

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

FORM 10-Q

(Mark One)

QUARTERLY REPORT UNDER SECTION 13 OR 15 (d) OF THE  
SECURITIES EXCHANGE ACT OF 1934  
FOR THE QUARTERLY PERIOD ENDED: MARCH 31, 1999

OR

TRANSITION REPORT UNDER SECTION 13 OR 15 (d) OF THE  
EXCHANGE ACT  
FOR THE TRANSITION PERIOD FROM \_\_\_\_\_ TO \_\_\_\_\_

COMMISSION FILE NUMBER: 0-26520

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

DELAWARE 31-1080091  
(State or other jurisdiction of (I.R.S. employer identification no.)  
incorporation or organization)

425 METRO PLACE NORTH, SUITE 300, DUBLIN, OHIO 43017  
(Address of Principal Executive Offices)

REGISTRANT'S TELEPHONE NUMBER, INCLUDING AREA CODE: 614.793.7500

Indicate by check whether the registrant: (1) has filed all reports required to  
be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during  
the preceding 12 months (or for such shorter period that the registrant was  
required to file such reports), and (2) has been subject to such filing  
requirements for the past 90 days.

Yes  No

22,966,017 SHARES OF COMMON STOCK, PAR VALUE \$.001 PER SHARE  
(Number of shares of issuer's common equity outstanding as of the  
close of business on May 6, 1999)

PART I - FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

NEOPROBE CORPORATION AND SUBSIDIARIES  
CONSOLIDATED BALANCE SHEETS

<TABLE>  
<CAPTION>

ASSETS	MARCH 31, 1999	DECEMBER 31, 1998
<S>	<C>	<C>
Current assets:		
Cash and cash equivalents	\$ 3,933,829	\$ 3,054,936

Available-for-sale securities	--	448,563
Accounts receivable	1,913,771	2,069,633
Inventory	1,491,174	1,578,912
Prepaid expenses	630,319	720,420
Other current assets	149,623	147,008
	-----	-----
Total current assets	8,118,716	8,019,472
	-----	-----
Investment in affiliates	1,500,000	1,500,000
Property and equipment	3,069,477	3,073,931
Less accumulated depreciation and amortization	(1,732,418)	(1,654,661)
	-----	-----
	1,337,059	1,419,270
	-----	-----
Intangible assets	782,028	773,863
Other assets	227,667	281,594
	-----	-----
Total assets	<u>\$ 11,965,470</u>	<u>\$ 11,994,199</u>

</TABLE>

CONTINUED

2

NEOPROBE CORPORATION AND SUBSIDIARIES  
CONSOLIDATED BALANCE SHEETS, CONTINUED

<TABLE>

<CAPTION>

LIABILITIES AND STOCKHOLDERS' EQUITY	MARCH 31,	DECEMBER 31,
	1999	1998
	-----	-----
<S>	<C>	<C>
Current liabilities:		
Line of credit	\$ 1,000,000	\$ 1,000,000
Notes payable to finance company	162,583	242,163
Capital lease obligations, current	100,275	99,539
Accounts payable	1,959,973	2,857,717
Accrued liabilities	2,281,604	2,813,321
	-----	-----
Total current liabilities	5,504,435	7,012,740
	-----	-----
Capital lease obligations	130,469	155,816
	-----	-----
Total liabilities	<u>5,634,904</u>	<u>7,168,556</u>

Commitments and contingencies

Redeemable convertible preferred stock:

Series B; \$.001 par value; 63,000 shares and 0 shares authorized at March 31, 1999 and December 31, 1998, respectively; 30,000 shares and 0 shares issued and outstanding at March 31, 1999 and December 31, 1998, respectively

	1,814,525	--
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Stockholders' equity:

Preferred stock; \$.001 par value; 5,000,000 shares authorized at March 31, 1999 and December 31, 1998; none issued and outstanding (500,000 shares designated

as Series A, \$.001 par value, at March 31, 1999 and December 31, 1998; none outstanding)	--	--
Common stock; \$.001 par value; 50,000,000 shares authorized; 22,967,910 shares issued and outstanding at March 31, 1999; 22,887,910 shares issued and outstanding at December 31, 1998	22,968	22,888
Additional paid-in capital	120,272,899	
	121,268,947	
Accumulated deficit	(116,700,030)	(115,395,283)
Accumulated other comprehensive loss	(75,844)	(74,861)
	-----	-----
Total stockholders' equity	4,516,041	4,825,643
	-----	-----
Total liabilities and stockholders' equity	\$ 11,965,470	\$ 11,994,199
	=====	=====

</TABLE>

See accompanying notes to consolidated financial statements

3

NEOPROBE CORPORATION AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF OPERATIONS

<TABLE>  
<CAPTION>

	THREE MONTHS ENDED	
	MARCH 31,	
	1999	1998
	-----	-----
<S>	<C>	<C>
Net sales	\$ 1,910,971	\$ 863,891
Cost of goods sold	619,653	224,473
	-----	-----
Gross profit	1,291,318	639,418
	-----	-----
Operating expenses:		
Research and development	462,335	4,753,989
Marketing and selling	1,122,802	1,095,977
General and administrative	1,005,226	1,425,840
Losses related to subsidiaries in liquidation	86,825	651,469
	-----	-----
Total operating expenses	2,677,188	7,927,275
	-----	-----
Loss from operations	(1,385,870)	(7,287,857)
	-----	-----
Other income (expenses):		
Interest income	26,659	254,091
Interest expense	(16,526)	(10,623)
Other	70,990	(19,223)
	-----	-----
Total other income	81,123	224,245
	-----	-----
Net loss	(1,304,747)	(7,063,612)
	-----	-----
Conversion discount on preferred stock	1,795,775	--
Preferred stock dividend requirements	18,750	--
	-----	-----



## 1. BASIS OF PRESENTATION:

The information presented for March 31, 1999 and 1998, and for the periods then ended is unaudited, but includes all adjustments (which consist only of normal recurring adjustments) which the management of Neoprobe Corporation (the "Company") believes to be necessary for the fair presentation of results for the periods presented. Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted pursuant to the rules and regulations of the Securities and Exchange Commission. The results for the interim period are not necessarily indicative of results to be expected for the year. The financial statements should be read in conjunction with the Company's audited financial statements for the year ended December 31, 1998, which were included as part of the Company's Annual Report on Form 10-K, as amended. Certain 1998 amounts have been reclassified to conform with the 1999 presentation.

2. COMPREHENSIVE INCOME (LOSS): Due to the Company's net operating loss position, there are no income tax effects on comprehensive income components for any of the periods presented. Prior year financial statements have been reclassified to conform to the requirements of SFAS No. 130.

Other comprehensive income (loss) consists of the following:

<TABLE>  
<CAPTION>

	THREE MONTHS ENDED	
	MARCH 31, 1999	MARCH 31, 1998
	-----	-----
<S>	<C>	<C>
Net loss	\$ 1,304,747	\$ 7,063,612
Foreign currency translation adjustment		(983)
Unrealized gains on securities		219
		3,230
Other comprehensive loss	\$ 1,303,983	\$ 7,054,423
	=====	=====

</TABLE>

## 3. INVENTORY:

The components of inventory are as follows:

<TABLE>  
<CAPTION>

	MARCH 31,	DECEMBER 31,
	1999	1998
	-----	-----
<S>	<C>	<C>
Materials and component parts	\$ 332,007	\$ 277,505
Finished goods	1,159,167	1,301,407
	-----	-----
	\$1,491,174	\$1,578,912
	=====	=====

</TABLE>

## 4. EQUITY:

- a. PRIVATE PLACEMENT: On February 16, 1999, the Company executed a Purchase Agreement (the "Agreement") to complete the private placement of 30,000 shares of 5% Series B Convertible preferred

stock (the "Series B") for gross proceeds of \$3 million (\$2.8 million, net of transaction costs). The Series B have a \$100 per share stated value and is convertible into common stock of the

6

Company. In connection with the private placement, the Company also issued warrants to purchase 2.9 million shares of common stock of the Company at an initial exercise price of \$1.03 per share.

The Company is required to pay a cumulative 5% annual dividend on the Series B. Dividends accrue daily and are payable on each six-month and one-year anniversary of the initial closing. Neoprobe has the option of paying these dividends in cash or in shares of common stock. On any day the common stock trades below \$0.55 per share, the annual dividend rate will be 10%. The dividends are recorded as incremental yield to the preferred stockholders in the Company's loss per common share calculation and are included in the carrying value of the Series B at March 31, 1999.

Generally, each share of the Series B may be converted, at the option of the owner, into the number of shares of common stock calculated by dividing the sum of \$100 and any unpaid dividends on the share of Series B by the conversion price. The initial conversion price of the Series B sold is \$1.03 per share of common stock. If, on February 16, 2000, the market value of common stock is less than \$1.03, the conversion price will be reset to the market value of a share of common stock on February 16, 2000, but not less than \$0.515. If the market value of common stock is less than \$1.03, the conversion price will be the average of the three lowest closing bid prices for a share of common stock during the previous 10 trading days. The Company may refuse to convert a share of Series B that the Company sold if its conversion price is less than \$0.55. However, if the conversion price of a share is less than \$0.55 for more than 60 trading days in any 12-month period, then the Company must either convert a share at the share's conversion price or pay the owner cash based on the highest closing price for common stock during the period from the date of the owner's conversion request until the payment. The conversion price may also be adjusted to prevent dilution of the economic interests of the owners of Series B in the event certain other equity transactions are consummated by the Company. The exercise price of the warrants is also subject to adjustment based on terms defined in the Agreement, subject to a floor price of \$0.62 per share.

Holders of the Series B have certain liquidation preferences over other stockholders under certain provisions as defined in the Agreement and have the right to cast the same number of votes as if the owner had converted on the record date.

Under the terms of the Agreement, the Company is not required to issue shares of common stock representing more than 20% of the total number of outstanding shares of common stock without shareholder approval or if such issuance would violate the rules of the National Association of Securities Dealers. If further issuance of shares of common stock upon conversion of the Series B would violate those rules, then Neoprobe will redeem the shares for cash instead of converting shares to common stock.

Under certain conditions, the Company may be obligated to redeem outstanding shares of Series B for \$120 per share. Conditions under which redemption may be required include: failure to obtain stockholder approval of the transaction, failure to meet filing deadlines for a registration statement for common stock into which the Series B may be converted, failure to keep the aforementioned registration statement effective for three years, a material breach of the purchase agreement, delisting from the NASDAQ Stock Market, a material qualification of the audit opinion on the consolidated financial statements, or if the Company is

liquidated, merged, or sells significantly all of its assets. The Company has obtained a waiver from the holders of the Series B of the redemption requirements associated with the issuance by the Company's auditors of a going concern opinion on the Company's consolidated financial statements for the year ended December 31, 1998.

The Company also has the right to close on an additional common stock \$3 million placement of convertible preferred stock in the fourth quarter of 1999, at the earliest, subject to the completion of several conditions, including stockholder approval of the transaction and meeting certain sales and, stock performance targets. The conversion price for the Series B for the subsequent placement, as well as the exercise price for the related warrants, will be based on the market prices of the Company's common stock prior to the subsequent closing. Series B and warrants for common stock sold in a

7

subsequent closing would also be subject to price and dilution adjustments similar to the terms of the initial closing.

Pursuant to the private placement, the Company signed a financial advisory agreement with the placement agent providing the agent with the right to purchase 1,500 shares of Series B convertible into common stock, initially at \$1.03 per share, and warrants to purchase 145,631 shares of common stock of the Company initially exercisable at \$1.03 per share. In addition, the Company agreed to pay the agent a monthly financial advisory fee and success fees based on certain investment transactions consummated during the 24-month term of the agreement.

The series B preferred stock and the related warrants issued were recorded at the amount of gross proceeds less the costs of the financing based upon their relative fair values. The preferred stock, due to its redemption provisions, is classified as mezzanine financing above the stockholders' equity section on the balance sheet. The calculated conversion price at February 16, 1999, the first available conversion date, was \$1.03 per share. In accordance with the FASB's Emerging Issues Task Force Topic D-60, the difference between this conversion price and the closing market price of \$1.81 on February 16, 1999, not to exceed the amount allocated to the preferred stock, was reflected as incremental yield to the preferred stockholders in the Company's loss per common share calculation for the quarter ended March 31, 1999. Additional amounts will be accreted to the preferred stock, up to redemption value, in the event that redemption is assessed as probable on the balance sheet date.

- b. STOCK OPTIONS: During the first quarter of 1999, the Board granted options to employees and certain directors of the Company under the 1996 Stock Incentive Plan (the "Plan") for 405,000 shares of common stock, exercisable at \$1.25 per share, vesting over three to four years. As of March 31, 1999, the Company has 1.7 million options outstanding under two stock option plans. Of the outstanding options, 865,000 options have vested as of March 31, 1999, at an average exercise price of \$5.77 per share.

#### 5. SEGMENTS AND SUBSIDIARIES INFORMATION:

Prior to the 1998 changes in the Company's business plan, the Company's business was operated based on product development initiatives started under the Company's prior business plan. These strategic initiatives originally included development and commercialization of: hand-held gamma detection instruments currently used primarily in the application of Intraoperative Lymphatic Mapping ("ILM"), diagnostic radiopharmaceutical products to be used in the Company's proprietary RIGS(R) (radioimmunoguided surgery) process, and Activated Cellular Therapy ("ACT"). The Company's current business plan focuses primarily

on the hand-held gamma detection instruments while efforts are carried out to find partners or licensing parties to fund RIGS and ACT research and development.

The Company's United States operations included activities for 1998 and prior years that benefited all three strategic initiatives. The suspended RIGS initiative included the operations of the Company's two subsidiaries, Neoprobe Europe AB ("Neoprobe Europe") and Neoprobe Israel. Neoprobe Europe was acquired in 1993 primarily to perform a portion of the manufacturing process of the monoclonal antibody used in the first RIGS product to be used for colorectal cancer, RIGScan CR49. Neoprobe Israel was founded to radiolabel RIGScan CR49. Neoprobe Europe and Neoprobe Israel also both performed limited research and development activities related to the Company's RIGS process on behalf of the U.S. parent company. Under SFAS No. 131, neither subsidiary is considered a segment. Both Neoprobe Europe and Neoprobe Israel have been accounted for under the liquidation method of accounting. The results of the operations of Neoprobe Europe and Neoprobe Israel for 1998, as well as the effects of adjustment of their related assets in conformity with the liquidation basis of accounting, have been reclassified from prior year presentations to be presented as losses relating to subsidiaries in liquidation in the consolidated statements of operations. Accordingly, the consolidated balance sheet at March 31, 1999, includes \$555,000 in current assets of Neoprobe Israel at their net realizable value and \$963,000 in liabilities at the amounts expected to settle the obligations due.

8

The information in the following table is derived directly from the segments' internal financial reporting used for corporate management purposes. The expenses attributable to corporate activity, including amortization and interest, and other general and administrative costs are not allocated to the operating segments.

<TABLE>

<CAPTION>

(\$ AMOUNTS IN THOUSANDS)

	THREE MONTHS ENDED MARCH 31, 1999					TOTAL
	RIGS	ILM	ACT	UNALLOCATED		
	---	---	---	-----	-----	
<S>	<C>	<C>	<C>	<C>	<C>	
Revenue						
U.S. customers	\$ --	\$1,321	\$ --	\$ --	\$1,321	
International customers	--	590	--	--	590	
Research and development expenses		--	462	--	--	462
Marketing and selling expenses		--	1,123	--	--	1,123
General and administrative expenses		--	--	--	1,005	1,005
Losses related to subsidiaries in liquidation		86	--	--	--	86
Other income	--	--	--	81	81	

</TABLE>

<TABLE>

<CAPTION>

	THREE MONTHS ENDED MARCH 31, 1998					TOTAL
	RIGS	ILM	ACT	UNALLOCATED		
	---	---	---	-----	-----	
<S>	<C>	<C>	<C>	<C>	<C>	
Revenue						
U.S. customers	\$ --	\$ 705	\$ --	\$ --	\$ 705	
International customers	--	159	--	--	159	
Research and development expenses		2,591	1,777	386	--	4,754
Marketing and selling expenses		--	1,096	--	--	1,096
General and administrative expenses		--	--	--	1,426	1,426
Losses related to subsidiaries in liquidation		651	--	--	--	651
Other income	--	--	--	224	224	

</TABLE>

## 6. AGREEMENTS:

In April 1998, the Company executed a non-exclusive Sales and Marketing Agreement with Ethicon Endo-Surgery, Inc. ("EES"), a Johnson & Johnson



company, to market and promote certain of the Company's line of hand-held gamma detection instruments. On January 29, 1999, the Company provided EES with notice of the Company's intent to terminate the Agreement effective March 1, 1999.

Effective February 1, 1999, the Company executed a Sales and Marketing Agreement with KOL BioMedical Instruments, Inc. ("KOL") to market the Company's current and future gamma guided surgery products in the U.S. In exchange for marketing and selling the products and providing customer training, KOL will receive commissions on net sales of applicable products and milestone payments on the achievement of certain levels of product sales. The term of the agreement is indefinite with provisions for both parties to terminate with a minimum of six months notice under certain conditions such as non-performance or without cause. However, if terminated by the Company without cause or because of a change of control of the Company, KOL is entitled to receive a termination fee of 15% based on monthly net sales for a maximum of twenty-four months, and the Company is required to buy back, at a discount, demonstration units purchased by KOL during the nine-month period preceding termination.

7. CONTINGENCIES:

Pursuant to the Company's decision to liquidate Neoprobe Israel, management of the Company believes Neoprobe Israel may be subject to claims from the State of Israel, a bank, and various vendors (collectively, the "Creditors"). The Company believes its only contractual obligation related to Neoprobe Israel relates to the limited amount guarantee which is fully secured through restricted cash and investments. However, it is possible that the Creditors would seek to pursue claims against the Company

9

related to potential defaults on the part of Neoprobe Israel under a judicial doctrine generally referred to as "piercing the corporate veil." In the event the Creditors were successful in making a claim under this judicial doctrine, the Company may be required to pay liabilities of Neoprobe Israel of approximately \$6 million. Payment of such an amount would deplete the Company's cash, and the Company might not be able to continue operations. Management believes, based on advice from counsel, that it is unlikely that parties would prevail if such claims were brought against the Company. As such, no provision for such a contingent loss has been recorded at March 31, 1999.

8. LIQUIDITY:

The Company has experienced significant operating losses in each year since inception, and had an accumulated deficit of approximately \$117 million as of March 31, 1999. The Company expects operating losses to continue during the remainder of 1999 as the Company expends resources to continue development of the Company's products and support the growth of the Company's manufacturing, sales, and marketing capabilities. There can be no assurance that the Company will ever achieve a profitable level of operations. During 1998, the Company made significant changes to its business plan as a result of unfavorable feedback from regulatory authorities regarding marketing applications for RIGScan CR49. The Company's previous business plan involved the expenditure of significant amounts of funds to finance research and development for the Company's RIGS and ACT initiatives. These expenditures severely depleted the Company's cash position. As of March 31, 1999, the Company had cash, cash equivalents, and available-for-sale securities of \$3.9 million. Of this amount, approximately \$1.0 million is pledged as security associated with the Company's revolving line of credit, and \$1.0 million is restricted related to the debt outstanding under the financing program for the construction of Neoprobe Israel. At March 31, 1999, the Company had access to approximately \$1.9 million in unrestricted funds to finance its operating activities for 1999.

The Company expects its revised business plan, which focuses on gamma guided surgery products such as the Company's line of hand-held gamma detection instruments, will result in increases in sales during the remainder of 1999 that will improve the Company's liquidity position. The revised plan also significantly reduces operating expenses compared to the previous plan which was heavily focused on drug research and development activities. The Company is actively pursuing other sources of improving its projected liquidity position. Potential sources of capital include, but are not limited to, sale of non-strategic assets and raising of funds through private security placements. However, there can be no assurances that the Company will be able to raise funds on a timely basis, in the amounts required, at terms acceptable to the Company, or at all. However, in the first quarter of 1999, the Company issued convertible preferred stock in a private placement raising net proceeds of \$2.8 million. If the Company does not achieve its business plan as currently intended, it may need to further modify its business plan and consummate other financing alternatives which have been presented to the Company. Such financing alternatives may require further sales of equity securities that could be dilutive to current holders of common stock, debt financing which may be on unfavorable terms, or asset dispositions that could force the Company to further change its business plan.

## ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The statements contained in this Management Discussion and Analysis of Financial Condition and Results of Operations and other parts of this Report that are not purely historical or which might be considered an opinion or projection concerning the Company or its business, whether express or implied, are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. These statements may include statements regarding the Company's expectations, intentions, plans or strategies regarding the future which involve risks and uncertainties. All forward-looking statements included in this document are based on information available to the Company on the date hereof, and the Company assumes no obligation to update any such forward looking statements. It is important to note that the Company's actual results in 1999 and future periods may differ significantly from the prospects discussed in the forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, limited revenues, continuing net losses, accumulated deficit, future capital needs, uncertainty of capital funding, competition, limited marketing experience, limited manufacturing experience, dependence on principal product line, uncertainty of market acceptance, patents,

10

proprietary technology and trade secrets, government regulation, risk of technological obsolescence, limited third party reimbursement, product liability, need to manage a changing business, possible volatility of stock, anti-takeover provisions, dependence on key personnel, and no dividends.

### LIQUIDITY AND CAPITAL RESOURCES

Financing Activities. On February 16, 1999, the Company completed the private placement of \$3.0 million of convertible preferred stock. The Company has the option to close on an additional \$3.0 million placement of convertible preferred stock in the fourth quarter of 1999, at the earliest, subject to the completion of several conditions, including stockholder approval of the transaction and meeting certain sales and stock performance targets. However, there can be no assurances that the transaction will be approved by the stockholders or that the Company will be able to achieve the required targets and close the additional placement on a timely basis, at terms acceptable to the Company, or at all. If the stockholders do not approve the transactions, or if the Company were to become delisted from the Nasdaq National Market System as a result of failure to maintain a minimum stock price of \$1.00 or failure to maintain a tangible net worth of \$4 million, the Company will be required to redeem the preferred stock for \$3.6 million. If this were to come to pass, it would have a material adverse effect on the Company's financial condition.

Investing Activities. The Company's investing activities during the first quarter of 1999 involved primarily the sale of certain available-for-sale securities to fund operations. The Company engaged in similar activities in 1998. However, in the first quarter of 1998, the Company made significant capital expenditures on construction at Neoprobe Israel. The Company's Neoprobe Israel was founded by the Company and Rotem Industries Ltd. ("Rotem") in 1994 to construct and operate a radiolabeling facility near Dimona, Israel. Rotem, the private arm of the Israeli atomic energy authority, currently has a 5% equity interest in Neoprobe Israel and has the right to acquire an additional 4% under certain conditions related to the completion of the facility. Based on the status of the Company's marketing applications in the U.S. and Europe, and the Company's inability to find a development partner for its RIGS products, the Company decided during 1998 to suspend construction and validation activities at Neoprobe Israel. Following suspension of RIGS development activities at Neoprobe Israel and unsuccessful attempts to market the facility, the Company initiated actions during the fourth quarter of 1998 to liquidate Neoprobe Israel. The Company, therefore, adopted the liquidation basis of accounting for Neoprobe Israel as of December 31, 1998. As the Company may relinquish ownership of the facility to the bank if a suitable buyer cannot be found on a timely basis, the Company has written down the value of the fixed assets of the facility and reduced the recorded balance of the related debt to zero on the basis that the bank would assume ownership of the facility under the collateralization terms of the debt agreement. Accordingly, the consolidated balance sheet at March 31, 1999 includes \$555,000 in current assets of Neoprobe Israel at their net realizable value and \$963,000 in liabilities at the amounts expected to settle the obligations due.

Operating Activities. Through March 31, 1999, the Company's activities have resulted in an accumulated deficit of \$117 million. Substantially all of the Company's efforts and resources to-date have been devoted to research and clinical development of innovative systems for the intraoperative diagnosis and treatment of cancers. These efforts were principally related to the Company's proprietary RIGS system; however, efforts since 1997 also included activities related to development of ILM-related products. To-date, the Company has financed its operations primarily through the public and private sale of equity securities.

Operational Outlook. The Company's only approved products are instruments and related products used in gamma guided surgery. The Company does not currently have a RIGS drug or ACT product approved for commercial sale in any major market. Based on the Company's modified business plan that focuses Company resources on ILM, the Company does not anticipate commercial sales of sufficient volume to generate positive cash flow from operations until late fiscal year 1999, at the earliest. The Company has incurred, and will continue to incur, substantial expenditures for research and development activities related to enhancing and expanding its current gamma guided surgery product portfolio and to fund marketing development in bringing its products to the commercial market. The Company currently estimates it will require approximately \$3.6 million to fund research and development and general and administrative activities for the remainder of 1999. The Company anticipates a significant portion of the cash necessary to fund such operating activities will be generated from sales of its gamma guided surgery products. However, there can be no assurance that any additional gamma guided surgery products will be successfully introduced, or achieve market acceptance.

As of March 31, 1999, the Company had cash and cash equivalents and available-for-sale securities of \$3.9 million. Of this amount, approximately \$1.0 million is pledged as security associated with the Company's revolving line of credit and \$1.0 million is restricted related to the debt outstanding under the financing program for the construction of Neoprobe Israel. At March 31, 1999, the Company had access to approximately \$1.9 million in unrestricted funds to finance its operating activities for the remainder of 1999. The Company currently anticipates that approximately \$1.0 million in cash will be used to finance operating activities during the remainder of 1999. The Company's business plan contemplates a greater than 80% increase in sales during the last three quarters of 1999 compared to the same period of 1998, due to increased sales volumes of its gamma guided surgery products, at prices and margins similar to what has been achieved in 1998. However, there can be no assurance that current sales levels will be maintained or that increases in sales volumes

and revenue will occur, or that the prices and margins achieved on instrument sales in previous periods will be maintained. The Company is also attempting to sell approximately \$1.5 million in non-strategic assets. However, there can be no assurance that these assets will be sold during 1999, on terms acceptable to the Company, or at all. If the Company does not receive adequate funds from the aforementioned sources, it may need to further modify its business plan and seek other financing alternatives. Such financing may require further sales of equity securities that could be dilutive to current holders of common stock, debt financing which may be on unfavorable terms, or asset dispositions that could force the Company to further change its business plan. The Company also expects to continue to experience cost savings during the remainder 1999, as a result of modifications to its business plan during 1998 regarding RIGS and ACT.

At December 31, 1998, the Company had U.S. net operating tax loss carryforwards of approximately \$95.5 million to offset future taxable income through 2018. Additionally, the Company has U.S. tax credit carryforwards of approximately \$3.3 million available to reduce future income tax liability through 2018. Under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended, use of prior tax loss and credit carryforwards is limited after an ownership change. As a result of ownership changes as defined by Sections 382 and 383, which have occurred at various points in the Company's history, management believes utilization of the Company's tax loss carryforwards and tax credit carryforwards may be limited. The Company's international subsidiaries also have net operating operating tax loss carryforwards in their respective foreign jurisdictions. However, as the Company is in the process of liquidating its interests in both foreign subsidiaries as of December 31, 1998, the Company does not anticipate that the foreign loss carryforwards will ever be utilized.

**Impact of Recent Accounting Pronouncements.** In June 1998, the Financial Accounting Standard Board issued Statement of Financial Accounting Standards ("SFAS") No. 133, Accounting for Derivative Instruments and Hedging Activities, which is required to be adopted in years beginning after June 15, 1999. The Company expects to adopt SFAS No. 133 effective January 1, 2000. The Statement will require companies to recognize all derivatives on the balance sheet at fair value. Derivatives that are not hedges must be adjusted to fair value through income. If a derivative is a hedge, depending on the nature of the hedge, changes in the fair value of the derivative will either be offset against the change in fair value of the hedge asset, liability or firm commitment through earnings, or recognized in other comprehensive income until the hedge item is recognized in earnings. The ineffective portion of a derivative's change in fair value will be immediately recognized in earnings. The Company does not anticipate that the adoption of this Statement will have a significant effect on its results of operations or financial position.

**Y2K.** As many computer systems and other equipment with embedded chips or processors (collectively, "Business Systems") use only two digits to represent the year, they may be unable to process accurately certain data before, during or after the year 2000. As a result, business and governmental entities are at risk for possible miscalculations or system failures causing disruptions in their business operations. This is commonly known as the Year 2000 ("Y2K") issue. The Y2K issue can arise at any point in the Company's supply, manufacturing, distribution, and financial chains. The Company is in the process of implementing an assessment and readiness plan with the objective of having all its significant internal Business Systems functioning properly with respect to the Y2K issue before January 1, 2000, and minimizing the possible disruptions to the Company's business which could result from the Y2K problem.

As part of its readiness plan, the Company is in the process of conducting a company-wide assessment of its Business Systems to identify elements that are not Y2K compliant. Based on assessment activity to date, the Company presently believes that the majority of its critical Business Systems have been purchased and installed in recent years and are already Y2K compliant. The Company's internal Business Systems do not have internally generated programmed software coding to correct, as substantially all of the software utilized by the Company has

the assessment phase, the Company intends to perform comprehensive testing of its Business Systems during 1999.

Those Business Systems that are not presently Y2K compliant are anticipated to be replaced, upgraded or modified in the normal replacement cycle prior to 2000. The Company estimates the total cost to the Company of completing any required modifications, upgrades, or replacements of its internal systems will not have a material adverse effect on the Company's business. This estimate is being monitored and will be revised, as additional information becomes available.

The Company has also initiated communications with third parties whose Business Systems functionality could impact the Company. These communications will facilitate coordination of Y2K solutions and will permit the Company to determine the extent of which it may be vulnerable to failures of third parties to address their own Y2K issues. Because the manufacturing and distribution of the Company's products are almost entirely outsourced to other entities, the failure of these third parties to achieve Y2K compliance could have a material impact on the Company's business, financial position, results of operations and cash flows. The Company has attempted, where possible, to establish contractual requirements for Y2K compliance by such third parties. However, the Company has limited control over the actions of these third parties on which the Company directly or indirectly places reliance. There can be no guarantee that such systems that are not now Y2K compliant will be timely converted to Y2K compliance.

The Company has also assessed the potential Y2K related exposure it may have with respect to gamma detection instrumentation which it has delivered to customers. The Company does not believe products it has distributed, to date or that may be distributed in the future, face any significant Y2K problems which will affect their functionality or utility by the customer.

The Company does not yet have a comprehensive contingency plan with respect to the Y2K issue, but intends to establish such a plan during calendar 1999 as part of its ongoing Y2K compliance effort.

The foregoing assessment of the impact of the Y2K problem on the Company is based on management's best estimates at the present time and could change substantially. The assessment is based on numerous assumptions as to future events. There can be no guarantee that these estimates will prove accurate, and actual results could differ from those estimates if these assumptions prove inaccurate.

## RESULTS OF OPERATIONS

Since inception, the Company has dedicated substantially all of its resources to research and development of its RIGS technology for the intraoperative diagnosis and treatment of cancer. Until the appropriate regulatory approvals are received, the Company is limited in its ability to generate revenue from these sources.

Research and development expenses during the first quarter of 1999 were \$462,000, or 17% of operating expenses for the quarter. Marketing and selling expenses were \$1.1 million, or 42% of operating expenses during the quarter, and general and administrative expenses were \$1.0 million, or 37% of operating expenses for the quarter. Overall, operating expenses for the first quarter of 1999 decreased \$5.3 million or 66% over the same quarter in 1998. The Company anticipates that total operating expenses for the remainder of 1999 will also decrease over 1998 levels. The Company expects research and development and general and administrative expenses to decrease from 1998 levels as a result of the modifications to the business plan adopted during 1998. Marketing expenses, as a percentage of sales, decreased to 59% of sales for the first quarter of 1999 from 127% of sales for the same period in 1998. The Company expects marketing and selling expenses for the remainder of 1999 to increase from 1998 levels although such expenses are expected to continue to decrease as a percentage of sales.

Three months ended March 31, 1999 and 1998

Revenue. Net sales increased \$1.0 million or 121% to \$1.9 million during the first quarter of 1999 from \$864,000 during the same period in 1998. Sales during both periods were comprised almost entirely of sales of the Company's hand-held gamma detection instruments. Instrument sales increased as a result of the introduction

during the fourth quarter of 1998 of the neo2000(TM) system and the continuing growth of the lymphatic mapping technique.

**Research and Development Expenses.** Research and development expenses decreased \$4.3 million or 90% to \$462,000 during the first quarter of 1999 from \$4.8 million during the same period in 1998. Approximately \$3.4 million of the decrease is primarily a result of changes to the Company's business plan implemented during 1998 which suspended substantially all research and development activities related to the Company's RIGS and ACT initiatives. An additional \$900,000 of the decrease is due to expenses incurred during the first quarter of 1998 related to the neo2000 system and related devices which were commercially launched during the fourth quarter of 1998.

**Marketing and Selling Expenses.** Marketing and selling expenses increased \$27,000 or 2% to \$1.1 million during the first quarter of 1999 from \$1.0 million during the same period in 1998. However, marketing expenses, as a percentage of sales, decreased to 59% of sales for the first quarter of 1999 from 127% of sales for the same period in 1998. These results reflect lower internal marketing expense levels during the first quarter of 1999 as compared to the same period in 1998 offset by increases in marketing partner commissions over the same periods.

**General and Administrative Expenses.** General and administrative expenses decreased \$421,000 or 29% to \$1.0 million during the first quarter of 1999 from \$1.4 million during the same period in 1998. The decrease was primarily a result of reductions in headcount and other overhead costs such as space costs, taxes and insurance.

**Other Income.** Other income decreased \$143,000 or 64% to \$81,000 during the first quarter of 1999 from \$224,000 during the same period in 1998. Other income during the first quarter of 1999 consisted primarily of gains from settlement of liabilities at less than their face value, while other income during the first quarter of 1998 consisted primarily of interest income. The Company's interest income declined due to overall average levels of investments during the first quarter of 1999 as compared to the same period of 1998.

**Losses related to subsidiaries in liquidation.** During the fourth quarter of 1998, The Company adopted the liquidation basis of accounting for its two international subsidiaries. As a result, all operating costs related to those subsidiaries incurred during the first quarter of 1998 were reclassified to losses related to subsidiaries in liquidation. The decrease in losses during the first quarter of 1999 as compared to the same period in 1998 is due to the completion of the majority of shutdown activities related to these subsidiaries during 1998.

### ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The Company does not currently use derivative financial instruments, such as interest rate swaps, to manage its exposure to changes in interest rates for its debt instruments or investment securities. As of March 31, 1999 and December 31, 1998, the Company had, excluding convertible preferred stock, outstanding debt securities of \$1.2 million and \$1.2 million respectively. These debt securities consisted primarily of a variable rate line of credit and fixed rate financing instruments, with average interest rates of 7% and 7% at March 31, 1999 and December 31, 1998, respectively. At March 31, 1999 and December 31, 1998, the fair market values of these debt instruments approximated their carrying values. A hypothetical 100-basis point change in interest rates would not have a material effect on cash flows, income or market values.

The Company has maintained investment portfolios of available-for-sale corporate and U.S. government debt securities purchased with proceeds from the Company's public and private placements of equity securities. At December 31, 1998, the Company held \$449,000 of these available-for-sale securities; however, all such securities were sold during the quarter ended March 31, 1999.

## PART II - OTHER INFORMATION

### ITEM 1. LEGAL PROCEEDINGS.

None.

### ITEM 2. CHANGES IN SECURITIES AND USE OF PROCEEDS.

On February 16, 1999, the Company entered into agreements under which the Company sold securities for \$3 million in order to meet the Company's immediate need for operating capital. The Company's Board of Directors is asking stockholders to approve, at the annual meeting of stockholders on May 19, 1999, this sale and any future sales of securities under these agreements, all of which are described in more detail below. If stockholders do not give their approval, the Company must redeem these securities for \$3.6 million, which would deplete the Company's cash. If this happened, the Company might not be able to continue operations.

#### THE TRANSACTIONS UNDER WHICH SECURITIES WERE SOLD

**General Description of the Sales.** On February 16, 1999, the Company entered into a Preferred Stock and Warrant Purchase Agreement with The Aries Master Fund, a Cayman Island exempted Company, and The Aries Domestic Fund, L.P. (collectively "Aries") and a Financial Advisory Agreement with Paramount Capital, Inc., an affiliate of Aries. Under the Purchase Agreement, the Company sold preferred stock and warrants to Aries on February 16, 1999 for \$3,000,000. This sale was the first of two possible sales by the Company to Aries and is referred to as the First Sale, and February 16, 1999 is referred to as the First Sale Date. If the conditions in the Purchase Agreement are satisfied, the Company has the option of requiring Aries to purchase more securities for an additional \$3,000,000. This sale is referred to as the Second Sale and the date on which this sale may occur is referred to as the Second Sale Date.

**First Sale of Securities.** On the First Closing Date, Aries paid the Company \$3,000,000 and the Company issued to Aries 30,000 shares of Series B Preferred Stock and warrants to purchase an additional 2,912,621 shares of Common Stock.

Also, on the First Closing Date, the Company entered into the Advisory Agreement with Paramount Capital. Under the Advisory Agreement, Paramount Capital will help the Company find future sources of capital, the Company agreed to pay Paramount Capital \$150,000 and the Company issued 1.5 Option Units to Paramount Capital as payment for Paramount Capital's services.

**Second Sale of Securities.** The Company has the right to require Aries to purchase another 30,000 shares of Series B Preferred Stock and warrants to purchase an additional 2,912,621 shares of Common Stock from the Company for an additional \$3,000,000 if:

- o Stockholders approve the sales;
- o A registration statement to register the shares of Common Stock issuable through securities sold under the Purchase Agreement and the Advisory Agreement is effective;
- o The Company's sales for any two consecutive quarters in the period from the second quarter of 1999 through the third quarter of 2000 are at least 90% of the Company's forecast; and
- o The market value of a share of Common Stock is not less than \$1.236 on the day the Company exercises its right or on the day that Aries is required to buy the additional shares of Series B Preferred Stock.

**Reasons for the Sales of Securities.** The Company sold securities to Aries because the Company needed working capital. The Company's board of directors unanimously approved the sale of securities and determined that any

significant delay in selling the securities would seriously jeopardized the financial viability of the Company.

Meaning of "Market Value". The Purchase Agreement, Advisory Agreement and Certificate of Designations employ a variety of methods for calculating the market value of shares. Each method is intended to approximate the fair market value of a share on a specific day. However, the application of different methods may result in different numbers in similar situations.

#### TERMS OF THE SERIES B PREFERRED STOCK

Certificate of Designations. The Certificate of Designations of Series B Preferred Stock of the Company Corporation dated February 16, 1999, which has been filed as part of the Company's Certificate of Incorporation and with the SEC, is the legal instrument that states the terms of the Series B Preferred Stock.

Dividend Rights and Preferences. Owners of Series B Preferred Stock are entitled to receive dividends. The dividends accrue daily and are payable on each six-month and one-year anniversary of the First Sale Date. The Company has the option of paying these dividends either in cash or in shares of Common Stock.

The annual dividend rate on a share of Series B Preferred Stock is 5% of \$100 plus all previously accrued but currently unpaid dividends on the share. On any day that Common Stock trades below \$0.55 per share, the annual rate will be 10%.

Before the Company may declare a dividend on classes of stock that are junior to the Series B Preferred Stock, including Common Stock and Series A Preferred Stock, the Company must pay a special dividend of \$100 per share to owners of Series B Preferred Stock, pay all accrued and but unpaid dividends on the Series B Preferred Stock which have been declared and declare a dividend on the Series B Preferred Stock which is identical to the dividend being declared on the other class of stock.

Liquidation Preference. If the Company liquidates, sells substantially all of its assets, or is involved in a merger which terminates its existence or in which more than half of the outstanding Common Stock is exchanged for cash, property or securities of another company, then owners of shares of Series B Preferred Stock must be paid before owners of shares of other classes.

The per share amount of this payment will be: \$100 PLUS the amount of any unpaid dividends on the share PLUS the excess of any redemption amount due on the share over the sum of \$100 plus the amount of unpaid dividends due or declared on the share LESS the amount of any dividend previously paid on the share so that a dividend could be paid on a junior class of shares.

Redemption. The Company is obligated to redeem the outstanding shares of Series B Preferred Stock for \$120 per share if:

- o The Company is unable to commence its annual meeting of stockholders by May 28, 1999 and obtain the stockholder approval requested here within 30 days of the commencement of the meeting;
- o The Company does not amend the registration statement within 30 days after the Second Sale Date to include the shares of Common Stock issuable through any securities sold in the Second Sale;
- o The Company does not keep the registration statement effective for at least 3 years;
- o The Company commits a material breach of the Purchase Agreement which continues for more than

20 days after the Company is notified of the breach;

- o NASDAQ delists the Common Stock;



- o The Company fails to properly deliver any of the securities sold under the Purchase Agreement;
- o The Company's auditors materially qualify their opinion on the Company's financial statements (however, pursuant to a letter agreement between the Company and Aries dated April 1, 1999, Aries agreed that the Company receiving an audit opinion relating to fiscal year 1998 which contains a going concern qualification does not violate the terms of the Purchase Agreement or the Certificate of Designations.);
- o The Company is liquidated;
- o The Company sells substantially all of its assets; or
- o The Company is merged out of existence or more than half of the outstanding Common Stock is exchanged for cash, property or securities of another company.

Conversion. Generally, each share of Series B Preferred Stock may be converted, at the option of the owner, into the number of shares of Common Stock calculated by dividing the sum of \$100 and any accrued and unpaid dividends on the share of Series B Preferred Stock by the conversion price. The initial conversion price for the shares of Series B Preferred Stock sold in the First Sale is \$1.03 per share of Common Stock. If on February 16, 2000 the market value of Common Stock is less than \$1.03, the conversion price will be reset to equal the market value of a share of Common Stock on February 16, 2000, but not less than \$0.515.

If the market value of Common Stock is less than \$1.03, the conversion price will be the average of the three lowest closing bid prices for a share of Common Stock during the previous 10 trading days. But the Company may refuse to convert a share of Series B Preferred Stock that the Company sold in the First Sale if the share's conversion price is less than \$0.55. However, if the conversion price of a share of Series B Preferred Stock which the Company sold in the First sale is less than \$0.55 for more than 60 trading days in any 12-month period, then the Company must either convert the share at the share's conversion price or pay the owner cash. The amount of the cash payment per share of Series B Preferred Stock would be the highest closing price for Common Stock during the period from the date of the owner's conversion request until the payment date MULTIPLIED BY the number of shares of Common Stock into which the share of Series B Preferred Stock is convertible.

The conversion price will be adjusted to prevent the dilution of the economic interests of the owners of Series B Preferred Stock each time:

- o Shares of Common Stock are sold by the Company for less than the conversion price;
- o Shares of Common Stock are sold by the Company for less than market value;
- o Shares of Common Stock are issued by the Company as dividends on Common Stock;
- o Shares of Common Stock are subdivided or combined; or
- o The Company enters into a binding contract to sell shares of Common Stock for a price less than the conversion price or the market value of Common Stock.

If the Common Stock is reclassified or the Company merges with another company and is not the continuing

entity, the owners of shares of Series B Preferred Stock may choose to either receive the same payments as the owners of Common Stock on an as converted basis or convert their shares of Series B Preferred Shares into an economically

comparable number of the other company's shares of common stock. The proposed successor company in any merger must agree to these terms in writing before the merger may occur.

Any shares of Series B Preferred Stock sold in the Second Sale will have terms which are similar to the terms of the shares sold in the First Sale. The terms of the shares of Series B Preferred Stock sold in the Second Sale include:

- o The conversion price will be the market value of a share of Common Stock on the Second Closing Date;
- o The conversion price will be adjusted in the same manner as the shares of Series B Preferred Stock sold in the First Sale;
- o The Company may refuse to convert these shares if the conversion price is less than half of the market value of a share of Common Stock on the Second Closing Date; and
- o If the conversion price of these shares is less than half of the market value of a share of Common Stock on the Second Closing Date for more than 60 trading days in any 12-month period, then the Company must either convert the shares at the conversion price or pay the owner cash in an amount calculated as described above for shares sold in the First Sale.

**Conversion Limitations.** An owner of Series B Preferred Stock may not convert its shares into shares of Common Stock if the conversion would cause the owner to own more than 4.9% of the Company's outstanding Common Stock. An owner may waive this restriction by giving notice to the Company 61 days before the conversion.

The rules of the National Association of Securities Dealers, Inc. do not allow the Company to issue shares of Common Stock representing more than 20% of the total number of outstanding shares of Common Stock without stockholder approval. Under the Purchase Agreement and the Advisory Agreement, the Company is not obligated to issue more than 4,539,582 shares of Common Stock upon conversion of shares of Series B Preferred Stock if the issuance would violate the rules of the National Association of Securities Dealers. If further issuances of shares of Common Stock upon conversion of shares of Series B Preferred Stock would violate those rules, then the Company will convert the shares for cash instead of for shares of Common Stock.

**Mandatory Conversion.** The Company may require an owner of Series B Preferred Stock to convert its shares if:

- o The shares have been outstanding for more than one year;
- o The registration statement has been effective for more than one year; and
- o For 20 trading days during any 30 day period ending on the day the Company demands conversion, the market value of Common Stock has been more than 300% of the market value of Common Stock on the one-year anniversary of the date the Company issued the owner's shares of Series B Preferred Stock.

**Voting Rights.** Each share of Series B Preferred Stock entitles its owner to cast the same number of votes the owner would be entitled to cast if the owner had converted the share on the record date. Owners of shares of Series B Preferred Stock have the right to vote with owners of Common Stock as a single class. However, no owner of a share of Series B Preferred Stock may exercise more than 4.9% of the Company's voting power, but an owner may waive this restriction by giving the Company notice 61 days in advance.

The Company may not, without the consent of the owners of a majority of the shares of Series B Preferred Stock,:

- o Amend or repeal any provision of the Company's Certificate of

Incorporation or Bylaws in a way that adversely affects the rights of the owners of Series B Preferred Stock;

- o Change the rights of the Series B Preferred Stock;
- o Authorize any security with rights superior or equal to those of the Series B Preferred Stock or
- o Approve the incorporation of any subsidiary of the Company.

#### ARIES' WARRANTS

General Terms. Aries received warrants to purchase 2,912,621 shares of Common Stock in the First Sale and may receive warrants to purchase an additional 2,912,621 shares of Common Stock in the Second Sale. The warrants expire seven years after the date of their issuance.

Exercise of the Warrants. Aries may purchase the shares available under the warrants by exercising the warrants and paying the exercise price. Aries also has the option of making a "cashless" exercise of the warrants. The number of shares of Common Stock Aries would receive upon a cashless exercise of a warrant is the number of shares available under the warrant multiplied by the excess of the market value of Common Stock on the date of exercise over the exercise price, and divided by the market value of Common Stock on the date of exercise.

Exercise Price. Initially, the exercise price per share of the warrants issued in the first sale is \$1.03. If the market value of Common Stock on February 16, 2000 is less than \$1.03 then the exercise price will be reset to the market value of Common Stock on February 16, 2000, but not less than \$0.515, and the number of shares issuable upon the exercise of a warrant will be increased to the aggregate pre-reset exercise price of the warrant divided by the per share reset exercise price.

If the exercise price of a warrant sold in the First Sale is, and has been for 60 or more trading days in any 12-month period, less than \$0.62, the Company will effect an exercise by either delivering shares of Common Stock or making a cash payment. The cash payment would equal the number of shares for which the warrant is exercised multiplied by the highest closing trade price of Common Stock during the period from the date of exercise and the date of payment.

The exercise price will be adjusted to prevent the dilution of the economic interests of warrant owners each time:

- o Shares of Common Stock are sold by the Company for less than the exercise price;
- o Shares of Common Stock are sold by the Company for less than market value;
- o Shares of Common Stock are issued by the Company as dividends on Common Stock;
- o Shares of Common Stock are subdivided or combined; or
- o The Company enters into a binding contract to sell shares of Common Stock for a price less than the exercise price or the market value of Common Stock.

If the exercise price of a warrant is adjusted, the number of shares issuable upon the exercise of the warrant will be

adjusted to the aggregate pre-adjustment exercise price of the warrant divided by the per share adjusted exercise price.

Initially, the exercise price of the warrants sold in the Second Sale will be the market value of Common Stock on the Second Sale Date. The exercise price of these warrants will be adjusted in the same manner as the warrants sold

in the First Sale.

If the Common Stock is reclassified, the Company sells substantially all of its assets or the Company merges with another company and is not the continuing entity, the owners of warrants will be entitled to the cash, securities and property they would have received if they had exercised the warrants immediately prior to the reclassification, sale or merger.

**Mandatory Exercise.** The Company may require Aries to exercise the warrants if: (A) the warrants have been outstanding for more than one year and (B) the market value of Common Stock has been more than 300% of the warrant exercise price for 20 trading days during any 30 day period ending on the day the Company demands exercise.

**Exercise Limitations.** Aries may not exercise a warrant if the exercise would cause Aries to own more than 4.9% of the Company's outstanding Common Stock. Aries may waive this restriction by giving notice to the Company at least 61 days before the exercise.

#### OPTION UNITS

**General Terms.** Paramount received 1.5 Option Units in the First Sale. Each Option Unit entitles Paramount Capital to purchase, for an exercise price of \$100,000, 1,000 shares of Series B Preferred Stock and 97,087 Class L Warrants. Paramount Capital has the option of making a "cashless" exercise of the Unit Options. In a cashless exercise, Paramount Capital would receive the number of shares of Series B Preferred Stock and the number of Class L Warrants available under the Unit Option LESS the total number available under the Unit Option multiplied by the exercise price and divided by the market value of the Unit Option.

**Expiration.** The Unit Options expire on February 16, 2004.

**Class L Warrants.** The owner of a Class L Warrant may receive one share of Common Stock by exercising the Class L Warrant and paying the exercise price of \$1.03 per share of Common Stock.

**Price Adjustment.** The Unit Options contain provisions to protect Paramount Capital from the dilution of its interests in Series B Preferred Stock and Common Stock. These provisions are similar to those which protect owners of Series B Preferred Stock and owners of warrants from the dilution of their interests.

**Reclassification or Merger.** If the Common Stock is reclassified, the Company sells substantially all of its assets or the Company merges with another company and is not the continuing entity, the owners of Unit Options will be entitled to the cash, securities and property they would have received if they had exercised the Unit Options immediately prior to the reclassification, sale or merger.

**Exercise Limitations.** Paramount Capital may not exercise a Unit Option or Class L Warrant, and may not convert a share of Series B Preferred Stock, if the exercise or conversion would cause Paramount Capital to own more than 4.9% of the Company's outstanding Common Stock. Paramount Capital may waive these restrictions by giving the Company notice at least 61 days in advance.

#### RESTRICTIONS UNDER THE PURCHASE AGREEMENT

**Right to Nominate a Board Member.** Aries may nominate a candidate for the Company's board of directors. The Company's existing board of directors will support the nominee by creating a new position on the board of directors

and electing the nominee to fill the vacancy, nominating the nominee for election by stockholders and using its best efforts to ensure that stockholders elect the nominee.

**Registration Rights.** On April 13, 1999, the Company filed with the SEC a shelf registration statement for the resale of:

- o The shares of Common Stock issuable upon the exercise of Aries' warrants;
- o The shares of Common Stock issuable upon the exercise of Class L Warrants;
- o The shares of Common Stock issuable upon conversion of Series B Preferred Stock;
- o Any shares of Common Stock issued to pay dividends on the Series B Preferred Stock; and
- o Any other shares of Common Stock owned by Aries and Paramount Capital.

Use of Proceeds; Restrictions on Use of Cash. The Purchase Agreement requires the Company to use the net proceeds for general corporate purposes. The Company may not use any of the proceeds to repay its debts or repurchase its own securities. The Company may not make a payment in excess of \$25,000 without Aries' approval. If the registration statement is effective and the Company has at least \$1,000,000 of cash, this limit will be increased to \$100,000.

The Company must escrow \$1,000,000 in cash from the proceeds of the Purchase Agreement until the stockholders give the approval requested here and the registration statement becomes effective.

Limitations on Merger or Sale of Assets. The Company may not merge or sell substantially all of its assets without Aries' approval.

Limitations on Acquisitions. The Company may not acquire any interest in any business without Aries' approval. But, the Company may acquire 1% or less of any class of publicly traded securities.

Limitations on Dividends and Repurchases. The Company may not pay any dividends on its stock or repurchase any shares of its stock, without Aries' approval.

Restriction on Securities. Until August 16, 2000, the Company may not, without Aries' approval, sell any of its securities. However the Company may, so long as it honors Aries' right of first refusal, sell a maximum of 1,700,000 shares of Common Stock and 500,000 warrants to purchase shares of Common Stock for a maximum of \$1,500,000. Also, the Company may issue shares of Common Stock upon conversion or exercise of outstanding securities or in an offering with Paramount Capital acting as placement agent.

Until February 16, 2002, the Company may not, without Aries' approval, extend the expiration date or lower the exercise price of any options or take any similar action affecting any convertible securities.

Restrictions on debt. The Company may not incur debt except:

- o To Aries and Paramount Capital;
- o Under equity lease financings;
- o Customary accounts receivable and inventory financing in the ordinary course of business;

- o Debt for borrowed money disclosed to Aries at the time of the Purchase Agreement; and
- o Amounts less than \$25,000 incurred in the ordinary course of business (if the registration statement is effective and the Company has at least \$1,000,000 in cash, this limit will be increased to \$100,000).

Other Public Sales and Registrations. Until at least 180 days after the effective date of the registration statement, the Company will not make a public

offering of its securities except to its employees.

**Additional Common Stock Issuable to Purchasers.** If the SEC does not declare the registration statement effective within the time constraints established in the Purchase Agreement, the Company will immediately issue warrants to Aries to purchase a number of additional shares of Common Stock and pay a cash penalty to Aries.

The number of shares of Common Stock available under these additional warrants would be 1.5% of shares of Common Stock available under Aries' warrants issued in the First Sale.

The amount of the cash payment would be 1.5% of the total liquidation preference of Aries' shares of Series B Preferred Stock.

**Amendment to Rights Agreement.** The Company and Continental Stock Transfer & Trust Company entered into a Rights Agreement on July 18, 1995. Generally, the Rights Agreement provides that if a person acquires over 15% of the outstanding Common Stock, the Company will issue securities which dilute such person's interests in the Company. The purpose of the Rights Agreement is to encourage prospective acquirors of the Company to negotiate with the Company's Board of Directors so that the Company's Board of Directors would have an opportunity to protect and enhance stockholder value. The Company amended the Rights Agreement on February 16, 1999 to exempt the issuance of securities discussed above under the heading "Approval of Issuance of Securities" even though that issuance may involve more than 15% of the outstanding Common Stock.

#### SECURITIES ACT EXEMPTIONS AND REGISTRATION

The securities which the Company issued as described above are exempt from the registration and prospectus delivery requirements of the Securities Act of 1933 under Section 4(2) thereof. The facts relied upon to make this exemption available are: (1) there are no more than 3 purchasers and (2) all of the purchasers made written representations to the Company that they were "accredited investors" as defined in Rule 501(a) of Regulation D, experienced in making investments of this type, and buying for their own account and not with a view to distribution, that no finder, broker, agent financial person or other intermediary acted on their behalf in connection with their purchases of securities from the Company other than Paramount.

On April 13, 1999, the Company filed a Registration Statement on Form S-3 to register the securities issued by the Company as described above under the Securities Act of 1933. This Form S-3 is not yet effective.

#### CONSEQUENCES OF STOCKHOLDER DISAPPROVAL

If stockholders do not approve these transactions, the Company will be required by the Purchase Agreement to redeem the Series B Preferred Stock for \$120 per share. As of the date of this Proxy Statement, there are 30,000 shares of Series B Preferred Stock outstanding. The total redemption price for these shares would be \$3.6 million, which would deplete the Company's cash. If this happened, the Company might not be able to continue operations.

#### ITEM 3. DEFAULTS UPON SENIOR SECURITIES.

None.

#### ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS.

None.

#### ITEM 5. OTHER INFORMATION.

None.

#### ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K.

(A) LIST OF EXHIBITS

3. ARTICLES OF INCORPORATION AND BY-LAWS

Exhibit 3.1

Complete Restated Certificate of Incorporation of Neoprobe Corporation, as corrected February 18, 1994 and as amended June 27, 1994, July 25, 1995, June 3, 1996 and March 17, 1999 (incorporated by reference to Exhibit 3.1 to Amendment Number 1 to the Registrant's Annual Report on Form 10-K for the year ending December 31, 1998 (Commission File No. 0-26520; (the "1998 Form 10-K/A")).

Exhibit 3.2

Amended and Restated By-Laws dated July 21, 1993 as amended July 18, 1995 and May 30, 1996 (incorporated by reference to Exhibit 99.4 to the Registrant's Current Report on Form 8-K dated June 20, 1996; Commission File No. 0-26520).

4. INSTRUMENTS DEFINING THE RIGHTS OF SECURITY HOLDERS, INCLUDING INDENTURES

Exhibit 4.1

See Articles FOUR, FIVE, SIX and SEVEN of the Restated Certificate of Incorporation of the Registrant (see Exhibit 3.1).

Exhibit 4.2

See Articles II and VI and Section 2 of Article III and Section 4 of Article VII of the Amended and Restated By-Laws of the Registrant (see Exhibit 3.2).

Exhibit 4.3

Rights Agreement dated as of July 18, 1995 between the Registrant and Continental Stock Transfer & Trust Company (incorporated by reference to Exhibit 1 of the registration statement on Form 8-A; Commission File No. 0-26520).

Exhibit 4.4

Amendment Number 1 to the Rights Agreement between the Registrant and Continental Stock Transfer and Trust Company dated February 16, 1999 (incorporated by reference to Exhibit 4.4 of the 1998 Form 10-K/A).

10. MATERIAL CONTRACTS

Exhibit 10.4.33

Sales and Marketing Agreement dated February 1, 1999 between the Registrant and KOL Bio Medical Instruments, Inc. (filed pursuant to Rule 24b-2 under which the Registrant has requested confidential treatment of portions of this Exhibit).

Page 27 in the manually signed original.

11. STATEMENT REGARDING COMPUTATION OF PER SHARE EARNINGS

Exhibit 11.1

Computation of Net Loss Per Share.

Page 47 in the manually signed original.

27. FINANCIAL DATE SCHEDULE

Exhibit 27.1

Financial Data Schedule (submitted electronically for SEC information only).

(B) REPORTS ON FORM 8-K.

No current report on Form 8-K was filed by the Registrant during the first quarter of fiscal 1999.

SIGNATURES

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

NEOPROBE CORPORATION  
(the "Registrant")

Dated: May 17, 1999

By: /s/ David C. Bupp

-----  
David C. Bupp,  
President and Chief Executive Officer  
(duly authorized officer; principal executive officer)

By: /s/ Brent Larson

-----  
Brent Larson  
Vice President, Finance and Chief Financial Officer  
(principal financial and accounting officer)

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

-----

NEOPROBE CORPORATION

-----

FORM 10-Q QUARTERLY REPORT

FOR THE FISCAL QUARTER ENDED:

MARCH 31, 1999

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## EXHIBITS

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## INDEX

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### Exhibit 11.1

Computation of Net Loss Per Share.

### Exhibit 27.1

Financial Data Schedule (submitted electronically for SEC information only).

Omitted portions of this Exhibit are subject to a Request for Confidential Treatment under Rule 24b-2.

EXHIBIT 10.4.33

SALES AND MARKETING AGREEMENT

BETWEEN

NEOPROBE CORPORATION  
AND  
KOL BIO-MEDICAL INSTRUMENTS, INC.

JANUARY 26, 1999

Text which has been omitted and filed separately under Rule 24b-2, pursuant to which Neoprobe Corporation has requested confidential treatment of this information, has been replaced by "\*\*\*\*" in this Exhibit.

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TABLE OF CONTENTS

<TABLE>  
<CAPTION>

<S>	<C>	
ARTICLE I. DEFINITIONS.....		1
1.01 Affiliate.....		1
1.02 Effective Date.....		1
1.03 FDA and Act.....		1
1.04 GMP.....		1
1.05 Gross Sales.....		1
1.06 Net Sales.....		2
1.07 Person.....		2
1.08 Product.....		2
1.09 Quarter.....		2
1.10 Schedules.....		2
1.11 Subagent.....		2
1.12 Territory.....		2

1.13 Year.....	2
ARTICLE II. APPOINTMENT.....	2
2.01 Appointment.....	2
2.02 Right to Appoint Subagents.....	2
2.03 Responsibility for Subagents Performance.....	3
2.04 Initial Purchase of Demonstration Units.....	3
2.05 Purchase of Additional Demonstration Units.....	3
2.06 Demonstration Unit Turn Rate.....	3
2.07 Quota.....	3
2.08 Failure to Meet Quota.....	4
2.09 Adjustment of Quota Due to Backorder.....	4
2.10 Adjustment of Quota Due to Competition.....	4
2.11 Addition of New Products.....	4
ARTICLE III. KOL COMPENSATION.....	4
3.01 Commission.....	4
3.02 Milestone Payments.....	4
3.03 Demonstration Unit Sales.....	4
ARTICLE IV. AUDIT OF BOOKS AND RECORDS.....	4
4.01 Audit of Neoprobe's Records.....	4
4.02 Discrepancy in Payments.....	5
4.03 Penalty for Underpayment.....	5
4.04 Dispute Relating to Audit.....	5

</TABLE>

Text which has been omitted and filed separately under Rule 24b-2, pursuant to which Neoprobe Corporation has requested confidential treatment of this information, has been replaced by "\*\*\*\*" in this Exhibit.

Omitted portions of this Exhibit are subject to a Request for Confidential Treatment under Rule 24b-2.

<TABLE>  
<CAPTION>

ARTICLE V. SALES AND MARKETING ACTIVITIES.....	5
--	---

5.01 Kol Sales Force Size.....	5
5.02 Kol Marketing Responsibilities.....	5
5.03 Final Authority Over Key Marketing Decisions.....	6
5.04 List Price.....	6
5.05 Cost of Advertising and Promotion.....	6
5.06 Breast Model and Check Source.....	6
5.07 Support of Sales and Marketing Personnel.....	6

ARTICLE VI. TERM AND TERMINATION.....	6
---------------------------------------	---

6.01 Term of Agreement.....	6
6.02 Termination For Material Breach.....	6
6.03 Termination for Insolvency.....	7
6.04 Termination for Failure to Meet Quota.....	7
6.05 No Cause Termination by Neoprobe.....	7
6.06 No Cause Termination by Kol.....	8
6.07 Termination Fee.....	8
6.08 Non-competition After Termination.....	8
6.09 Termination Does Not Affect Accrued Rights.....	8
6.10 Obligations Surviving Termination.....	8
6.11 Termination Upon Change of Control of Kol.....	8
6.12 Termination Upon Change of Control of Neoprobe.....	8
6.13 Buy-Back of Demonstration Units.....	9

ARTICLE VII. REGULATORY ACTIVITIES AND RESPONSIBILITY.....	9
7.01 Regulatory Activities.....	9
7.02 Adverse Experiences and Product Complaints.....	9
7.03 Promotional Materials.....	9
ARTICLE VIII. REPRESENTATIONS AND WARRANTIES.....	9
8.01 Best Efforts.....	9
8.02 Promotion Within Product Labeling.....	9
8.03 Competing Products.....	9
8.04 Product Manufactured Under GMP.....	10
8.05 Product Warranty.....	10
8.06 General Warranty.....	10
ARTICLE IX. INDEMNIFICATION AND INSURANCE.....	10
9.01 Neoprobe Indemnity.....	10
9.02 Kol Indemnity.....	10
</TABLE>	
Text which has been omitted and filed separately under Rule 24b-2, pursuant to which Neoprobe Corporation has requested confidential treatment of this information, has been replaced by "****" in this Exhibit.	
ii	
Omitted portions of this Exhibit are subject to a Request for Confidential Treatment under Rule 24b-2.	
<TABLE>	
<CAPTION>	
<S>	<C>
9.03 Neoprobe Insurance.....	11
9.04 Kol Insurance.....	11
ARTICLE X. CONFIDENTIALITY.....	11
10.01 Confidential Information.....	11
10.02 Period of Confidentiality.....	11
10.03 Right to Use Confidential Information.....	12
ARTICLE XI. PUBLIC ANNOUNCEMENTS.....	12
11.01 Public Announcement.....	12
ARTICLE XII. MISCELLANEOUS.....	12
12.01 Force Majeure.....	12
12.02 Taxes.....	12
12.03 Notices.....	12
12.04 Agreement Subject to Applicable Law.....	13
12.05 Governing Law.....	13
12.06 Other Instruments.....	13
12.07 Legal Construction.....	13
12.08 Entire Agreement, Modification, Consents and Waivers.....	13
12.09 Section Headings; Construction.....	14
12.10 Execution Counterparts.....	14
12.11 Consents and Approval.....	14
12.12 Arbitration.....	14
ARTICLE XIII. RELATIONSHIP OF THE PARTIES.....	14

</TABLE>

Text which has been omitted and filed separately under Rule 24b-2, pursuant to which Neoprobe Corporation has requested confidential treatment of this information, has been replaced by "\*\*\*\*" in this Exhibit.

iii

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SALES AND MARKETING AGREEMENT

THIS AGREEMENT is made as of this 1st day of February, 1999, by and between Neoprobe Corporation, a Delaware corporation with principal offices at 425 Metro Place North, Suite 300, Dublin, Ohio 43017-1367 (hereinafter referred to as "Neoprobe"), and Kol Bio-Medical Instruments, Inc., a Virginia Corporation, with offices located at 13901 Willard Road, Chantilly, Virginia 20151 (hereinafter referred to as "Kol").

WHEREAS, Neoprobe has developed and commercialized certain hand-held, intraoperative gamma-radiation detection device products useful for intraoperative lymphatic mapping and for gamma-guided surgery;

WHEREAS, Kol is a medical product sales and marketing organization and distributor with expertise in medical product sales, marketing and distribution in the United States;

WHEREAS, Neoprobe desires to appoint Kol as Neoprobe's exclusive sales and marketing agent for marketing of its device products in the United States; and

WHEREAS, Kol is willing to be the exclusive sales and marketing agent for Neoprobe's device products in the United States;

NOW, THEREFORE, in consideration of these premises and the mutual covenants contained herein, the parties agree as follows:

ARTICLE I. DEFINITIONS

1.01 Affiliate. The term "Affiliate" as used herein shall mean with respect to any specified Person, any other Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Person specified. For purposes of this definition, "control" including, with correlative meanings, the terms "controlled by" and "under common control with" means ownership directly or indirectly of more than forty percent (40%) of the equity capital having the right to vote for election of directors in the case of a corporation and more than forty percent (40%) of the beneficial interest in the case of a business entity other than a corporation.

1.02 Effective Date. The "Effective Date" of this Agreement is the date first written herein above, provided that Kol meets its sales force training obligation set forth in Section 5.01 herein. In the event, Kol fails to have its minimum sales force trained by February 28, 1999, the parties will mutually agree to an adjusted Effective Date.

1.03 FDA and Act. The term "FDA" and the term "Act" as used herein shall mean the United States Food and Drug Administration or any successor

agency having the administrative authority to regulate the approval for testing or marketing of human pharmaceutical or biological therapeutic products in the United States; and the term "Act" as used herein refers to the Federal Food, Drug & Cosmetic Act (21 U.S.C. '301 et seq.) and the regulations promulgated thereunder.

Omitted portions of this Exhibit are subject to a Request for Confidential Treatment under Rule 24b-2.

1.04 GMP. As used herein the term "GMP" means the applicable current good manufacturing practices promulgated from time to time by the FDA in accordance with the Act, including those set forth in 21 CFR, Parts 808, 812, and 820.

1.05 Gross Sales. As used herein "Gross Sales" shall mean the actual invoice price at which the Product is sold by Neoprobe to the customer in the Territory.

1.06 Net Sales. As used herein the term "Net Sales" shall mean Gross Sales less the following: trade, cash and quantity discounts to the extent such discounts are not reflected in the actual invoice price, returns, shipping and handling, sales of demonstration units, and sales of Product by Neoprobe to its Affiliates or third parties which Product is not for resale in the Territory.

1.07 Person. As used herein, the term "Person" shall mean any individual, corporation, partnership, business trust, business association, governmental entity, governmental authority or other legal entity.

1.08 Product. As used herein the term "Product" or "Products" shall mean hand-held, intraoperative gamma-radiation detection instruments and accessories therefore listed in Schedule 1.08 attached hereto, as such Schedule 1.08 may be amended from time to time by mutual agreement of the Parties.

1.09 Quarter. As used herein, the term "Quarter" shall mean four (4) equal three (3) month periods in a Year, each such period beginning on January 1, April 1, July 1, and October 1 of a Year; provided, however, that Q1 of Year 1 shall run from the Effective Date and end on March 31, 1999.

1.10 Schedules. The Schedules to this Agreement are listed below and are an integral part of this Agreement and are incorporated herein:

<TABLE>  
<CAPTION>

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SCHEDULE #	DESCRIPTION
<S> 1.08	<C> List of Products
2.06	Example of Warranty Calculation
3.01	Commission Rate
3.02	Milestone Payments
6.07	Example of Termination Fee Calculation

---

</TABLE>

1.11 Subagent. As used herein, the term "Subagent" shall mean one or more Persons designated by Kol, subject to the reasonable approval of Neoprobe, who shall have the right, pursuant to an agreement with Kol, to sell, market and promote Product in the Territory.

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2

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1.12 Territory. As used herein the term "Territory" shall mean the \*\*\*.

1.13 Year. As used herein, the term "Year" shall refer to a calendar year and except for Year 1 of the Agreement which shall run from the Effective Date and end on December 31, 1999, shall mean the twelve (12) month period commencing on January 1 and ending on December 31.

## ARTICLE II. APPOINTMENT

2.01 Appointment. Neoprobe hereby appoints Kol, and Kol hereby accepts such appointment, as the exclusive agent for the promotion, marketing and sale of Product in the Territory. Except as the parties may otherwise agree in writing, Kol shall have the sole and exclusive right to promote, market and sell the Product and to solicit and accept orders from purchasers located in the Territory.

2.02 Right to Appoint Subagents. Kol shall have the right to appoint Subagents to assist it in carrying out the sales and marketing activities delegated to it by Neoprobe pursuant to the appointment granted in Section 2.01 herein; provided, however, that Neoprobe shall have the right to approve the appointment of such Subagent, such approval not to be unreasonably withheld. Kol shall obtain the written agreement of any Subagent appointed by it pursuant to this Section 2.02, that such Subagent agrees to be bound by the terms of Sections 6.08, 7.02, 8.01, 8.02, 8.03, 9.02, 9.04, and Articles X and XI; provided, however, that the provisions of Section 6.08 shall only apply to the "Territory" of the Subagent as that term is defined in the Subagents agreement with Kol.

2.03 Responsibility for Subagents Performance. Kol shall be responsible for the performance of its Subagents hereunder and the actions of the Subagents shall be considered actions of Kol.

2.04 Initial Purchase of Demonstration Units. Provided that an initial purchase order for \*\*\* units is placed by Kol no later than December 30, 1998, Neoprobe agrees to sell Kol \*\*\* NEO2000(TM) Systems for use as demonstration units as follows: \*\*\* Systems at \*\*\* each; and \*\*\* Systems at \*\*\* each. The purchase order for the \*\*\* units shall be placed by Kol within thirty (30) days after the Effective Date. Payment for such NEO2000(TM) Systems shall be made by Kol to Neoprobe in \*\*\* equal \*\*\* installments beginning on March 1, 1999.

2.05 Purchase of Additional Demonstration Units. The cost of any NEO2000(TM) Systems demonstration units purchased in addition to the initial purchase described in Section 2.04 above shall be \*\*\* per NEO2000(TM) System. Kol may also purchase the Neoprobe 1500(R) System for use as a demonstration unit at a cost of \*\*\* per system. Payment terms for demonstration units purchased pursuant to this Section 2.05 shall be Net \*\*\* days.

2.06 Demonstration Unit Turn Rate. Demonstration unit turn rate shall be at no more than \*\*\* units per sales representative per Year. Kol shall have the right to return demonstration device control units to Neoprobe for refurbishment. If Kol returns a demonstration unit to Neoprobe for refurbishment there will be a refurbishment charge of \*\*\* of

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3

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the initial cost of the system. For example, the refurbishment cost for the NEO2000 control unit purchased pursuant to Section 2.05 will be \*\*\* and for the Neoprobe 1500 demonstration control unit \*\*\*. Unless otherwise agreed to by Neoprobe, Kol agrees that no refurbished NEO2000 demonstration units shall be sold in the Territory for less than \*\*\*. Kol further agrees that neither it nor its Subagents will sell any demonstration unit outside the Territory unless agreed to by Neoprobe. Neoprobe agrees to provide a \*\*\* warranty on all refurbished demo unit control units which shall be in addition to any original warranty remaining on the demonstration unit; provided, however, that in no event shall the total of the \*\*\* warranty plus the period remaining on the original warranty exceed the duration of the original warranty. Schedule 2.06 provides two examples of the calculation of the warranty period for a refurbished demo unit.

2.07 Quota. In order to maintain this Agreement in force and effect, Net Sales of Product must reach at least \*\*\* of the following annual Net Sales target:

<TABLE>  
<CAPTION>

YEAR	NET SALES IN
1	***
2	***
3	***
4	***

</TABLE>

The annual Net Sales quota is expected to be achieved proportionally over each Quarter of a Year; Net Sales in a Quarter of a Year shall not be less than \*\*\* of the total quota for the Year. Distribution of Product sales over each Quarter of a Year shall be agreed to by the parties at least sixty (60) days prior to the end of the current Year for the subsequent Year; provided however that Product Sales for each Quarter of Year 1 of the Agreement shall be agreed to by the parties within thirty (30) days after the Effective Date.

2.08 Failure to Meet Quota. Beginning on July 1, 1999, if Kol fails to achieve the pro rata share of the annual quota specified by Section 2.07 \*\*\*, Neoprobe shall have the right to terminate this Agreement pursuant to the terms of Section 6.04 herein.

2.09 Adjustment of Quota Due to Backorder. In the event that any of the Products go on backorder for a period of sixty (60) days or more, Neoprobe agrees to hold good faith discussions with Kol regarding the impact of such backorder on the ability of Kol to make the quota described in Section 2.07 and to reasonably adjust such quota to reflect the backorder. At the end of a Year any purchase orders for Product on backorder received by Neoprobe shall be counted toward the quota specified by Section 2.07.

2.10 Adjustment of Quota Due to Competition. If the average selling price of the Product is significantly depressed because of competition in the industry, Neoprobe agrees to hold good faith discussions with Kol on the impact of average selling price erosion on Kol's ability to meet the quota specified by Section 2.07 and to reasonably adjust the quota to reflect the prevailing market conditions.



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4

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2.11 Addition of New Products. Any new gamma radiation devices or accessories for such devices or any improvements thereto developed or acquired by Neoprobe during the term of this Agreement (hereinafter "New Products") shall be offered to Kol for addition to Schedule 1.08. In the event the parties agree to add such New Product to Schedule 1.08 it shall become a Product covered by this Agreement except that the parties shall negotiate in good faith the specific business terms, for example, cost of demonstration units, commission rate, and the like applicable to such Product taking into account the nature of the product and the impact of comparable products in the market.

#### ARTICLE III. KOL COMPENSATION

3.01 Commission. Neoprobe shall pay Kol a commission on Net Sales of Product as set forth in Schedule 3.01 attached hereto. Payment of the commission shall be made within \*\*\* days of the end of each \*\*\* during the term of this Agreement; provided however, that from the Effective Date until Q3 1999, Neoprobe shall have \*\*\* business days to make the applicable commission payment.

3.02 Milestone Payments. In addition to the commission payments described in Section 3.01, Neoprobe shall pay Kol milestone payments based on achievement of a specified level of Net sales as set forth in Schedule 3.02 attached hereto. Payment of the milestones shall be made by Neoprobe to Kol within \*\*\* days after such milestone is reached.

3.03 Demonstration Unit Sales. Sales of demonstration units purchased by Kol pursuant to Section 2.04 and Section 2.05 shall be counted in the Net Sales number for purposes of determining any milestone payment due Kol pursuant to Section 3.02.

#### ARTICLE IV. AUDIT OF BOOKS AND RECORDS

4.01 Audit of Neoprobe's Records Neoprobe shall keep, in accordance with generally accepted accounting practices, full, true and accurate records containing sufficient detail as may be necessary for Kol to properly ascertain and verify that any sales commission paid to it by Neoprobe pursuant to Section 3.01, or milestone payment made pursuant to Section 3.02 and/or Termination fee paid to it pursuant Section 6.07 are true and correct. Upon Kol's request, Neoprobe shall permit an independent certified accountant selected by Kol (except one to whom Neoprobe has some reasonable objection) to inspect, once each Year during ordinary business hours, such books and records of Neoprobe covering a period not more than the prior four (4) Quarters as may be necessary to verify the correctness of the payments described herein.

4.02 Discrepancy in Payments. Unless otherwise agreed to by the parties, if as a result of the audit performed pursuant to Section 4.01, the independent auditor determines Neoprobe has underpaid any payment due Kol, Neoprobe shall, no later than five (5) business days after receiving notice of such underpayment, remit to Kol the amount of the underpayment. Unless otherwise agreed to by the parties, if such audit reveals an overpayment to Kol, such overpayment shall be refunded to Neoprobe within five (5) business days after Kol becomes aware of such overpayment.

Text which has been omitted and filed separately under Rule 24b-2, pursuant to which Neoprobe Corporation has requested confidential treatment of this information, has been replaced by "\*\*\*\*" in this Exhibit.

5

Omitted portions of this Exhibit are subject to a Request for Confidential Treatment under Rule 24b-2.

4.03 Penalty for Underpayment. If as a result of an audit performed

pursuant to Section 4.01, it is determined that Neoprobe has underpaid any payment due Kol by more than \*\*\*, in addition to remitting the amount of the underpayment as described in Section 4.02, Neoprobe shall pay Kol interest on such amount at the rate per annum of \*\*\* (interest changing as and when the \*\*\* changes); such interest being payable on demand together with all costs incurred by Kol to collect the amounts due hereunder, including, but not limited to, reasonable attorneys fees and disbursements. As used herein, the term "prime" refers to the prime rate of interest per annum announced, from time to time, by major money center banks in the United States and as published daily in The Wall Street Journal; provided, however, that if The Wall Street Journal should ever cease, for any reason, to publish such rate on a daily basis, then the Prime Rate shall be at the rate of interest designated and in effect from time to time, by Citibank, N.A., in New York, New York as its Prime Rate.

4.04 Dispute Relating to Audit. In the event an audit conducted pursuant to Section 4.01 finds an underpayment by Neoprobe and if Neoprobe disagrees with the results of such audit and further in the event the parties can not resolve such disagreement, the parties shall mutually chose an independent accountant acceptable to both to conduct a second audit. The parties agree to be bound by the results of the second independent audit. The cost of an audit conducted pursuant to this Section 4.04 shall be borne by Kol if the independent accountant finds no underpayment and by Neoprobe if an underpayment is found.

#### ARTICLE V. SALES AND MARKETING ACTIVITIES

5.01 Kol Sales Force Size. Kol shall maintain an active sales force group, including Subagents at a level of \*\*\* sales representatives for each Year of the Agreement; such group not to include Neoprobe's clinical specialists. Kol agrees to have its minimum sales force trained and active by March 1, 1999.

5.02 Kol Marketing Responsibilities. Kol shall be responsible for providing a full array of Product sales and marketing support, including but not limited to the following sales and marketing activities:

- a) direct selling efforts to customers, including surgeons, other physicians, nurses and hospital administrators;
- b) participation in relevant professional trade shows, symposia and seminars;
- c) training (including surgical observations) and in-servicing of customers; and
- d) local and regional training of customers.

Beginning in the 3rd Quarter of Year 1, within fifteen (15) days of the end of each Quarter of a Year, Kol agrees to provide Neoprobe with a written sales and marketing report summarizing Kol's marketing activities over the previous Quarter. Kol agrees to provide verbal marketing reports on at least a monthly basis during each month of the term of this Agreement.

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5.03 Final Authority Over Key Marketing Decisions. Subject to the terms of this Agreement, Neoprobe shall have final decision making authority over all key decisions relative to sales and marketing of the Product such as pricing, promotional strategy and the like; provided however, that Neoprobe shall consult with Kol on such key decisions prior to making a final decision and shall reasonably consider Kol's input and advice.

5.04 List Price. Neoprobe shall provide Kol with a copy of the current List Price and "Floor Price" for all Products listed in Schedule 1.08 on or

before the Effective Date of this Agreement and shall promptly notify Kol of any changes made to the "List Price" and "Floor Price" for a Product. As used herein, the term "List Price" means the usual and published price at which Neoprobe sells a particular Product to the market. As used in this Section 5.04, the term "Floor Price" shall mean the lowest price Kol can offer a customer below the List Price. Kol shall have the discretion to quote Product to customers in the range of list price to "Floor Price". Kol agrees to obtain Neoprobe's prior consent before it quotes a Product price to a customer below the Floor Price.

5.05 Cost of Advertising and Promotion. \*\*\* shall be responsible for advertising and promotion costs for the Product. Neoprobe shall provide Kol \*\*\* with presentation promotional material and video promotional material to be used to promote the Product.

5.06 Breast Model and Check Source. Kol shall pay Neoprobe \*\*\* for breast models and for check sources.

5.07 Support of Sales and Marketing Personnel. \*\*\* is responsible for all costs incurred in supporting its respective sales and marketing personnel in connection with activities related to the sales, marketing and promotion of Product; such as for example, travel, bonus program, car, and the like.

#### ARTICLE VI. TERM AND TERMINATION

6.01 Term of Agreement. This Agreement shall be effective as of the date first written hereinabove and shall remain in effect until terminated pursuant to any of the provisions of this Article VI.

6.02 Termination For Material Breach. Subject to the provisions of Section 6.04 herein, either party may terminate this Agreement for a material breach or default if such material breach or default is not cured within thirty (30) days after the giving of written notice by the party specifying such breach or default.

(a) The following specific acts are deemed to be a material breach of this Agreement on the part of Kol within the meaning of this Section 6.02:

- i) breach of the warranty to promote the Product within the label pursuant to Section 8.02;
- ii) breach of the warranty not to promote a competing product as set forth in Section 8.03; and

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7

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iii) failure to maintain the minimum sales force size specified by Section 5.01.

(b) The following specific acts are deemed to be a material breach of the Agreement on the part of Neoprobe within the meaning of this Section 6.02:

- i) failure to pay the commission pursuant to Section 3.01;
- ii) failure to make the milestone payment specified by Section 3.02; or
- iii) breach of any warranties or representations

regarding the Product made by Neoprobe under this Agreement.

- (c) In the event Kol terminates this Agreement pursuant to Section 6.02(b), Neoprobe shall pay Kol a "Termination Fee" as defined in Section 6.07 herein. No Termination Fee shall be due to Kol in the event of termination of this Agreement by Neoprobe pursuant to Section 6.02(a).

6.03 Termination for Insolvency. In the event that either party shall become insolvent or shall suspend its business, or shall file a voluntary petition or any answer admitting the jurisdiction of the court and the material allegations of, or shall consent to, an involuntary petition pursuant to or purporting to be pursuant to any reorganization or insolvency law of any jurisdiction, or shall make an assignment for the benefit of creditors, or shall apply for or consent to the appointment of a receiver or trustee of all or a substantial part of its property (such party, upon the occurrence of any such event, a "Bankrupt Party"), then to the extent permitted by the law the other party hereto may thereafter immediately terminate this Agreement by giving notice of termination to the Bankrupt Party. In the event this Agreement is terminated by either party pursuant to this Section 6.03, Neoprobe shall pay Kol a "Termination Fee" as defined in Section 6.07 herein.

6.04 Termination for Failure to Meet Quota. Beginning July 1, 1999, if Kol fails to achieve at least \*\*\* of the pro rata share of the annual quota specified by Section 2.07 for \*\*\*, Neoprobe shall have the right to terminate this Agreement upon \*\*\* notice to Kol. Kol shall have the \*\*\* notice period plus an additional \*\*\* cure period to achieve its minimum Net Sales target for the then current Quarter of the current Year. If Kol achieves its pro rata minimum Net Sales target, the Marketing Agreement shall remain in full force and effect. Unless otherwise agreed to by Neoprobe, if Kol fails to achieve the minimum target, this Agreement shall terminate upon \*\*\* notice to Kol. No Termination Fee shall be due to Kol in the event of termination of this Agreement by Neoprobe pursuant to this Section 6.04.

6.05 No Cause Termination by Neoprobe. Neoprobe shall have the right to terminate this Agreement without cause upon \*\*\* prior notice to Kol. During the \*\*\* notice period, Kol shall use reasonable commercial efforts to assist in the transition of the Product marketing back to Neoprobe or to Neoprobe's designee and to introduce the new marketing/sales force to the

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customer base for the Product in the Territory. At the end of such \*\*\* period the Agreement will automatically terminate (the "Effective Date of Termination") and Neoprobe shall pay Kol a "Termination Fee" as defined in Section 6.07 herein.

6.06 No Cause Termination by Kol. Kol shall have the right to terminate this Agreement without cause upon \*\*\* prior notice to Neoprobe. During the last \*\*\* of the notice period, Kol shall use reasonable commercial efforts to assist in the transition of the Product marketing back to Neoprobe or to Neoprobe's designee and to introduce the new marketing/sales force to the customer base for the Product in the Territory. During the last \*\*\* of the notice period, the provisions of Section 2.07 relating to quota shall not apply. At the end of the notice period the Agreement shall automatically terminate (the "Effective Date of Termination").

6.07 Termination Fee. As used in this Article VI, the term "Termination Fee" shall mean an amount equal to "Multiplier" times the "Termination Amount." As used herein, the term "Multiplier" means a number equal to \*\*\*. The

"Termination Amount" shall be equal to \*\*\* of Neoprobe's average monthly Net Sales for the \*\*\* period preceding the Effective Date of Termination. Schedule 6.07 attached hereto sets forth an example of the calculation described in this Section 6.07. The Termination Fee shall be paid to Kol in \*\*\* equal installments paid at \*\*\* intervals. The first such payment to be made within \*\*\* days after the Effective Date of Termination. Interest on the unpaid balance of the Termination Fee shall accrue at a rate of \*\*\* per annum and shall be paid currently with each installment.

6.08 Non-competition After Termination. Provided that Kol is receiving the Termination Fee as specified by Section 6.07, Kol agrees that it will not distribute, market promote or sell a product competitive with the Products covered by this Agreement for a period of twelve (12) months following the Effective date of Termination.

6.09 Termination Does Not Affect Accrued Rights. Termination or expiration of this Agreement, pursuant to any of the provisions of this Article VI, shall not affect any rights or obligations which may have accrued to either party prior to the effective date of such termination or expiration.

6.10 Obligations Surviving Termination. The obligations of confidentiality as provided in Article X and of indemnification as provided in Article IX shall survive the expiration or termination of this Agreement.

6.11 Termination Upon Change of Control of Kol. Neoprobe may terminate this Agreement following a "Change of Control" with respect to Kol if (a) immediately following such Change of Control there is a material adverse change in the capability of Kol to fulfill its obligations under this Agreement from that which existed immediately prior to the Change of Control, or (b) the Person acquiring Kol is a competitor of Neoprobe. As used in this Section 6.11 the term "Change of Control" with respect to Kol shall mean and shall be deemed to have occurred if: (i) the present ownership of Kol either directly or indirectly through one or more Affiliates shall not at any time "control" (as defined in Section 1.01) or have the power to control the actions, management or policies of KOL, or (ii) all or substantially all of the assets of Kol

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shall be sold, transferred or otherwise conveyed in any transaction or series of related transactions (which shall include, without limitation, a merger or consolidation in which Kol is not the surviving entity) to any Person who is not controlled by Kol or an Affiliate. The term "competitor", as used in this Section 6.11, means any Person whose product lines could reasonably be expected to diminish the sales of the Product.

6.12 Termination Upon Change of Control of Neoprobe. Kol may terminate this Agreement following a "Change of Control" with respect to Neoprobe if (a) immediately following such Change of Control there is a material adverse change in the capability of Neoprobe to fulfill its obligations under this Agreement from that which existed immediately prior to the Change of Control, or (b) this Agreement is not assigned or assumed by the Person acquiring Neoprobe. As used in this Section 6.11 the term "Change of Control" with respect to Neoprobe shall mean and shall be deemed to have occurred if: (i) the present ownership of Neoprobe either directly or indirectly through one or more Affiliates shall not at any time "control" (as defined in Section 1.01) or have the power to control the actions, management or policies of Neoprobe, or (ii) all or substantially all of the assets of Neoprobe shall be sold, transferred or otherwise conveyed in any transaction or series of related transactions (which shall include, without limitation, a merger or consolidation in which Neoprobe is not the surviving entity) to any Person who is not controlled by Neoprobe or an

Affiliate. In the event of a termination pursuant to this Section 6.12, Neoprobe shall pay Kol a "Termination Fee" as defined in Section 6.07 herein.

6.13 Buy-Back of Demonstration Units. In the event this Agreement is terminated by Neoprobe pursuant to Section 6.04 or Section 6.05 or by Kol pursuant to Section 6.12 and if requested by Kol, Neoprobe shall be obligated to promptly repurchase any demonstration unit sold to Kol during the \*\*\* period preceding the date of termination; provided, however, that Neoprobe shall only be obligated to repurchase a demonstration unit that is in reasonable condition and that has not been subjected to excessive wear and tear. The repurchase price shall be the invoice price of the unit less \*\*\*.

#### ARTICLE VII. REGULATORY ACTIVITIES AND RESPONSIBILITY

7.01 Regulatory Activities. Neoprobe shall have sole responsibility for all communications to the FDA relating to the Product.

7.02 Adverse Experiences and Product Complaints. Each party shall notify the other within three (3) business days of any serious and life-threatening adverse experiences related to the Product of which it becomes aware; Kol shall notify Neoprobe within ten (10) business days of any other adverse experiences related to the Product of which it becomes aware. Neoprobe shall provide Kol with a copy of the quarterly adverse experience report for the Product which Neoprobe is required by the Act to submit to the FDA. Kol shall notify Neoprobe of any Product complaint which it receives within thirty (30) days of receipt of such complaint. Neoprobe shall notify Kol of any serious complaints relating to the Product within thirty (30) days of becoming aware of such complaint.

7.03 Promotional Materials. All materials used by Kol to promote the Product shall be approved by Neoprobe prior to use by Kol.

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10

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#### ARTICLE VIII. REPRESENTATIONS AND WARRANTIES

8.01 Best Efforts. Kol represents and warrants that it shall use its best efforts to promote, market and sell Product in the Territory in accordance with the provisions set forth in this Agreement.

8.02 Promotion Within Product Labeling. Kol represents and warrants that all of its advertising and promotional activities relating to the Product shall be consistent with the Neoprobe provided or approved labeling, as such labeling may be amended from time to time.

8.03 Competing Products. Unless otherwise agreed to by Neoprobe, during the term of this Agreement, Kol represents and warrants that it will not distribute, market, promote or sell any product that is directly competitive with the Products marketed by Kol pursuant to this Agreement.

8.04 Product Manufactured Under GMP. Neoprobe represents and warrants that all Product covered by the terms of this Agreement shall be manufactured in accordance with the approved specifications for each such Product and cGMPs.

8.05 Product Warranty. Neoprobe represents and warrants that all Product sold pursuant to this Agreement shall be free from defects in materials and workmanship and shall be of merchantable quality and shall be produced in compliance with all applicable federal, state or local laws and regulations.

8.06 General Warranty. Each party hereby represents and warrants that:

- a) it has full power and authority to execute and deliver this Agreement and to consummate the transactions contemplated herein;
- b) this Agreement and the provisions hereof constitute the valid and legally binding obligations of each party and do not require the consent, approval or authorization of any Person, public or governmental authority or other entity;
- c) the execution and delivery of this Agreement by each party, and the performance of a party's obligations hereunder, are not in violation or breach of, and will not conflict with or constitute a default under the Articles of Incorporation or Bylaws of either party, or any material agreement, contract, commitment or obligation to which either Neoprobe or Kol is a Party or by which either of it is bound; and
- d) will not conflict with or violate any applicable law, rule, regulation, judgment, order or decree of any governmental agency or court having jurisdiction over either Party or its assets properties.

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11

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#### ARTICLE IX. INDEMNIFICATION AND INSURANCE

9.01 Neoprobe Indemnity. Neoprobe agrees to indemnify, protect, and defend Kol, its Affiliates and Subagents (collectively referred to as "Kol" in this Section 9.01) and hold Kol harmless from and against any claims, damages, liability, harm, loss, costs, penalties, lawsuits, threats of lawsuit, recalls or other governmental action, including reasonable attorneys' fees, which (i) arise as the result of Neoprobe's breach of this Agreement or of any warranty or representation made to Kol under this Agreement; or, (ii) which result from any claim made against Kol in connection with Neoprobe's sale of defective Product; or (iii) which result from the negligent acts or willful malfeasance on the part of Neoprobe or Neoprobe's employees or agents in connection with Neoprobe's registration or other activities or actions in connection with the Product; (iv) which result from Kol's use of promotional materials, provided by Neoprobe, so long as Kol's use is in accordance with the Agreement; or, (v) arise out of any tort claim, worker's compensation claims or other employment related claims of any agents or employees of Neoprobe; or (vi) which result from any claim of patent or trademark infringement made against Kol by a third party which arises as a consequence of Kol's promotion of the Product. Kol shall, upon the filing of any such legal claim or lawsuit against it, promptly notify Neoprobe, in writing, of any such claim and Neoprobe shall, at its expense, with attorneys reasonably acceptable to Kol, handle, defend and control such claim or lawsuit.

9.02 Kol Indemnity. Kol agrees to indemnify, protect, and defend Neoprobe and hold Neoprobe harmless from and against any claims, damages, liabilities, harm, loss, costs, penalties, lawsuits, threats of lawsuit, recalls or other governmental action, including reasonable attorneys' fees, which (i) arise out of Kol's breach of this Agreement or of any warranty or representation made to Neoprobe under this Agreement; or, (ii) result from the negligent acts or willful malfeasance on the part of Kol or Kol's employees or agents, in promoting the Product in a manner inconsistent with the Product's labeling; or, (iii) arise out of any tort claim, worker's compensation claims or other employment related claims of any agents or employees of Kol. Neoprobe shall, upon the filing of any such legal claim or lawsuit against Neoprobe, shall promptly notify Kol, in writing of any such claim and Kol shall, at its expense, with attorneys reasonably acceptable to Neoprobe, handle, defend, and control such claim or lawsuit.

9.03 Neoprobe Insurance. Neoprobe shall obtain and/or keep in force

during the term of this Agreement, including any renewals thereof, policies of insurance covering the Product and general comprehensive liability covering the sale and distribution of the Product, in the Territory in an amount of at least \*\*\* with no more than \*\*\* deductible per claim for all products liability claims involving the Products. Such insurance shall provide that it shall not be canceled by the insurer without thirty (30) days' prior written notice thereof to KOL. If requested by Kol, Neoprobe will supply Kol with a certificate of insurance evidencing that such insurance is in force.

9.04 Kol Insurance. Kol shall obtain and/or keep in force during the term of this Agreement, including any renewals thereof, general comprehensive liability insurance. Such insurance shall provide that it shall not be canceled by the insurer without thirty (30) days' prior written notice thereof to Neoprobe. If requested by Neoprobe, Kol shall supply Neoprobe with a certificate of insurance evidencing that such insurance is in force.

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12

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## ARTICLE X. CONFIDENTIALITY

10.01 Confidential Information. Except for the proper exercise of any rights granted or reserved under other provisions of this Agreement, each party agrees that it will take such precautions as it normally takes with its own confidential or proprietary information to keep confidential and not to publish or otherwise disclose to a third party except as permitted or anticipated herein, any information of a confidential or proprietary nature furnished by the other party to it in connection with this Agreement, including, without limitation, technology, marketing strategy, specifications, product information, sales force information, sales data, marketing plans, trade secrets, call lists, business information, and adverse reaction reports (together called "Confidential Information") without the prior written consent of the other party, except to the extent that such Confidential Information is required to be disclosed for the purpose of complying with law or government regulations.

10.02 Period of Confidentiality. The obligation of confidentiality hereunder shall remain in effect for two (2) years from the expiration or termination of this Agreement; provided, however, that nothing in this Article X shall prevent disclosure or use by the receiving party of any part of the Confidential Information of the other party which:

- a) was known or used by the receiving party prior to disclosure, as evidenced by its written records made prior to the time of disclosure hereunder;
- b) either before or after the time of disclosure becomes known to the public other than by an unauthorized act or omission of the receiving party;
- c) is lawfully disclosed to the receiving party by a third party having the right to disclose said Confidential Information; or
- d) is developed by the receiving party independently from the Confidential Information provided by the other party hereto as evidenced by the receiving party's written records.

10.03 Right to Use Confidential Information. Notwithstanding the restrictions set forth in this Article X, each party shall be entitled at all times to use all Confidential Information provided by the other party in order to perform its obligations or exercise its rights under this Agreement.

## ARTICLE XI. PUBLIC ANNOUNCEMENTS

11.01 Public Announcement. No press releases or other public announcements concerning Kol's appointment hereunder or concerning this



Agreement shall be made without the prior mutual consent of the parties.

11.02 Specific Terms Not To Be Disclosed. Neither Neoprobe nor Kol shall publicly disclose the specific terms of this Agreement other than what may be required by the Securities Exchange Commission (SEC). Except as required by SEC filings, the transactions

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contemplated hereby or performance hereunder shall not be disclosed without first obtaining the written consent of the other party unless there has been a prior public disclosure of the information being disclosed by the other party or with the other party's consent.

#### ARTICLE XII. MISCELLANEOUS

12.01 Force Majeure. Except as specifically set forth herein, neither Neoprobe nor Kol shall be in default under this Agreement nor liable for any failure to perform or for delay in performance resulting from any cause beyond its reasonable control or due to compliance with any regulations, orders, or act of any federal, provincial, state or municipal government, or any department or agency thereof, civil or military authority; acts of God, acts or omissions of the other party, fires, floods or weather; strikes or lockouts; factory shutdowns, embargoes, wars, hostilities or riots; delays or shortages in transportation; or inability to obtain labor, manufacturing facilities or material.

12.02 Taxes. Each of the parties shall bear all taxes imposed on it as a result of its performance or receipt of funds under this Agreement including, but not restricted to, any sales tax, any tax on or measured by any royalty or other payment required to be made by it hereunder, any registration tax, any tax imposed with respect to the granting of or transfer of licenses or other rights hereunder or the payment or receipt of royalties hereunder. The parties shall cooperate fully with each other in obtaining and filing all requisite certificates and documents with the appropriate authorities and shall take such further action as may reasonably be necessary to avoid the deduction of any withholding or similar taxes from any remittance of funds by Kol to Neoprobe hereunder.

12.03 Notices. All notices, proposals, submissions, offers, approvals, agreements, elections, consents, acceptances, waivers, reports, plans, requests, instructions and other communications required or permitted to be made or given hereunder (all of the foregoing hereinafter collectively referred to as "Communications") shall be in writing, in the English language, and shall be deemed to have been duly made or given when (i) delivered personally with receipt acknowledged, (ii) mailed in any general or branch United States Post Office, enclosed in a registered or certified postage-paid envelope, return receipt requested, or (iii) sent by facsimile, telex or cablegram (which shall promptly be confirmed by a writing sent by registered or certified mail, return receipt requested), or (iv) sent by recognized overnight courier for next day delivery, in each case addressed or sent to the parties at the following addresses and facsimile numbers or to such other or additional address or facsimile number as any party shall hereafter specify by Communication to the other parties:

TO KOL:                   Kol Bio-Medical Instruments, Inc.  
13901 Willard Road,  
Chantilly, Virginia 20151  
Attention: CEO/Chairman  
Fax #: 703/3784-4936

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information, has been replaced by "\*\*\*\*" in this Exhibit.

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TO NEOPROBE:        President/CEO  
                         Neoprobe Corporation  
                         425 Metro Pl. N., Suite 300  
                         Dublin, Ohio 43017  
                         Fax #: 614/795-7520

Notice of change of address shall be deemed given when actually received; all other communications shall be deemed to have been given, received and dated on the earlier of: (i) when actually received or on the date when delivered personally; or, (ii) one day after being sent by facsimile, cable, telex (each promptly confirmed by a writing as aforesaid) or overnight courier and four (4) business days after mailing.

12.04 Agreement Subject to Applicable Law. Neoprobe agrees that its rights under this Agreement shall be subject to any limitations or restrictions imposed on Kol by the laws or regulations of the U.S. or any respective agency thereof, and Neoprobe agrees to take no action which would cause Kol to be in violation of any such laws or regulations.

12.05 Governing Law. The provisions of this Agreement shall be construed in accordance with the laws of the State of Ohio.

12.06 Other Instruments. The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become reasonably necessary or convenient to effectuate and carry out the provisions of this Agreement or may be reasonably requested by the other party.

12.07 Legal Construction. In case any one or more of the provisions contained in this Agreement shall be invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby and the parties will attempt to agree upon a valid and enforceable provision which shall be a reasonable substitute for such invalid and unenforceable provision in light of the tenor of this Agreement, and, upon so agreeing, shall incorporate such substitute provision in this Agreement.

12.08 Entire Agreement, Modification, Consents and Waivers. This Agreement supersedes all prior agreements, written or oral, between the parties whether with respect to the subject matter herein, and contains the entire agreement of the parties with respect to the subject matter hereof and, except as provided herein, no interpretation, change, termination or waiver of or extension of time for performance under any provision of this Agreement shall be binding upon any party unless in writing and signed by the party intended to be bound thereby. Receipt by any party of money or other consideration due under this Agreement, with or without knowledge of breach, shall not constitute a waiver of such breach or any provision of this Agreement. Except as otherwise provided in this Agreement, no waiver of or other failure to exercise any right under, or default or extension of time for performance under, any provision of this Agreement shall affect the right of any party to exercise any subsequent right under or otherwise enforce said provision or any other provision hereof or to exercise any right or remedy in the event of any other default, whether or not similar.

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12.09 Section Headings; Construction. The section headings and titles contained herein are each for reference only and shall not be deemed to affect the meaning or interpretation of this Agreement. The words "hereby", "herein", "hereinabove", "hereinafter", "hereof" and "hereunder, when used anywhere in this Agreement, refer to this Agreement as a whole and not merely to a subdivision in which such words appear, unless the context otherwise requires. The singular shall include the plural, the conjunctive shall include the disjunctive and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires.

12.10 Execution Counterparts. This Agreement may be executed in any number of counterparts and each duplicate counterpart shall constitute an original, any one of which may be introduced in evidence or used for any other purpose without the production of its duplicate counterpart. Moreover, notwithstanding that any of the parties did not execute the same counterpart, each counterpart shall be deemed for all purposes to be an original, and all such counterparts shall constitute one and the same instrument, binding on all of the parties hereto.

12.11 Consents and Approval. Unless otherwise expressly provided herein, whenever in this Agreement a consent or approval is to be given by any party hereto, such consent or approval may be given or withheld, as the case may be, in the sole and absolute discretion of such party.

12.12 Arbitration. In the event of a dispute between Neoprobe and Kol relating to a party's performance under this Agreement or a disagreement as to the meaning of any of the terms of this Agreement, the parties agree to hold good faith discussions to resolve such dispute. If the parties can not resolve such dispute within sixty (60) days after beginning good faith negotiations, the parties agree to submit the dispute to arbitration for final resolution. The arbitration shall be conducted by three (3) arbitrators in accordance with the commercial rules of the American Arbitration Association, which shall administer the arbitration and act as appointing authority. The arbitration, including the rendering of the award, shall take place in Philadelphia, Pennsylvania and such location shall be the exclusive forum for resolving such dispute, controversy or claim. The decision of the majority of the arbitrators shall be binding upon the parties hereto, and the expense of the arbitration shall be paid as the arbitrators determine. The decision of the arbitrators shall be executory, and judgment thereon may be entered by any court of competent jurisdiction. The arbitrators shall award attorneys' fees to the prevailing party.

#### ARTICLE XIII. RELATIONSHIP OF THE PARTIES

13.01 Relationship of the Parties. Nothing contained in this Agreement shall be deemed to create a partnership or joint venture between the parties, and each of the parties shall in all matters connected herewith be independent contractors. Neither of the parties hereto shall hold itself out as the agent of the other, nor shall either of the parties incur any indebtedness or obligation in the name of, or which shall be binding on the other, without the prior written consent of the other. No employees, agents, or sales representatives of either party shall be deemed employees, agents or sales representatives of the other party.

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#### ARTICLE XIV. BINDING EFFECT, ASSIGNMENT

14.01 Binding Effect, Assignment. This Agreement shall inure to the benefit and be binding upon each of the parties hereto and their respective successors and assigns. Neither this Agreement, nor any of the rights and obligations under this Agreement, may be assigned, transferred or otherwise disposed of by either party without the prior consent of the other party, unless, such assignment, transfer or disposition is to a successor to all the



19 mm Detector Probe Shield 1016

ACCESSORIES

-----

Reusable Detector Probe Cable	1003	
North American Battery Charger Transformer		1504
Model 1500 Operation Video	1502	
Background Shield	1007	
Model 1500 Operation Manual	1508	
Carrying Case for Neoprobe 1500	1514	
Adaptor Cable (Hirose to LEMO)	2007	
neo2000 Operations Manual	2008	
AC power cord	2009	
Accessories Case	2010	

SYSTEM PACKAGES

-----

Neoprobe 1500 with one 14 mm probe & accessories	1573	
Neoprobe 1500 with two 14 mm probes & accessories	1574	
Neoprobe 1500 with one each 14 & 19 mm probes & accessories		1575
Neoprobe 1500 with one 19 mm probe & accessories	1576	
neo2000 with one 14 mm probe & accessories	2073	
neo2000 with two 14 mm probes & accessories	2074	

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SCHEDULE 2.06

EXAMPLE OF DEMONSTRATION UNIT WARRANTY CALCULATION

<TABLE>  
<CAPTION>

EXAMPLE 1

EXAMPLE 2

<S>	<C>
10. Demonstration unit has an original warranty period of ***.	20. Demonstration unit has an original warranty period of ***.
30. Demo unit has *** remaining on original warranty period.	40. Demo unit has *** remaining on original warranty period.
50. The demo unit is refurbished and receives a *** warranty (***) .	60. The demo unit is refurbished and receives a *** warranty (***) .
70. The total warranty for the refurbished demo unit = *** (Item 2) plus *** (Item 3) for a total warranty of ***.	80. The total warranty for the refurbished demo unit = *** (Item 2) plus *** (Item 3) for a total warranty of ***; EXCEPT that the warranty period on a refurbished demo unit may not exceed the original warranty period of ***; accordingly, warranty for refurbished unit equals ***.

</TABLE>

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SCHEDULE 3.01

COMMISSION RATE

YEAR	NET SALES (\$)*	COMMISSION RATE (%)
1	***	***
	***	***
2	***	***
	***	***
3	***	***
	***	***
4 and up	***	***

\* Net Sales are in \*\*\* of dollars.

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19

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SCHEDULE 3.02

MILESTONE PAYMENTS

YEAR	NET SALES (\$)*	MILESTONE PAYMENT AMOUNT (\$)
1	At Least ***	***
	At Least ***	***
2	At Least ***	***
	At Least ***	***
3 and up		***

\* Net Sales are in \*\*\* of dollars.

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SCHEDULE 6.07

EXAMPLE OF CALCULATION OF TERMINATION FEE

HYPOTHETICAL EXAMPLE

<TABLE>  
<CAPTION>

ITEM	AMOUNT
-----	
<S>	<C>
1. Total Net Sales for *** Period Prior to Effective Date of Termination	***
-----	
1. Average Monthly Net Sales for *** Period Prior to Effective Date of Termination	***
-----	
2. Termination Amount = *** times Average Monthly Net Sales	***
-----	
1. Multiplier = ***	Effective Date of Termination = ***;
	Effective Date of Agreement = ***;
	***
-----	
1. Termination Fee = *** times the Termination Amount	***
-----	

</TABLE>

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Exhibit 11.1

NEOPROBE CORPORATION AND SUBSIDIARIES  
COMPUTATION OF NET LOSS PER SHARE

<TABLE>  
<CAPTION>

	Three Months Ended		
	March 31,		
	1999	1998	
	----	----	
<S>	<C>	<C>	
Loss attributable to common shareholders		\$ (3,119,272)	\$ (7,063,612)

Weighted average number of shares outstanding:

Weighted average common shares outstanding beginning of period	22,887,910	22,763,430
--	------------	------------

Weighted average common shares issued during period	60,444	15,847
	=====	=====

Weighted average number of shares outstanding used in computing basic net loss per share	22,948,354	22,779,277
	=====	=====

Weighted average number of shares used in computing diluted net loss per share	22,948,354	22,779,277
	=====	=====

Earnings (Net Loss) Per Share:

Basic	\$ (0.14)	\$ (0.31)
	=====	=====
Diluted	\$ (0.14)	\$ (0.31)
	=====	=====

</TABLE>



<TABLE> <S> <C>

<ARTICLE> 5

<CIK> 0000810509

<NAME> NEOPROBE CORPORATION

<S>	<C>
<PERIOD-TYPE>	3-MOS
<FISCAL-YEAR-END>	DEC-31-1999
<PERIOD-START>	JAN-01-1999
<PERIOD-END>	MAR-31-1999
<CASH>	3,933,829
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<RECEIVABLES>	2,027,771
<ALLOWANCES>	114,000
<INVENTORY>	1,491,174
<CURRENT-ASSETS>	8,118,716
<PP&E>	3,069,477
<DEPRECIATION>	1,732,418
<TOTAL-ASSETS>	11,965,470
<CURRENT-LIABILITIES>	5,504,435
<BONDS>	130,469
<PREFERRED-MANDATORY>	1,814,525
<PREFERRED>	0
<COMMON>	22,968
<OTHER-SE>	4,493,073
<TOTAL-LIABILITY-AND-EQUITY>	11,965,470
<SALES>	1,910,971
<TOTAL-REVENUES>	1,910,971
<CGS>	619,653
<TOTAL-COSTS>	619,653
<OTHER-EXPENSES>	462,335
<LOSS-PROVISION>	0
<INTEREST-EXPENSE>	16,526
<INCOME-PRETAX>	(1,307,747)
<INCOME-TAX>	0
<INCOME-CONTINUING>	(1,307,747)
<DISCONTINUED>	0
<EXTRAORDINARY>	0
<CHANGES>	0
<NET-INCOME>	(1,307,747)
<EPS-PRIMARY>	(0.14)
<EPS-DILUTED>	(0.14)

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