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

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**FORM 10-Q**

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 For the quarterly period ended June 30, 2021.

OR

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

Commission File Number: **001-38546**

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**NEURONETICS, INC.**

(Exact name of registrant as specified in its charter)

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**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**33-1051425**  
(I.R.S. Employer Identification No.)

**3222 Phoenixville Pike, Malvern, PA**  
(Address of principal executive offices)

**19355**  
(Zip Code)

**(610) 640-4202**  
(Registrant's telephone number, including area code)

**Not applicable.**

(Former name, former address and former fiscal year, if changed since last report)

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

Title of each class	Trading Symbol (s)	Name on each exchange on which registered
Common Stock (\$0.01 par value)	STIM	The Nasdaq Global Market

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

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

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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

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

There were 26,318,346 shares of the registrant's common stock outstanding as of July 28, 2021.

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NEURONETICS, INC.

Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2021

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## PART I - FINANCIAL INFORMATION

## Item 1. Financial Statements.

**NEURONETICS, INC.**  
**Balance Sheets**  
**(Unaudited; In thousands, except per share data)**

	June 30, 2021	December 31, 2020
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 115,783	\$ 48,957
Accounts receivable, net	9,002	7,166
Inventory	5,393	3,720
Current portion of net investments in sales-type leases	2,034	1,887
Current portion of prepaid commission expense	1,219	1,096
Prepaid expenses and other current assets	1,447	2,186
Total current assets	<u>134,878</u>	<u>65,012</u>
Property and equipment, net	708	730
Operating lease right-of-use assets	3,228	3,418
Net investments in sales-type leases	1,854	2,331
Prepaid commission expense	5,454	5,300
Other assets	1,976	1,866
Total Assets	<u>\$ 148,098</u>	<u>\$ 78,657</u>
<b>Liabilities and Stockholders' Equity</b>		
Current liabilities:		
Accounts payable	\$ 2,425	\$ 3,749
Accrued expenses	6,604	7,319
Deferred revenue	1,937	2,020
Current portion of operating lease liabilities	612	594
Current portion of long-term debt, net	—	—
Total current liabilities	<u>11,578</u>	<u>13,682</u>
Long-term debt, net	34,944	34,620
Deferred revenue	1,488	1,741
Operating lease liabilities	2,922	3,121
Total Liabilities	<u>50,932</u>	<u>53,164</u>
Commitments and contingencies (Note 16)	—	—
Stockholders' Equity:		
Preferred stock, \$0.01 par value: 10,000 shares authorized; no shares issued or outstanding at June 30, 2021 and December 31, 2020	—	—
Common stock, \$0.01 par value: 200,000 shares authorized; 26,167 and 19,114 shares issued and outstanding at June 30, 2021 and December 31, 2020, respectively	262	191
Additional paid-in capital	389,850	302,842
Accumulated deficit	<u>(292,946)</u>	<u>(277,540)</u>
Total Stockholders' Equity	<u>97,166</u>	<u>25,493</u>
Total Liabilities and Stockholders' Equity	<u>\$ 148,098</u>	<u>\$ 78,657</u>

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

**NEURONETICS, INC.**  
**Statements of Operations**  
(Unaudited; In thousands, except per share data)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Revenues	\$ 14,203	\$ 9,741	\$ 26,491	\$ 21,217
Cost of revenues	2,750	2,323	4,971	5,134
Gross Profit	<u>11,453</u>	<u>7,418</u>	<u>21,520</u>	<u>16,083</u>
Operating expenses:				
Sales and marketing	9,042	8,151	17,604	18,874
General and administrative	6,681	4,010	12,785	9,298
Research and development	2,294	2,116	4,604	5,137
Total operating expenses	<u>18,017</u>	<u>14,277</u>	<u>34,993</u>	<u>33,309</u>
Loss from Operations	<u>(6,564)</u>	<u>(6,859)</u>	<u>(13,473)</u>	<u>(17,226)</u>
Other (income) expense:				
Interest expense	977	986	1,962	2,509
Loss on extinguishment of debt	—	—	—	924
Other income, net	(16)	(80)	(29)	(281)
Net Loss	<u>\$ (7,525)</u>	<u>\$ (7,765)</u>	<u>\$ (15,406)</u>	<u>\$ (20,378)</u>
Net loss per share of common stock outstanding, basic and diluted	<u>\$ (0.29)</u>	<u>\$ (0.41)</u>	<u>\$ (0.63)</u>	<u>\$ (1.09)</u>
Weighted-average common shares outstanding, basic and diluted	<u>25,903</u>	<u>18,747</u>	<u>24,608</u>	<u>18,714</u>

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

**NEURONETICS, INC.**  
**Statements of Changes in Stockholders' Equity**  
**(Unaudited; In thousands)**

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount			
Balance at December 31, 2019	18,645	\$ 186	\$ 297,753	\$ (250,087)	\$ 47,852
Share-based awards and options exercises	81	1	75	—	76
Share-based compensation expense	—	—	1,196	—	1,196
Net loss	—	—	—	(12,613)	(12,613)
Balance at March 31, 2020	<u>18,726</u>	<u>\$ 187</u>	<u>\$ 299,024</u>	<u>\$ (262,700)</u>	<u>\$ 36,511</u>
Share-based awards and options exercises	83	1	47	—	48
Share-based compensation expense	—	—	646	—	646
Net loss	—	—	—	(7,765)	(7,765)
Balance at June 30, 2020	<u>18,809</u>	<u>\$ 188</u>	<u>\$ 299,717</u>	<u>\$ (270,465)</u>	<u>\$ 29,440</u>
Balance at December 31, 2020	19,114	\$ 191	\$ 302,842	\$ (277,540)	\$ 25,493
Share-based awards and options exercises	1,076	11	1,581	—	1,592
Issuance of common stock, net of issuance costs of \$401	5,566	56	80,515	—	80,571
Share-based compensation expense	—	—	2,196	—	2,196
Net loss	—	—	—	(7,881)	(7,881)
Balance at March 31, 2021	<u>25,756</u>	<u>\$ 258</u>	<u>\$ 387,134</u>	<u>\$ (285,421)</u>	<u>\$ 101,971</u>
Share-based awards and options exercises	411	4	707	—	711
Share-based compensation expense	—	—	2,009	—	2,009
Net loss	—	—	—	(7,525)	(7,525)
Balance at June 30, 2021	<u>26,167</u>	<u>\$ 262</u>	<u>\$ 389,850</u>	<u>\$ (292,946)</u>	<u>\$ 97,166</u>

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

**NEURONETICS, INC.**  
**Statements of Cash Flows**  
**(Unaudited; In thousands)**

	<b>Six Months Ended June 30,</b>	
	<b>2021</b>	<b>2020</b>
<b>Cash Flows from Operating Activities:</b>		
Net loss	\$ (15,406)	\$ (20,378)
<b>Adjustments to reconcile net loss to net cash used in operating activities:</b>		
Depreciation and amortization	552	534
Share-based compensation	4,205	1,842
Non-cash interest expense	324	944
Cost of rental units purchased by customers	137	122
Loss on extinguishment of debt	—	622
<b>Changes in certain assets and liabilities:</b>		
Accounts receivable, net	(1,835)	(66)
Inventory	(1,673)	(557)
Net investments in sales-type leases	330	(777)
Leasehold reimbursement	—	836
Prepaid commission expense	(278)	(723)
Prepaid expenses and other assets	1,120	356
Accounts payable	(1,365)	(2,408)
Accrued expenses	(715)	(3,492)
Deferred revenue	(336)	14
Net Cash Used in Operating Activities	<u>(14,940)</u>	<u>(23,131)</u>
<b>Cash Flows from Investing Activities:</b>		
Purchases of property and equipment and capitalized software	<u>(1,108)</u>	<u>(484)</u>
Net Cash Used in Investing Activities	<u>(1,108)</u>	<u>(484)</u>
<b>Cash Flows from Financing Activities:</b>		
Proceeds from issuance of long-term debt	—	41,360
Repayment of long-term debt	—	(38,860)
Payments of debt issuance costs	—	(721)
Proceeds from exercises of stock options	2,303	124
Proceeds from the issuance of common stock	80,972	—
Payments of common stock offering issuance costs	(401)	—
Net Cash Provided by Financing Activities	<u>82,874</u>	<u>1,903</u>
Net Increase (Decrease) in Cash and Cash Equivalents	<u>66,826</u>	<u>(21,711)</u>
Cash and Cash Equivalents, Beginning of Period	48,957	75,708
Cash and Cash Equivalents, End of Period	<u>\$ 115,783</u>	<u>\$ 53,997</u>
<b>Supplemental disclosure of cash flow information:</b>		
Cash paid for interest	\$ 1,638	\$ 2,227
<b>Supplemental disclosure of non-cash investing and financing activities:</b>		
Purchases of property and equipment and capitalized software in accounts payable and accrued expenses	\$ 41	\$ 80

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

**NEURONETICS, INC.**  
**Notes to Interim Financial Statements**  
**(Unaudited)**

**1. DESCRIPTION OF BUSINESS**

Neuronetics, Inc., or the Company, is a commercial stage medical technology company focused on designing, developing and marketing products that improve the quality of life for patients who suffer from psychiatric disorders. The Company's first commercial product, the NeuroStar Advanced Therapy System, is a non-invasive and non-systemic office-based treatment that uses transcranial magnetic stimulation, or TMS, to create a pulsed, MRI-strength magnetic field that induces electrical currents designed to stimulate specific areas of the brain associated with mood. The system was cleared in 2008 by the United States Food and Drug Administration, or the FDA, to treat adult patients with major depressive disorder, or MDD, who have failed to achieve satisfactory improvement from prior antidepressant medication in the current episode. NeuroStar Advanced Therapy is also available in other parts of the world, including Japan, where it is listed under Japan's national health insurance. The Company intends to continue to pursue development of its NeuroStar Advanced Therapy System for additional indications.

**COVID-19**

The Company is continuing to monitor the impact of the COVID-19 pandemic on all aspects of its business and geographies, including how it will continue to impact the Company's customers, supply chain, employees and other business partners. While the Company began to experience significant disruptions in March 2020 through the end of June 30, 2021 from the COVID-19 pandemic, it is unable to predict the full impact that the pandemic may have on its financial condition, results of operations and cash flows due to numerous uncertainties. These uncertainties include the scope, severity and duration of the pandemic, the actions taken to contain the pandemic or mitigate its impact and the direct and indirect economic effects of the pandemic and containment measures, among others. The pandemic has significantly adversely impacted global economic activity and has contributed to significant volatility and negative pressure in financial markets, and may contribute to periods of economic uncertainty in the future.

The Company applied for and received a \$6.4 million loan in April 2020 under the Paycheck Protection Program (the "PPP") established by the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") on March 27, 2020. Due to questions concerning the eligibility of public companies similarly situated to the Company, on May 7, 2020, the Company repaid the loan in full, including interest accrued to date.

**Liquidity**

As of June 30, 2021, the Company had cash and cash equivalents of \$115.8 million and an accumulated deficit of \$292.9 million. The Company incurred negative cash flows from operating activities of \$14.9 million for the six months ended June 30, 2021 and \$28.4 million for the year ended December 31, 2020. The Company has incurred operating losses since its inception, and management anticipates that its operating losses will continue in the near term as the Company continues to invest in sales, marketing and product development activities. The Company's primary sources of capital to date have been proceeds from its IPO, private placements of its convertible preferred securities, borrowings under its credit facilities, proceeds from its secondary public offering of common stock, revenues from sales of its products and other public offerings of the Company's common stock. As of June 30, 2021, the Company had \$35.0 million of borrowings outstanding under its credit facility, which has a final maturity in February 2025. Management believes that the Company's cash and cash equivalents as of June 30, 2021, and anticipated revenues from sales of its products are sufficient to fund the Company's operations for at least the next 12 months from the issuance of these financial statements.

**2. BASIS OF PRESENTATION**

The accompanying financial statements have been prepared in accordance with United States generally accepted accounting principles, or GAAP. Any reference in these notes to applicable guidance is meant to

**NEURONETICS, INC.**  
**Notes to Interim Financial Statements**  
**(Unaudited)**

refer to GAAP as found in the Accounting Standards Codification, or ASC, and Accounting Standards Updates, or ASUs, promulgated by the Financial Accounting Standards Board, or FASB.

**Interim Financial Statements**

The accompanying unaudited interim financial statements have been prepared from the books and records of the Company in accordance with GAAP for interim financial information and Rule 10-01 of Regulation S-X promulgated by the United States Securities and Exchange Commission, or SEC, which permit reduced disclosures for interim periods. All adjustments, consisting only of normal recurring adjustments, necessary for a fair presentation of the accompanying balance sheets and statements of operations and stockholders' deficit and cash flows have been made. Although these interim financial statements do not include all of the information and footnotes required for complete annual financial statements, management believes the disclosures are adequate to make the information presented not misleading. Unaudited interim results of operations and cash flows for the three and six months ended June 30, 2021 are not necessarily indicative of the results that may be expected for the full year. Unaudited interim financial statements and footnotes should be read in conjunction with the audited financial statements and footnotes included in the Company's Form 10-K filed with the SEC on March 2, 2021, wherein a more complete discussion of significant accounting policies and certain other information can be found.

**Use of Estimates**

The preparation of financial statements in accordance with GAAP and the rules and regulations of the SEC requires the use of estimates and assumptions, based on judgments considered reasonable, which affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. The Company bases its estimates and assumptions on historical experience, known trends and events and various other factors that management believes to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Although management believes its estimates and assumptions are reasonable when made, they are based upon information available at the time they are made. Management evaluates the estimates and assumptions on an ongoing basis and, if necessary, makes adjustments. Due to the risks and uncertainties involved in the Company's business and evolving market conditions, including those related to the COVID-19 pandemic, and given the subjective element of the estimates and assumptions made, actual results may differ materially from estimated results.

**3. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

The Company's complete summary of significant accounting policies can be found in "Note 3. Summary of Significant Accounting Policies" in the audited financial statements included in the Company's Form 10-K filed with the SEC on March 2, 2021.

**4. RECENT ACCOUNTING PRONOUNCEMENTS**

***New Accounting Standards Not Yet Adopted by the Company***

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments* ("Topic 326"). This ASU provides guidance for recognizing credit losses on financial instruments based on an estimate of current expected credit losses model. The FASB subsequently issued ASU 2019-04, to clarify and address certain items related to the amendments in Topic 326.

ASU 2019-05, *Financial Instruments - Credit Losses (Topic 326): Targeted Transition Relief*, was issued to provide entities that have certain instruments within the scope of ASC 326 with an option to irrevocably elect

**NEURONETICS, INC.**  
**Notes to Interim Financial Statements**  
**(Unaudited)**

the fair value option under *ASC 825-10, Financial Instruments - Overall*, applied on an instrument-by-instrument basis for eligible instruments. ASU 2019-10, Topic 326, Topic 815, and Topic 842 amends the mandatory effective date for Topic 326.

These ASUs are effective for fiscal years beginning after December 15, 2022 for entities that are eligible to be defined by the SEC as a smaller reporting company. The Company is a smaller reporting company. Although the impact upon adoption will depend on the financial instruments held by the Company at that time, the Company does not anticipate a significant impact on its financial statements based on the instruments currently held and its historical trend of bad debt expense relating to trade accounts receivable.

Other than the items noted above, there have been no new accounting pronouncements not yet effective or adopted in the current year that we believe have a significant impact, or potential significant impact, to our unaudited interim financial statements.

**5. FAIR VALUE MEASUREMENT AND FINANCIAL INSTRUMENTS**

The carrying values of cash equivalents, accounts receivable, prepaids and other current assets, and accounts payable on the Company's balance sheets approximated their fair values as of June 30, 2021 and December 31, 2020 due to their short-term nature. The carrying values of the Company's credit facility approximated its fair value as of June 30, 2021 and December 31, 2020 due to its variable interest rate.

Certain of the Company's financial instruments are measured at fair value using a three-level hierarchy that prioritizes the inputs used to measure fair value. This hierarchy maximizes the use of observable inputs and minimizes the use of unobservable inputs. The three levels of inputs used to measure fair value are as follows:

Level 1: Inputs are quoted prices for identical instruments in active markets.

Level 2: Inputs are quoted prices for similar instruments in active markets; quoted prices for identical or similar instruments in markets that are not active; or model-derived valuations whose inputs are observable or whose significant value drivers are observable.

Level 3: Inputs are unobservable and reflect the Company's own assumptions, based on the best information available, including the Company's own data.

**NEURONETICS, INC.**  
**Notes to Interim Financial Statements**  
**(Unaudited)**

The following tables set forth the carrying amounts and fair values of the Company's financial instruments as of June 30, 2021 and December 31, 2020 (in thousands):

	June 30, 2021				
	Carrying Amount	Fair Value	Fair Value Measurement Based on		
			Quoted Prices In Active Markets (Level 1)	Significant other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
<b>Assets</b>					
Money market funds (cash equivalents)	\$ 114,626	\$ 114,626	\$ 114,626	\$ —	\$ —

  

	December 31, 2020				
	Carrying Amount	Fair Value	Fair Value Measurement Based on		
			Quoted Prices In Active Markets (Level 1)	Significant other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
<b>Assets</b>					
Money market funds (cash equivalents)	\$ 47,117	\$ 47,117	\$ 47,117	\$ —	\$ —

**6. ACCOUNTS RECEIVABLE**

The following table presents the composition of accounts receivable, net as of June 30, 2021 and December 31, 2020 (in thousands):

	June 30, 2021	December 31, 2020
Gross accounts receivable - trade	\$ 9,926	\$ 8,178
Less: Allowances for doubtful accounts	(924)	(1,012)
Accounts receivable, net	<u>\$ 9,002</u>	<u>\$ 7,166</u>

**7. PROPERTY AND EQUIPMENT AND CAPITALIZED SOFTWARE**

The following table presents the composition of property and equipment, net as of June 30, 2021 and December 31, 2020 (in thousands):

	June 30, 2021	December 31, 2020
Laboratory equipment	\$ 184	\$ 150
Office equipment	497	487
Computer equipment and software	1,541	1,360
Manufacturing equipment	327	273
Leasehold improvements	459	459
Rental equipment	131	405
Property and equipment, gross	3,139	3,134
Less: Accumulated depreciation	(2,431)	(2,404)
Property and equipment, net	<u>\$ 708</u>	<u>\$ 730</u>

As of June 30, 2021 and December 31, 2020, the Company had capitalized software costs, net of \$1.6 million and \$1.2 million, respectively, which are included in "Prepaid expenses and other current assets" and "Other assets" on the balance sheet.

**NEURONETICS, INC.**  
**Notes to Interim Financial Statements**  
**(Unaudited)**

Depreciation and amortization expense was \$0.3 million and \$0.2 million for the three months ended June 30, 2021 and 2020, respectively, and \$0.6 million and \$0.5 million for the six months ended June 30, 2021 and 2020, respectively.

## 8. LEASES

### *Lessee:*

The Company has operating leases for its corporate headquarters and office equipment, including copiers. The Company leases an approximately 32,000 square foot facility in Malvern, Pennsylvania for its corporate headquarters, which includes office and warehouse space. The Company does not currently have any finance leases or executed leases that have not yet commenced.

Operating lease rent expense was \$0.1 million and \$0.2 million for the three months ended June 30, 2021 and 2020, respectively, and \$0.3 million for the six months ended June 30, 2021 and 2020, respectively. As of June 30, 2021, the weighted-average remaining lease term of operating leases was 6.6 years and the weighted-average discount rate was 6.5%.

In the first quarter of 2020, the Company received a reimbursement of \$0.8 million for leasehold expenses previously incurred in connection with the lease agreement for its Malvern facility. The reimbursement was recorded as an offset to the non-current lease liability that was established when the lease agreement was executed.

The following table presents the supplemental cash flow information as a lessee related to leases (in thousands):

	<u>Six Months Ended</u>	
	<u>June 30, 2021</u>	<u>June 30, 2020</u>
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flows from operating leases	\$ 392	\$ 394

The following table sets forth by year the required future payments of operating lease liabilities (in thousands):

	<u>June 30, 2021</u>
Remainder of 2021	\$ 313
2022	639
2023	636
2024	646
2025	660
Thereafter	1,487
Total lease payments	4,381
Less imputed interest	(847)
Present value of operating lease liabilities	<u>\$ 3,534</u>

### *Lessor sales-type leases:*

Certain customers have purchased NeuroStar Advanced Therapy Systems on a rent-to-own basis. The lease term is three or four years with a customer option to purchase the NeuroStar Advanced Therapy System at the end of the lease or automatic transfer of ownership of the NeuroStar Advanced Therapy System at the end of the lease.

The following table sets forth the profit recognized on sales-type leases (in thousands):

**NEURONETICS, INC.**  
**Notes to Interim Financial Statements**  
**(Unaudited)**

	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	2021	2020	2021	2020
Profit recognized at commencement, net	\$ 148	\$ 474	\$ 281	\$ 726
Interest income	—	—	—	—
Total sales-type lease income	<u>\$ 148</u>	<u>\$ 474</u>	<u>\$ 281</u>	<u>\$ 726</u>

The following table sets forth a maturity analysis of the undiscounted lease receivables related to sales-type leases (in thousands):

	<u>June 30,</u> <u>2021</u>
Remainder of 2021	\$ 1,176
2022	1,804
2023	729
2024	140
2025	39
Total sales-type lease receivables	<u>\$ 3,888</u>

As of June 30, 2021, the carrying amount of the lease receivables is \$3.9 million. The Company does not have any unguaranteed residual assets.

*Lessor operating leases:*

NeuroStar Advanced Therapy Systems sold on a rent-to-own basis prior to January 1, 2019 are accounted for as operating leases. For the three months ended June 30, 2021 and 2020, the Company recognized operating lease income of \$0.1 million and \$0.1 million, respectively. For the six months ended June 30, 2021 and 2020, the Company recognized operating lease income of \$0.2 million and \$0.2 million, respectively.

The following table sets forth a maturity analysis of its undiscounted lease receivables related to operating leases as of June 30, 2021 (in thousands):

	<u>June 30,</u> <u>2021</u>
Remainder of 2021	\$ 18
Total lease receivables	<u>\$ 18</u>

The Company maintained Rental Equipment, net of \$0.1 million and \$0.2 million as of June 30, 2021 and December 31, 2020, respectively, which are included in "Property and equipment, net" on the balance sheet. Rental equipment depreciation expense was \$0.01 million and \$0.02 million for the three months ended June 30, 2021 and 2020, respectively, and \$0.02 million and \$0.05 million for the six months ended June 30, 2021 and 2020.

**9. PREPAID COMMISSION EXPENSE**

The Company pays a commission on both NeuroStar Advanced System sales and Treatment Session sales. Since the commission paid for System sales is not commensurate with the commission paid for Treatment Sessions, the Company capitalizes commission expense associated with NeuroStar Advanced Therapy System sales commissions paid that is incremental to specifically anticipated future Treatment Session orders. In developing this estimate, the Company considered its historical Treatment Session sales and customer retention rates, as well as technology development life cycles and other industry factors. These costs are periodically reviewed for impairment.

**NEURONETICS, INC.**  
**Notes to Interim Financial Statements**  
**(Unaudited)**

NeuroStar Advanced Therapy System commissions are deferred and amortized on a straight-line basis over a seven year period equal to the average customer term, which the Company deems to be the expected period of benefit for these costs.

On the Company's balance sheets, the current portion of capitalized contract costs is represented by the current portion of prepaid commission expense, while the long-term portion is included in prepaid commission expense. Amortization expense was \$0.3 million and \$0.2 million for the three months ended June 30, 2021 and 2020, respectively, and \$0.6 million and \$0.4 million for the six months ended June 30, 2021 and 2020, respectively.

#### 10. ACCRUED EXPENSES

The following table presents the composition of accrued expenses as of June 30, 2021 and December 31, 2020 (in thousands):

	June 30, 2021	December 31, 2020
Compensation and related benefits	\$ 3,707	\$ 5,023
Consulting and professional fees	525	292
Research and development expenses	539	138
Sales and marketing expenses	344	73
Warranty	381	536
Sales and other taxes payable	680	726
Other	428	531
Accrued expenses	<u>\$ 6,604</u>	<u>\$ 7,319</u>

#### 11. DEFERRED REVENUE

Payment terms typically require payment upon shipment or installation of the System and additional payments as access codes for Treatment Sessions are delivered, which can span several years after the System is first delivered and installed. The timing of revenue recognition compared to billings and cash collections typically results in accounts receivable. However, sometimes customer advances and deposits might be required for certain customers and are recorded as deferred revenue. For multi-year agreements, the Company generally invoices customers annually at the beginning of each annual coverage period and recognizes revenue over the term of the coverage period.

As of June 30, 2021, the Company expects to recognize approximately the following percentages of deferred revenue by year:

Year:	Revenue Recognition
Remainder of 2021	38 %
2022	23 %
2023	17 %
2024	17 %
2025	5 %
Thereafter	— %
Total	<u>100 %</u>

Revenue recognized for the three and six months ended June 30, 2021 that was included in the contract liability balance at the beginning of the year was \$0.3 million and \$1.5 million, respectively, and primarily represented revenue earned from separately priced extended warranties, rent-to-own revenue, milestone revenue, and clinical training.

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### Customers

For the three months ended June 30, 2021 and 2020, one customer accounted for more than 10% of the Company's revenues, respectively. For the six months ended June 30, 2021 and 2020, one customer accounted for more than 10% of the Company's revenues, respectively.

## 12. DEBT

The following table presents the composition of debt as of June 30, 2021 and December 31, 2020 (in thousands):

	June 30, 2021	December 31, 2020
Outstanding principal	\$ 35,000	\$ 35,000
Accrued final payment fees	1,925	1,925
Less debt discounts	<u>(1,981)</u>	<u>(2,305)</u>
Total debt, net	34,944	34,620
Less current portion	—	—
Long-term debt, net	<u>\$ 34,944</u>	<u>\$ 34,620</u>

For the three months ended June 30, 2021, the Company recognized interest expense of \$1.0 million, of which \$0.8 million was cash and \$0.2 million was non-cash interest expense related to the amortization of deferred debt issuance costs and accrual of final payment fees. For the three months ended June 30, 2020, the Company recognized interest expense of \$1.0 million, of which \$0.8 million was cash paid for interest during the period and \$0.2 million was non-cash interest expense related to the amortization of deferred debt issuance costs and accrual of final payment fees.

For the six months ended June 30, 2021, the Company recognized interest expense of \$2.0 million, of which \$1.7 million was cash and \$0.3 million was non-cash interest expense related to the amortization of deferred debt issuance costs and accrual of final payment fees. For the six months ended June 30, 2020, the Company recognized interest expense of \$2.5 million, of which \$2.2 million was cash paid for interest during the period and \$0.3 million was non-cash interest expense related to the amortization of deferred debt issuance costs and accrual of final payment fees.

### Solar Credit Facility

On March 2, 2020, the "Company entered into a loan and security agreement with Solar Capital Ltd., or Solar, as collateral agent, and other lenders defined in the agreement, for a credit facility, or the Solar Facility, that replaced the Company's previous \$35.0 million credit facility with Oxford Finance LLC, or Oxford, and such facility, the Oxford Facility.

The Solar Facility permits the Company to borrow up to an aggregate amount of \$50.0 million in two tranches of term loans, a "Term A Loan" and "Term B Loan." On March 2, 2020, the Company borrowed an aggregate amount of \$35.0 million, which was the aggregate amount available under the Term A Loan portion of the Solar Facility. The Term A Loan portion of the Solar Facility matures, and all amounts borrowed thereunder are due, on February 28, 2025. Under the Term B Loan portion of the Solar Facility, the Company is permitted to borrow, at its election, up to an aggregate amount of \$15.0 million, (i) upon the Company achieving a specified amount of trailing twelve months net product revenue, and (ii) assuming there has been no event of default under the Solar Facility prior to such election. Once the net product revenue condition has been satisfied, the Company may only make an election to borrow under the Term B Loan portion of the Solar Facility until the earlier of (a) December 15, 2021, (b) 30 days following achievement of the net product revenue condition or (c) the occurrence of an event of default.

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Each of the Term A Loan and Term B Loan accrue interest from the date of borrowing through the date of repayment at a floating per annum rate of interest, which resets monthly and is equal to 7.65% plus the greater of (a) 1.66% or (b) the rate per annum rate published by the Intercontinental Exchange Benchmark Administration Ltd. The Term A Loan and the Term B Loan both include an interest-only period through March 1, 2022, after which time the Company will be required to make monthly payments of principal and interest. Monthly principal payments are to be paid in equal amounts on a pro rata basis to lenders. At the Company's election, the interest only period may be extended through February 2023 if the Company satisfies a minimum net product revenue covenant through March 1, 2022 and no event of default shall have occurred.

In addition to the principal and interest payments due under the Solar Facility, the Company is required to pay a final payment fee to Solar due upon the earlier of prepayment, acceleration or the maturity date of the Term A Loan or Term B Loan portion of the Solar Facility equal to 5.50% of the principal amount of the term loans actually funded. The Company is accruing the final payment fees using the effective interest rate, with a charge to non-cash interest expense, over the term of borrowing. If the Company prepays either the of the Term A Loan or Term B Loan prior to their respective scheduled maturities, the Company will also be required to pay prepayment fees to Solar equal to 3% of the principal amount of such term loan then-prepaid if prepaid on or before the first anniversary of funding, 2% of the principal amount of such term loan then-prepaid if prepaid after the first anniversary and on or before the second anniversary of funding, or 1% of the principal amount of such term loan then-prepaid if prepaid after the second anniversary of funding of the principal amounts borrowed.

The Company is also required to pay Solar an exit fee upon the occurrence, prior to March 2, 2030, of (a) any liquidation, dissolution or winding up of the Company, (b) transaction that results in a person obtaining control over the Company, (c) the Company achieving \$100 million in trailing twelve month net product revenue or (d) the Company achieving \$125 million in trailing twelve month net product revenue. The exit fee for liquidation, dissolution, winding up or change of control of the Company is equal to 4.50% of the principal amount of the term loans actually funded. The exit fee for achieving either \$100 million or \$125 million in trailing twelve-month net product revenue is equal to 2.25% of the principal amount of the term loans actually funded or, if both net product revenue milestones are achieved, 4.50% of the principal amount of the term loans actually funded. The exit fee is capped at 4.50% of the principal amount of the term loans actually funded.

On December 8, 2020, the Company, Solar Capital Ltd., and our other lenders defined in the Solar Facility, executed an amendment to the Solar Facility (the "Solar Amendment"). The Solar Amendment divides the aggregate Term B Loan borrowing amount of \$15.0 million allowable upon our achievement of specific trailing twelve-month net product revenue targets into three separate \$5.0 million tranches ("Amended Term B Loan", "Term C Loan" and "Term D Loan"). The three tranches are available through June 20, 2021, December 20, 2021, and June 20, 2022, respectively, based on the achievement of agreed upon trailing twelve-month net product revenue targets for each tranche.

The Solar Amendment also reduces the trailing twelve-month net product revenue requirement for the Amended Term B Loan portion of the facility. Subject to certain conditions, the Company has the ability to extend the interest-only period on the initial Term A Loan to 36 months from 24 months upon achieving the revenue targets associated with the Amended Term B Loan. As of June 30, 2021, the Company is in compliance with the required minimum net product revenue covenant and anticipates electing to extend the interest-only period through March 1, 2023 for the Term A Loan, subject to continuing to meet the required conditions through and as of March 1, 2022. The Company is projected to be in compliance with the required covenant. The Company was required to pay an amendment fee of \$0.1 million to Solar, which has been recognized as a deferred debt issuance cost as of December 31, 2020 that will be amortized to interest expense using the effective interest method.

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The Company's obligations under the Solar Facility are secured by a first priority security interest in substantially all of its assets, including its intellectual property. The loan and security agreement requires the Company to comply with certain financial covenants as well as customary affirmative and negative covenants.

The Solar Facility contains events of default, including, without limitation, events of default upon: (i) failure to make payment pursuant to the terms of the agreement; (ii) violation of covenants; (iii) material adverse changes to the Company's business; (iv) attachment or levy on the Company's assets or judicial restraint on its business; (v) insolvency; (vi) material cross-defaults; (vii) significant judgments, orders or decrees for payments by the Company not covered by insurance; (viii) incorrectness of representations and warranties; (ix) incurrence of subordinated debt; (x) a termination or breach of a guaranty; (xi) revocation of governmental approvals necessary for the Company to conduct its business; and (xii) failure by the Company to maintain a valid and perfected lien on the collateral securing the borrowing. The Solar Facility includes subjective acceleration clauses which permit the lenders to accelerate the maturity date under certain circumstances, including, but not limited to, material adverse effects on a Company's financial status or otherwise.

The Solar Facility includes a financial covenant requiring the attainment of a minimum trailing net revenue amount beginning on December 31, 2020. The Company and lenders executed the Solar Amendment in December 2020 that reduced the minimum trailing net revenue covenant requirement amounts beginning on December 31, 2020 to allow the Company to maintain compliance with the covenant as of December 31, 2020. As of June 30, 2021, the Company is in compliance with the financial covenant and is projected to be in compliance with the reduced minimum revenue covenant amounts going forward.

As of June 30, 2021, the Company is in compliance with all covenants in the Solar Facility.

**Oxford Credit Facility**

Prior to March 2020, the Company had a \$35.0 million credit facility in place with Oxford, which it entered into in March 2017 and that allowed it to borrow up to \$35.0 million in three tranches of term loans: a Term A Loan in the amount of \$25 million, which was drawn immediately upon closing in March 2017, a Term B Loan in the amount of \$5.0 million, which was drawn down in December 2017, and a Term C Loan in the amount of \$5.0 million which was never drawn down. Each term loan accrued interest from the date of borrowing through the date of repayment at a floating per annum rate of interest, which reset monthly and was equal to the greater of (a) 8.15% or (b) the 30 day U.S. LIBOR on the last business day of the month plus 7.38%. This facility featured an interest-only period on all tranches through March 2019.

In addition to principal and interest payments due under the \$35.0 million Oxford credit facility, the Company was required to make final payment fees to Oxford upon the earlier of prepayment or maturity and equal to 8.5% and 7.5% of the principal amounts of the Term A and Term B Loans, respectively. The Company accrued final payment fees using the effective interest rate, with a charge to non-cash interest expense, over the term of borrowing and until its entry into the Solar credit facility in March 2020, at which time the Company paid Oxford \$2.5 million in satisfaction of all final payment fee liabilities due under the Oxford credit facility.

The Company evaluated whether the Solar Facility entered into in March 2020 represented a debt modification or extinguishment in accordance with ASC 470-50, Debt—Modifications and Extinguishments and determined that the existing debt was extinguished as a result of the full repayment of the existing facility and concurrent issuance of a new credit facility with a new lender. The unamortized balance of the Company's combined debt discount and deferred issuance costs of \$0.6 million related to the Oxford facility were accounted for as a loss on extinguishment of debt in March 2020.

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**13. COMMON STOCK****Common Stock Offering**

On February 2, 2021, we closed on our public offering and sale (the "Offering") of our common stock in which we issued and sold 5,566,000 shares of our common stock, which included shares pursuant to an option granted to underwriters to purchase additional shares, at a public offering price of \$15.50 per share. We received net proceeds of \$80.6 million after deducting underwriting discounts, commissions and offering expenses.

**Common Stock**

The following table summarizes the total number of shares of the Company's common stock issued and reserved for issuance as of June 30, 2021 and December 31, 2020 (in thousands):

	<u>June 30, 2021</u>	<u>December 31, 2020</u>
Shares of common stock issued	26,167	19,114
Shares of common stock reserved for issuance for:		
Common stock warrants outstanding	75	105
Stock options outstanding	1,607	2,365
Restricted stock units outstanding	2,139	1,860
Shares available for grant under stock incentive plan	2,153	1,530
Shares available for sale under employee stock purchase plan	799	608
Total shares of common stock issued and reserved for issuance	<u>32,940</u>	<u>25,582</u>

**Common Stock Warrants**

The following tables summarize the Company's outstanding common stock warrants as of June 30, 2021, and December 31, 2020:

<b>June 30, 2021</b> <b>Warrants</b> <b>Outstanding</b> <b>(in thousands)</b>		<b>Exercise Price</b>	<b>Expiration Date</b>
14	\$	19.55	Dec-2022
20	\$	9.73	Aug-2023
20	\$	9.73	Mar-2024
21	\$	9.73	Dec-2024
<u>75</u>			

<b>December 31, 2020</b> <b>Warrants</b> <b>Outstanding</b> <b>(in thousands)</b>		<b>Exercise Price</b>	<b>Expiration Date</b>
14	\$	19.55	Dec-2022
30	\$	9.73	Feb-2021
20	\$	9.73	Aug-2023
20	\$	9.73	Mar-2024
21	\$	9.73	Dec-2024
<u>105</u>			

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**14. LOSS PER SHARE**

The Company's basic loss per common share is computed by dividing the net loss by the weighted-average number of shares of common stock outstanding during the period. The Company's restricted stock awards (non-vested shares) are issued and outstanding at the time of grant but are excluded from the Company's computation of weighted-average shares outstanding in the determination of basic loss per share until vesting occurs.

A net loss cannot be diluted, so when the Company is in a net loss position, basic and diluted loss per common share are the same. If in the future the Company achieves profitability, the denominator of a diluted earnings per common share calculation will include both the weighted-average number of shares outstanding and the number of common stock equivalents, if the inclusion of such common stock equivalents would be dilutive. Dilutive common stock equivalents potentially include warrants, stock options, non-vested restricted stock units and non-vested performance restricted stock units using the treasury stock method, along with the effect, if any, from the potential conversion of outstanding securities, such as convertible preferred stock.

The following potentially dilutive securities outstanding as of June 30, 2021 and 2020 have been excluded from the denominator of the diluted loss per share of common stock outstanding calculation (in thousands):

	<u>June 30,</u>	
	<u>2021</u>	<u>2020</u>
Stock options	1,607	1,865
Non-vested performance restricted stock units	395	—
Non-vested restricted stock units	1,744	1,289
Common stock warrants	75	105

**15. SHARE-BASED COMPENSATION**

The amount of share-based compensation expense recognized by the Company by location in its statements of operations for the three and six months ended June 30, 2021 and 2020 is as follows (in thousands):

	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	<u>2021</u>	<u>2020</u>	<u>2021</u>	<u>2020</u>
Cost of revenues	\$ 13	\$ 15	\$ 33	\$ 31
Sales and marketing	518	236	1,093	666
General and administrative	1,482	261	3,000	868
Research and development	(4)	134	79	277
Total	<u>\$ 2,009</u>	<u>\$ 646</u>	<u>\$ 4,205</u>	<u>\$ 1,842</u>

**2018 Equity Incentive Plan**

In June 2018, the Company adopted the 2018 Equity Incentive Plan, or 2018 Plan, which authorized the issuance of up to 1.4 million shares, subject to an annual 4% increase based on the number of shares of common stock outstanding, in the form of restricted stock, stock appreciation rights and stock options to the Company's directors, employees and consultants. The amount and terms of grants are determined by the Company's board of directors. All stock options granted to date have had exercise prices equal to the fair value, as determined by the closing price as reported by the Nasdaq Global Market, of the underlying common stock on the date of grant. The contractual term of stock options is up to 10 years, and stock options are exercisable in cash or as otherwise determined by the board of directors. Generally, stock options vest 25% upon the first anniversary of the date of grant and the remainder ratably monthly thereafter for 36 months. Restricted stock units generally vest ratably in three equal installments on the first, second and third anniversaries of the grant date. Performance restricted stock units ("PRSUs") generally vest based on appreciation of the Company's common stock to a certain price as determined by the Company's board of

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directors measured using a trailing 30-day volume weighted average price of a share of the Company's common stock. The fair value of the PRSU awards are determined using a risk neutral Monte Carlo simulation valuation model. As of June 30, 2021, there were 2.1 million shares available for future issuance under the 2018 Plan.

### 2020 Inducement Incentive Plan

In December 2020, the Company adopted the 2020 Inducement Incentive Plan, which authorized the issuance of up to 0.4 million shares in the form of stock options, stock appreciation rights, restricted stock awards, restricted stock unit awards, performance stock awards and other stock awards to eligible employees who satisfy the standards for inducement grants under Nasdaq global market rules. An individual who previously served as an employee or director of the Company is not eligible to receive awards under this plan. The amount and terms of grants are determined by the Company's board of directors. As of June 30, 2021, there were 0.1 million shares available for future issuance under the 2020 Inducement Incentive Plan.

### Stock Options

The following table summarizes the Company's stock option activity for the six months ended June 30, 2021:

	<u>Number of Shares under Option (in thousands)</u>	<u>Weighted- average Exercise Price per Option</u>	<u>Weighted- Remaining Contractual Life (in years)</u>	<u>Aggregate average Intrinsic Value (in thousands)</u>
Outstanding at December 31, 2020	2,365	\$ 4.62		
Granted	—	\$ —		
Exercised	(655)	\$ 3.94		
Forfeited	(103)	\$ 14.84		
Outstanding at June 30, 2021	<u>1,607</u>	\$ 4.39	7.8	\$ 18,763
Exercisable at June 30, 2021	<u>451</u>	\$ 7.44	5.0	\$ 3,925
Vested and expected to vest at June 30, 2021	<u>1,607</u>	\$ 4.39	7.8	\$ 18,763

The Company recognized share-based compensation expense related to stock options of \$0.2 million and \$0.3 million for the three months ended June 30, 2021 and 2020, respectively, and \$0.4 million and \$0.8 million for the six months ended June 30, 2021 and 2020, respectively. As of June 30, 2021, there was \$1.7 million of total unrecognized compensation cost related to non-vested stock options which the Company expects to recognize over a weighted-average period of 2.5 years. The total intrinsic value of stock options exercised during the six months ended June 30, 2021 was \$8.0 million.

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**Restricted Stock Units and Performance Restricted Stock Units**

The following table summarizes the Company's restricted stock unit and performance restricted stock unit activity for June 30, 2021:

	Non-vested Restricted Stock Units (in thousands)	Weighted- average Grant-date Fair Value	Non-vested Performance Restricted Stock Units (in thousands)	Weighted- average Grant-date Fair Value
Non-vested at December 31, 2020	1,860	\$ 3.58	500	\$ 1.71
Granted	721	\$ 13.58	145	\$ 15.59
Vested	(586)	\$ 3.65	(250)	\$ 1.77
Forfeited	(250)	\$ 6.88	—	\$ —
Non-vested at June 30, 2021	<u>1,744</u>	<u>\$ 7.21</u>	<u>395</u>	<u>\$ 6.77</u>

The Company recognized \$1.8 million and \$0.4 million in share-based compensation expense related to the restricted stock units and performance restricted stock units for the three months ended June 30, 2021 and 2020, respectively, and \$3.8 and \$1.0 million for the six months ended June 30, 2021 and 2020, respectively. As of June 30, 2021, there was \$11.9 million of unrecognized compensation cost related to non-vested restricted stock units and performance restricted stock units, which the Company expects to recognize over a weighted-average period of 2.3 years. The total fair value at the vesting date of restricted stock units and performance restricted stock units vested during the six months ended June 30, 2021, was \$11.8 million.

For the period ended June 30, 2021 and December 31, 2020, the grant-date fair value of the performance restricted stock units was estimated at the time of grant using the following inputs and assumptions in the Monte Carlo simulation valuation model:

	June 30, 2021	December 31, 2020
Closing price of common stock	\$ 15.92	\$ 1.98
Risk-free interest rate	1.15 %	0.63 %
Expected volatility	99.7 %	87.4 %

**16. COMMITMENTS AND CONTINGENCIES****Legal Matters**

The Company is subject from time to time to various claims and legal actions arising during the ordinary course of its business. Management believes that there are currently no claims or legal actions that would reasonably be expected to have a material adverse effect on the Company's results of operations, financial condition, or cash flows.

**17. GEOGRAPHICAL SEGMENT INFORMATION**

Operating segments are defined as components of an enterprise about which separate discrete information is available for evaluation by the chief operating decision maker, or decision-making group, in deciding how to allocate resources and in assessing performance. The Company currently operates in one business segment as it is managed and operated as one business. A single management team that reports to the chief operating decision maker comprehensively manages the entire business. The Company does not operate any material separate lines of business or separate business entities with respect to its products or product development.

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The following geographic data includes revenue generated from the Company's third-party distributors. The Company's revenue was generated in the following geographic regions and by product line for the periods indicated (in thousands):

	<b>Revenues by Geography</b>			
	<b>Three Months Ended June 30,</b>			
	<b>2021</b>		<b>2020</b>	
	<u>Amount</u>	<u>% of Revenues</u>	<u>Amount</u>	<u>% of Revenues</u>
(in thousands, except percentages)				
United States	\$ 13,809	97 %	\$ 9,267	95 %
International	394	3 %	474	5 %
<b>Total revenues</b>	<b>\$ 14,203</b>	<b>100 %</b>	<b>\$ 9,741</b>	<b>100 %</b>

	<b>U.S. Revenues by Product Category</b>			
	<b>Three Months Ended June 30,</b>			
	<b>2021</b>		<b>2020</b>	
	<u>Amount</u>	<u>% of Revenues</u>	<u>Amount</u>	<u>% of Revenues</u>
(in thousands, except percentages)				
NeuroStar Advanced Therapy System	\$ 2,577	19 %	\$ 2,338	25 %
Treatment sessions	10,801	78 %	6,547	71 %
Other	431	3 %	382	4 %
<b>Total U.S. revenues</b>	<b>\$ 13,809</b>	<b>100 %</b>	<b>\$ 9,267</b>	<b>100 %</b>

	<b>International Revenues by Product Category</b>			
	<b>Three Months Ended June 30,</b>			
	<b>2021</b>		<b>2020</b>	
	<u>Amount</u>	<u>% of Revenues</u>	<u>Amount</u>	<u>% of Revenues</u>
(in thousands, except percentages)				
NeuroStar Advanced Therapy System	\$ 284	72 %	\$ 310	66 %
Treatment sessions	14	4 %	115	24 %
Other	96	24 %	49	10 %
<b>Total International revenues</b>	<b>\$ 394</b>	<b>100 %</b>	<b>\$ 474</b>	<b>100 %</b>

	<b>Revenues by Geography</b>			
	<b>Six Months Ended June 30,</b>			
	<b>2021</b>		<b>2020</b>	
	<u>Amount</u>	<u>% of Revenues</u>	<u>Amount</u>	<u>% of Revenues</u>
(in thousands, except percentages)				
United States	\$ 25,611	97 %	\$ 20,444	96 %
International	880	3 %	773	4 %
<b>Total revenues</b>	<b>\$ 26,491</b>	<b>100 %</b>	<b>\$ 21,217</b>	<b>100 %</b>

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<b>U.S. Revenues by Product Category</b>				
<b>Six Months Ended June 30,</b>				
	<b>2021</b>		<b>2020</b>	
	<b>Amount</b>	<b>% of</b>	<b>Amount</b>	<b>% of</b>
	<b>Revenues</b>			
	<b>(in thousands, except percentages)</b>			
NeuroStar Advanced Therapy System	\$ 4,333	17 %	\$ 4,932	24 %
Treatment sessions	20,429	80 %	14,740	72 %
Other	849	3 %	772	4 %
Total U.S. revenues	<u>\$ 25,611</u>	<u>100 %</u>	<u>\$ 20,444</u>	<u>100 %</u>

<b>International Revenues by Product Category</b>				
<b>Six Months Ended June 30,</b>				
	<b>2021</b>		<b>2020</b>	
	<b>Amount</b>	<b>% of</b>	<b>Amount</b>	<b>% of</b>
	<b>Revenues</b>			
	<b>(in thousands, except percentages)</b>			
NeuroStar Advanced Therapy System	\$ 491	56 %	\$ 410	53 %
Treatment sessions	145	16 %	192	25 %
Other	244	28 %	171	22 %
Total International revenues	<u>\$ 880</u>	<u>100 %</u>	<u>\$ 773</u>	<u>100 %</u>

**18. SEVERANCE**

On April 8, 2020, the Company took action to reduce expenses through a reduction in force ("RIF"). As part of this action the Company terminated 95 employees who received separation benefits upon their termination. During the second quarter of 2020, the Company recorded a separation-related charge for the RIF equal to the fair value of the terminated employees benefits as of the communication date in the amount of \$2.1 million. This amount was paid out during the quarter with the final payoff occurring on June 15, 2020.

The Company entered into transition agreements outlining the separation with its former chief executive officer in March 2020, the vice president of medical operations in September 2020, the chief commercial officer and director of medical operations in December 2020, the VP of sales and five business development managers in January 2021, the director of strategic clinical development in February 2021, and other employees during the three months ended June 30, 2021. In connection with these agreements, the Company recorded \$0.1 million and \$1.1 million of charges in salary, payroll tax and bonus expenses for the three months ended June 30, 2021 and 2020, respectively, and \$0.2 million and \$1.1 million for the six months ended June 30, 2021 and 2020, respectively. For the six months ended June 30, 2021 and 2020, \$0.8 million and \$0.3 million of termination benefits were paid associated with the termination of the employees and charged against this liability. As of June 30, 2021 and December 31, 2020, \$0.4 million and \$1.0 million, respectively, remain in accrued liabilities for the unpaid portion of the separation benefits.

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

*The following discussion and analysis of our financial condition and results of operations, as well as other sections in this Quarterly Report on Form 10-Q, should be read in conjunction with our unaudited interim financial statements and related notes thereto included elsewhere herein. In addition to historical financial information, some of the information contained in the following discussion and analysis contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. All statements other than statements of historical facts, including statements regarding our future results of operations and financial position, business strategy, current and prospective products, product approvals, research and development costs, current and prospective collaborations, timing and likelihood of success, plans and objectives of management for future operations and future results of current and anticipated products, are forward-looking statements. These statements involve known and unknown risks, uncertainties, assumptions and other important factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements. These risks and uncertainties include, without limitation, risks and uncertainties related to: the ongoing impact of the novel coronavirus, or COVID-19, pandemic on general political and economic uncertainty, including as a result of efforts by governmental authorities to mitigate the COVID-19 pandemic, such as travel bans, shelter in place orders and third-party business closures and the related impact on resource allocations, manufacturing and supply chains and patient access to commercial products; our ability to execute our business continuity as well as our operational and budget plans in light of the COVID-19 pandemic; our ability to achieve or sustain profitable operations due to our history of losses; our reliance on the sale and usage of our NeuroStar Advanced Therapy System to generate revenues; the scale and efficacy of our salesforce; availability of coverage and reimbursement from third-party payors for treatments using our products; physician and patient demand for treatments using our products; developments in respect of competing technologies and therapies for the indications that our products treat; product defects; our ability to obtain and maintain intellectual property protection for our technology; developments in clinical trials or regulatory review of NeuroStar Advanced Therapy System for additional indications; and developments in regulation in the United States and other applicable jurisdictions. For a discussion of these and other related risks, please refer to our recent SEC filings which are available on the SEC's website at [www.sec.gov](http://www.sec.gov). These forward-looking statements are based on our expectations and assumptions as of the date of this Quarterly Report on Form 10-Q. Except as required by law, we undertake no duty or obligation to update any forward-looking statements contained in this Quarterly Report on Form 10-Q as a result of new information, future events or changes in our expectations.*

*In some cases, you can identify forward-looking statements by terms such as "may," "will," "should," "expect," "plan," "anticipate," "could," "intend," "target," "project," "contemplates," "believes," "estimates," "predicts," "potential" or "continue" or the negative of these terms or other similar expressions. The forward-looking statements in this Quarterly Report on Form 10-Q are only predictions. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our business, financial condition and results of operations. These forward-looking statements speak only as of the date of this Quarterly Report on Form 10-Q and are subject to a number of risks, uncertainties and assumptions described in "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" in our Annual Report on Form 10-K filed with the SEC, on March 2, 2021. The events and circumstances reflected in our forward-looking statements may not be achieved or occur and actual results could differ materially from those projected in the forward-looking statements. Moreover, we operate in an evolving environment. New risk factors and uncertainties may emerge from time to time, and it is not possible for us to predict all risk factors and uncertainties. Except as required by applicable law, we do not plan to publicly update or revise any forward-looking statements contained herein, whether as a result of any new information, future events, changed circumstances or otherwise.*

## Overview

We are a commercial stage medical technology company focused on designing, developing and marketing products that improve the quality of life for patients who suffer from psychiatric disorders. Our first commercial product, the NeuroStar® Advanced Therapy System, is a non-invasive and non-systemic office-based treatment that uses transcranial magnetic stimulation, or TMS, to create a pulsed, MRI-strength magnetic field that induces electrical currents designed to stimulate specific areas of the brain associated with mood. The system is cleared by the United States Food and Drug Administration, or FDA, to treat adult patients with major depressive disorder, or MDD, that have failed to achieve satisfactory improvement from prior antidepressant medication in the current MDD episode. NeuroStar Advanced Therapy is also available in other parts of the world, including Japan, where it is listed under Japan's national health insurance. NeuroStar Advanced Therapy is safe, clinically effective, reproducible and precise and we believe is supported by the largest clinical data set of any competing TMS system. We are the market leader in TMS therapy based on the estimated 110,620 global patients treated with over 4.0 million of our treatment sessions through such date. We generated revenues of \$14.2 million and \$9.7 million for the three months ended June 30, 2021 and 2020, respectively, and \$26.5 million and \$21.2 million for the six months ended June 30, 2021 and 2020, respectively.

We designed the NeuroStar Advanced Therapy System as a non-invasive therapeutic alternative to treat patients who suffer from MDD and to address many of the key limitations of other treatment options. We generate revenues from initial capital sales of our systems, recurring Treatment Sessions and service and repair and extended warranty contracts. We derive the majority of our revenues from recurring Treatment Sessions. For the three months ended June 30, 2021, revenues from sales of our Treatment Sessions and NeuroStar Advanced Therapy Systems represented 78% and 19% of our U.S. revenues, respectively, and 80% and 17% for the six months ended June 30, 2021, respectively.

We currently sell our NeuroStar Advanced Therapy System and recurring Treatment Sessions in the United States with the collaborative support of our 161 employees as of June 30, 2021. Our sales force targets an estimated 50,000 psychiatrists across 26,000 psychiatric practices in the United States, based on data from Symphony Health and our own internal estimates that treat approximately 42% of the total MDD patients in the United States who meet our labeled indication and are insured. Some of our customers have and may purchase more than one NeuroStar Advanced Therapy System. Based on our commercial data, on average, we believe our customers can recoup their initial capital investment in our system by providing a standard course of treatment to approximately 12 patients. We believe psychiatrists can generate approximately \$7,500 to \$10,000 of revenue per patient for a standard course of treatment, which may provide meaningful incremental income to their practices. We have a diverse customer base of psychiatrists in group psychiatric practices in the United States. For the three and six months ended June 30, 2021, one customer accounted for more than 10% of our revenues.

We market our products in a few select markets outside the United States through independent distributors. International revenues represented 3% and 5% of our total revenues for the three months ended June 30, 2021 and 2020, respectively, and 3% and 4% for the six months ended June 30, 2021 and 2020, respectively. In October 2017, we entered into an exclusive distribution agreement with Teijin Pharma Limited, or Teijin, for the distribution of our NeuroStar Advanced Therapy Systems and Treatment Sessions to customers who will treat patients with MDD in Japan. We received regulatory approval for our system in Japan in September 2017 and we received the initial reimbursement of JPY 12,000 per Treatment Session, which went into effect on June 1, 2019. We expect our international revenues to increase over time as a percentage of our total revenues as we grow system placements and utilization in Japan.

Our research and development efforts are focused on the following: hardware and software product developments and enhancements of our NeuroStar Advanced Therapy System and clinical development relating to expansion of our label and additional indications, which may include bipolar depression and post-traumatic stress disorder. We outsource the manufacture of components of our NeuroStar Advanced Therapy Systems that are produced to our specifications, and individual components are either shipped directly from

our third-party contract manufacturers to our customers or consolidated into pallets at our Malvern, Pennsylvania facility prior to shipment. Final installation of these systems occurs at the customer site.

Our total revenues increased by \$4.5 million, or 46%, from \$9.7 million for the three months ended June 30, 2020 to \$14.2 million for the three months ended June 30, 2021 and increased by \$5.3 million, or 25%, from \$21.2 million for the six months ended June 30, 2020 to \$26.5 million for the six months ended June 30, 2021. For the three and six months ended June 30, 2021, our U.S. revenues were \$13.8 million and \$25.6 million compared to \$9.3 million and \$20.4 million for three and six months ended June 30, 2020, which represents an increase of 49% and 25% period over period. The increase was primarily attributable to an increase in U.S. treatment session revenue period over period. We incurred net losses of \$7.5 million and \$15.4 million for the three and six months ended June 30, 2021 compared to net losses of \$7.8 million and \$20.4 million for three and six months ended June 30, 2020. We expect to continue to incur losses for the next several years as we invest in our commercial organization to support our planned sales growth and while continuing to invest in our pipeline indications. As of June 30, 2021, we had an accumulated deficit of \$292.9 million.

### **COVID-19**

Throughout 2020 and the six months ended June 30, 2021, the Company experienced a material impact to revenue, particularly with regards to U.S. treatment session revenues as a result of the COVID-19 pandemic. The Company expects that capital equipment sales and treatment session revenues will continue to be materially impacted by this pandemic as customers are deferring capital purchase decisions and new patient treatment starts. System utilization has also declined compared to pre-COVID-19 projections.

We have monitored the impact of the COVID-19 pandemic on all aspects of our business and geographies, including how it has and will continue to impact the Company's customers, supply chain, employees and other business partners. While we experienced significant disruptions in 2020 and the six months ended June 30, 2021 from the COVID-19 pandemic, we are unable to predict the ultimate impact that the COVID-19 pandemic may have on our financial condition, results of operations and cash flows due to numerous uncertainties. These uncertainties include the scope, severity and duration of the ongoing pandemic, the actions taken to contain the pandemic or mitigate its impact and the direct and indirect economic effects of the pandemic and containment measures, among others. The outbreak of COVID-19 in many countries, including the United States, has significantly adversely impacted global economic activity.

The situation surrounding the COVID-19 pandemic remains fluid, and we are actively managing our response in collaboration with business partners and assessing potential impacts to our financial position and operating results, as well as potential adverse developments in our business. For further information regarding the impact of COVID-19 on the Company, see Part II, Item 1A titled "Risk Factors" of our Quarterly Report on Form 10-Q for the period ended June 30, 2021.

### **Components of Our Results of Operations**

#### *Revenues*

To date, we have generated revenues primarily from the capital portion of our business and related sales and rentals of the NeuroStar Advanced Therapy System and the recurring revenues from our sale of treatment sessions in the United States.

**NeuroStar Advanced Therapy System Revenues.** NeuroStar Advanced Therapy System revenues consist primarily of sales or rentals of a capital component, including upgrades to the equipment attributable to the initial sale of the system. NeuroStar Advanced Therapy Systems can be purchased outright or on a rent-to-own basis by certain customers.

**Treatment Session Revenues.** Treatment session revenues primarily include sales of NeuroStar Treatment Sessions and SenStar treatment links. The NeuroStar Treatment Sessions are access codes that are

delivered electronically in the United States. The SenStar treatment links are disposable units containing single-use access codes that are sold and used outside the United States. Access codes are purchased separately by our customers, primarily on an as-needed basis, and are required by the NeuroStar Advanced Therapy System in order to deliver treatment sessions.

***Other Revenues.*** Other revenues are derived primarily from service and repair and extended warranty contracts with our existing customers.

We refer you to the section titled “Critical Accounting Policies and Use of Estimates—Revenue Recognition” appearing in our Form 10-K filed with the SEC on March 2, 2021. We also refer you to “Note 3. Summary of Significant Accounting Policies.”

#### *Cost of Revenues and Gross Margin*

Cost of revenues primarily consists of the costs of components and products purchased from our third-party contract manufacturers of our NeuroStar Advanced Therapy Systems as well as the cost of treatment packs for individual treatment sessions. We use third-party contract manufacturing partners to produce the components for and assemble the completed NeuroStar Advanced Therapy Systems. Cost of revenues also includes costs related to personnel, royalties, warranty, shipping, and our operations and field service departments. We expect our cost of revenues to increase in absolute dollars as and to the extent our revenues grow.

Our gross profit is calculated by subtracting our cost of revenues from our revenues. We calculate our gross margin as our gross profit divided by our revenues. Our gross margin has been and will continue to be affected by a variety of factors, primarily product sales mix, pricing and third-party contract manufacturing costs. Our gross margins on revenues from sales of NeuroStar Advanced Therapy Systems are lower than our gross margins on revenues from sales of treatment sessions and, as a result, the sales mix between NeuroStar Advanced Therapy Systems and treatment sessions can affect the gross margin in any reporting period.

#### *Sales and Marketing Expenses*

Sales and marketing expenses consist of market research and commercial activities related to the sale of our NeuroStar Advanced Therapy Systems and treatment sessions and salaries and related benefits, sales commissions and share-based compensation for employees focused on these efforts. Other significant sales and marketing costs include conferences and trade shows, promotional and marketing activities, including direct and online marketing, practice support programs, travel and training expenses.

We anticipate that our sales and marketing expenses will increase as we continue to execute on our growth initiatives and expand our business in the United States.

#### *General and Administrative Expenses*

General and administrative expenses consist primarily of personnel expenses, including salaries and related benefits, share-based compensation and travel expenses, for employees in executive, finance, information technology, legal and human resource functions. General and administrative expenses also include the cost of insurance, outside legal fees, accounting and other consulting services, audit fees from our independent registered public accounting firm, board of directors’ fees and other administrative costs, such as corporate facility costs, including rent, utilities, depreciation and maintenance not otherwise included in cost of revenues.

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We anticipate that our general and administrative expenses will increase in fiscal year 2021 from fiscal year 2020.

#### *Research and Development Expenses*

Research and development expenses consist primarily of personnel expenses, including salaries and related benefits and share-based compensation for employees in clinical development, product development, regulatory and quality assurance functions, as well as expenses associated with outsourced professional scientific development services and costs of investigative sites and consultants that conduct our preclinical and clinical development programs. We typically use our employee, consultant and infrastructure resources across our research and development programs.

We plan to incur research and development expenses for the near future as we expect to continue our development of TMS Therapy for the treatment of additional patient populations and new indications, which may include bipolar depression, post-traumatic stress disorder and potential other clinical indications yet to be determined, as well as for various hardware and software development projects. As a result, we expect our research and development expenses to remain similar to our fiscal year 2020 expenses.

#### *Interest Expense*

Interest expense consists of cash interest payable under our credit facility and non-cash interest attributable to the accrual of final payment fees and the amortization of deferred financing costs related to our indebtedness.

#### *Other Income, Net*

Other income, net consists primarily of interest income earned on our money market account balances.

### **Results of Operations**

#### **Comparison of the three months ended June 30, 2021 and 2020**

	Three Months Ended June 30,		Increase / (Decrease)	
	2021	2020	Dollars	Percentage
Revenues	\$ 14,203	\$ 9,741	\$ 4,462	46 %
Cost of revenues	2,750	2,323	427	18 %
Gross Profit	11,453	7,418	4,035	54 %
Gross Margin	80.6 %	76.2 %		
Operating expenses:				
Sales and marketing	9,042	8,151	891	11 %
General and administrative	6,681	4,010	2,671	67 %
Research and development	2,294	2,116	178	8 %
Total operating expenses	18,017	14,277	3,740	26 %
Loss from Operations	(6,564)	(6,859)	295	4 %
Other (income) expense:				
Interest expense	977	986	(9)	(1)%
Other income, net	(16)	(80)	64	(80)%
Net Loss	\$ (7,525)	\$ (7,765)	\$ 240	3 %

	Revenues by Geography			
	Three Months Ended June 30,			
	2021		2020	
	Amount	% of Revenues	Amount	% of Revenues
(in thousands, except percentages)				
United States	\$ 13,809	97 %	\$ 9,267	95 %
International	394	3 %	474	5 %
<b>Total revenues</b>	<b>\$ 14,203</b>	<b>100 %</b>	<b>\$ 9,741</b>	<b>100 %</b>

	U.S. Revenues by Product Category			
	Three Months Ended June 30,			
	2021		2020	
	Amount	% of Revenues	Amount	% of Revenues
(in thousands, except percentages)				
NeuroStar Advanced Therapy System	\$ 2,577	19 %	\$ 2,338	25 %
Treatment sessions	10,801	78 %	6,547	71 %
Other	431	3 %	382	4 %
<b>Total U.S. revenues</b>	<b>\$ 13,809</b>	<b>100 %</b>	<b>\$ 9,267</b>	<b>100 %</b>

	U.S. NeuroStar Advanced Therapy System Revenues by Type			
	Three Months Ended June 30,			
	2021		2020	
	Amount	% of Revenues	Amount	% of Revenues
(in thousands, except percentages)				
NeuroStar Capital	\$ 2,441	95 %	\$ 2,224	95 %
Operating lease	55	2 %	114	5 %
Other	81	3 %	—	— %
<b>Total United States NeuroStar Advanced Therapy System revenues</b>	<b>\$ 2,577</b>	<b>100 %</b>	<b>\$ 2,338</b>	<b>100 %</b>

*Revenues*

Total revenue for the three months ended June 30, 2021 was \$14.2 million, an increase of 46% compared to the three months ended June 30, 2020 revenue of \$9.7 million. During the quarter, total U.S. revenue increased by 49% and international revenue decreased by 17% over the prior year quarter. The U.S. revenue growth was driven by an increase in U.S. treatment session revenue and the international revenue decline was driven by a decrease in international treatment session revenue.

U.S. NeuroStar Advanced Therapy System revenue for the three months ended June 30, 2021 was \$2.6 million, an increase of 10% compared to the three months ended June 30, 2020 revenue of \$2.3 million. The increase was primarily driven by an increase in the number of NeuroStar systems sold in the three months ended June 30, 2021 and an increase in the blended NeuroStar system average selling price over the prior year quarter. For the three months ended June 30, 2021 and 2020, the Company sold 36 and 35 systems, respectively, during each period.

U.S. treatment session revenue for the three months ended June 30, 2021 was \$10.8 million, an increase of 65% compared to the three months ended June 30, 2020 revenue of \$6.5 million. The revenue growth was primarily driven by an increase in per click treatment session volume over the prior year quarter.

*Cost of Revenues and Gross Margin*

Cost of revenues increased by \$0.5 million, or 18%, from \$2.3 million for the three months ended June 30, 2020 to \$2.8 million for the three months ended June 30, 2021. Gross margin increased from 76.2%

for the three months ended June 30, 2020 to 80.6% for the three months ended June 30, 2021. The increase was primarily a result of a change in the product mix of revenues versus the prior year quarter.

*Sales and Marketing Expenses*

Sales and marketing expenses increased by \$0.8 million, or 11%, from \$8.2 million for the three months ended June 30, 2020 to \$9.0 million for the three months ended June 30, 2021. The increase was primarily due to marketing expenses, digital paid media costs and trade show expense incurred in the current period versus the prior year quarter.

*General and Administrative Expenses*

General and administrative expenses increased by \$2.7 million, or 67%, from \$4.0 million for the three months ended June 30, 2020 to \$6.7 million for the three months ended June 30, 2021. The increase was primarily due to increased personnel expenses, including salary and share based compensation, IT consulting costs and insurance premiums in the current period versus the prior year quarter.

*Research and Development Expenses*

Research and development expenses increased by \$0.2 million, or 8%, from \$2.1 million for the three months ended June 30, 2020 to \$2.3 million for the three months ended June 30, 2021. The increase was primarily due to increased product development expenses offset by a decrease in personnel expenses in the current period versus the prior year quarter.

*Interest Expense*

Interest expense remained constant from \$1.0 million for the three months ended June 30, 2020 to \$1.0 million for the three months ended June 30, 2021.

*Other Income, Net*

Other income, net decreased by \$0.1 million, or 80%, from \$0.1 million for the three months ended June 30, 2020 to \$0.02 million for the three months ended June 30, 2021, primarily as a result of decreased interest income earned on the Company's money market accounts.

**Comparison of the six months ended June 30, 2021 and 2020**

	Six Months Ended June 30,		Increase / (Decrease)	
	2021	2020	Dollars	Percentage
	(in thousands, except percentages)			
Revenues	\$ 26,491	\$ 21,217	\$ 5,274	25 %
Cost of revenues	4,971	5,134	(163)	(3)%
Gross Profit	21,520	16,083	5,437	34 %
Gross Margin	81.2 %	75.8 %		
Operating expenses:				
Sales and marketing	17,604	18,874	(1,270)	(7)%
General and administrative	12,785	9,298	3,487	38 %
Research and development	4,604	5,137	(533)	(10)%
Total operating expenses	34,993	33,309	1,684	5 %
Loss from Operations	(13,473)	(17,226)	3,753	22 %
Other (income) expense:				
Interest expense	1,962	2,509	(547)	(22)%
Loss on extinguishment of debt	—	924	(924)	100 %
Other income, net	(29)	(281)	252	90 %
Net Loss	\$ (15,406)	\$ (20,378)	\$ 4,972	24 %

	Revenues by Geography Six Months Ended June 30,			
	2021		2020	
	Amount	% of Revenues	Amount	% of Revenues
	(in thousands, except percentages)			
United States	\$ 25,611	97 %	\$ 20,444	96 %
International	880	3 %	773	4 %
Total revenues	\$ 26,491	100 %	\$ 21,217	100 %

	U.S. Revenues by Product Category Six Months Ended June 30,			
	2021		2020	
	Amount	% of Revenues	Amount	% of Revenues
	(in thousands, except percentages)			
NeuroStar Advanced Therapy System	\$ 4,333	17 %	\$ 4,932	24 %
Treatment sessions	20,429	80 %	14,740	72 %
Other	849	3 %	772	4 %
Total U.S. revenues	\$ 25,611	100 %	\$ 20,444	100 %

<b>U.S. NeuroStar Advanced Therapy System Revenues by Type Six Months Ended June 30,</b>				
	<b>2021</b>		<b>2020</b>	
	<b>Amount</b>	<b>% of Revenues</b>	<b>Amount</b>	<b>% of Revenues</b>
(in thousands, except percentages)				
NeuroStar Capital	\$ 4,030	93 %	\$ 4,634	94 %
Operating lease	163	4 %	269	5 %
Other	140	3 %	29	1 %
Total United States NeuroStar Advanced Therapy System revenues	<u>\$ 4,333</u>	<u>100 %</u>	<u>\$ 4,932</u>	<u>100 %</u>

#### *Revenues*

Total revenue for the six months ended June 30, 2021 was \$26.5 million, an increase of 25% compared to the six months ended June 30, 2020 revenue of \$21.2 million. During the six months ended June 30, 2021, total U.S. revenue increased by 25% and international revenue increased by 14% over the six months ended June 30, 2020. The U.S. revenue growth was driven by an increase in U.S. treatment session revenue and the international revenue growth was driven by an increase in NeuroStar Advanced Therapy System sales.

U.S. NeuroStar Advanced Therapy System revenue for the six months ended June 30, 2021 was \$4.3 million, a decrease of 12% compared to the six months ended June 30, 2020 revenue of \$4.9 million. The decrease was primarily driven by a lower number of NeuroStar systems sold in the six months ended June 30, 2021, which was partially offset by an increase in the blended NeuroStar system average selling price over the six months ended June 30, 2020. For the six months ended June 30, 2021 and 2020, the Company sold 59 and 73 systems, respectively, during each period.

U.S. treatment session revenue for the six months ended June 30, 2021 was \$20.4 million, an increase of 39% compared to the six months ended June 30, 2020 revenue of \$14.7 million. The revenue growth was primarily driven by an increase in per click treatment session volume period over period.

#### *Cost of Revenues and Gross Margin*

Cost of revenues decreased by \$0.1 million, or 3%, from \$5.1 million for the six months ended June 30, 2020 to \$5.0 million for the six months ended June 30, 2021. Gross margin increased from 75.8% for the six months ended June 30, 2020 to 81.2% for the six months ended June 30, 2021. The increase was primarily a result of a change in the product mix of revenues versus the prior year period.

#### *Sales and Marketing Expenses*

Sales and marketing expenses decreased by \$1.3 million, or 7%, from \$18.9 million for the six months ended June 30, 2020 to \$17.6 million for the six months ended June 30, 2021. The decrease was primarily due to reduced sales, reimbursement and clinical training costs versus the prior year period.

#### *General and Administrative Expenses*

General and administrative expenses increased by \$3.5 million, or 38%, from \$9.3 million for the six months ended June 30, 2020 to \$12.8 million for the six months ended June 30, 2021. The increase was primarily due to increased personnel expenses related to bonus, salary and share based compensation.

### *Research and Development Expenses*

Research and development expenses decreased by \$0.5 million, or 10%, from \$5.1 million for the six months ended June 30, 2020 to \$4.6 million for the six months ended June 30, 2021. The decrease was primarily due to reduced product development, personnel and travel expenses.

### *Interest Expense*

Interest expense decreased by \$0.5 million, or 22%, from \$2.5 million for the six months ended June 30, 2020 to \$2.0 million for the six months ended June 30, 2021. The decrease in interest expense was due to the loss on extinguishment of debt charge recognized in the first quarter of 2020 as part of Oxford debt facility. Refer to "Note 12. Debt" in the financial statements included in this Quarterly Report on Form 10-Q for information regarding the Oxford debt facility.

### *Other Income, Net*

Other income, net decreased by \$0.3 million, or 90%, from \$0.3 million for the six months ended June 30, 2020 to \$0.03 million for the six months ended June 30, 2021, primarily as a result of decreased interest income earned on the Company's money market accounts.

## **Liquidity and Capital Resources**

### *Overview*

On February 2, 2021, we closed on the Offering of our common stock in which we issued and sold 5,566,000 shares of our common stock, which included shares pursuant to an option granted to underwriters to purchase additional shares, at a public offering price of \$15.50 per share. We received net proceeds of \$80.6 million after deducting underwriting discounts, commissions and offering expenses.

As of June 30, 2021, we had cash and cash equivalents of \$115.8 million and an accumulated deficit of \$292.9 million, compared to cash and cash equivalents of \$49.0 million and an accumulated deficit of \$277.5 million as of December 31, 2020. We incurred negative cash flows from operating activities of \$14.9 million and \$23.1 million for the six months ended June 30, 2021 and 2020, respectively. We have incurred operating losses since our inception, and we anticipate that our operating losses will continue in the near term as we seek to expand our sales and marketing initiatives to support our growth in existing and new markets, invest funds in additional research and development activities and utilize cash for other corporate purposes. Our primary sources of capital to date have been from our IPO, private placements of our convertible preferred securities, borrowings under our credit facilities, sales of our products and other public offerings of our common stock. As of June 30, 2021, the Company had \$35.0 million of borrowings outstanding under its credit facility, which has a final maturity in February 2025. Management believes that the Company's cash and cash equivalents as of June 30, 2021 and anticipated revenues from sales of its products are sufficient to fund the Company's operations for at least 12 months from the issuance of these financial statements.

We cannot predict our revenues and expenses in the short term, in large part due to uncertainty relating to the COVID-19 pandemic and related governmental responses. However, if our cash and cash equivalents and anticipated revenues from sales of our products are insufficient to satisfy our liquidity requirements, we may seek to sell additional common or preferred equity or debt securities or enter into a new credit facility or another form of third-party funding or seek other debt financing. If we raise additional funds by issuing equity or equity-linked securities, our stockholders would experience dilution and any new equity securities could have rights, preferences and privileges superior to those of holders of our common stock. Debt financing, if available, may involve covenants restricting our operations or our ability to incur additional debt. We cannot be assured that additional equity, equity-linked or debt financing will be available on terms favorable to us or our stockholders, or at all. It is also possible that we may allocate significant amounts of capital towards products or technologies for which market demand is lower than expected and, as a result, abandon such efforts. If we are unable to maintain our current financing or obtain adequate additional financing when we

require it, or if we obtain financing on terms which are not favorable to us, or if we expend capital on products or technologies that are unsuccessful, our ability to continue to support our business growth and to respond to business challenges could be significantly limited, or we may be required to delay the development, commercialization and marketing of our products.

Our current and future funding requirements will depend on many factors, including:

- the impact of COVID-19 and related governmental responses;
- our ability to achieve revenue growth and improve operating margins;
- compliance with the terms and conditions, including covenants, set forth in our credit facility;
- the cost of expanding our operations and offerings, including our sales and marketing efforts;
- our ability to improve or maintain coverage and reimbursement arrangements with domestic third-party and government payors, particularly in Japan;
- our rate of progress in establishing coverage and reimbursement arrangements from international commercial third-party and government payors;
- our rate of progress in, and cost of the sales and marketing activities associated with, establishing adoption of our products and maintaining or improving our sales to our current customers;
- the cost of research and development activities, including research and development relating to additional indications, which may include bipolar depression;
- the effect of competing technological and market developments;
- costs related to international expansion; and
- the potential cost of and delays in product development as a result of any regulatory oversight applicable to our products.

#### *Cash Flows*

The following table sets forth a summary of our cash flows for the six months ended June 30, 2021 and 2020:

	<b>Six Months Ended June 30,</b>	
	<b>2021</b>	<b>2020</b>
	<b>(in thousands)</b>	
Net Cash Used in Operating Activities	\$ (14,940)	\$ (23,131)
Net Cash Used in Investing Activities	(1,108)	(484)
Net Cash Provided by Financing Activities	82,874	1,903
Net Increase (Decrease) in Cash and Cash Equivalents	<u>\$ 66,826</u>	<u>\$ (21,711)</u>

#### *Net Cash Used in Operating Activities*

Net cash used in operating activities for the six months ended June 30, 2021 was \$14.9 million, consisting primarily of a net loss of \$15.4 million and a decrease in net operating liabilities of \$4.8 million, partially offset by non-cash charges of \$5.2 million. The decrease in net operating liabilities was primarily due to increases in accounts receivable and inventory and decreases in accounts payable and accrued expenses as a result of timing and the 2021 payment of the 2020 bonus compensation accrued as of December 31, 2020. Non-cash charges consisted of depreciation and amortization, non-cash interest expense, share-based compensation, and the cost of rental units purchased by customers.

Net cash used in operating activities for the six months ended June 30, 2020 was \$23.1 million, consisting primarily of a net loss of \$20.4 million and a decrease in net operating liabilities of \$6.8 million, partially offset by non-cash charges of \$4.1 million. The decrease in net operating liabilities was primarily due to decreases in accounts payable and accrued expenses as a result of timing and the 2020 payments of 2019 incentive compensation and commissions accrued as of December 31, 2019. Non-cash charges consisted of loss on debt extinguishment, depreciation and amortization, non-cash interest expense, share-based compensation, and the cost of rental units purchased by customers.

#### *Net Cash Used in Investing Activities*

Net cash used in investing activities for the six months ended June 30, 2021 and 2020 was \$1.1 million and \$0.5 million, respectively. Each was attributable to purchases of property and equipment and capitalized software costs.

#### *Net Cash Provided by Financing Activities*

Net cash provided by financing activities for the six months ended June 30, 2021 was \$82.9 million and primarily consisted of additional proceeds from our Offering and cash proceeds related to stock option exercises. Net cash provided by financing activities for the six months ended June 30, 2020 was \$1.9 million and consisted of additional proceeds from our loan refinance and cash proceeds related to stock option exercises.

### **Indebtedness**

#### **Solar Credit Facility**

On March 2, 2020, the “Company entered into a loan and security agreement with Solar Capital Ltd., or Solar, as collateral agent, and other lenders defined in the agreement, for a credit facility, or the Solar Facility, that replaced the Company’s previous \$35.0 million credit facility with Oxford Finance LLC, or Oxford, and such facility, the Oxford Facility.

The Solar Facility permits the Company to borrow up to an aggregate amount of \$50.0 million in two tranches of term loans, a “Term A Loan” and “Term B Loan.” On March 2, 2020, the Company borrowed an aggregate amount of \$35.0 million, which was the aggregate amount available under the Term A Loan portion of the Solar Facility. The Term A Loan portion of the Solar Facility matures, and all amounts borrowed thereunder are due, on February 28, 2025. Under the Term B Loan portion of the Solar Facility, the Company is permitted to borrow, at its election, up to an aggregate amount of \$15.0 million, (i) upon the Company achieving a specified amount of trailing twelve months net product revenue, and (ii) assuming there has been no event of default under the Solar Facility prior to such election. Once the net product revenue condition has been satisfied, the Company may only make an election to borrow under the Term B Loan portion of the Solar Facility until the earlier of (a) December 15, 2021, (b) 30 days following achievement of the net product revenue condition or (c) the occurrence of an event of default.

Each of the Term A Loan and Term B Loan accrue interest from the date of borrowing through the date of repayment at a floating per annum rate of interest, which resets monthly and is equal to 7.65% plus the greater of (a) 1.66% or (b) the rate per annum rate published by the Intercontinental Exchange Benchmark Administration Ltd. The Term A Loan and the Term B Loan both include an interest-only period through March 1, 2022, after which time the Company will be required to make monthly payments of principal and interest. Monthly principal payments are to be paid in equal amounts on a pro rata basis to lenders. At the Company's election, the interest only period may be extended through February 2023 if the Company satisfies a minimum net product revenue covenant through March 1, 2022 and no event of default shall have occurred.

In addition to the principal and interest payments due under the Solar Facility, the Company is required to pay a final payment fee to Solar due upon the earlier of prepayment, acceleration or the maturity date of the Term A Loan or Term B Loan portion of the Solar Facility equal to 5.50% of the principal amount of the term loans actually funded. The Company is accruing the final payment fees using the effective interest rate, with a charge to non-cash interest expense, over the term of borrowing. If the Company prepays either the of the Term A Loan or Term B Loan prior to their respective scheduled maturities, the Company will also be required to pay prepayment fees to Solar equal to 3% of the principal amount of such term loan then-prepaid if prepaid on or before the first anniversary of funding, 2% of the principal amount of such term loan then-prepaid if prepaid after the first anniversary and on or before the second anniversary of funding, or 1% of the principal amount of such term loan then-prepaid if prepaid after the second anniversary of funding of the principal amounts borrowed.

The Company is also required to pay Solar an exit fee upon the occurrence, prior to March 2, 2030, of (a) any liquidation, dissolution or winding up of the Company, (b) transaction that results in a person obtaining control over the Company, (c) the Company achieving \$100 million in trailing twelve month net product revenue or (d) the Company achieving \$125 million in trailing twelve month net product revenue. The exit fee for liquidation, dissolution, winding up or change of control of the Company is equal to 4.50% of the principal amount of the term loans actually funded. The exit fee for achieving either \$100 million or \$125 million in trailing twelve-month net product revenue is equal to 2.25% of the principal amount of the term loans actually funded or, if both net product revenue milestones are achieved, 4.50% of the principal amount of the term loans actually funded. The exit fee is capped at 4.50% of the principal amount of the term loans actually funded.

On December 8, 2020, the Company, Solar Capital Ltd., and our other lenders defined in the Solar Facility, executed an amendment to the Solar Facility (the "Solar Amendment"). The Solar Amendment divides the aggregate Term B Loan borrowing amount of \$15.0 million allowable upon our achievement of specific trailing twelve-month net product revenue targets into three separate \$5.0 million tranches ("Amended Term B Loan", "Term C Loan" and "Term D Loan"). The three tranches are available through June 20, 2021, December 20, 2021, and June 20, 2022, respectively, based on the achievement of agreed upon trailing twelve-month net product revenue targets for each tranche.

The Solar Amendment also reduces the trailing twelve-month net product revenue requirement for the Amended Term B Loan portion of the facility. Subject to certain conditions, the Company has the ability to extend the interest-only period on the initial Term A Loan to 36 months from 24 months upon achieving the revenue targets associated with the Amended Term B Loan. As of June 30, 2021, the Company is in compliance with the required minimum net product revenue covenant and anticipates electing to extend the interest-only period through March 1, 2023 for the Term A Loan, subject to continuing to meet the required conditions through and as of March 1, 2022. The Company is projected to be in compliance with the required covenant. The Company was required to pay an amendment fee of \$0.1 million to Solar, which has been recognized as a deferred debt issuance cost as of December 31, 2020 that will be amortized to interest expense using the effective interest method.

The Company's obligations under the Solar Facility are secured by a first priority security interest in substantially all of its assets, including its intellectual property. The loan and security agreement requires the Company to comply with certain financial covenants as well as customary affirmative and negative covenants.

The Solar Facility contains events of default, including, without limitation, events of default upon: (i) failure to make payment pursuant to the terms of the agreement; (ii) violation of covenants; (iii) material adverse changes to the Company's business; (iv) attachment or levy on the Company's assets or judicial restraint on its business; (v) insolvency; (vi) material cross-defaults; (vii) significant judgments, orders or decrees for payments by the Company not covered by insurance; (viii) incorrectness of representations and warranties; (ix) incurrence of subordinated debt; (x) a termination or breach of a guaranty; (xi) revocation of governmental approvals necessary for the Company to conduct its business; and (xii) failure by the Company to maintain a valid and perfected lien on the collateral securing the borrowing. The Solar Facility includes subjective acceleration clauses which permit the lenders to accelerate the maturity date under certain circumstances, including, but not limited to, material adverse effects on a Company's financial status or otherwise.

The Solar Facility includes a financial covenant requiring the attainment of a minimum trailing net revenue amount beginning on December 31, 2020. The Company and lenders executed the Solar Amendment in December 2020 that reduced the minimum trailing net revenue covenant requirement amounts beginning on December 31, 2020 to allow the Company to maintain compliance with the covenant as of December 31, 2020. As of June 30, 2021, the Company is in compliance with the financial covenant and is projected to be in compliance with the reduced minimum revenue covenant amounts going forward.

As of June 30, 2021, the Company is in compliance with all covenants in the Solar Facility.

### **Oxford Credit Facility**

Prior to March 2020, the Company had a \$35.0 million credit facility in place with Oxford, which it entered into in March 2017 and that allowed it to borrow up to \$35.0 million in three tranches of term loans: a Term A Loan in the amount of \$25 million, which was drawn immediately upon closing in March 2017, a Term B Loan in the amount of \$5.0 million, which was drawn down in December 2017, and a Term C Loan in the amount of \$5.0 million which was never drawn down. Each term loan accrued interest from the date of borrowing through the date of repayment at a floating per annum rate of interest, which reset monthly and was equal to the greater of (a) 8.15% or (b) the 30 day U.S. LIBOR on the last business day of the month plus 7.38%. This facility featured an interest-only period on all tranches through March 2019.

In addition to principal and interest payments due under the \$35.0 million Oxford credit facility, the Company was required to make final payment fees to Oxford upon the earlier of prepayment or maturity and equal to 8.5% and 7.5% of the principal amounts of the Term A and Term B Loans, respectively. The Company accrued final payment fees using the effective interest rate, with a charge to non-cash interest expense, over the term of borrowing and until its entry into the Solar credit facility in March 2020, at which time the Company paid Oxford \$2.5 million in satisfaction of all final payment fee liabilities due under the Oxford credit facility.

The Company evaluated whether the Solar credit facility entered into in March 2020 represented a debt modification or extinguishment in accordance with ASC 470-50, Debt—Modifications and Extinguishments and determined that the existing debt was extinguished as a result of the full repayment of the existing facility and concurrent issuance of a new credit facility with a new lender. The unamortized balance of the Company's combined debt discount and deferred issuance costs of \$0.6 million related to the Oxford facility were accounted for as a loss on extinguishment of debt.

### *Cash and Non-Cash Interest Expense*

For the three months ended June 30, 2021, we recognized interest expense of \$1.0 million, of which \$0.8 million was cash and \$0.2 million was non-cash interest expense related to the amortization of deferred financing costs and accrual of final payment fees. For the six months ended June 30, 2020, we recognized

interest expense of \$2.5 million, of which \$2.2 million was cash and \$0.3 million was non-cash interest expense related to the amortization of deferred financing costs and accrual of final payment fees.

### **Common Stock Offering**

On February 2, 2021, we closed on our public offering and sale of our common stock in which we issued and sold 5,566,000 shares of our common stock, which included shares pursuant to an option granted to underwriters to purchase additional shares, at a public offering price of \$15.50 per share. We received net proceeds of \$80.6 million after deducting underwriting discounts, commissions and offering expenses.

### **Off-Balance Sheet Arrangements**

We do not maintain any off-balance sheet arrangements, partnerships or other relationships with unconsolidated entities, often referred to as structured finance or special-purpose entities, which are established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes.

### **Commitments and Contractual Obligations**

As of June 30, 2021, there were no significant changes to our commitments and future minimum contractual obligations as set forth in our Form 10-K, filed with the SEC on March 2, 2021.

### **JOBS Act Accounting Election**

We are an “emerging growth company,” as defined in the Jumpstart Our Business Startups Act of 2012, or JOBS Act, and are eligible to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not emerging growth companies. Section 107 of the JOBS Act provides that an emerging growth company can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act of 1933, or Securities Act, for complying with new or revised accounting standards issued subsequent to the enactment of the JOBS Act until such time as those standards apply to private companies. We have elected to avail ourselves of this exemption from complying with new or revised accounting standards and, therefore, will not be subject to the same new or revised accounting standards as other public companies that are not emerging growth companies. Section 107 of the JOBS Act provides that we can elect to opt out of the extended transition period at any time, which election is irrevocable.

Subject to certain conditions, as an emerging growth company, we may rely on certain of these exemptions, including without limitation (i) providing an auditor’s attestation report on our system of internal controls over financial reporting pursuant to Section 404(b) of the Sarbanes-Oxley Act and (ii) complying with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor’s report providing additional information about the audit and the financial statements, known as the auditor discussion and analysis. We will remain an emerging growth company until the earlier of (a) the last day of the fiscal year in which we have total annual gross revenue of \$1.07 billion or more; (b) the last day of the fiscal year following the fifth anniversary of the date of the completion of this offering; (c) the date on which we have issued more than \$1.0 billion in nonconvertible debt during the previous six years; or (d) the date on which we are deemed to be a large accelerated filer under the rules of the SEC.

### **Recent Accounting Pronouncements**

We refer you to “Note 3. Summary of Significant Accounting Policies” and “Note 4. Recent Accounting Pronouncements” in “Notes to Interim Financial Statements” located in “Part I – FINANCIAL INFORMATION, Item 1. Financial Statements”.

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

We refer you to the information described in the “Item 7A. Quantitative and Qualitative Disclosures About Market Risk” section of the Company’s Annual Report on Form 10-K filed with the SEC on March 2, 2021. There have been no material changes to our market risk described therein.

**Item 4. Controls and Procedures.**

**Evaluation of Disclosure Controls and Procedures**

The term “disclosure controls and procedures,” as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended, or Exchange Act, refers to controls and procedures that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company’s management, including its principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure. As required by Rules 13a-15(b) and 15d-15(b) of the Exchange Act, our management, with the participation of our Principal Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on that evaluation, our Principal Executive Officer and our Chief Financial Officer concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of June 30, 2021.

**Changes in Internal Control over Financial Reporting**

During the quarter ended June 30, 2021, there were no changes in our internal control over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) which materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## PART II—OTHER INFORMATION

### Item 1. Legal Proceedings.

We are subject from time to time to various claims and legal actions arising during the ordinary course of our business. We believe that there are currently no claims or legal actions that would reasonably be expected to have a material adverse effect on our results of operations, financial condition, or cash flows.

### Item 1A. Risk Factors.

You should carefully consider the information described in the “Risk Factors” section of the Company’s Annual Report on Form 10-K filed with the SEC on March 2, 2021. There have been no material changes to the risk factors described therein.

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

#### Recent Issuances of Unregistered Securities

None.

### Item 3. Defaults Upon Senior Securities.

Not applicable.

### Item 4. Mine Safety Disclosures.

Not applicable.

### Item 5. Other Information.

On July 28, 2021, the Board of Directors of Neuronetics, Inc. (“Neuronetics”) voted to adopt the Third Amended and Restated Bylaws (as amended prior to the date hereof, the “A&R Bylaws”), which became effective immediately upon adoption. Neuronetics’ A&R Bylaws amend and restate Neuronetics’ previously existing bylaws in their entirety to, among other things, revise the requirements with respect to the information and agreements that a director nominee who is nominated by a stockholder must provide to Neuronetics. The foregoing is qualified in its entirety by reference to the text of the A&R Bylaws, a copy of which is filed as Exhibit 10.3 to this Quarterly Report on Form 10-Q.

**Item 6. Exhibits.**

The following is a list of exhibits filed as part of this Quarterly Report on Form 10-Q. Where so indicated, exhibits that were previously filed are incorporated by reference. For exhibits incorporated by reference, the location of the exhibit in the previous filing is indicated.

<b>Exhibit Number</b>	<b>Description</b>
3.1	<a href="#">Certificate of Elimination of Series A Junior Participating Preferred Stock of Neuronetics, Inc. (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on April 9, 2021)</a>
10.1	<a href="#">Consulting Agreement, dated April 1, 2021 by and between Neuronetics, Inc. and Gregory Harper (incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q filed on May 4, 2021).</a>
10.2*	<a href="#">Form of Restrictive Covenant and Severance Agreement</a>
10.3*	<a href="#">Third Amended and Restated Bylaws of the Registrant</a>
31.1*	<a href="#">Certification of the Principal Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>
31.2*	<a href="#">Certification of the Principal Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>
32.1**	<a href="#">Certification of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
32.2**	<a href="#">Certification of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
101.INS	Inline XBRL Instance Document – the instance document does not appear in the Interactive Data File because iXBRL tags are embedded within the Inline XBRL document.
101.SCH	Inline XBRL Taxonomy Extension Schema Document
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (Formatted as Inline XBRL and contained Exhibit 101).

\* Filed herewith.

\*\* This certification is being furnished solely to accompany this Quarterly Report on Form 10-Q pursuant to 18 U.S.C Section 1350 and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liability of that section, nor shall it be deemed incorporated by reference into any filing of the registrant under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

**SIGNATURES**

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

**NEURONETICS, INC.**

(Registrant)

Date: August 3, 2021

By: /s/ Keith J. Sullivan

Name: Keith J. Sullivan

Title: President and Chief Executive Officer  
(Principal Executive Officer)

Date: August 3, 2021

By: /s/ Stephen Furlong

Name: Stephen Furlong

Title: SVP, Chief Financial Officer and Treasurer  
(Principal Financial and Accounting Officer)

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## RESTRICTIVE COVENANT AND SEVERANCE AGREEMENT

This Restrictive Covenant and Severance Agreement (the “Agreement”) is made and entered into effective as of July 1, 2021 (the “Effective Date”), by and between Neuronetics, Inc., a Delaware corporation (“Company”) and \_\_\_\_\_ (“Executive”).

### RECITALS

WHEREAS, in order to encourage Executive’s continued dedication to Company, the Board of Directors of Company (the “Board”) desires to provide Executive with severance benefits following certain terminations of employment;

NOW, THEREFORE, in consideration of the mutual promises, covenants, and obligations set forth below, the adequacy and sufficiency of which are hereby acknowledged, Company and Executive hereby agree as follows:

**1. Term of Agreement.** The “Term” of this Agreement will begin on the Effective Date and continue until the earliest of: (i) termination of Executive’s employment by Company for Cause, by Executive without Good Reason, or due to Executive’s death or Disability; (ii) if Executive becomes entitled to benefits, payment of all benefits to which Executive is entitled under this Agreement and satisfaction of all other obligations of Executive and Company with respect to this Agreement, including Executive’s obligations pursuant to the Restrictive Covenant Agreement (as defined herein); and (iii) termination pursuant to Section 11 of this Agreement.

**2. At-Will Employment.** Company and Executive acknowledge that Executive’s employment will continue to be at-will as defined under applicable law, and either Company or Executive may terminate the employment relationship at any time and for any reason. If Executive’s employment with Company terminates for any reason, Executive shall not be entitled to any payments, benefits, damages, awards, or compensation other than the payment of accrued but unpaid wages, as required by law, and any unreimbursed business expenses, and as provided by this Agreement.

**3. Termination.**

**3.1 Cause.** Company in its sole discretion, may terminate Executive’s employment and cancel all of Company’s obligations under this Agreement for Cause at any time. The term “Cause” shall mean the occurrence of one or more of the following events: any (a) act of fraud, embezzlement, or theft; (b) willful disregard of Company rules, policies, or procedures or of the assigned duties of Executive or directions of the CEO or the Board (other than due to physical or mental illness or Disability), which has not been corrected (to the extent correctable) within thirty (30) days of Executive receiving a written notice for substantial correction from Company; (c) gross negligence, meaning an act or omission exhibiting a conscious indifference or disregard of Company rules, policies, or procedures or of the assigned duties of Executive, which has not been corrected (to the extent correctable) within thirty (30) days of Executive receiving a written notice for substantial correction from Company; (d) breach of fiduciary duty for personal gain during the course of Executive’s employment with Company; (e) commission by Executive of a felony; (f) intentional act or intentional failure to act by Executive which reasonably could be expected to have a material

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adverse effect on Company's business, reputation, or operations, which has not been corrected (to the extent correctable) within thirty (30) days of Executive receiving a written notice for substantial correction from Company; or (g) determination that Executive intentionally omitted any requested information or falsified any disclosed information either in Executive's resume or during Executive's interview process with Company. Whether an event constituting "Cause" exists, and whether that event is correctable, shall be determined in the sole discretion of Company.

In the event Company elects to terminate Executive's employment in accordance with this Section, such termination shall be without prejudice to any other remedy to which Company may be entitled under law, equity, or this Agreement. Furthermore, the termination will be effective as of the date of the original written notice of termination and neither party shall have any further obligation to the other (including the payment of any severance benefits by Company to Executive) except for Executive's obligations set forth in the Restrictive Covenant Agreement, which will remain in full force and effect.

Specifically, should Company terminate this Agreement for Cause, Executive shall not be entitled to any further compensation other than Executive's earned but unpaid base salary (at the annual rate then in effect), any expense reimbursements to be paid in accordance with Company policy, and payments for any accrued but unused vacation or paid time off in accordance with Company's policies and applicable law (the "Accrued Amounts") up to the effective date of termination of employment with Company (the "Termination Date").

**3.2 Resignation without Good Reason.** Executive may resign Executive's employment without Good Reason at any time. Executive shall not be entitled to any further compensation other than the Accrued Amounts up to the Termination Date. Company, in its sole discretion, may elect to have Executive immediately cease providing services to Company upon receipt of Executive's notice of resignation; provided, however, Company shall pay the Accrued Amounts through the Termination Date.

**3.3 Without Cause or Resignation for Good Reason.**

(a) Executive's employment may be terminated at any time by Company, without any requirement of Cause, upon delivery to Executive of thirty (30) days' prior written notice of its intention to terminate Executive's employment (the "Termination Period"). Company, in its sole discretion, may elect to have Executive immediately cease providing services to Company during the Termination Period; provided, however, Company shall pay the Accrued Amounts through the end of the Termination Period, whether or not Company elects to continue Executive's services during all or a portion of the Termination Period.

(b) Subject to the terms and conditions of this Agreement, in the event of (A) Executive's termination of employment by Company without Cause, or (B) Executive's resignation for Good Reason, Executive's obligations pursuant to the Restrictive Covenant Agreement will remain in full force and effect. Executive and Company also agree that in the event Executive's termination or resignation in accordance with this Section constitutes a separation from service within the meaning

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of Treasury Regulation Section 1.409A-1(h), Company, in addition to the Accrued Amounts for the Termination Period, will provide Executive:

(1) severance at a rate equal to Executive's monthly base salary in effect at the time of such termination or resignation for a period of six (6) months (the "Severance Period");

(2) any unpaid annual incentive bonus, if any, determined in Company's sole discretion in accordance with the incentive bonus program established by Company for senior executives of Company (the "Incentive Bonus"), payable to Executive for the fiscal year that ended immediately preceding Executive's termination of employment, regardless of any requirement that Executive be employed on the date of payment; and

(3) if Executive (and Executive's spouse or dependents, as applicable) timely elects to continue health, dental, and/or vision coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), Company will pay the full premium cost associated with such COBRA continuation coverage consistent with such coverages as are offered to then active employees until the earliest to occur of (i) the expiration of the Severance Period; (ii) the date Executive first becomes eligible for health, dental, or vision coverage with a subsequent employer; (iii) the date Executive is no longer eligible for continuation coverage under COBRA; or (iv) the date Executive violates the provisions of the Restrictive Covenant Agreement. Notwithstanding the foregoing, if Company determines that it cannot provide the benefit required by this Paragraph (4) without potentially violating applicable law (including Section 2716 of the Public Health Service Act) or incurring an excise tax, Company shall in lieu thereof provide to Executive a taxable monthly payment for the period described herein in an amount equal to the monthly COBRA premium that Executive would be required to pay to continue Executive's and Executive's dependents' COBRA continuation coverage based on the premium for the first month of COBRA continuation coverage.

(c) "Good Reason" means Executive's "separation from service" within the meaning of Treasury Regulation Section 1.409A-1(h) following the initial existence of one or more of the following conditions arising without Executive's consent:

(1) a material adverse change of Executive's position with Company that reduces Executive's title, level of authority, duties, and/or responsibilities from those in effect immediately prior to the reduction;

(2) a reduction in base salary or target incentive compensation opportunity;

(3) any failure to provide that Executive is eligible to participate in Company benefit plans on a basis that is generally comparable to similarly-situated senior corporate officers of Company;

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(4) a relocation of Executive's principal worksite of more than 35 miles one way unless such relocation reduces Executive's commute to such worksite; or

(5) any action or inaction that constitutes a material breach by Company of any employment agreement between Executive and Company, if applicable, or a material breach of this Agreement (including a failure to assume this Agreement by any successor to Company).

Within 30 days following the initial existence of a condition described above, Executive must provide written notice to Company of the existence of the condition, and Company must fail to remedy the condition within 120 days of receipt of such notice. If Company fails to remedy the condition, Executive must separate from service with Company within 30 days of the end of the 120-day cure period. If Executive does not separate from service with Company within such 30-day period, Executive will not have incurred a separation from service for Good Reason.

### **3.4 Change in Control.**

(a) For purposes of this Agreement, "Change in Control" shall have the meaning set forth in the Neuronetics, Inc. 2018 Equity Incentive Plan, as may be amended from time to time (the "Equity Plan"); provided, however, that if any amounts under this Agreement are determined to be subject to Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), then a transaction will not be deemed a Change in Control for purposes of this Agreement unless the transaction qualifies as a change in control event within the meaning of Code Section 409A.

(b) Subject to the terms and conditions of this Agreement, if, during the three (3) month period immediately preceding, through the twelve (12) month period immediately following, the occurrence of a Change in Control, (A) Company terminates Executive's employment without Cause, or (B) Executive resigns for Good Reason, Company will provide Executive:

(1) the amounts described in Subparagraphs (1), (2), and (3) of Section 3.3(b) of this Agreement; provided, however, that the Severance Period shall be extended to nine (9) months;

(2) an amount equal to Executive's target Incentive Bonus for the fiscal year of Executive's termination of employment; and

(3) immediate and full vesting (and the ability to exercise, if applicable) of all outstanding unvested restricted stock, stock options, and other equity incentives awarded to Executive by Company.

In the event Executive is entitled to payments pursuant to this Section 3.4, then this Section shall supersede Section 3.3 of this Agreement.

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**3.5 Death; Disability.** In the event Executive's employment ends due to Executive's death or Disability, this Agreement shall terminate and Executive shall not be entitled to any further compensation under this Agreement other than the Accrued Amounts up to the Termination Date. For purposes of this Agreement, "Disability" means a condition entitling Executive to benefits under Company's long-term disability plan, policy, or arrangement; provided, however, that if no such plan, policy, or arrangement is then maintained by Company and applicable to Executive, "Disability" will mean Executive's inability to perform Executive's duties to Company due to a physical or mental condition that can be expected to result in death or that can be expected to last (or has already lasted) for a continuous period of 90 days or more, or for 120 days in any 180 consecutive day period, as determined by an independent physician reasonably satisfactory to Executive and Company whose fees shall be paid by Company. Termination as a result of a Disability will not be construed as a termination by Company "without Cause."

**3.6 Release; Timing of Payment.**

(a) Company shall not be obligated to make any severance payment to Executive under Section 3.3 or 3.4 of this Agreement until Executive has timely delivered to Company a separation agreement, which will include a release of all claims against Company and a non-disparagement clause in favor of Company, in form and substance satisfactory to Company ("Release"), no later than forty-five (45) days following the Termination Date.

(b) The base salary and COBRA continuation severance payable pursuant to Sections 3.3 and 3.4 above shall be paid in substantially equal installments in accordance with Company's payroll practices over the Severance Period; the Incentive Bonus severance described in Section 3.3(b)(2) above shall be paid in a single lump sum on the date Incentive Bonus payments are paid to employees generally; the Incentive Bonus severance described in Section 3.4(b)(2) above shall be payable in a single lump sum commencing within the sixty (60) days immediately following the Termination Date; and any equity awards will be payable in accordance with the Equity Plan, as applicable. Notwithstanding the foregoing, no amounts will be paid pursuant to this Agreement unless and until the Release has become effective and irrevocable under all applicable law; provided, that if the period from the Termination Date until the date of payment can encompass two consecutive calendar years, payment will not be made until the later calendar year. The first payment after the Release has become effective shall include all amounts that would have been paid following the Termination Date had the Release been effective as of the Termination Date but which were not yet paid.

**3.7 Violation of Restrictive Covenant Agreement.** Notwithstanding anything herein to the contrary, Executive's violation of the Restrictive Covenant Agreement at any point during the Severance Period shall result in forfeiture of all unpaid amounts set forth in Sections 3.3 and 3.4 above, Company shall be under no further obligation to make any further payment to Executive, and Executive will be required to repay to Company the gross amount of any payments made pursuant to this Agreement within thirty (30) days of the demand by Company.

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**3.8 No Mitigation.** Executive shall not be obligated to seek other employment or take other action to mitigate the amounts payable to Executive hereunder.

**3.9 No Additional Severance.** Executive acknowledges and agrees that the severance described in this Section 3 shall be in lieu of any other severance payments or benefits to which Executive may be eligible or entitled to receive under any other severance plan or arrangement of Company or its affiliates.

**3.10 Clawback.** Notwithstanding anything herein to the contrary, any amounts payable pursuant to Section 3.3 or 3.4 above remain subject to Company's clawback policy. By entering into this Agreement, Executive acknowledges and agrees that Executive is subject to any clawback and recoupment policies that may be applicable to Executive as an employee of Company, as in effect (or as may be amended) from time to time.

**4. Restrictive Covenant Agreement.** Executive acknowledges and agrees to abide by the terms of the Confidentiality, Non-Competition and Inventions Assignment Agreement, as may be amended from time to time, and substantially in the form as attached hereto as Exhibit A, and/or any other restrictive covenant agreement in the form and substance determined in the discretion of Company (the "Restrictive Covenant Agreement"). Executive acknowledges that the Restrictive Covenant Agreement shall continue to remain in full-force and effect in accordance with its terms following cessation of Executive's employment with Company for any reason. If Executive does not execute the Restrictive Covenant Agreement on or before the fifth (5<sup>th</sup>) calendar day following the Effective Date, or does not have a prior Restrictive Covenant Agreement already in effect as of the Effective Date, this Agreement shall be deemed null and void from the outset and Company shall have no obligations hereunder.

**5. Arbitration.**

**5.1** Executive and Company agree and stipulate that any claims, disputes, and demands which may arise out of Executive's employment with Company, Executive's termination of employment, the interpretation or application of any term, provision, and/or language in this Agreement, and/or disputes, controversies or claims between Executive and Company, regardless of whether said claims, disputes, or demands are based on contract law, common law, federal or state statutes, federal or state constitutional provisions, or otherwise, shall first be submitted to mediation administered by the American Arbitration Association ("AAA") under its Employment Arbitration Rules and Medication Procedures, before resorting to arbitration. Thereafter, any unresolved claim, dispute, or demand shall be submitted to final and binding arbitration pursuant to the Federal Arbitration Act ("Act") in accordance with the Employment Arbitration Rules (or successor rules) of the AAA and Federal Rule of Civil Procedure 68; provided, however, that nothing in this Section shall preclude either party from seeking or obtaining judicial enforcement of the Restrictive Covenant Agreement, through injunctive or equitable relief without arbitration as provided in the Restrictive Covenant Agreement. The FAA applies to this Agreement because Company's business involves interstate commerce. Specifically, Company's business affects interstate commerce because Company operates facilities in various states outside of Pennsylvania; it purchases goods and services and other products from vendors who are located outside of

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Pennsylvania; it ships goods and other products and provides services to persons and entities in various states outside of Pennsylvania; and/or it promotes its business in various states.

**5.2** The arbitration shall be conducted before a single arbitrator who is licensed to practice law in the Commonwealth of Pennsylvania and familiar with employment disputes. The parties may select an arbitrator for their dispute by agreement. If the parties cannot agree upon an arbitrator within thirty (30) days from either party's request for arbitration, either party may request a list of proposed arbitrators from AAA. AAA will guide the parties through the selection of a neutral arbitrator in accordance with its Rules and will provide the parties at least two complete panels from which a selection may be made. The arbitration shall be scheduled within one hundred eighty (180) days after the arbitrator has been selected with the hearing to take place in Chester County, Pennsylvania, and the arbitrator shall issue a written decision within thirty (30) days after the close of the hearing, unless otherwise agreed by the parties.

**5.3** The parties shall have the right to file dispositive motions and post-hearing briefs. The arbitrator's authority and jurisdiction shall be limited to determining the matter in dispute consistent with controlling law and this Agreement. Except as otherwise provided herein, the arbitrator shall apply, and shall not deviate from, the substantive law of the state in which the claim(s) arose and/or federal law, as applicable. The arbitrator shall have the same authority to order remedies (e.g., emotional distress damages, punitive damages, equitable relief, etc.) as would a court of competent jurisdiction. The arbitrator shall not have the authority to hear disputes not recognized by existing law and shall dismiss such claims upon motion by either party in accordance with the summary judgment standards of the applicable jurisdiction. Similarly, the arbitrator shall not have the authority to order any remedy that a court would not be authorized to order. The arbitrator shall render a written award setting forth the arbitrator's findings of fact and conclusions of law within 30 days after the close of the hearing, unless otherwise agreed by the parties. The arbitrator, and not any federal, state, or local court, shall have exclusive authority to resolve any dispute relating to the formation, enforceability, applicability, or interpretation of this Agreement, including without limitation any claim that this Agreement is void or voidable. Thus, the parties voluntarily waive the right to have a court determine the enforceability of this Agreement.

**5.4** Any party hereto who refuses or fails to proceed to arbitration of a dispute covered by this Agreement, after having received a written request from the other party that it/he do so, will be liable to the party requesting arbitration for all attorney fees, costs, and litigation expenses incurred in compelling arbitration.

**5.5** The parties acknowledge that because of their relative positions, knowledge and sophistication, they are capable of, and voluntarily consent to, an equal division of the arbitrator compensation and administrative fees incurred in connection with any arbitration conducted under this Section, so long as such an order would be consistent with the AAA's employment arbitration rules and mediation procedures. Each party shall be solely responsible for payment of its own attorney's fees, if any, relating to the arbitration, unless otherwise required by statute or contract.

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6. **Successors.** This Agreement shall be binding upon any successor of Company and any successor shall be deemed substituted for Company under the terms of this Agreement. As used in this Agreement, the term “successor” shall include any person, firm, corporation, or other business entity which at any time, whether by merger, purchase, or otherwise, acquires all or substantially all of the assets or business of Company. Company will require any successor (whether direct or indirect, by purchase, merger, consolidation, or otherwise) to all or substantially all of the business or assets of Company to assume and agree to perform the obligations under this Agreement in the same manner and to the same extent that Company would be required to perform it if no such succession had taken place. Company shall be permitted to assign this Agreement to its successors and assigns, and all covenants and agreements hereunder shall inure to the benefit of and be enforceable by or against its successors and assigns.

7. **Entire Agreement.** This Agreement supersedes any and all prior or contemporaneous understandings, expectations, statements, representations, negotiations, promises, and agreements (regardless of whether written or oral, expressed or implied) between Company and Executive relating to the subject matter hereof, other than the Restrictive Covenant Agreement and except as provided herein. This Agreement, and the Restrictive Covenant Agreement, incorporate and constitute the full, entire, and complete agreement between Company and Executive with respect to the subject matter hereof and no other agreements, expectations, understandings, representations, and/or promises between the parties and/or their representatives shall be considered valid or effective unless expressly stated herein. Executive shall remain subject to clawback policy of Company, as well as the personnel policies and procedures of Company to the extent that such policies and procedures are not inconsistent with the terms and provisions of this Agreement.

8. **409A Savings Clause.** All amounts payable under this Agreement are intended to comply with the “short term deferral” exception from Code Section 409A, specified in Treas. Reg. § 1.409A-1(b)(4) (or any successor provision) or the “separation pay plan” exception specified in Treas. Reg. § 1.409A-1(b)(9) (or any successor provision), or both of them, and shall be interpreted in a manner consistent with the applicable exceptions. Notwithstanding the foregoing, to the extent that any amounts payable in accordance with this Agreement are subject to Code Section 409A, this Agreement shall be interpreted and administered in such a way as to comply with Code Section 409A to the maximum extent possible. Any reference in this Agreement to a termination of employment means a “separation from service” as defined in Code Section 409A and the applicable guidance issued thereunder. All rights to payments and benefits hereunder shall be treated as rights to receive a series of separate payments and benefits to the fullest extent allowed by Code Section 409A. If payment of any amount subject to Code Section 409A is triggered by a separation from service that occurs while the Employee is a “specified employee” (as defined by Code Section 409A) with the Company, and if such amount is scheduled to be paid within six (6) months after such separation from service, the amount shall accrue without interest and shall be paid on the first business day after the end of such six-month period, or, if earlier, within 15 days after the appointment of the personal representative or executor of the Employee’s estate following the Employee’s death.

Notwithstanding anything in this Agreement to the contrary, in no event shall Company commence payment or distribution to Executive of any amount that constitutes “nonqualified deferred compensation” within the meaning of Code Section 409A, earlier than the earliest permissible date under Code Section 409A that such amount could be paid or distributed without the imposition of additional taxes, interest, or penalties under Code Section 409A. If any payments or distributions are

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delayed pursuant to the immediately preceding sentence, Company will accrue such amounts without interest during such period as the payment or distribution may be required to be deferred under Code Section 409A, and will become payable and be paid by Company in a lump-sum payment on the first business day that such amount could be paid or distributed without additional taxes, interest, or penalties being imposed under Code Section 409A.

## 9. Section 280G.

9.1 In the event that part or all of the payments or benefits to be paid or provided to the Executive under this Agreement together with the aggregate present value of payments, consideration, compensation, and benefits under all other plans, arrangements, and agreements applicable to the Executive (“Total Payments”) will be subject to an excise tax under the provisions of Code Section 4999 (“Excise Tax”), the Total Payments shall be reduced so that the maximum amount of the Total Payments (after reduction) will be one dollar (\$1.00) less than the amount that would cause the Total Payments to be subject to the Excise Tax; provided, however, that the Total Payments shall only be reduced to the extent the after-tax value of amounts received by the Executive after application of the above reduction would exceed the after-tax value of the Total Payments received by the Executive without application of such reduction. If applicable, the particular payments that are to be reduced shall be subject to the mutual agreement of the Executive and the Company, with a view to maximizing the value of the payments to the Executive that are not reduced.

9.2 For purposes of determining whether any of the Total Payments will be subject to the Excise Tax and the amount of such Excise Tax, (a) all of the Total Payments shall be treated as “parachute payments” within the meaning of Code Section 280G(b)(2), unless in the opinion of tax counsel (the “Tax Counsel”) reasonably acceptable to the Executive and selected by the accounting firm (the “Auditor”) which was, immediately prior to the Change in Control, the Company’s independent auditor, such other payments or benefits (in whole or in part) do not constitute parachute payments, including by reason of Code Section 280G(b)(4)(A), (b) all “excess parachute payments” within the meaning of Code Section 280G(b)(1) shall be treated as subject to the Excise Tax unless, in the opinion of Tax Counsel, such excess parachute payments (in whole or in part) represent reasonable compensation for services actually rendered, within the meaning of Code Section 280G(b)(4)(B), in excess of the base amount allocable to such reasonable compensation, or are otherwise not subject to the Excise Tax, and (c) the value of any noncash benefits or any deferred payment or benefit shall be determined by the Auditor in accordance with the principles set forth in Code Section 280G(d)(3) and (d)(4). Prior to the payment date set forth in Section 3.4 of this Agreement, Company shall provide the Executive with its calculation of the amounts referred to in this Section 9.2 and such supporting materials as are reasonably necessary for the Executive to evaluate Company’s calculations. If the Executive disputes Company’s calculations (in whole or in part), the reasonable opinion of Tax Counsel with respect to the matter in dispute shall prevail.

10. Taxes, Penalties, and Fees. It is the sole obligation of Executive, or Executive’s estate or beneficiary, to remain aware of and to pay any and all taxes, fees, or penalties (including any excise taxes) due now or in the future on benefits received under this Agreement, whether or not

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Executive or Executive's beneficiary has received cash from Company at the time the taxes, fees, or penalties become due. Executive acknowledges that tax requirements may change during the term of this Agreement and that it is Executive's (or Executive's estate's or beneficiary's) obligation to remain aware of these changes and to fulfill these obligations. Any amounts payable (or transfers of property) pursuant to this Agreement will be subject to federal, state, and local tax withholding to the extent required by applicable law.

**11. Amendment.** No change, amendment, alteration, deletion, addition, supplementation, clarification, or modification to this Agreement or any of its terms shall be valid or of any effect unless, and only if, it is reduced to writing as a formal and specific amendment to this Agreement and is signed by Executive and Company. Notwithstanding the foregoing, no amendment to this Agreement may accelerate any amount payable to Executive unless the amendment and acceleration are allowable by Code Section 409A, or the amounts payable are not subject to Code Section 409A. Further notwithstanding the foregoing, no payment to Executive shall occur upon termination of this Agreement unless the requirements of Code Section 409A have been met, to the extent applicable. Company and Executive agree to execute any and all amendments to this Agreement as they mutually agree may be necessary or appropriate to ensure compliance with the distribution provisions of Code Section 409A or as otherwise needed to ensure that this Agreement complies with, or remains exempt from, Code Section 409A.

**12. Severability.** The invalidity or unenforceability of a particular provision of this Agreement shall not affect the enforceability of any other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision was omitted.

**13. Waiver.** The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach hereof or of any other right herein.

**14. Notices.** Any notice to be given under this Agreement by either party to the other may be effective either by personal delivery in writing or by mail, certified mail, postage prepaid with return receipt requested. Mailed notices shall be addressed to Executive's current residence or to Company's principal business address. Notices delivered personally shall be deemed communicated as of the actual receipt thereof, and mailed notices shall be deemed communicated and received three (3) days after the mailing of same.

**15. Applicable Law; Venue.** This Agreement shall be governed by and interpreted under the laws of the Commonwealth of Pennsylvania, and all actions brought to enforce or interpret this Agreement shall be in the courts applicable to Chester County, Pennsylvania.

**16. Construction of Agreement.** The terms, provisions, and conditions of this Agreement represent the results of negotiations between and among the parties hereto, each of which has had the opportunity to be represented by counsel of its own choosing, and neither of which has acted under duress or coercion whether legal, economic or otherwise. Accordingly, the terms, provisions, and conditions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings.

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17. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, but all of which together will constitute one and the same instrument.

18. **Consultation with Attorney.** Executive acknowledges and agrees that Executive has been afforded the opportunity to review this Agreement with Executive's legal counsel prior to execution hereof.

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IN WITNESS WHEREOF, the parties have hereto set their hand to this Agreement as set out below.

EXECUTIVE

NEURONETICS, INC.

\_\_\_\_\_  
[Name]

By: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Date

By: \_\_\_\_\_

**EXHIBIT A  
RESTRICTIVE COVENANT AGREEMENT**

47667933.2

**THIRD AMENDED AND RESTATED BYLAWS  
OF  
NEURONETICS, INC.  
(A DELAWARE CORPORATION)**

**July 28, 2021**

**NEURONETICS, INC.  
THIRD AMENDED AND RESTATED  
BYLAWS**

**ARTICLE I**

**OFFICES**

**Section 1. Registered Office.** The registered office shall be established and maintained at the office of The Corporation Trust Company, in the City of Wilmington, in the County of New Castle, in the State of Delaware, and said corporation, or other such person or entity as the Board of Directors may from time to time designate, shall be the registered agent of the corporation.

**Section 2. Other Offices.** The corporation shall also have and maintain an office or principal place of business at such place as may be fixed by the Board of Directors, and may also have offices at such other places, both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the corporation may require.

**ARTICLE II**

**CORPORATE SEAL**

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

**ARTICLE III**

**STOCKHOLDERS' MEETINGS**

**Section 4. Place of Meetings.** Meetings of the stockholders of the corporation may be held at such place, either within or without the State of Delaware, as may be determined from time to time by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the Delaware General Corporation Law (the "**DGCL**").

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## Section 5. Annual Meetings.

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

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

(1) For nominations for the election to the Board of Directors to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of Section 5(a) of these Bylaws, the stockholder must deliver written notice to the Secretary at the principal executive offices of the corporation on a timely basis as set forth in Section 5(b)(3) and must update and supplement such written notice on a timely basis as set forth in Section 5(c). Such stockholder's notice shall include: (A) as to each nominee such stockholder proposes to nominate at the meeting: (1) the name, age, business address and residence address of such nominee, (2) the principal occupation or employment of such nominee, (3) the class and number of shares of each class of capital stock of the corporation which are owned of record and beneficially by such nominee, (4) the date or dates on which such shares were acquired and the investment intent of such acquisition and (5) such other information concerning such nominee as would be required to be disclosed in a proxy statement soliciting proxies for the election of such nominee as a director in an election contest (even if an election contest is not involved), or that is otherwise required to be disclosed pursuant to Section 14 of the 1934 Act and the rules and regulations promulgated thereunder (including such person's written consent to being named as a nominee and to serving as a director if elected); and (B) the information required by Section 5(b)(4).

(2) Other than proposals sought to be included in the corporation's proxy materials pursuant to Rule 14a-8 under the 1934 Act, for business other than nominations for the election to the Board of Directors to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of Section 5(a) of these Bylaws, the stockholder must deliver written notice to the Secretary at the principal executive offices of the corporation on a timely basis as set forth in Section 5(b)(3), and must update and supplement such written notice on a

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timely basis as set forth in Section 5(c). Such stockholder's notice shall set forth: (A) as to each matter such stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting, and any material interest (including any anticipated benefit of such business to any Proponent (as defined below) other than solely as a result of its ownership of the corporation's capital stock, that is material to any Proponent individually, or to the Proponents in the aggregate) in such business of any Proponent; and (B) the information required by Section 5(b)(4).

(3) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of Section 5(a) of these Bylaws, the stockholder must have given timely notice thereof in writing to the Secretary at the principal executive offices of the corporation. To be timely, a stockholder's notice must be received by the Secretary at the principal executive offices of the corporation not later than the close of business on the ninetieth (90th) day nor earlier than the close of business on the one hundred twentieth (120th) day prior to the first anniversary of the preceding year's annual meeting; *provided, however*, that, subject to the last sentence of this Section 5(b)(3), in the event that the date of the annual meeting is advanced more than thirty (30) days prior to or delayed by more than thirty (30) days after the anniversary of the preceding year's annual meeting, notice by the stockholder to be timely must be so received not earlier than the close of business on the one hundred twentieth (120th) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such annual meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made. In no event shall an adjournment or a postponement of an annual meeting for which notice has been given, or the public announcement thereof has been made, commence a new time period for the giving of a stockholder's notice as described above.

(4) The written notice required by Section 5(b)(1) or 5(b)(2) shall also set forth, as of the date of the notice and as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (each, a "**Proponent**" and collectively, the "**Proponents**"): (A) the name and address of each Proponent, as they appear on the corporation's books; (B) the class, series and number of shares of the corporation that are owned beneficially and of record by each Proponent; (C) a description of any agreement, arrangement or understanding (whether oral or in writing) with respect to such nomination or proposal between or among any Proponent and any of its affiliates or associates, and any others (including their names) acting in concert, or otherwise under the agreement, arrangement or understanding, with any of the foregoing; (D) a representation that the Proponents are holders of record or beneficial owners, as the case may be, of shares of the corporation entitled to vote at the meeting and intend to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice (with respect to a notice under Section 5(b)(1)) or to propose the business that is specified in the notice (with respect to a notice under Section 5(b)(2)); (E) a representation as to whether the Proponents intend to deliver a proxy statement and form of proxy to holders of a sufficient number of holders of the corporation's voting shares to elect such nominee or nominees (with respect to a notice under Section 5(b)(1)) or to carry such proposal (with respect to a notice under Section 5(b)(2)); (F) to the extent known by any Proponent, the name and address of any other stockholder supporting the proposal on the date of such

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stockholder's notice; and (G) a description of all Derivative Transactions (as defined below) by each Proponent during the previous twelve (12) month period, including the date of the transactions and the class, series and number of securities involved in, and the material economic terms of, such Derivative Transactions.

For purposes of Sections 5 and 6, a “**Derivative Transaction**” means any agreement, arrangement, interest or understanding entered into by, or on behalf or for the benefit of, any Proponent or any of its affiliates or associates, whether record or beneficial:

(w) the value of which is derived in whole or in part from the value of any class or series of shares or other securities of the corporation,

(x) which otherwise provides any direct or indirect opportunity to gain or share in any gain derived from a change in the value of securities of the corporation,

(y) the effect or intent of which is to mitigate loss, manage risk or benefit of security value or price changes, or

(z) which provides the right to vote or increase or decrease the voting power of, such Proponent, or any of its affiliates or associates, with respect to any securities of the corporation,

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

(c) A stockholder providing notice of a proposed nomination for election to the Board of Directors or other business proposed to be brought before an annual meeting shall update and supplement such notice in writing, if necessary, so that the information provided or required to be provided in such notice is true and correct in all material respects as of (i) the record date for the meeting and (ii) the date that is five (5) business days prior to the meeting and, in the event of any adjournment or postponement thereof, five (5) business days prior to such adjourned or postponed meeting. In the case of an update and supplement pursuant to clause (i) of this Section 5(c), such update and supplement shall be received by the Secretary at the principal executive offices of the corporation not later than five (5) business days after the record date for the meeting. In the case of an update and supplement pursuant to clause (ii) of this Section 5(c), such update and supplement shall be received by the Secretary at the principal executive offices of the corporation not later than two (2) business days prior to the date for the meeting, and, in the event of any adjournment or postponement thereof, two (2) business days prior to such adjourned or postponed meeting.

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(d) Notwithstanding anything in Section 5(b)(3) to the contrary, in the event that the number of directors of the Board of Directors of the corporation is increased and there is no public announcement of the appointment of a director, or, if no appointment was made, of the vacancy, made by the corporation at least 10 days before the last day a stockholder may deliver a notice of nomination in accordance with Section 5(b)(3), a stockholder's notice required by this Section 5 and which complies with the requirements in Section 5(b), other than the timing requirements in Section 5(b)(3), shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be received by the Secretary at the principal executive offices of the corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the corporation.

(e) A person shall not be eligible for election or re-election as a director unless the person is nominated either in accordance with clause (ii) of Section 5(a), or in accordance with clause (iii) of Section 5(a). Except as otherwise required by law, the chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made, or proposed, as the case may be, in accordance with the procedures set forth in these Bylaws and, if any proposed nomination or business is not in compliance with these Bylaws, or the Proponent does not act in accordance with the representations in Sections 5(b)(4)(D) and 5(b)(4)(E), to declare that such proposal or nomination shall not be presented for stockholder action at the meeting and shall be disregarded, notwithstanding that proxies in respect of such nominations or such business may have been solicited or received.

(f) Notwithstanding the foregoing provisions of this Section 5, in order to include information with respect to a stockholder proposal in the proxy statement and form of proxy for a stockholders' meeting, a stockholder must also comply with all applicable requirements of the 1934 Act and the rules and regulations thereunder. Nothing in these Bylaws shall be deemed to affect any rights of stockholders to request inclusion of proposals in the corporation's proxy statement pursuant to Rule 14a-8 under the 1934 Act; *provided, however*, that any references in these Bylaws to the 1934 Act or the rules and regulations thereunder are not intended to and shall not limit the requirements applicable to proposals and/or nominations to be considered pursuant to Section 5(a)(iii) of these Bylaws.

(g) For purposes of Sections 5 and 6,

(1) "**public announcement**" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the 1934 Act; and

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

(h) To be eligible as a nominee for election as a director of the corporation, the proposed nominee must deliver (in accordance with the time periods prescribed for delivery of notice under Section 5(b)(3)) to the Secretary at the principal executive offices of the

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corporation a written and completed questionnaire (which questionnaire shall be provided by the Secretary upon written request) and a written agreement, representing, warranting and covenanting (in the form provided by the Secretary upon written request) that such proposed nominee (A) is not and will not become a party to (1) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such proposed nominee, if elected as a director of the corporation, will act or vote on any issue or question (a “**Voting Commitment**”) that has not been disclosed to the corporation or (2) any Voting Commitment that could limit or interfere with such proposed nominee’s ability to comply, if elected as a director of the corporation, with such proposed nominee’s fiduciary duties under applicable law, (B) is not, and will not become, a party to any agreement, arrangement or understanding with any person or entity other than the corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed to the corporation and (C) would be in compliance with, if elected as a director of the corporation, and will comply with applicable publicly disclosed corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the corporation. In addition, the corporation may require any proposed nominee to furnish, in each case within five (5) business days of the corporation’s request, such other information as the corporation may reasonably request, including without limitation, (X) as may reasonably be required by the corporation to determine the qualifications of such proposed nominee to serve as a director of the corporation, (Y) as may reasonably be required by the corporation to determine the eligibility of such proposed nominee to serve as an independent director of the corporation in accordance with the corporation’s corporate governance guidelines or (Z) that could be material to a reasonable stockholder’s understanding of the qualifications of such proposed nominee to serve as a director of the corporation or the independence, or lack thereof, of such proposed nominee.

## **Section 6. Special Meetings.**

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

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

(c) Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected (i) by or at the direction of the Board of Directors or (ii) by any stockholder of the corporation who is a stockholder of record at the time of giving notice provided for in this paragraph and at the date of the meeting, who shall be entitled to vote at the meeting and who complies with the procedures

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set forth in Section 5 and this paragraph. In the event the corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder of record may nominate a person or persons (as the case may be), for election to such position(s) as specified in the corporation's notice of meeting, if written notice setting forth the information required by Section 5(b)(1) of these Bylaws shall be received by the Secretary at the principal executive offices of the corporation not later than the close of business on the later of the ninetieth (90th) day prior to such meeting or the tenth (10th) day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. The stockholder shall also update and supplement such information as required under Section 5(c). In no event shall an adjournment or a postponement of a special meeting for which notice has been given, or the public announcement thereof has been made, commence a new time period for the giving of a stockholder's notice as described above.

(d) Notwithstanding the foregoing provisions of this Section 6, a stockholder must also comply with all applicable requirements of the 1934 Act and the rules and regulations thereunder with respect to matters set forth in this Section 6. Nothing in these Bylaws shall be deemed to affect any rights of stockholders to request inclusion of proposals in the corporation's proxy statement pursuant to Rule 14a-8 under the 1934 Act; *provided, however*, that any references in these Bylaws to the 1934 Act or the rules and regulations thereunder are not intended to and shall not limit the requirements applicable to nominations for the election to the Board of Directors to be considered pursuant to Section 6(c) of these Bylaws.

**Section 7. Notice Of Meetings.** Except as otherwise provided by law, notice, given in writing or by electronic transmission, of each meeting of stockholders shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting, such notice to specify the place, if any, date and hour, in the case of special meetings, the purpose or purposes of the meeting, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at any such meeting. If mailed, notice is deemed given when deposited in the U.S. mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation. Notice of the time, place, if any, and purpose of any meeting of stockholders may be waived in writing, signed by the person entitled to notice thereof, or by electronic transmission by such person, either before or after such meeting, and will be waived by any stockholder by his, her or its attendance thereat in person, by remote communication, if applicable, or by proxy, except when the stockholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given.

**Section 8. Quorum.** At all meetings of stockholders, except where otherwise provided by statute or by the Certificate of Incorporation, or by these Bylaws, the presence, in person, by remote communication, if applicable, or by proxy duly authorized, of the holders of a majority of the outstanding shares of stock entitled to vote shall constitute a quorum for the transaction of business. In the absence of a quorum, any meeting of stockholders may be

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adjourned, from time to time, either by the chairman of the meeting or by vote of the holders of a majority of the shares represented thereat, but no other business shall be transacted at such meeting. The stockholders present at a duly called or convened meeting, at which a quorum is present, may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. Except as otherwise provided by statute or by applicable stock exchange rules, or by the Certificate of Incorporation or these Bylaws, in all matters other than the election of directors, the affirmative vote of the majority of shares present in person, by remote communication, if applicable, or represented by proxy at the meeting and entitled to vote generally on the subject matter shall be the act of the stockholders. Except as otherwise provided by statute, the Certificate of Incorporation or these Bylaws, directors shall be elected by a plurality of the votes of the shares present in person, by remote communication, if applicable, or represented by proxy at the meeting and entitled to vote generally on the election of directors. Where a separate vote by a class or classes or series is required, except where otherwise provided by the statute or by the Certificate of Incorporation or these Bylaws, a majority of the outstanding shares of such class or classes or series, present in person, by remote communication, if applicable, or represented by proxy duly authorized, shall constitute a quorum entitled to take action with respect to that vote on that matter. Except where otherwise provided by statute or by the Certificate of Incorporation or these Bylaws, the affirmative vote of the majority (plurality, in the case of the election of directors) of shares of such class or classes or series present in person, by remote communication, if applicable, or represented by proxy at the meeting shall be the act of such class or classes or series.

**Section 9. Adjournment And Notice Of Adjourned Meetings.** Any meeting of stockholders, whether annual or special, may be adjourned from time to time either by the chairman of the meeting or by the vote of a majority of the shares present in person, by remote communication, if applicable, or represented by proxy at the meeting. When a meeting is adjourned to another time or place, if any, notice need not be given of the adjourned meeting if the time and place, if any, thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

**Section 10. Voting Rights.** For the purpose of determining those stockholders entitled to vote at any meeting of the stockholders, except as otherwise provided by law, only persons in whose names shares stand on the stock records of the corporation on the record date, as provided in Section 12 of these Bylaws, shall be entitled to vote at any meeting of stockholders. Every person entitled to vote shall have the right to do so either in person, by remote communication, if applicable, or by an agent or agents authorized by a proxy granted in accordance with Delaware law. An agent so appointed need not be a stockholder. No proxy shall be voted after three (3) years from its date of creation unless the proxy provides for a longer period.

**Section 11. Joint Owners Of Stock.** If shares or other securities having voting power stand of record in the names of two (2) or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, tenants by the entirety, or otherwise, or if two (2) or more persons have the same fiduciary relationship respecting the same shares, unless the

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Secretary is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect: (a) if only one (1) votes, his or her act binds all; (b) if more than one (1) votes, the act of the majority so voting binds all; (c) if more than one (1) votes, but the vote is evenly split on any particular matter, each faction may vote the securities in question proportionally, or may apply to the Delaware Court of Chancery for relief as provided in the DGCL, Section 217(b). If the instrument filed with the Secretary shows that any such tenancy is held in unequal interests, a majority or even-split for the purpose of subsection (c) shall be a majority or even-split in interest.

**Section 12. List Of Stockholders.** The Secretary shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at said meeting, arranged in alphabetical order, showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (b) during ordinary business hours, at the principal place of business of the corporation. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. The list shall be open to examination of any stockholder during the time of the meeting as provided by law.

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

**Section 14. Organization.**

(a) At every meeting of stockholders, the Chairman of the Board of Directors, or, if a Chairman has not been appointed or is absent, the President, or, if the President is absent, a chairman of the meeting chosen by a majority in interest of the stockholders entitled to vote, present in person or by proxy, shall act as chairman. The Secretary, or, in his or her absence, an Assistant Secretary directed to do so by the President, shall act as secretary of the meeting.

(b) The Board of Directors of the corporation shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as it shall deem necessary, appropriate or convenient. Subject to such rules and regulations of the Board of Directors, if any, the chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are necessary, appropriate or convenient for the proper conduct of the meeting, including, without limitation, establishing an agenda or order of business for the meeting, rules and procedures for maintaining order at the meeting and the safety of those present, limitations on participation in such meeting to stockholders of record of the corporation and their duly authorized and constituted proxies and such other persons as the chairman shall permit, restrictions on entry to the meeting after the time fixed for the commencement thereof, limitations on the time allotted to questions or comments by participants and regulation of the opening and closing of the polls for balloting on

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matters which are to be voted on by ballot. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with rules of parliamentary procedure.

## ARTICLE IV

### DIRECTORS

**Section 15. Number And Term Of Office.** The authorized number of directors of the corporation shall be fixed in accordance with the Certificate of Incorporation. Directors need not be stockholders unless so required by the Certificate of Incorporation. If for any cause, the directors shall not have been elected at an annual meeting, they may be elected as soon thereafter as convenient at a special meeting of the stockholders called for that purpose in the manner provided in these Bylaws.

**Section 16. Powers.** The powers of the corporation shall be exercised, its business conducted and its property controlled by the Board of Directors, except as may be otherwise provided by statute or by the Certificate of Incorporation.

**Section 17. Board of Directors.** Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, directors shall be elected at each annual meeting of stockholders to serve until the next annual meeting of stockholders. Each director shall serve until his or her successor is duly elected and qualified or until his or her earlier death, resignation or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

**Section 18. Vacancies.** Unless otherwise provided in the Certificate of Incorporation, and subject to the rights of the holders of any series of Preferred Stock, any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other causes and any newly created directorships resulting from any increase in the number of directors shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled only by the affirmative vote of a majority of the directors then in office, even though less than a quorum of the Board of Directors, or by a sole remaining director, and not by the stockholders, *provided, however*, that whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the Certificate of Incorporation, vacancies and newly created directorships of such class or classes or series shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected, and not by the stockholders. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the director for which the vacancy was created or occurred and until such director's successor shall have been elected and qualified. A vacancy in the Board of Directors shall be deemed to exist under this Bylaw in the case of the death, removal or resignation of any director.

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**Section 19. Resignation.** Any director may resign at any time by delivering his or her notice in writing or by electronic transmission to the Secretary, such resignation to specify whether it will be effective at a particular time. If no such specification is made, it shall be deemed effective at the time of delivery to the Secretary. When one or more directors shall resign from the Board of Directors, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each Director so chosen shall hold office for the unexpired portion of the term of the Director whose place shall be vacated and until his or her successor shall have been duly elected and qualified.

## **Section 20. Removal.**

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

(b) Subject to any limitation imposed by law, any individual director or directors may be removed with or without cause by the affirmative vote of the holders of at least a majority of the voting power of all then outstanding shares of capital stock of the corporation entitled to vote generally at an election of directors.

## **Section 21. Meetings.**

(a) **Regular Meetings.** Unless otherwise restricted by the Certificate of Incorporation, regular meetings of the Board of Directors may be held at any time or date and at any place within or without the State of Delaware which has been designated by the Board of Directors and publicized among all directors, either orally or in writing, by telephone, including a voice-messaging system or other system designed to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means. No further notice shall be required for regular meetings of the Board of Directors.

(b) **Special Meetings.** Unless otherwise restricted by the Certificate of Incorporation, special meetings of the Board of Directors may be held at any time and place within or without the State of Delaware whenever called by the Chairman of the Board, the Chief Executive Officer or a majority of the authorized number of directors.

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

(d) **Notice of Special Meetings.** Notice of the time and place of all special meetings of the Board of Directors shall be orally or in writing, by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means, during normal

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business hours, at least twenty-four (24) hours before the date and time of the meeting. If notice is sent by US mail, it shall be sent by first class mail, charges prepaid, at least three (3) days before the date of the meeting. Notice of any meeting may be waived in writing, or by electronic transmission, at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

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

## Section 22. Quorum And Voting.

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

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

**Section 23. Action Without Meeting.** Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent thereto in writing or by electronic transmission, and such writing or writings or transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

**Section 24. Fees And Compensation.** Directors shall be entitled to such compensation for their services as may be approved by the Board of Directors, including, if so approved, by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, for attendance at each regular or special meeting of the Board of Directors and at any

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meeting of a committee of the Board of Directors. Nothing herein contained shall be construed to preclude any director from serving the corporation in any other capacity as an officer, agent, employee, or otherwise and receiving compensation therefor.

## Section 25. Committees.

(a) **Executive Committee.** The Board of Directors may appoint an Executive Committee to consist of one (1) or more members of the Board of Directors. The Executive Committee, to the extent permitted by law and provided in the resolution of the Board of Directors shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to (i) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopting, amending or repealing any Bylaw of the corporation.

(b) **Other Committees.** The Board of Directors may, from time to time, appoint such other committees as may be permitted by law. Such other committees appointed by the Board of Directors shall consist of one (1) or more members of the Board of Directors and shall have such powers and perform such duties as may be prescribed by the resolution or resolutions creating such committees, but in no event shall any such committee have the powers denied to the Executive Committee in these Bylaws.

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

(d) **Meetings.** Unless the Board of Directors shall otherwise provide, regular meetings of the Executive Committee or any other committee appointed pursuant to this Section 25 shall be held at such times and places as are determined by the Board of Directors, or by any such committee, and when notice thereof has been given to each member of such committee, no further notice of such regular meetings need be given thereafter. Special meetings of any such committee may be held at any place which has been determined from time to time by such committee, and may be called by any director who is a member of such committee, upon notice

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to the members of such committee of the time and place of such special meeting given in the manner provided for the giving of notice to members of the Board of Directors of the time and place of special meetings of the Board of Directors. Notice of any special meeting of any committee may be waived in writing or by electronic transmission at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends such special meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Unless otherwise provided by the Board of Directors in the resolutions authorizing the creation of the committee, a majority of the authorized number of members of any such committee shall constitute a quorum for the transaction of business, and the act of a majority of those present at any meeting at which a quorum is present shall be the act of such committee.

**Section 26. Organization.** At every meeting of the directors and stockholders, the Chairman of the Board of Directors, or, if a Chairman has not been appointed or is absent, the Chief Executive Officer (if a director), or, if a Chief Executive Officer is absent, the President (if a director), or if the President is absent, the most senior Vice President (if a director), or, in the absence of any such person, a chairman of the meeting chosen by a majority of the directors present, shall preside over the meeting. The Secretary, or in his or her absence, any Assistant Secretary or other officer or director directed to do so by the President, shall act as secretary of the meeting. The Chairman of the Board of Directors shall also perform such other duties and have such other powers, as the Board of Directors shall designate from time to time.

## ARTICLE V

### OFFICERS

**Section 27. Officers Designated.** The officers of the corporation shall include, if and when designated by the Board of Directors, the Chairman of the Board of Directors (provided that notwithstanding anything to the contrary contained in these Bylaws, the Chairman of the Board of Directors shall not be deemed an officer of the corporation unless so designated by the Board of Directors), the Chief Executive Officer, the President, one or more Vice Presidents, the Secretary, the Chief Financial Officer and the Treasurer. The Board of Directors may also appoint one or more Assistant Secretaries and Assistant Treasurers and such other officers and agents with such powers and duties as it shall deem necessary. The Board of Directors may assign such additional titles to one or more of the officers as it shall deem appropriate. Any one person may hold any number of offices of the corporation at any one time unless specifically prohibited therefrom by law. The salaries and other compensation of the officers of the corporation shall be fixed by or in the manner designated by the Board of Directors.

**Section 28. Tenure And Duties Of Officers.**

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

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

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

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

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

**(f) Duties of Chief Financial Officer.** The Chief Financial Officer shall keep or cause to be kept the books of account of the corporation in a thorough and proper manner and shall render statements of the financial affairs of the corporation in such form and as often as required by the Board of Directors or the President. The Chief Financial Officer, subject to the

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order of the Board of Directors, shall have the custody of all funds and securities of the corporation. The Chief Financial Officer shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time. To the extent that a Chief Financial Officer has been appointed and no Treasurer has been appointed, all references in these Bylaws to the Treasurer shall be deemed references to the Chief Financial Officer. The President may direct the Treasurer, if any, or any Assistant Treasurer, or the Controller or any Assistant Controller to assume and perform the duties of the Chief Financial Officer in the absence or disability of the Chief Financial Officer, and each Treasurer and Assistant Treasurer and each Controller and Assistant Controller shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

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

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

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

**Section 31. Removal.** Any officer may be removed from office at any time, either with or without cause, by the affirmative vote of a majority of the directors in office at the time, or by the unanimous written consent of the directors in office at the time, or by any committee or by the Chief Executive Officer or other superior officers upon whom such power of removal may have been conferred by the Board of Directors.

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## ARTICLE VI

### EXECUTION OF CORPORATE INSTRUMENTS AND VOTING OF SECURITIES OWNED BY THE CORPORATION

**Section 32. Execution Of Corporate Instruments.** The Board of Directors may, in its discretion, determine the method and designate the signatory officer or officers, or other person or persons, to execute on behalf of the corporation any corporate instrument or document, or to sign on behalf of the corporation the corporate name without limitation, or to enter into contracts on behalf of the corporation, except where otherwise provided by law or these Bylaws, and such execution or signature shall be binding upon the corporation.

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

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

**Section 33. Voting Of Securities Owned By The Corporation.** All stock and other securities of other corporations owned or held by the corporation for itself, or for other parties in any capacity, shall be voted, and all proxies with respect thereto shall be executed, by the person authorized so to do by resolution of the Board of Directors, or, in the absence of such authorization, by the Chairman of the Board of Directors, the Chief Executive Officer, the President, or any Vice President.

## ARTICLE VII

### SHARES OF STOCK

**Section 34. Form And Execution Of Certificates.** The shares of the corporation shall be represented by certificates, or shall be uncertificated if so provided by resolution or resolutions of the Board of Directors. Certificates for the shares of stock, if any, shall be in such form as is consistent with the Certificate of Incorporation and applicable law. Every holder of stock represented by certificate in the corporation shall be entitled to have a certificate signed by or in the name of the corporation by the Chairman of the Board of Directors, or the President or any Vice President and by the Treasurer or Assistant Treasurer or the Secretary or Assistant Secretary, certifying the number of shares owned by him in the corporation. Any or all of the signatures on the certificate may be facsimiles. In case any officer, transfer agent, or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued with the same effect as if he were such officer, transfer agent, or registrar at the date of issue.

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

**Section 36. Transfers.**

(a) Transfers of record of shares of stock of the corporation shall be made only upon its books by the holders thereof, in person or by attorney duly authorized, and, in the case of stock represented by certificate, upon the surrender of a properly endorsed certificate or certificates for a like number of shares.

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

**Section 37. Fixing Record Dates.**

(a) In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, subject to applicable law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided, however*, that the Board of Directors may fix a new record date for the adjourned meeting.

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

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

## ARTICLE VIII

### OTHER SECURITIES OF THE CORPORATION

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

## ARTICLE IX

### DIVIDENDS

**Section 40. Declaration Of Dividends.** Dividends upon the capital stock of the corporation, subject to the provisions of the Certificate of Incorporation and applicable law, if any, may be declared by the Board of Directors pursuant to law at any regular or special meeting. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the Certificate of Incorporation and applicable law.

**Section 41. Dividend Reserve.** Before payment of any dividend, there may be set aside out of any funds of the corporation available for dividends such sum or sums as the Board of Directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property

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of the corporation, or for such other purpose as the Board of Directors shall think conducive to the interests of the corporation, and the Board of Directors may modify or abolish any such reserve in the manner in which it was created.

## ARTICLE X

### FISCAL YEAR

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

## ARTICLE XI

### INDEMNIFICATION

**Section 43. Indemnification Of Directors, Officers, Employees And Other Agents.**

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

(b) **Officers, Employees and Other Agents.** The corporation shall have power to indemnify its officers, employees and other agents as set forth in the DGCL or any other applicable law. The Board of Directors shall have the power to delegate the determination of whether indemnification shall be given to any such person to such officers or other persons as the Board of Directors shall determine.

(c) **Expenses.** The corporation shall advance to any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director of the corporation, or is or was serving at the request of the corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, prior to the final disposition of the proceeding, promptly following request therefor, all expenses incurred by any director in connection with such proceeding; *provided, however*, that, if the DGCL requires, an advancement of expenses incurred by a director in his or her capacity as a director (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which

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there is no further right to appeal that such indemnitee is not entitled to be indemnified for such expenses under this section or otherwise.

**(d) Enforcement.** Without the necessity of entering into an express contract, all rights to indemnification and advances to directors under this Bylaw shall be deemed to be contractual rights and be effective to the same extent and as if provided for in a contract between the corporation and the director. Any right to indemnification or advances granted by this Bylaw to a director shall be enforceable by or on behalf of the person holding such right in any court of competent jurisdiction if (i) the claim for indemnification or advances is denied, in whole or in part, or (ii) no disposition of such claim is made within ninety (90) days of request therefor. To the extent permitted by law, the claimant in such enforcement action, if successful in whole or in part, shall be entitled to be paid also the expense of prosecuting the claim. In connection with any claim for indemnification, the corporation shall be entitled to raise as a defense to any such action that the claimant has not met the standards of conduct that make it permissible under the DGCL or any other applicable law for the corporation to indemnify the claimant for the amount claimed. Neither the failure of the corporation (including its Board of Directors, independent legal counsel or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because the director has met the applicable standard of conduct set forth in the DGCL or any other applicable law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that claimant has not met the applicable standard of conduct. In any suit brought by a director to enforce a right to indemnification or to an advancement of expenses hereunder, the burden of proving that the director is not entitled to be indemnified, or to such advancement of expenses, under this section or otherwise shall be on the corporation.

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

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

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

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

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

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

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

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

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

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

**(5)** References to “other enterprises” shall include employee benefit plans; references to “fines” shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to “serving at the request of the corporation” shall include any service as a director, officer, employee or agent of the corporation which imposes duties on,

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or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the corporation” as referred to in this section.

## ARTICLE XII

### NOTICES

#### Section 44. Notices.

(a) **Notice To Stockholders.** Written notice to stockholders of stockholder meetings shall be given as provided in Section 7 herein. Without limiting the manner by which notice may otherwise be given effectively to stockholders under any agreement or contract with such stockholder, and except as otherwise required by law, written notice to stockholders for purposes other than stockholder meetings may be sent by U.S. mail or nationally recognized overnight courier, or by facsimile, telegraph or telex or by electronic mail or other electronic means.

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

(c) **Affidavit Of Mailing.** An affidavit of mailing, executed by a duly authorized and competent employee of the corporation or its transfer agent appointed with respect to the class of stock affected, or other agent, specifying the name and address or the names and addresses of the stockholder or stockholders, or director or directors, to whom any such notice or notices was or were given, and the time and method of giving the same, shall in the absence of fraud, be prima facie evidence of the facts therein contained.

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

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

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certificate under any provision of the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

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

## ARTICLE XIII

### AMENDMENTS

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

## ARTICLE XIV

### LOANS TO OFFICERS OR EMPLOYEES

**Section 46. Loans To Officers Or Employees.** Except as otherwise prohibited by applicable law, including the Sarbanes-Oxley Act of 2002, the corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the corporation or of its subsidiaries, including any officer or employee who is a director of the corporation or its subsidiaries, whenever, in the judgment of the Board of Directors, such loan, guarantee or assistance may reasonably be expected to benefit the corporation. The loan, guarantee or other assistance may be with or without interest and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock of the corporation. Nothing in these Bylaws shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the corporation at common law or under any statute.

CERTIFICATION OF CHIEF EXECUTIVE OFFICER

I, Keith J. Sullivan, certify that:

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

Date: August 3, 2021

By: /s/ Keith J. Sullivan

Name: Keith J. Sullivan

Title: President and Chief Executive Officer  
(Principal Executive Officer)

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CERTIFICATION OF CHIEF FINANCIAL OFFICER

I, Stephen Furlong, certify that:

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

Date: August 3, 2021

By: /s/ Stephen Furlong

Name: Stephen Furlong

Title: SVP, Chief Financial Officer and Treasurer  
(Principal Financial and Accounting Officer)

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**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the quarterly report on Form 10-Q of Neuronetics, Inc. (the "Company") for the fiscal quarter ended June 30, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

Date: August 3, 2021

By: /s/ Keith J. Sullivan

Name: Keith J. Sullivan

Title: President and Chief Executive Officer  
(Principal Executive Officer)

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**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the quarterly report on Form 10-Q of Neuronetics, Inc. (the "Company") for the fiscal quarter ended June 30, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

Date: August 3, 2021

By: /s/ Stephen Furlong

Name: Stephen Furlong

Title: SVP, Chief Financial Officer and Treasurer  
(Principal Financial and Accounting Officer)

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