EU	\$60 - \$70 million	
LATAM	\$50 - \$100 million	
ROW	\$50 - \$100 million	
GLOBAL	\$230 - \$345 million	\$600 million to \$1.0b+

† Current global revenue based on ~\$900 to \$1000 per treatment

‡ Windtree primary market research (2014)

In addition to expanding the number of patients treated, value of AEROSURF® therapy potentially significantly higher than current treatments – potentially reduces the largest cost-drivers for treating premature infants with RDS: in the U.S. the average cost to treat low birth weight (LBW) infants with RDS on MV is over \$50,000; cost to treat patient with chronic lung disease is over \$100,000

CDC National Vital Statistics; UNICEF data; Windtree market research; IMS MIDAS data; private companies with access to government purchasing records for Latin America, China and Middle East

Patents

- Lyophilized KL4 Surfactant Portfolio - to 2033
- Aerosol Delivery System Portfolio - through 2031+

Trade Secrets/Know-How

- Methods of Manufacture
- Non-USP Analytical Processes

Potential Regulatory Exclusivities

- Multiple Orphan Drug Designations in Respiratory Diseases

Potential Challenges to Generic Entry

- Bioequivalence Complexities – Surfactants are Non-Receptor Based

Development Pipeline

Windtree is focused on developing novel treatments for respiratory critical care patients using its proprietary synthetic KL4 surfactant and aerosol delivery technologies, beginning with the treatment of RDS in premature infants. Windtree believes that its aerosolized KL4 surfactant, alone or in combination with other pharmaceutical compounds, has the potential to be developed to address a range of serious respiratory conditions.

AEROSURF® (Respiratory Distress Syndrome)			
PRECLINICAL DEVELOPMENT	PHASE I	PHASE II	PHASE III
Aerosolized KL4 Surfactant (Viral induced lung injury)			
PRECLINICAL DEVELOPMENT	PHASE I	PHASE II	PHASE III
Aerosolized KL4 Surfactant (Radiation induced lung injury)			
PRECLINICAL DEVELOPMENT	PHASE I	PHASE II	PHASE III
Aerosolized KL4 Surfactant (Chemical induced lung injury)			
PRECLINICAL DEVELOPMENT	PHASE I	PHASE II	PHASE III

The preclinical development activities listed above have been or are being funded by grants issued by the National Institute of Allergy and Infectious Diseases (NIAID) of the National Institutes of Health (NIH) to study influenza (contract HHSN272201500027C) and radiation (award number R44AI102308) induced lung injury, and by the NIH Office of the Director and the Countermeasures Against Chemical Threats (CounterACT) program to study chemical-induced lung injury. The foregoing content concerning these initiatives is solely the responsibility of Windtree Therapeutics and does not necessarily represent the official views of the NIH.

Q4'15 Financial Update

Cash of \$38.7M as of December 31, 2015

- Operating cash outflows of \$7.6 million in Q4'15
- The Company anticipates that it has sufficient cash to fund operations through Q1'17 including the completion of the AEROSURF® phase 2b trial

Current Liabilities and Long-term debt as of December 31, 2015

- Accounts payable and accrued expenses of \$10.8 million
- \$25 million of long-term debt with Deerfield: \$12.5 million due in February 2018 (subject to potential deferral) and in February 2019

Q4'15 Operating Results

	<u>Q4'15</u>	<u>Q4'14</u>
Revenue	\$ 0.7	\$ 1.2
Operating Expenses:		
Cost of Sales	-	0.9
R&D	8.2	7.8
SG&A	2.2	3.7
	<u>10.4</u>	<u>12.4</u>
Operating Loss	(9.7)	(11.2)
Interest Expense	(0.6)	(1.2)
Other Income (Expense)	0.2	1.8
Net Loss	<u>\$ (10.1)</u>	<u>\$ (10.6)</u>



- ✓ Well characterized asset and target application in RDS
- ✓ Potentially transformative therapy for an established market that has a clear unmet need
- ✓ Building data base of potential safety, clinical effect and benefit information
- ✓ Significant opportunity to build a positive health economic position
- ✓ Strong IP with the potential to build a pipeline of aerosolized surfactant therapies to address a variety of respiratory diseases
- ✓ Experienced management team focused on rigorous clinical execution and effective cash management



Discovery Labs Changes Name to Windtree Therapeutics, Inc. (NASDAQ: WINT)

Corporate Rebranding Initiative Reflects New Direction for Company

WARRINGTON, PA – April 18, 2016 – Discovery Laboratories, Inc. (Nasdaq: DSCO), a biotechnology company focused on developing aerosolized KL4 surfactant therapies for respiratory diseases, today announced that it has changed its corporate name to Windtree Therapeutics, Inc. and will trade under the Nasdaq symbol “WINT” effective at market open on Tuesday, April 19, 2016.

“Today marks a new direction in the pursuit of our mission to save and improve lives, beginning with the care of the most fragile of patients – premature infants. As we look to the future, it seems only fitting that recent changes in our leadership and approach be coupled with a name and image most reflective of our laser focus on respiratory disease, our commitment to patients, and our determination to build a valuable venture,” commented Craig Fraser, Chief Executive Officer. “We believe this rebranding effort will allow us to better convey our focus and vision for the Company and for our products, as well as reflect the fresh, new direction we are taking the Company.”

The name Windtree brings to mind a number of impressions that resonate strongly within the respiratory space. “Wind” signifies breath, air and motion, while reinforcing the ideas of dynamism and change. “Tree” signifies the lungs, long life, strength, and growth. The bringing together of the two words is intended to capture the energy and character of this unique Company as it begins an important new phase of its evolution.

The Company has also launched a new website, www.windtreetx.com, which provides a clearer overview of its platform technologies and vision for the future. The Company has also established a presence on Twitter (@Windtreetx) and other social media platforms. The Company intends to use these assets along with traditional means of disclosure to increase transparency and connectivity with investors and the medical community.

Windtree Therapeutics’ Lead Program – AEROSURF®

Windtree’s lead product candidate is AEROSURF®, a novel, investigational drug/device product that combines the Company’s proprietary KL4 surfactant and aerosolization technologies. AEROSURF is being developed to potentially reduce or eliminate the need for endotracheal intubation and mechanical ventilation in the treatment of premature infants with respiratory distress syndrome (RDS). A phase 2b clinical trial in up to 240 premature infants was initiated late last year to study AEROSURF in premature infants 26 to 32-week gestational age receiving nasal continuous positive airway pressure (nCPAP) for RDS, compared to infants receiving nCPAP alone. The phase 2b trial is a global trial with clinical sites in North America, Europe and Latin America. The Company remains on track to complete enrollment in this trial by the end of 2016 and release top-line results in the first quarter of 2017.

About Windtree Therapeutics

Windtree Therapeutics, Inc. is a clinical-stage biotechnology company focused on developing novel surfactant therapies for respiratory diseases and other potential applications. Windtree proprietary technology platform includes a synthetic, peptide-containing surfactant (KL4 surfactant) that is structurally similar to endogenous pulmonary surfactant — and novel drug-delivery technologies being developed to enable noninvasive administration of aerosolized KL4 surfactant. Windtree is focused initially on improving the management of respiratory distress syndrome (RDS) in premature infants and believes that its proprietary technology may make it possible, over time, to develop a pipeline of KL4 surfactant product candidates to address a variety of respiratory diseases for which there are few or no approved therapies.

For more information, please visit the Company’s website at www.windtreetx.com.

Forward-Looking Statements

To the extent that statements in this press release are not strictly historical, all such statements are forward-looking, and are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. These forward-looking statements are subject to certain risks and uncertainties that could cause actual results to differ materially from the statements made. Examples of such risks and uncertainties, including those affecting Windtree Therapeutics' ability successfully to secure required additional capital when needed, complete its development programs, secure regulatory approvals for its product candidates in the U.S. and abroad, and realize the potential value and benefits of its RDS product portfolio, are described in its filings with the Securities and Exchange Commission, including its most recent reports on Forms 10-K, and any amendments thereto. Any forward-looking statement in this release speaks only as of the date on which it is made. Windtree Therapeutics assumes no obligation to update or revise any forward-looking statements.

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