LA JOLLA PHARMACEUTICAL CO
Form PRER14A
October 25, 2005

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
SCHEDULE 14A
(RULE 14a-101)
INFORMATION REQUIRED IN PROXY STATEMENT
SCHEDULE 14A INFORMATION
PROXY STATEMENT PURSUANT TO SECTION 14(a) OF THE SECURITIES EXCHANGE ACT OF 1934 (AMENDMENT NO. 1)

Filed by the Registrant þ
Filed by a Party other than the Registrant o
Check the appropriate box:
þ Preliminary Proxy Statement
o Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
o Definitive Proxy Statement
o Definitive Additional Materials
o Soliciting Material Pursuant to § 240.14a-12

LA JOLLA PHARMACEUTICAL COMPANY

(Name of Registrant as Specified In Its Charter)
N/A

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

þ No fee required.

o Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

o Fee paid previously with preliminary materials.

o Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.
(1) Amount previously paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

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LA JOLLA PHARMACEUTICAL COMPANY
6455 Nancy Ridge Drive
San Diego, California 92121
NOTICE OF SPECIAL MEETING OF STOCKHOLDERS
To Be Held on Friday, December 2, 2005

A special meeting of stockholders of La Jolla Pharmaceutical Company, a Delaware corporation, will be held at our offices at 6455 Nancy Ridge Drive, San Diego, California 92121 on Friday, December 2, 2005, at 10:00 a.m. (local time) for the following purposes:

1. To approve the proposed issuance of our common stock and warrants to purchase our common stock to certain investors pursuant to the Securities Purchase Agreement, dated as of October 6, 2005.

2. To approve the proposed amendment of our certificate of incorporation to increase the authorized number of shares of our common stock by 50,000,000.

3. To approve the proposed amendment of the La Jolla Pharmaceutical Company 2004 Equity Incentive Plan (i) to increase the number of shares of our common stock that may be issued under the plan by 16,000,000, (ii) to increase the number of shares of our common stock that may be issued under the plan to any eligible person in any calendar year by 6,000,000 and (iii) to eliminate the current minimum restriction period requirements with respect to restricted stock granted under the plan.

4. To approve the proposed decrease in the number of issued and outstanding shares of our common stock by means of a one-for-five reverse stock split.

5. To transact such other business that may properly come before the meeting or any adjournment thereof.

Our board of directors unanimously recommends that you vote FOR Proposals 1 through 4 above.

By order of the board of directors,

Steven B. Engle
Chairman and Chief Executive Officer

San Diego, California
October ___, 2005

YOUR VOTE IS IMPORTANT

Our board of directors has fixed the close of business on October 14, 2005 as the record date for determining the stockholders entitled to notice of, and to vote at, the special meeting. All stockholders are invited to attend the special meeting. You are urged to sign, date and complete the enclosed proxy card and return it as soon as possible, even if you plan to attend the meeting in person. If you attend the meeting and wish to vote your shares in person, you may do so even if you have signed and returned your proxy card. Please note, however, that if your shares are held of record by a broker, bank or other nominee and you wish to vote in person at the meeting, you must obtain from the record holder a proxy issued in your name.

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LA JOLLA PHARMACEUTICAL COMPANY
6455 Nancy Ridge Drive
San Diego, California 92121
NOTICE OF A SPECIAL MEETING OF STOCKHOLDERS
To Be Held on Friday, December 2, 2005
INFORMATION CONCERNING THE SOLICITATION

This proxy statement is furnished in connection with the solicitation of proxies by the board of directors of La Jolla Pharmaceutical Company, a Delaware corporation, to be used at a special meeting of stockholders to be held on Friday, December 2, 2005 at 10:00 a.m. (local time) and at any and all postponements and adjournments of the meeting. The meeting will be held at our offices at 6455 Nancy Ridge Drive, San Diego, California 92121. This proxy statement and the accompanying proxy card will be first mailed to stockholders on or about October ___, 2005.

We will pay for the cost of preparing, assembling and mailing the proxy materials and the cost of soliciting proxies. We will pay brokers and other persons holding stock in their names or the names of their nominees for the reasonable expenses of forwarding soliciting material to their principals. We and our employees may solicit proxies in person or by telephone, facsimile or other electronic means. Our employees will not receive any additional compensation for such solicitation. In addition, we have engaged MacKenzie Partners, Inc. to assist us in soliciting proxies. We will pay the proxy solicitor a fee of approximately $35,000 for such solicitation and will reimburse it for reasonable out-of-pocket expenses.

VOTING

Our board of directors has fixed October 14, 2005 as the record date for determining the stockholders entitled to notice of, and to vote at, the special meeting. As of October 14, 2005, we had 74,152,686 shares of common stock outstanding held by 510 record holders. There are approximately 13,300 beneficial owners of our common stock. Each share is entitled to one vote on any matter that may be presented for consideration and action by the stockholders at the meeting. The holders of a majority of the outstanding shares of our common stock on the record date and entitled to be voted at the meeting, present in person or represented by proxy, will constitute a quorum for the transaction of business at the meeting and any adjournments and postponements thereof. Shares abstained or subject to a broker non-vote are counted as present for the purpose of determining the presence or absence of a quorum for the transaction of business.

With regard to Proposals 1 and 3, the affirmative vote of a majority of the votes cast at the meeting is required for approval. With regard to these proposals, abstentions will be counted in tabulations of the votes cast on a proposal and will have the same effect as a vote against the proposal, whereas broker non-votes will be entirely excluded from the vote and will have no effect on its outcome.

With regard to Proposals 2 and 4, the affirmative vote of a majority of the shares outstanding is required for approval. With regard to these proposals, abstentions and broker non-votes will be counted in tabulations of the votes cast on a proposal and both will have the same effect as a vote against the proposal.

Each proxy submitted by a stockholder will, unless otherwise directed by such stockholder, be voted FOR:

Proposal 1 The proposed issuance of shares of our common stock and warrants to purchase shares of our common stock to certain investors pursuant to the Securities Purchase Agreement.

Proposal 2 The proposed amendment of our certificate of incorporation to increase the authorized number of shares of our common stock by 50,000,000.

Proposal 3 The proposed amendment of the La Jolla Pharmaceutical Company 2004 Equity Incentive Plan (i) to increase the number of shares of our common stock that may be issued under the plan by 16,000,000, (ii) to increase the number of shares of our common stock that may be

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issued under the plan to any eligible person in any calendar year by 6,000,000 and (iii) to eliminate the current minimum restriction period requirements with respect to restricted stock granted under the plan.

Proposal 4 The proposed decrease in the number of issued and outstanding shares of our common stock by means of a one-for-five reverse stock split.

In addition, the persons acting as proxies will cast their votes in their discretion for any additional matters that are properly raised for consideration at the meeting. If you submit a proxy, your shares will be voted according to your direction. You have the power to revoke your proxy at any time before it is voted at the special meeting by submitting a written notice of revocation to our corporate secretary or by timely providing us with a valid proxy bearing a later date. Your proxy will not be voted if you attend the special meeting and elect to vote your shares in person (although attendance at the special meeting will not, in and of itself, revoke a proxy). Our board of directors reserves the right to withhold any proposal described in this proxy statement from a vote at the special meeting if it deems that a vote on such proposal would be contrary to our and our stockholders best interests. In that event, the proposal withheld will be neither adopted nor defeated.

PROPOSAL 1
APPROVAL OF THE EQUITY ISSUANCE

We are seeking stockholder approval of Proposal 1 for the purpose of complying with Nasdaq Rule 4350(i)(1)(D)(ii). This rule is applicable because the number of shares of common stock we are proposing to issue and sell is more than 20% of our common stock currently outstanding, such shares represent more than 20% of the voting power of our currently outstanding shares, and the price of the shares to be issued is lower than the market value of our common stock as of the date we entered into the related purchase agreement. We are also seeking stockholder approval for the purpose of complying with Nasdaq Rule 4350(i)(1)(B) because the proposed issuance of common stock and warrants may be deemed to result in a change of control.

Our board of directors unanimously recommends that you vote FOR Proposal 1.

SUMMARY

The following is a summary of the proposed transactions. Each summary below is qualified in its entirety by reference to, and should be read in conjunction with, the agreements to which such summary relates. We have attached copies or forms of such agreements as annexes to this proxy statement. WE URGE ALL STOCKHOLDERS TO READ ALL OF THESE DOCUMENTS CAREFULLY AND IN THEIR ENTIRETY.

The Purchase Agreement. The Securities Purchase Agreement, dated as of October 6, 2005 (referred to in this proxy statement as the purchase agreement), a copy of which we have attached to this proxy statement as Annex A for your reference, is subject to stockholder approval and various conditions described in more detail below. Pursuant to the purchase agreement, we have agreed to issue and sell to Essex Woodlands Health Ventures Fund VI, L.P. (referred to in this proxy statement as Essex Woodlands), Frazier Healthcare V, LP (referred to in this proxy statement as Frazier), Alejandro Gonzalez Cimadevilla, Domain Public Equity Partners, L.P., Special Situations Fund III, L.P., Special Situations Cayman Fund, L.P., Special Situations Private Equity Fund, L.P., Special Situations Life Sciences Fund, L.P., Sutter Hill Ventures, and other signatories to the purchase agreement (collectively referred to in this proxy statement as the Investors), and the Investors have agreed to purchase from us, (i) an aggregate of 88,000,000 shares of our common stock and (ii) warrants to purchase an additional 22,000,000 shares of our common stock, for the aggregate purchase price of $66 million. If the proposed increase in the number of authorized shares of our common stock (referred to in this proxy statement as the authorized share increase) is approved at the special meeting pursuant to Proposal 2, the warrants to purchase up to an additional 22,000,000 shares of our common stock will be issued to the Investors at the closing (referred to in

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this proxy statement as the closing warrants). These closing warrants will be exercisable immediately after the closing at a warrant exercise price of $1.00 per share. See Terms of the Securities Purchase Agreement.

The number of shares of common stock we are currently authorized to issue under our certificate of incorporation will only be approximately 1,000,000 additional shares following the sale and issuance of the 88,000,000 shares to the Investors pursuant to the purchase agreement. As a result, we have agreed under the purchase agreement that, if the authorized share increase is not approved at the special meeting pursuant to Proposal 2, we will issue to the Investors at the closing, in lieu of one set of fully exercisable closing warrants, (i) warrants to purchase the remaining number of authorized shares under our certificate of incorporation following the closing (expected to be approximately 1,000,000) (referred to in this proxy statement as the first closing warrants), which will be exercisable immediately following the closing, and (ii) warrants to purchase the number of shares equal to 22,000,000 less the number of shares covered by the first closing warrants (referred to in this proxy statement as the second closing warrants), which will be exercisable only after the effective date of a future authorized share increase (referred to in this proxy statement as the common stock authorization date). The warrant exercise price under both the first closing warrants and the second closing warrants is $1.00 per share of our common stock. See Terms of the Securities Purchase Agreement.

Upon execution of the purchase agreement, we issued to certain of the Investors contingent warrants to purchase, upon the occurrence of any of certain events, including the failure of our stockholders to approve Proposal 1 (each such event referred to in this proxy statement as a contingent warrant trigger), up to an additional 589,851 shares of our common stock (referred to in this proxy statement as the contingent warrants and, together with the closing warrants, or as applicable, the first closing warrants and the second closing warrants, the warrants). Pursuant to the purchase agreement, we will issue contingent warrants to purchase up to an additional 3,117,783 shares of our common stock upon the occurrence of any contingent warrant trigger to the Investors who did not receive contingent warrants upon the execution of the purchase agreement. The warrant exercise price for all contingent warrants is $0.10 per share. See Terms of the Securities Purchase Agreement.

The Closing Warrants. Pursuant to the closing warrants, a form of which we have attached to this proxy statement as Annex B for your reference, the Investors have the right, subject to certain limitations, to purchase up to 22,000,000 shares of our common stock at the exercise price of $1.00 per share at any time after the closing date and prior to the earlier of (i) the fifth anniversary of the common stock authorization date and (ii) the date of consummation of any of certain extraordinary transactions with respect to our corporate structure. See Terms of the Closing Warrants.

If the authorized share increase is not approved at the special meeting pursuant to Proposal 2, the first closing warrants and the second closing warrants will be issued to the Investors at the closing in lieu of the closing warrants. The first closing warrants have the same terms as the closing warrants, except that they will represent the right to purchase the remaining number of authorized shares under our certificate of incorporation following the closing (expected to be approximately 1,000,000) at the exercise price of $1.00 per share. Pursuant to the second closing warrants, a form of which we have attached to this proxy statement as Annex C for your reference, the Investors have the right, subject to certain limitations, to purchase the number of shares equal to 22,000,000 less the number of shares covered by the first closing warrants at the exercise price of $1.00 per share. The second closing warrants will be exercisable at any time after the common stock authorization date and prior to the earlier of (i) the fifth anniversary of the common stock authorization date and (ii) the date of consummation of any of certain extraordinary transactions with respect to our corporate structure. See Terms of the Closing Warrants.

The Contingent Warrants. Pursuant to the contingent warrants, a form of which we have attached to this proxy statement as Annex D for your reference, the Investors have the right, upon the occurrence of a contingent warrant trigger, to purchase up to 3,707,634 shares of our common stock at the exercise price of $0.10 per share at any time during the period from the date of any contingent warrant trigger and until the earliest of (i) December 31, 2008, (ii) the date of closing of the transactions contemplated by the purchase

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agreement and (iii) the consummation of any of certain extraordinary transactions with respect to our corporate structure. The contingent warrants will cease to be exercisable if the closing under the purchase agreement occurs, regardless of when the closing occurs. If the closing occurs prior to any contingent warrant trigger, the contingent warrants will never be exercisable. If the closing occurs after a contingent warrant trigger, the contingent warrants will be exercisable only for the period from such contingent warrant trigger until the date of closing under the purchase agreement. See Terms of the Contingent Warrants.

The Registration Rights Agreement. Pursuant to the Registration Rights Agreement (referred to in this proxy statement as the registration rights agreement), a copy of which we have attached to this proxy statement as Annex E for your reference, we have agreed (i) to file a registration statement with the Securities and Exchange Commission (the SEC) to register the shares of common stock sold to the Investors and the shares of common stock issuable upon exercise of the warrants (excluding those shares issuable upon exercise of the second closing warrants, if the authorized share increase is not approved at the special meeting pursuant to Proposal 2) within 45 days after the earlier of the date of closing under the purchase agreement and the date of any contingent warrant trigger (referred to in this proxy statement as the filing deadline) and (ii) to cause such registration statement to become effective within 135 days after the closing under the purchase agreement (referred to in this proxy statement as the effectiveness deadline). We have also agreed, if the authorized share increase is not approved at the special meeting pursuant to Proposal 2, to file another registration statement with the SEC to register the shares issuable upon exercise of the second closing warrants before the later of (x) the filing deadline and (y) 15 days after the authorized share increase is approved, and to cause such registration statement to become effective within 90 days after the authorized share increase is approved. See Terms of the Registration Rights Agreement.

The Retention Agreements. In connection with the execution of the purchase agreement, in an effort to retain key employees whom we believe are important for the continuation of our business operations, we entered into retention agreements with certain members of our management team (referred to in this proxy statement as the retention agreements), including with the following executive officers: Steven B. Engle, Matthew D. Linnik, Ph.D., Bruce K. Bennett, Josefina T. Elchico, Paul C. Jenn, Ph.D., Theodora Reilly, Gail A. Sloan and Andrew Wiseman, Ph.D (referred to in this proxy statement as the key employees). We have attached copies of the retention agreements to this proxy statement as Annex F for your reference. Pursuant to the terms of the retention agreements, subject to the closing under the purchase agreement, each of the key employees is entitled to receive an incentive bonus equal to 50% of his or her annual salary in the form of cash, shares of restricted stock or a combination of both. In addition, if a key employee elects to receive shares of restricted stock, he or she will also, subject to certain limitations, be entitled to receive an additional gross-up payment based on the taxes payable with respect to his or her receipt of such shares of restricted stock. If the closing under the purchase agreement does not occur, the key employees will not be entitled to any payment under the retention agreements. The execution of the retention agreements was not a specific condition to the execution of the purchase agreement, but the Investors had an active and important role in establishing the terms of the retention agreements. See Terms of the Retention Agreements.

The consummation of the transactions contemplated by the purchase agreement is subject to the approval of our stockholders as required by Nasdaq rules and certain other conditions described below. Upon receiving stockholder approval of Proposal 1 and satisfaction of the other conditions to closing, we intend to close the transactions contemplated by the purchase agreement as soon as practicable.

BACKGROUND OF THE TRANSACTION

On February 16, 2004, we announced that our New Drug Application for Riquent® (abetimus sodium), our clinical drug candidate for the treatment of lupus renal disease, had been accepted for review by the United States Food and Drug Administration (the FDA). On October 14, 2004, we announced that we had received a letter from the FDA indicating that Riquent® is approvable, but that an additional, randomized, double-blind study demonstrating the clinical benefit of Riquent® would need to be completed prior to an approval decision. The FDA letter indicated that the successful completion of the clinical trial that we initiated in August 2004 would appear to satisfy this requirement.

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After submitting a substantial amount of additional information and completing numerous meetings with the FDA, on March 14, 2005, we announced that, based on the outcome of the meetings with the FDA, Riquent® was unlikely to receive accelerated approval under the FDA s Subpart H regulation. As a result, we determined that we would need to successfully complete the ongoing clinical benefit study of Riquent® prior to an FDA approval decision. We estimated that the trial would involve approximately 500 patients, would cost at least $60 million and take several years to complete.

Because we critically needed, and continue to need, capital to conduct the trial of Riquent® and to continue our operations, we retained the investment banking firm of Pacific Growth Equities LLC to assist us to identify potential investors and collaborative partners. In an effort to secure a partnership, management had discussions with more than 20 different prospective partners. In an effort to secure funding, we had discussions with more than 15 different prospective investors.

As a result of our efforts, we were able to establish a non-binding term sheet for the proposed investment with Essex Woodlands. Pursuant to the term sheet, we were required to identify additional investors who would also be willing to invest in us. After discussions with several additional investors, we negotiated the terms of the purchase agreement, the registration rights agreement and the warrants. On October 5, 2005, our board of directors approved the terms of the agreements and, on October 6, 2005, we executed the purchase agreement and the registration rights agreement.

IMPACT ON EXISTING STOCKHOLDERS

If Proposal 1 is approved, the 88,000,000 shares of our common stock to be issued to the Investors at the closing and the 22,000,000 shares of our common stock to be issued upon the exercise of the closing warrants (or, if applicable, the first closing warrants and the second closing warrants) will represent approximately (i) 54.3% and 13.6%, respectively, of the total shares of our common stock issued and outstanding immediately after the closing and (ii) 47.8% and 11.9%, respectively, of total shares of our common stock that are currently expected to be issued and outstanding after the closing assuming the exercise of the closing warrants in full. In addition, the Investors currently beneficially own an aggregate of 7,157,951 shares of our common stock, and when aggregated with the shares and warrants to be issued to them under the purchase agreement, the Investors are expected to collectively beneficially own approximately 63.6% of our outstanding common stock (including shares issuable upon exercise of warrants). If Proposal 1 is not approved, the 3,707,634 shares of common stock issuable upon the exercise of the contingent warrants will represent approximately 5.0% of the total shares of our common stock currently issued and outstanding. As noted above, the Investors currently beneficially own an aggregate total of 7,157,951 shares of our common stock, and when aggregated with the shares to be issued to them upon exercise of the contingent warrants, the Investors would collectively beneficially own approximately 14.0% of the total shares of our common stock issued and outstanding after exercise of the contingent warrants in full. If Proposal 1 is approved, the 88,000,000 shares of our common stock to be issued at the closing and the 22,000,000 shares of our common stock to be issued upon exercise of the closing warrants (or, if applicable, the first closing warrants and the second closing warrants) will substantially dilute our current stockholders percentage ownership in our common stock. If Proposal 1 is not approved, the 3,707,634 shares of our common stock issuable upon exercise of the contingent warrants will also dilute our current stockholders percentage ownership in our common stock.

If Proposal 1 is approved, at the closing, (i) Essex Woodlands will purchase 33,333,334 shares and receive warrants to purchase an additional 8,333,334 shares of our common stock, which would represent approximately 20.6% and 5.1% of our common stock outstanding immediately after the closing, respectively, and (ii) Frazier will purchase 20,000,000 shares and receive warrants to purchase an additional 5,000,000 shares of our common stock, which would represent approximately 12.3% and 3.1% of our common stock outstanding immediately after the closing, respectively. In addition to acquiring shares of our common stock, Essex Woodlands will be entitled to nominate two new directors (Martin P. Sutter and Frank E. Young), Frazier will be entitled to nominate one new director (James N. Topper) and Essex Woodlands and Frazier will be entitled to jointly nominate one new director (Nader J. Naini) to our board of directors. Information regarding each of these individuals is provided below. We have also agreed to comply with certain covenants, and to grant to the Investors preemptive rights to purchase new issuances of shares of our capital

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stock and debt securities convertible into shares of our capital stock. See Terms of the Securities Purchase Agreement Covenants.

Martin Sutter, age 50, is one of the two founding managing directors of Essex Woodlands Health Ventures. Educated in chemical engineering and finance, he has more than 25 years of management experience in operations, marketing, finance and venture capital. He began his career in management consulting with Peat Marwick, Mitchell & Co. in 1977 and moved to Mitchell Energy & Development Corp. (MEDC), now Devon Energy Corporation, a public company traded on the New York Stock Exchange, where he held management positions overseeing various operating units. In 1984, he founded and managed The Woodlands Venture Capital Company, a wholly-owned subsidiary of MEDC, and The Woodlands Venture Partners, an independent venture capital partnership formed in 1988. During his tenure with both organizations, he founded a number of successful healthcare companies originating from various institutions of the Texas Medical Center. In 1994, Mr. Sutter merged his venture practice with Essex Venture Partners to form Essex Woodlands. Essex Woodlands manages six venture capital limited partnerships with capital in excess of $1 billion. He currently serves on the board of directors of BioForm Medical, Confluent Surgical, Elusys Therapeutics, LifeCell, a public company traded on Nasdaq, MicroMed Cardiovascular, and Rinat Neuroscience. Mr. Sutter holds a Bachelor of Science from Louisiana State University and a Masters in Business Administration from the University of Houston.

Frank E. Young, M.D., Ph.D., age 74, is a former commissioner of the FDA and has had over a 40-year career in medicine, academia and government. After numerous academic appointments, Dr. Young served as Chairman of the Department of Microbiology and Professor of Microbiology, Pathology, Radiation Biology and Biophysics at the University of Rochester, New York. Subsequently, he became Dean of the School of Medicine and Dentistry, Director of the Medical Center and Vice President for Health Affairs at the University of Rochester. Dr. Young joined the Department of Health and Human Services as Assistant Surgeon General in 1984. Under Presidents Ronald Reagan and George H.W. Bush, Dr. Young served as commissioner of the FDA, Deputy Assistant Secretary and Director of the Office of Emergency Preparedness, and Director of the National Disaster Medical System. Dr. Young attended Union College, and holds a Doctor of Medicine from the University of New York, where he graduated cum laude, and a Ph.D. from Case Western Reserve University.

James N. Topper, M.D., Ph.D., age 43, is a general partner with Frazier Healthcare Ventures, having joined the firm in August 2003. Prior to joining Frazier Healthcare, he served as head of the cardiovascular research and development division of Millennium Pharmaceuticals and ran Millennium San Francisco (formerly COR Therapeutics). Prior to the merger of COR and Millennium in 2002, Dr. Topper served as the Vice President of Biology at COR and was responsible for managing all of its research activities beginning in 1999. Prior to joining COR, he served on the faculties of Harvard Medical School in 1997 and subsequently became an Assistant Professor of Medicine (cardiovascular) at Stanford University in July 1998. He continues to hold an appointment as a Clinical Assistant Professor of Medicine at Stanford University and as a Cardiology Consultant to the Palo Alto Veterans Administration Hospital. Dr. Topper currently serves on the boards of Amicus Therapeutics, Arête Therapeutics, MacuSight Inc. and Zelos Therapeutics, Inc., all of which are privately held companies. Dr. Topper holds a Doctor of Medicine and a Ph.D. in Biophysics from Stanford University School of Medicine.

Nader J. Naini, age 39, has been a general partner with Frazier Healthcare Ventures since 1995, having joined the firm in 1992. Prior to joining Frazier Healthcare, Mr. Naini was with Goldman, Sachs & Co. Mr. Naini serves as the chairman of the board of Aspen Education Group and serves on the boards of CompHealth Group, Inc., Elder Health, Priority Air Express, ppoNEXT, and ZONARE Medical Systems, Inc., all of which are privately held companies. Mr. Naini holds a Masters in Business Administration from New York University and a Bachelor of Arts in molecular biology from the University of Pennsylvania.

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Pursuant to the terms of the purchase agreement, if Proposal 1 is approved, we are required to use the proceeds from the transactions contemplated by the purchase agreement primarily to pursue the registration and approval of Riquent®, our clinical drug candidate for the treatment of lupus renal disease, by the FDA.

INTERESTS OF CERTAIN PERSONS

Alejandro Gonzalez Cimadevilla currently beneficially owns approximately 9.7% of our outstanding common stock. If our stockholders approve Proposal 1 and the related transactions are completed, Mr. Cimadevilla will purchase an additional 14,666,666 shares of our common stock and receive closing warrants (or if the authorized share increase is not approved at the special meeting pursuant to Proposal 2, the first closing warrants and the second closing warrants) to purchase an additional 3,666,666 shares of our common stock. As a result, we expect that Mr. Cimadevilla would beneficially own approximately 13.8% of our outstanding common stock following the closing under the purchase agreement and exercise of the closing warrants in full.

In connection with the execution of the purchase agreement, we entered into retention agreements with a number of key employees, including with our executive officers. Pursuant to the terms of the retention agreements, subject to the closing under the purchase agreement, each of the key employees is entitled to receive an incentive bonus equal to 50% of his or her annual salary in the form of cash, shares of restricted stock or a combination of both. In addition, if a key employee elects to receive shares of restricted stock, he or she will also, subject to certain limitations, be entitled to receive an additional gross-up payment based on the taxes payable with respect to his or her receipt of such shares of restricted stock. If the closing does not occur, the key employees will not be entitled to any payments or other benefits under the retention agreements. The execution of the retention agreements was not a specific condition to the execution of the purchase agreement, but the Investors had an active and important role in establishing the terms of the retention agreements. See Terms of the Retention Agreements.

REASON FOR REQUEST FOR STOCKHOLDER APPROVAL

As of the date of this proxy statement, our common stock is listed on the Nasdaq National Market. Nasdaq Rule 4350(i)(1)(D)(ii) requires stockholder approval prior to the issuance of securities under certain circumstances, including in connection with a transaction, other than a public offering, that involves the sale or issuance of common stock, or securities convertible into or exercisable for common stock, equal to 20% or more of our common stock or 20% or more of the voting power outstanding before the issuance at a price (or in the case of convertible securities, a conversion price) less than the greater of the book or market value of our common stock. Because we are proposing to sell shares and warrants convertible into shares representing more than 20% of our outstanding common stock and the purchase price of the shares is less than the market value of our common stock as of the date we entered into the purchase agreement, we are seeking stockholder approval.

Additionally, Nasdaq Rule 4350(i)(1)(B) requires stockholder approval of our issuance of securities that would result in a change of control. Because the Investors, in the aggregate, will be purchasing securities (including shares of our common stock issuable upon exercise of the closing warrants, or the first closing warrants and the second closing warrants, if applicable) representing approximately 59.7% of the voting power outstanding after completion of the transaction (and the exercise of such warrants in full) and, when aggregated with securities currently held by the Investors, the Investors will control approximately 63.6% of the voting power outstanding after the completion of the transaction (and the exercise of such warrants in full), Nasdaq may determine that our sale of stock and closing warrants results in a change of control. Thus, we are also seeking stockholder approval of the issuance of the common stock and warrants pursuant to the purchase agreement in order to ensure compliance with Nasdaq s change of control rule.

SUMMARY OF TERMS OF AGREEMENTS

Set forth below are summaries of the provisions of the following agreements: the Securities Purchase Agreement, dated as of October 6, 2005, among us and the several Investors, the Closing Warrants to

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purchase shares of our common stock (including the first closing warrants and the second closing warrants), which we would issue at the closing, the Contingent Warrants to purchase shares of our common stock, a portion of which we issued on October 6, 2005 and the remainder of which we will issue upon the occurrence of a contingent warrant trigger, if any, the Registration Rights Agreement, dated as of October 6, 2005, among us and the several Investors and the Retention Agreements, between us and each of our key employees. Each summary below is qualified in its entirety by reference to, and should be read in conjunction with, the agreements. We have attached a copy of the purchase agreement, the forms of the closing warrants, the second closing warrants and the contingent warrants and copies of the registration rights agreement and the retention agreements to this proxy statement as Annexes A, B, C, D, E and F, respectively, which are incorporated herein by reference. WE URGE ALL STOCKHOLDERS TO READ ALL OF THESE DOCUMENTS CAREFULLY AND IN THEIR ENTIRETY.

TERMS OF THE SECURITIES PURCHASE AGREEMENT

General. At the closing, under the purchase agreement:

- we will issue an aggregate of 88,000,000 shares of our common stock to the Investors;
- if the authorized share increase is approved at the special meeting pursuant to Proposal 2, we will issue the closing warrants to the Investors to purchase up to an additional 22,000,000 shares of our common stock at an exercise price of $1.00 per share;
- if the authorized share increase is not approved at the special meeting pursuant to Proposal 2, we will issue (i) the first closing warrants to the Investors to purchase the remaining number of authorized shares under our certificate of incorporation following the closing (expected to be approximately 1,000,000) at an exercise price of $1.00 per share and (ii) the second closing warrants to the Investors to purchase the number of shares equal to 22,000,000 less the number of shares covered by the first closing warrants at an exercise price of $1.00 per share; and
- the Investors will collectively deliver $66 million to us, representing the purchase price for the common stock and the closing warrants (or the first closing warrants and the second closing warrants, as applicable).

Representations and Warranties. In the purchase agreement, we make customary representations and warranties to the Investors relating to, among other matters: our organization; the authorization, binding effect and enforceability of the agreements; our capitalization; our compliance with laws; no conflict with our governing documents, material agreements and applicable law; governmental consents; the validity of the common stock sold and warrants to be issued; the exemption of this transaction from registration under applicable securities laws; the accuracy and timeliness of our publicly filed reports; litigation matters; tax matters; property and intellectual property matters; our material contracts; our compliance with Nasdaq continued listing requirements; and transactions with affiliates.

In the purchase agreement, each Investor makes customary representations and warranties to us that generally relate to its organization; the authorization, binding effect and enforceability of the agreements; and its status as an accredited investor under applicable securities laws.

Covenants. In the purchase agreement, we and the Investors have agreed to take a number of actions, including the following:

Affirmative Covenants. We agreed to, prior to the closing under the purchase agreement or a contingent warrant trigger: (i) pay and discharge all lawful taxes, assessments and governmental charges, (ii) maintain valid workers compensation insurance policies, (iii) preserve and maintain our corporate existence, rights, franchises and privileges, (iv) keep adequate books and records, (v) comply with the requirements of all applicable laws, (vi) take all actions necessary to ensure that all material patents are kept in force and (vii) notify the Investors in writing of any event that would cause any of our representations to be materially inaccurate or that would cause us to not materially comply with the agreements and conditions in the purchase agreement.

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SEC Filings, Budget and Other Information. Subject to the closing, until December 31, 2008, we agreed to deliver copies of the following to each Investor that owns at least 75% of the shares of our common stock it originally purchased at the closing: (i) all filings we make with the Securities and Exchange Commission, promptly after they become public information; and (ii) our annual budget, at least 30 days prior to the commencement of the applicable fiscal year. We have also agreed to prepare and submit to, and obtain the approval from our board of directors for, our annual budget for the succeeding fiscal year at least thirty days prior to the commencement of each fiscal year. Each Investor has agreed, if it elects to receive any material nonpublic information in the annual budget provided to it under this covenant, to keep such nonpublic information confidential to the extent necessary to comply with applicable securities laws.

Negative Covenants. We agreed, among other matters, to the following negative covenants: (i) until December 31, 2008, and so long as Essex Woodlands continues to own at least 75% of the shares of our common stock it purchased under the purchase agreement, we will not, without Essex Woodlands prior written consent, enter into any material transaction that could result in the sale, transfer or assignment of, or grant of any exclusive or non-exclusive license to, any patent or patent application for Riquent® in the United States; and (ii) prior to the closing under the purchase agreement, we will not solicit, initiate or encourage submission of any financing proposal by any person or entity to acquire any equity interest in us or to finance our business or operations, or enter into any such transaction (except for transactions on terms superior to those contained in the purchase agreement).

Indemnification. We agreed to defend, protect, indemnify and hold harmless each Investor and each holder of the shares purchased under the purchase agreement, the warrants or the shares issuable upon exercise of the warrants, and their affiliates and other agents or representatives, from and against any and all losses and claims incurred as a result of any breach of our representations, warranties and covenants under the purchase agreement.

Obligations. We and each of the Investors agreed to use commercially reasonable efforts to timely satisfy each of the conditions to closing under the purchase agreement.

Certain Filings. We agreed to timely make, or obtain exemptions from, the filings required under applicable federal and state securities laws with respect to the issuance of the shares purchased under the purchase agreement, the warrants and the shares issuable upon exercise of the warrants.

Reservation of Shares. We agreed to take all actions necessary, subject to approval by our stockholders of the required increase in our authorized number of shares of common stock, to at all times have authorized, and reserved for issuance, no less than 100% of the shares of our common stock issuable upon exercise of the outstanding warrants.

Waivers to Existing Registration Rights. With respect to any existing agreements or arrangements under which we are obligated to register the sale of any of our securities under the Securities Act of 1933, as amended (the Securities Act), we agreed to use commercially reasonable efforts to obtain waivers so that such obligations, if any, would be satisfied by our actions to file registration statements under the registration rights agreement.

Board Nominees; Director Protections. We agreed to ensure that (i) our board of directors will consist of no more than nine authorized directors, (ii) two individuals designated by Essex Woodlands, one individual designated by Frazier and one individual jointly designated by Essex Woodlands and Frazier are properly nominated for election as directors on our board of directors and (iii) each of such designees is at all times covered and insured by our directors and officers liability insurance. We have also agreed to reimburse each designee for all reasonable expenses he incurs in attending any board of directors meetings, to enter into indemnification agreements with each such designee and to pay each designee the same compensation that is paid to other

non-employee directors for serving as directors.

Preemptive Rights. Subject to the closing, we have agreed that, until December 31, 2008 and so long as any Investor continues to own at least 75% of the shares of common stock it purchased under the purchase agreement, such Investor will have a right of first refusal to purchase up to its pro rata share

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(based on the percentage of our outstanding common stock held by it) of any equity securities or debt securities convertible into equity securities on the same price and terms and conditions as we offer such securities to other potential investors. This right of first purchase will not apply to any issuance of:

- shares of our common stock (or options therefor) to our officers, directors, employees or consultants pursuant to stock purchase or option plans on terms approved by our board of directors;

- shares of our common stock, options or warrants to purchase shares of our common stock to financial institutions or lessors in connections with commercial credit agreements, equipment financings or similar transactions, provided such issuances are primarily for other than equity financing purposes;

- shares of our common stock, options or warrants to purchase shares of our common stock pursuant to (i) joint ventures, technology licensing or research and development activities, (ii) distribution or manufacture of our products or services, (iii) the purchase of advertising placement or (iv) any other transaction involving corporate partners, in each case primarily for other than equity financing purposes; and

- shares of our common stock, options or warrants to purchase shares of our common stock in connection with bona fide acquisitions, mergers or similar transactions.

Listing. We have agreed to comply with all requirements of the Nasdaq National Market or the Nasdaq Capital Market, as applicable, and to use our best efforts to list the shares issued under the purchase agreement and upon exercise of the warrants on the Nasdaq National Market until all such shares are sold or, if such listing is suspended, obtain listing on the Nasdaq Capital Market until the Nasdaq National Market listing is restored.

Stockholder Approvals. We have agreed to use our best efforts to obtain the approval of our stockholders with respect to the transactions described in Proposals 1 through 4 of this proxy statement. We have also agreed, in the event that any of Proposals 2 through 4 is not approved at the special meeting, to call a second meeting of stockholders within 45 days following the closing under the purchase agreement for the purpose of seeking approval for each proposal that was not approved.

Conditions to Closing. The obligation of each Investor to purchase the shares of our common stock and the closing warrants (or, if applicable, the first closing warrants and the second closing warrants) at the closing under the purchase agreement is subject to the fulfillment, on or before the closing date, of the following conditions:

- our representations and warranties in the purchase agreement are true, correct and complete in all material respects on and as of the closing date;

- we have performed and complied in all material respects with all of our agreements and conditions contained in the purchase agreement required to be performed or complied with prior to or at the closing;

- we have obtained the approval of our stockholders to complete the transactions contemplated by the purchase agreement;

- the receipt by each Investor of legal opinions in form and substance acceptable to Investors who have committed to purchase a majority of the shares to be sold under the purchase agreement;

- the number of authorized directors on our board of directors has been expanded to nine, and the two individuals designated by Essex Woodlands, the individual designated by Frazier and the individual jointly designated by Essex Woodlands and Frazier have been elected or appointed as directors on our board of directors;

- one of Essex Woodlands designees and Frazier s designee to our board have been elected or appointed to the compensation committee of our board of directors;

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we have delivered to the Investors our certificate of incorporation, certificates of the Delaware and California Secretaries of State certifying as to our corporate good standing and certificates of our secretary and president certifying as to certain of our corporate documentation and fulfillment of closing conditions;

we have paid or made adequate arrangements for payment, in accordance with our agreement, of the fees and expenses of the parties in connection with the transactions under the purchase agreement;

all governmental or regulatory authorizations, approvals, filings or permits, if any, that are required in connection with the closing have been obtained;

our common stock has been designated for quotation on the Nasdaq National Market or the Nasdaq Capital Market and not suspended from trading;

we have delivered irrevocable instructions to our transfer agent to issue certificates registered in the name of each Investor for the shares of our common stock to be issued pursuant to the purchase agreement;

no material adverse effect has occurred or become known with respect to our business, assets, liabilities (contingent or otherwise), operations, condition (financial or otherwise), or results of operations;

we have taken all actions necessary under our stockholder rights plan to ensure that it will not be triggered by the transactions contemplated by the purchase agreement;

we have taken all actions necessary to ensure that no material change in control provision or restriction is triggered by the purchase agreement and related agreements; and

the Investors have committed to purchase at least $66 million of shares of our common stock in the aggregate at the closing under the purchase agreement.

Our obligation to sell shares of our common stock to an Investor under the purchase agreement is subject to the fulfillment, on or before the closing date, of the following conditions:

the representations and warranties made by such Investor are true, correct and complete in all material respects on and as of the closing date;

such Investor has performed and complied in all material respects with all of its agreements and conditions contained in the purchase agreement required to be performed or complied with prior to or at the closing; and

we have obtained the approval of our stockholders with respect to the transactions contemplated by the purchase agreement.

Transfer of Securities. The shares of our common stock purchased pursuant to the purchase agreement and issuable upon conversion of the warrants, and the warrants themselves, are restricted securities that may not be transferred except in compliance with federal and state securities laws.

Fees and Expenses. Each party to the purchase agreement will pay its own expenses in connection with the transaction contemplated by the purchase agreement, regardless of whether such transactions are consummated. However, we have agreed to pay, upon the earlier of the closing or the occurrence of a contingent warrant trigger, up to $400,000 of the fees and disbursements of Essex Woodlands, Frazier and their counsel in connection with the due diligence, negotiation, drafting of and closing of the transactions contemplated by the purchase agreement and the related agreements. In addition, we have agreed to pay, after the closing, the reasonable fees and disbursements of a single counsel to the Investors in connection with any subsequent amendment, waiver or consent under the purchase agreement and any Investor s counsel in connection with the successful enforcement of the purchase agreement or any related agreement.

Termination of the Purchase Agreement. The purchase agreement may be terminated (i) with our written consent and the written consent of the holders of at least a majority of the shares then held by all Investors (or, if prior to closing, by the Investors who have agreed to purchase a majority of the shares to be

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purchased at the closing) or (ii) by the Investors if our representations and warranties under the purchase agreement are not true, correct and complete in all material respects or we have not complied with or satisfied in all material respects all of our agreements and conditions under the purchase agreement, and we fail to cure any such failure within 10 days after we receive notice of such failure.

TERMS OF THE CLOSING WARRANTS

The Closing Warrants.

General. Pursuant to the purchase agreement, we agreed to issue to the Investors on the closing date closing warrants to purchase an aggregate of up to 22,000,000 shares of our common stock at an exercise price of $1.00 per share. The closing warrants are exercisable in whole or in part at any time after the closing date until the earlier of (i) the fifth anniversary of the common stock authorization date and (ii) the date of consummation of any of certain extraordinary transactions, including certain mergers, exchanges with respect to our common stock and the sale or transfer of all or substantially all of our assets. The closing warrants contain customary representations by us regarding the shares of our common stock that are to be issued upon the exercise of the closing warrants.

Exercise of Closing Warrants. In order to receive shares of our common stock, the holder of a closing warrant must deliver to us (i) an exercise notice, (ii) payment in an amount equal to the exercise price multiplied by the number of shares as to which the closing warrant is being exercised or notification that the closing warrant is being exercised pursuant to a cashless exercise (as described below) and (iii) the closing warrant. If a closing warrant is partially exercised, we will issue a new closing warrant to the holder representing the balance of the shares available under the closing warrant. No fractional shares will be issued. If, upon exercise of a closing warrant, a fraction of a share results, we will pay the holder an amount in cash equal to the same fraction of the then current market value of a share of our common stock.

Each closing warrant also contains a cashless exercise provision that permits the holder, at its election, to exercise all or a portion of its closing warrant without paying the exercise price therefor and obtain a net number of shares of our common stock, provided that the fair market value per share of our common stock is greater than the exercise price then in effect under the closing warrant.

Issuance of Shares. Upon the delivery of the exercise notice, the aggregate exercise price (or notice of cashless exercise) and the closing warrant, the holder of the closing warrant is deemed for all corporate purposes to have become the holder of record of the shares with respect to which the closing warrant is being exercised. If we fail to deliver the shares to the holder within five business days (the share delivery date) of our receipt of the exercise notice, the aggregate exercise price (or notice of cashless exercise) and the closing warrant (except in the case of a dispute being resolved in accordance with the procedures under the closing warrant), we will be obligated to pay in cash to such holder for each day after the share delivery date an amount equal to 0.5% per month multiplied by the product of (i) the number of shares not delivered to such holder and to which such holder is entitled and (ii) the closing price per share of our common stock on the share delivery date.

Adjustment Provisions. The exercise price of each closing warrant is subject to adjustment from time to time upon the occurrence of certain events (provided that no adjustment is required unless and until any such adjustment would require an increase or decrease of at least 1% in the exercise price), as follows:

if after October 6, 2005, we pay a dividend in or make a distribution of shares of our common stock to all holders of our outstanding common stock, the exercise price will be reduced by a fraction reflecting the ratio between the number of shares of our common stock outstanding as of the record date fixed with respect to such dividend or distribution and the total number of outstanding shares of our common stock immediately after such dividend or distribution; and

if the outstanding shares of our common stock are subdivided into a greater number of shares or combined into a smaller number of shares after October 6, 2005, the exercise price will be proportionately reduced or increased, respectively.

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Each closing warrant will, upon each adjustment of the exercise price as described above, evidence the right to purchase the number of shares of our common stock obtained by (i) multiplying the number of shares purchasable immediately prior to such adjustment upon exercise of the closing warrant by (ii) the exercise price in effect immediately prior to such adjustment, and dividing such product by (iii) the exercise price in effect immediately after such adjustment.

No Rights as Stockholder. The closing warrant does not, by itself, entitle the holder to any voting rights or other rights that our stockholders have.

Transfer. A closing warrant and all rights thereunder are assignable and transferable by the holder without our consent upon surrender at our principal offices of the closing warrant with a properly executed assignment if (i) we are furnished with a copy of the written assignment agreement, (ii) we are furnished with written notice of the name and address of the assignee or transferee and the securities being assigned or transferred and (iii) such assignment or transfer was conducted in accordance with all applicable federal and state securities laws.

The First Closing Warrants. The first closing warrants have the same terms as the closing warrants, except that the first closing warrants represent rights to purchase the remaining number of authorized shares under our certificate of incorporation following the closing (expected to be approximately 1,000,000).

The Second Closing Warrants. The second closing warrants have the same terms as the closing warrants and the first closing warrants, except that the second closing warrants represent rights to purchase the number of shares equal to 22,000,000 less the number of shares covered by the first closing warrants, and that they first become exercisable in whole or in part after the common stock authorization date.

TERMS OF THE CONTINGENT WARRANTS

General. Upon the execution of the purchase agreement, we issued to certain of the Investors, and we agreed to issue to each of the other Investors upon a contingent warrant trigger, contingent warrants to purchase an aggregate of up to 3,707,634 shares of our common stock, which equaled approximately 5% of the number of shares of our common stock outstanding as of October 6, 2005. The exercise price of the contingent warrants is $0.10 per share. Each of the following events constitutes a contingent warrant trigger, and the contingent warrants become exercisable upon the earliest to occur of the dates set forth below:

the date we consummate an equity financing transaction not permitted under the non-solicitation provisions of the purchase agreement, including the consummation of any financing under any proposal with terms superior to those contained in the purchase agreement;

the first business day after the date on which our stockholders fail to approve Proposal 1;

December 30, 2005; and

the date after the holder receives notice of any of certain extraordinary transactions, including certain mergers, exchanges with respect to our common stock and the sale or transfer of all or substantially all of our assets.

In the event the warrants become exercisable, they will remain exercisable until the earlier of (i) December 31, 2008, (ii) the date of closing under the purchase agreement and (iii) the time immediately following the consummation of any of certain extraordinary transactions, including certain mergers, exchanges with respect to our common stock and the sale or transfer of all or substantially all of our assets. The contingent warrants contain customary representations by us regarding the shares of our common stock that are to be issued upon the exercise of the contingent warrants. The contingent warrants will cease to be exercisable if the closing under the purchase agreement occurs, regardless of when the closing occurs.

Exercise of Contingent Warrants. If a contingent warrant becomes exercisable, in order to receive shares of our common stock, the holder of a contingent warrant must deliver to us (i) an exercise notice, (ii) payment in an amount equal to the exercise price multiplied by the number of shares as to which the contingent warrant is being exercised or notification that the contingent warrant is being exercised pursuant to

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a cashless exercise (as described below) and (iii) the contingent warrant. If a contingent warrant is partially exercised, we will issue a new contingent warrant to the holder representing the balance of the shares available under the contingent warrant. No fractional shares will be issued. If, upon exercise of a contingent warrant, a fraction of a share results, we will pay the holder an amount in cash equal to the same fraction of the then current market value of a share of our common stock.

Each contingent warrant also contains a cashless exercise provision that permits the holder, at its election, to exercise all or a portion of its contingent warrant without paying the exercise price therefor and obtain a net number of shares of our common stock, provided that the fair market value per share of our common stock is greater than the exercise price then in effect under the contingent warrant.

Issuance of Shares. Upon the delivery of the exercise notice, the aggregate exercise price (or notice of cashless exercise) and the contingent warrant, the holder of the contingent warrant is deemed for all corporate purposes to have become the holder of record of the shares with respect to which the contingent warrant is being exercised. If we fail to deliver the shares to the holder within five business days of our receipt of the exercise notice, the aggregate exercise price (or notice of cashless exercise) and the contingent warrant (except in the case of a dispute being resolved in accordance with the procedures under the contingent warrant), we will be obligated to pay in cash to such holder for each day after such share delivery date an amount equal to 0.5% per month multiplied by the product of (i) the number of shares not delivered to such holder and to which such holder is entitled and (ii) the closing price per share of our common stock on such share delivery date.

Adjustment Provisions. The exercise price of each contingent warrant is subject to adjustment from time to time upon the occurrence of certain events (provided that no adjustment is required unless and until any such adjustment would require an increase or decrease of at least 1% in the exercise price), as follows:

- if after October 6, 2005, we pay a dividend in or make a distribution of shares of our common stock to all holders of our outstanding common stock, the exercise price will be reduced by a fraction reflecting the ratio between the number of outstanding shares of our common stock as of the record date fixed with respect to such dividend or distribution and the total number of shares of our common stock outstanding immediately after such dividend or distribution; and

- if the outstanding shares of our common stock are subdivided into a greater number of shares or combined into a smaller number of shares after October 6, 2005, the exercise price will be proportionately reduced or increased, respectively.

Each contingent warrant will, upon each adjustment of the exercise price as described above, evidence the right to purchase the number of shares of our common stock obtained by (i) multiplying the number of shares purchasable immediately prior to such adjustment upon exercise of the contingent warrant by (ii) the exercise price in effect immediately prior to such adjustment, and dividing such product by (iii) the exercise price in effect immediately after such adjustment.

No Rights as Stockholder. The contingent warrant does not, by itself, entitle the holder to any voting rights or other rights that our stockholders have.

Transfer. A contingent warrant and all rights thereunder are assignable and transferable by the holder without our consent upon surrender at our principal offices of the contingent warrant with a properly executed assignment if (i) we are furnished with a copy of the written assignment agreement, (ii) we are furnished with written notice of the name and address of the assignee or transferee and the securities being assigned or transferred and (iii) such assignment or transfer was conducted in accordance with all applicable federal and state securities laws.

TERMS OF THE REGISTRATION RIGHTS AGREEMENT

Registrable Securities. The securities covered by the registration rights agreement (referred to in this proxy statement as the registrable securities) are:

- the shares of our common stock that are sold to the Investors pursuant to the purchase agreement;

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the shares of our common stock issuable upon exercise of the warrants;

any shares of our capital stock issued or issuable with respect to the shares of our common stock referred to above as a result of any stock split, stock dividend, recapitalization, exchange or similar event or otherwise, without regard to any limitations on the issuance of such shares of our common stock; and

any of our securities issued upon the reclassification of any of the securities referred to above.

Mandatory Registration. The registration rights agreement provides that we will prepare and, within 45 days after the earlier of the closing date and the date of any contingent warrant trigger, file a registration statement on Form S-3 with the SEC for the purpose of registering under the Securities Act all of the registrable securities (excluding the shares issuable upon exercise of the second closing warrants, if the authorized share increase is not approved at the special meeting pursuant to Proposal 2) for resale by the holders of the registrable securities. We have also agreed to use our best efforts to cause such registration statement to be declared effective as soon as practicable after we file it with the SEC, but in no event later than 135 days after the closing date under the purchase agreement. The registration rights agreement further provides that if the authorized share increase is not approved at the special meeting pursuant to Proposal 2, we will prepare and file another registration statement with the SEC to register the shares issuable upon exercise of the second closing warrants before the later of the filing deadline and 15 days after the authorized share increase is approved, and to cause such registration statement to become effective within 90 days after the authorized share increase is approved.

Demand Registration. If for any reason prior to the earlier of the date on which all of the registrable securities are sold and the date after which all of the registrable securities may be sold without restriction in compliance with Rule 144(k) under the Securities Act (the period on and after the closing date and up to such earlier date is referred to in this proxy statement as the registration period), or a registration statement filed pursuant to a mandatory registration described above ceases to be effective or fails to cover all of the registrable securities required to be covered, any Investor may subsequently demand that we register such securities. We have agreed to file any registration statement required under a demand registration, and to cause such registration statement to become effective, within 45 days and 135 days, respectively, after the date that we receive notice of the demand registration.

Piggy-Back Registration. Piggy-back registration means the right of the holders to include their shares in a registration statement we file for our own account or upon the request of other stockholders. We have granted the holders unlimited piggy-back registration rights, subject to a number of conditions, including:

at any time prior to the expiration of the registration period, the number of shares of our common stock available for sale under a registration statement is insufficient to cover all of the registrable securities and we propose to file a registration statement relating to an offering for our own account or the account of others;

if our offering is being underwritten, each holder requesting registration of its shares must accept the terms of the underwriting as agreed between us and our underwriter or underwriters;

if the underwriters determine, in their reasonable good faith opinion, that marketing or other factors dictate that a limitation on the number of shares of our common stock which may be included in the offering is necessary to facilitate and not adversely affect the offering, we will include in such registration (i) first, all securities we propose to sell for our own account and (ii) second, up to the full number of securities proposed to be registered for the account of each of the holders, pro rata on the basis of the number of registrable securities held by such holder; and

we are not obligated to register securities under this section of the registration rights agreement if the registration statement that we intend to file relates to (i) securities to be offered by us solely in connection with any acquisition of any entity or business or (ii) equity securities issuable under stock option or other employee benefit plans.

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Ineligibility for Form S-3. In the event that Form S-3 is not available for any registration of registrable securities, we are required to (i) register the sale of the registrable securities on another appropriate form reasonably acceptable to the holders of a majority of the registrable securities and (ii) undertake to register the registrable securities on Form S-3 as soon as such form is available, provided that we must maintain the effectiveness of the registration statement then in effect until a registration statement on Form S-3 has been declared effective.

Registration Delay Payments. Upon a registration delay (as further described below), we are required to pay to each holder of registrable securities, with respect to each share of registrable securities required to be registered under our mandatory registration obligations, from the first day of such registration delay through the date such delay is cured, an accruing amount per week ranging from $0.00375 to $0.015 per share. The occurrence of any of the following events constitutes a registration delay:

- if any registration statement required to be filed by us under the registration rights agreement is not filed or declared effective within the applicable filing deadline or effectiveness deadline, respectively;

- if, on any day during the registration period (other than during certain periods which we have been allowed under the agreement to delay disclosure of material non-public information concerning us), any registrable security required to be registered cannot be sold as a matter of law or because we have failed to timely perform our obligations under the agreement; or

- if any period during which we delay disclosure of material non-public information concerning us exceeds the length allowed under the agreement.

Our Other Related Obligations. At such time as we are obligated to file a registration statement pursuant to a mandatory registration, we must use our best efforts to effect the registration of the registrable securities and pursuant to such registration, we are required to, among other matters:

- promptly prepare and file a registration statement and use our best efforts to cause such registration statement to become effective under the time frames described above, and keep the registration statement effective until the expiration of the registration period;

- prepare and file any amendments and supplements to the registration statement or prospectus as required by law, and comply with all legal requirements with respect to the disposition of registrable securities;

- permit holders legal counsel to review and comment on the registration statement and any amendments and supplements to such registration statement, and not file any such document with the SEC to which such legal counsel reasonably objects;

- furnish each holder whose registrable securities are included in any registration statement, without charge, copies of such registration statements and such other documents as reasonably requested by such holder;

- use our best efforts to register and qualify the securities, in any jurisdiction in the U.S. that may be required, under all state and local securities laws of such jurisdiction, and maintain such registration and qualification during the registration period;

- notify the Investors designated legal counsel and each Investor in writing, among other matters, (i) of the occurrence of any event that causes any information contained in any registration statement to become inaccurate, (ii) when a prospectus amendment or supplement has been filed, (iii) of any request by the SEC for amendments or supplements to a registration statement and (iv) of our reasonable determination that an amendment to any registration statement would be appropriate;

make available for inspection by (i) any holder, (ii) their legal counsel and (iii) the accounting firm retained by the holders, all of our financial and other records and corporate documents and properties that are pertinent, which are requested for any purpose related to the holders rights or our obligations under the registration rights agreement, provided that each such inspector agrees to hold such records in strict confidence (unless certain exceptions are applicable);

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hold in confidence and not disclose any information concerning an Investor provided to us (unless certain exceptions are applicable);

use our best efforts to (i) cause all registrable securities covered by a registration statement to be listed on each securities exchange on which our other securities of the same class are then listed and (ii) secure designation and quotation of all of the registrable securities covered by such registration statement on the Nasdaq stock market; and we are required to pay all fees and expenses in connection with satisfying these obligations;

provide a transfer agent and registrar for all registrable securities registered under any registration statement not later than the effective date of such registration statement;

if requested by a holder, incorporate in a prospectus supplement or amendment, as necessary, such information as such holder requests to be included relating to such holder and the sale and distribution of registrable securities; and

promptly notify the holders in writing of the existence of any material non-public information with respect to which we have delayed disclosure to the public, provided that such periods of delay in disclosure must not exceed (i) 30 consecutive days and (ii) an aggregate of 60 days during any consecutive 365-day period.

Expenses. In general, we will bear all the expenses of the registration except for underwriting discounts and commissions. We will also reimburse the holders for the reasonable and documented fees and disbursements of one designated legal counsel in connection with such registration. In addition, we will pay all of the holders reasonable costs incurred in connection with the successful enforcement of their rights under the registration rights agreement. Each seller of registrable securities will pay all fees and disbursements of counsel other than the holders designated legal counsel and all selling expenses, including all underwriting discounts, selling commissions, transfer taxes, etc.

Indemnification. We have agreed to indemnify the holders against any losses, including fees and expenses, that may arise out of (i) any untrue statement or an omission of a material fact in any registration statement required under the agreement (other than untrue statements that were provided in writing to us by the holders or omissions of material facts from statements provided in writing to us by the holders for inclusion in such registration statement, among other things), (ii) any violation of the securities laws by us or (iii) any violation of the terms of the registration rights agreement by us. Each holder, severally and not jointly, has agreed to indemnify us against, among other matters, any losses that may arise out of an untrue statement that was provided in writing by the holder or omissions of material facts from statements provided in writing by the holder for inclusion in a registration statement required under the agreement. The amounts owed by the holders under this indemnification obligation are limited to the net proceeds that the holders received from the sale of securities under such registration statement.

Assignment of Registration Rights. The rights contained in the registration rights agreement are automatically assignable by the holders to any transferee of all or any portion of the registrable securities if:

such holder agrees in writing with the transferee to assign such rights, and a copy of such agreement is furnished to us within a reasonable time after assignment;

within a reasonable time after such transfer or assignment, we are furnished with written notice of the name of the transferee or assignee and the securities with respect to which such registration rights are being transferred or assigned;

the transferee or assignee agrees in writing with us to be bound by all of the provisions contained in the registration rights agreement; and

the transfer was made in accordance with the requirements of the purchase agreement and the warrants.

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TERMS OF THE RETENTION AGREEMENTS

In connection with the execution of the purchase agreement, we entered into retention agreements with a number of key employees, including with our executive officers. Pursuant to the terms of the retention agreements, subject to the closing under the purchase agreement, each of the key employees is entitled to receive an incentive bonus equal to 50% of his or her annual salary in the form of cash, shares of restricted stock or a combination of both. If the closing does not occur, the key employees will not be entitled to any payments or other benefits under the retention agreements. The execution of the retention agreements was not a specific condition to the execution of the purchase agreement, but the Investors had an active and important role in establishing the terms of the retention agreements.

Pursuant to the retention agreements, if a key employee makes the all cash election, a portion of the incentive payment will be paid shortly after the closing, and, subject to the employee remaining employed by us, the balance of the incentive payment will be made six months following the closing. If the key employee makes the all stock election under his or her retention agreement, shares of restricted stock will be granted shortly after the closing under the purchase agreement. If the key employee makes the combination cash and restricted stock election under his or her retention agreement, a portion of the incentive payment will be paid in cash and the remainder will be paid in shares of restricted stock shortly following the closing under the purchase agreement. Our repurchase right with respect to all shares of restricted stock granted under the retention agreements will lapse on the one year anniversary of the closing.

In the event that a key employee elects to receive shares of restricted stock, he or she will also, subject to certain limitations, be entitled to receive an additional gross-up payment based on the taxes payable with respect of such shares of the restricted stock. If all of the key employees make the all cash election under all of the retention agreements, we would be required to make cash payments from an aggregate (for both the first and second payments) of $1,013,770. If all of the key employees make the all stock election under all of the retention agreements, we would be required to issue up to an aggregate of approximately 1,351,693 shares of restricted stock. The grants of the shares of restricted stock are expected to be made under the La Jolla Pharmaceutical Company 2004 Equity Incentive Plan (referred to in this proxy statement as the 2004 Plan), subject to (i) the completion of the transactions under the purchase agreement, (ii) there being a sufficient number of shares for issuance under our certificate of incorporation and (iii) the approval of the proposed amendments to the 2004 Plan pursuant to Proposal 3. If Proposal 2 and/or Proposal 3 is not approved, to the extent that there will be an insufficient number of shares available for issuance under our certificate of incorporation or the 2004 Plan, each of the key employees will be deemed to have made the all-cash election and 100% of the retention payments to be made under the retention agreements will be made in cash. These retention agreements replace the amended retention agreements that we originally entered into with the key employees on April 19, 2005.

NO APPRAISAL RIGHTS

Under Delaware law, stockholders are not entitled to appraisal rights with respect to the proposed issuance and sale to the Investors of our common stock and warrants to purchase our common stock.

RECOMMENDATION OF THE BOARD OF DIRECTORS

Our board of directors has determined that the issuance and sale of the common stock and the closing warrants and the completion of the other transactions as contemplated more fully in the purchase agreement and the registration rights agreement are advisable and in the best interests of our stockholders, and recommends that all stockholders vote FOR the approval of Proposal 1 at the special meeting.

If our stockholders do not approve Proposal 1, we will not be able to close the transactions contemplated by the purchase agreement, the contingent warrants will become exercisable and our ability to continue as a going concern will be in serious jeopardy because we may not have sufficient financial resources to continue our operations.

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VOTE REQUIRED

The affirmative vote of the holders of a majority of the votes cast on Proposal 1 at the special meeting is required to approve the sale of the common stock and issuance of the warrants. Executed proxies with no instructions indicated thereon with respect to Proposal 1 will be voted for Proposal 1. **If Proposal 1 is not approved, the issuance and sale of shares of our common stock and the closing warrants will not be consummated.**

OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE FOR PROPOSAL 1.

PROPOSAL 2
APPROVAL TO INCREASE THE NUMBER OF AUTHORIZED SHARES OF OUR COMMON STOCK

GENERAL

We are seeking approval to amend our certificate of incorporation to increase the number of authorized shares of our common stock by 50,000,000. Our certificate of incorporation currently provides that we are authorized to issue two classes of stock, consisting of 175,000,000 shares of common stock and 8,000,000 shares of preferred stock. Our board of directors is authorized to establish and designate the rights, terms, and preferences of any series of preferred stock. Our board of directors has approved and adopted an amendment to the certificate of incorporation, subject to stockholder approval, to increase the authorized number of shares of common stock to 225,000,000 shares. The proposed amendment to our certificate of incorporation does not change the authorized number of shares of our preferred stock. The text of the proposed amendment to our certificate of incorporation is attached to this proxy statement as Annex G and is incorporated herein by reference. Our board of directors recommends that stockholders approve the proposed amendment to our certificate of incorporation.

PURPOSE AND EFFECT OF AMENDMENT

As of October 14, 2005:

- there were 74,152,686 shares of common stock issued and outstanding;
- there were options to purchase 10,815,992 shares of common stock outstanding, and the same number of shares of common stock reserved for issuance upon exercise of such options;
- there were 485,515 shares of common stock reserved for issuance upon the exercise of awards not yet granted under the La Jolla Pharmaceutical Company 2004 Equity Incentive Plan;
- there were 530,283 shares of common stock reserved for issuance under the La Jolla Pharmaceutical Company 1995 Employee Stock Purchase Plan; and
- there were warrants outstanding and warrants issuable in connection with the purchase agreement to purchase up to 3,707,634 shares of common stock, and the same number of shares of common stock reserved for issuance upon the exercise of such warrants.

Accordingly, as of October 14, 2005, there were an aggregate of 89,692,110 shares outstanding or reserved for issuance. Pursuant to Proposal 1, we are seeking approval to issue and sell to the Investors 88,000,000 shares of our common stock and issue to the Investors closing warrants to purchase an additional 22,000,000 shares of our common stock, as described in Proposal 1. Pursuant to Proposal 3, we are seeking approval to amend our 2004 Equity Incentive Plan to increase the number of shares of common stock available for issuance under the plan by 16,000,000, among other matters, as further described in Proposal 3. If both of these proposals are approved and assuming the closing occurs (upon which we will no longer need to reserve any shares for the exercise of outstanding contingent warrants because they would have ceased to be exercisable), we will not have a sufficient number of authorized shares of common stock available to

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accommodate (i) the issuance of 22,000,000 shares of our common stock upon the exercise of the closing warrants and (ii) the proposed increase of the additional 16,000,000 shares of our common stock issuable under our 2004 Equity Incentive Plan. As such, of the 50,000,000 authorized shares by which our common stock is proposed to be increased under this Proposal 2, 38,000,000 will enable us to implement the transactions to be approved under Proposal 1 and Proposal 3. The balance of 12,000,000 shares in the proposed increase in authorized shares is intended to provide us with an additional number of shares for use in the event the board of directors determines that it is necessary or appropriate to raise additional capital through the sale of securities, to establish strategic relationships with corporate partners, to provide equity incentives to employees, officers or directors, or to pursue other matters.

As of the date of this proxy statement, other than the sale and issuance of shares and warrants pursuant to the purchase agreement, upon the exercise of outstanding options, the issuance of shares or restricted stock pursuant to the retention agreements with our key employees, and other issuances under our current equity incentive and stock purchase plans, our board of directors has no agreement, arrangement or intention to issue any of the shares for which approval is sought. If the proposed amendment to the certificate of incorporation is approved by the stockholders, our board of directors does not intend to solicit further stockholder approval prior to the issuance of any additional shares of common stock, except as may be required by applicable law, rules of the Nasdaq Stock Market, Inc. or other applicable stock exchange requirements.

POTENTIAL EFFECT OF THE PROPOSED AMENDMENT ON THE HOLDERS OF COMMON STOCK

Although the increase in the authorized number of shares of common stock will not, in and of itself, have any immediate effect on the rights of our stockholders, any future issuance of additional shares of common stock, including pursuant to the purchase agreement, could affect our stockholders in a number of respects, including by diluting the voting power of the current holders of our common stock at such time and diluting the earnings per share and book value per share of outstanding shares of our common stock at such time. See Proposal 1 Impact on Existing Stockholders.

In addition, the proposed amendment could, under certain circumstances, have an anti-takeover effect, although this is not the intention of this proposal. In December 1998, we distributed rights to the holders of our outstanding shares of common stock pursuant to an arrangement designed to protect stockholders from proposed takeovers which the board of directors believes are not in the best interests of the stockholders, by providing stockholders with certain rights to acquire our capital stock upon the occurrence of certain events. Although the rights provide for the issuance of our Series A Junior Participating Preferred Stock in the event rights become exercisable, we may, under certain circumstances, be required to issue a substantial number of shares of common stock with respect to the rights. An increase in the number of authorized shares of common stock could, therefore, make a change in control more difficult by facilitating the issuance of additional shares of common stock pursuant to the rights. We may also issue shares of preferred stock without further stockholder approval and upon terms that our board of directors may determine in the future. The issuance of preferred stock that is convertible into a significant number of shares of common stock could have the effect of making it more difficult for a third party to acquire a majority of our outstanding stock.

Accordingly, the proposed amendment may have the effect of permitting our current management, including our current board of directors, to retain its position, and place it in a better position to resist changes that stockholders may wish to make if they are dissatisfied with the conduct of our business. However, other than pursuant to the issuance of the shares of our common stock and the closing warrants to the Investors pursuant to the purchase agreement, our board of directors is not aware of any attempt to take control of us, and the board of directors has not presented this proposal with the intent that it be utilized as a type of anti-takeover device.

IMPLEMENTING THE PROPOSED AMENDMENT

If approved by the stockholders at the special meeting, the proposed amendment to our certificate of incorporation will become effective upon the filing of a certificate of amendment with the Secretary of State of

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the State of Delaware. Although our board of directors intends to file the certificate of amendment as soon as practicable after the special meeting, if, in the judgment of our board of directors, any circumstances exist that would make consummation of the proposed amendment inadvisable, then, in accordance with Delaware law, and notwithstanding approval of the proposed amendment to the certificate of incorporation by the stockholders, our board of directors may abandon the proposed amendment, either before or after approval and authorization thereof by the stockholders, at any time prior to the effectiveness of the filing of the certificate of amendment.

VOTE REQUIRED

The affirmative vote of the holders of a majority of the voting power of all outstanding shares of our capital stock entitled to vote at the special meeting is required to approve the amendment to the certificate of incorporation to increase our authorized shares of common stock. Executed proxies with no instructions indicated thereon with respect to Proposal 2 will be voted for Proposal 2. **If Proposal 2 is not approved, the increase in the number of authorized shares of our common stock will not be implemented.**

If Proposal 1 is approved and Proposal 2 is not approved, we are obligated under the purchase agreement to hold another stockholders meeting after the closing to seek approval of Proposal 2. We have been advised by the Investors that they currently intend to vote the shares they will acquire at the closing for the approval of Proposal 2 at such subsequent stockholders meeting. Based on the total number of shares currently outstanding, the aggregate number of shares the Investors currently hold and the aggregate number of shares the Investors would acquire at the closing, the Investors are expected to have a sufficient number of shares following the closing to approve Proposal 2 by their votes alone.

OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE FOR PROPOSAL 2.

PROPOSAL 3
AMENDMENT OF THE LA JOLLA PHARMACEUTICAL COMPANY 2004 EQUITY INCENTIVE PLAN

GENERAL

We are seeking approval with respect to the 2004 Plan to (i) increase the number of shares of our common stock that may be issued pursuant to awards granted under the 2004 Plan by 16,000,000 to 20,800,000 shares, (ii) increase the aggregate number of shares of our common stock that may be issued to any eligible person in any calendar year under the 2004 Plan by 6,000,000 to 7,000,000 shares and (iii) eliminate the requirement of certain minimum restriction periods with respect to restricted stock granted under the 2004 Plan. Each of these proposed amendments to the 2004 Plan is described in greater detail below.

PROPOSED AMENDMENTS TO THE 2004 PLAN

Increase in Shares Issuable. The current number of shares of our common stock that may be issued pursuant to awards under the 2004 Plan is 4,800,000. As of October 14, 2005, options covering a total of 4,314,149 shares are outstanding under the 2004 Plan and 336 shares have been previously issued upon the exercise of options under the 2004 Plan. Accordingly, 485,515 shares remain available for new grants. We rely heavily on the 2004 Plan to recruit, retain and reward qualified employees and directors. If the transactions contemplated by the purchase agreement are approved and consummated in accordance with the terms described in Proposal 1, we will need the proposed increase in the number of shares issuable pursuant to awards under the 2004 Plan in order to provide meaningful equity incentives to recruit, retain and reward qualified employees and directors. In addition, under the purchase agreement, we have agreed to seek stockholder approval to effect the proposed amendment of the 2004 Plan. Our board of directors has unanimously approved, subject to approval by our stockholders, an amendment of the 2004 Plan to increase

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the number of shares of our common stock issuable pursuant to awards under the 2004 Plan from 4,800,000 to 20,800,000 shares.

Increase in Shares Issuable to Any Eligible Person in Any Calendar Year. Under Section 162(m) of the Internal Revenue Code if 1986, as amended (the Internal Revenue Code), the allowable deduction for compensation paid to each of the five most highly paid executive officers of public companies is limited to $1 million per year. Performance-based compensation is exempted from the limitation on deductibility so long as certain requirements are met. To meet these requirements, the 2004 Plan established a limitation that awards with respect to no more than 1,000,000 shares may be granted in the aggregate to any eligible person under the 2004 Plan in any calendar year. If the transactions contemplated by the purchase agreement are approved and consummated in accordance with the terms described in Proposal 1, the compensation committee of our board of directors may, in its discretion, determine that it is necessary to make significant grants under the 2004 Plan to provide meaningful equity incentives to recruit, retain and reward qualified employees and directors. Accordingly, in order to provide the compensation committee with the flexibility it may need, our board of directors has recommended this amendment. In addition, under the purchase agreement, we have agreed to seek stockholder approval to effect the proposed amendment of the 2004 Plan. Our board of directors has unanimously approved, subject to approval by our stockholders, an amendment to the 2004 Plan to increase the limitation on the aggregate number of shares of our common stock issuable to any eligible person under the 2004 Plan per calendar year from 1,000,000 to 7,000,000 shares.

Amendment Relating to the Restriction Period with Respect to Restricted Stock. The 2004 Plan currently provides that our board of directors (or a committee of our board that has been delegated the authority to administer the 2004 Plan) will determine the restrictions upon any restricted stock issued under the 2004 Plan and when such restrictions will lapse. However, the 2004 Plan currently provides that these restriction periods must run for at least one year, with respect to performance-based grants, and three years, with respect to non-performance-based grants (referred to in this proxy statement as the minimum restriction periods). The 2004 Plan also provides that, upon termination of service of any recipient of restricted stock, we have a right to repurchase all of such recipient s restricted stock with respect to which the applicable restriction periods have not lapsed as of the date of such termination of service. Under the retention agreements we entered into with our key employees in connection with the purchase agreement, the key employees have the option to receive their retention bonuses payable under such agreements in cash, shares of restricted stock or a combination of both cash and restricted stock. These retention agreements provide that our repurchase right with respect to the restricted stock issuable to these key employees will lapse on the one-year anniversary of the closing under the purchase agreement. Because the restricted stock to be granted under the retention agreements cannot be characterized as performance-based grants, the terms in the retention agreements relating to the lapse of our repurchase right are not currently permissible under the minimum restriction periods currently in place in the 2004 Plan. As such, we are seeking stockholder approval to eliminate the minimum restriction periods from the 2004 Plan and, instead, to allow the administrator of the 2004 Plan to determine the restriction periods in its sole discretion. If Proposal 3 is not approved, each of the key employees will be deemed to have made the all-cash election and 100% of the retention bonuses under the retention agreements will be made in cash. Our board of directors has unanimously approved, subject to approval by our stockholders, an amendment to the 2004 Plan to eliminate the minimum restriction periods.

The following is a summary of the principal features of the 2004 Plan. The summary below is qualified in its entirety by the terms of the 2004 Plan, a copy of which (as proposed to be amended) is attached hereto as Annex H and is incorporated by reference herein.

SUMMARY OF THE 2004 PLAN

Purpose. The purpose of the 2004 Plan is to advance our and our stockholders interests by providing eligible persons with financial incentives to promote the success of our business objectives, by increasing eligible persons proprietary interest in us and by giving us a means to attract and retain employees and directors of appropriate experience and stature.

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Administration, Amendment and Termination. The 2004 Plan is administered by the compensation committee of our board of directors. The compensation committee has the authority: to interpret the 2004 Plan and any agreements defining the rights and obligations of recipients of awards granted under the 2004 Plan; to determine the terms and conditions of awards; to prescribe, amend and rescind the rules and regulations under the 2004 Plan; and to make all other determinations necessary or advisable for the administration of the 2004 Plan.

The compensation committee, in its discretion, selects from the class of eligible persons those individuals to whom awards will be granted and determines the nature, dates, amounts, exercise prices, vesting periods and other relevant terms of such awards. The compensation committee may, with the consent of the recipient of an award, modify the terms and conditions of such award. However, outstanding options may not be repriced without stockholder approval. In addition, the compensation committee has no authority or discretion with respect to the recipients, timing, vesting, underlying shares or exercise price of Nonemployee Director s Options (as defined below) because these matters are specifically governed by the provisions of the 2004 Plan. Awards may be granted under the 2004 Plan until the earlier of the tenth anniversary of the adoption of the 2004 Plan or its termination.

Eligibility. Our directors, employees and consultants, and the directors, employees and consultants of any affiliated company, if any, are eligible to receive grants of stock options, restricted stock, stock appreciation rights, stock payments, performance awards of cash and/or stock and dividend equivalents under the 2004 Plan (Incentive Awards). As of October 14, 2005, 88 people were eligible for selection to receive awards under the 2004 Plan, consisting of 76 employees other than executive officers, eight executive officers (one of whom is also a director), and four nonemployee directors. In addition to being eligible to receive Incentive Awards, each of our non-employee directors is entitled to receive an automatic, one-time grant of an option upon becoming a director and an annual grant of an additional option upon each re-election as a director or upon continuing as a director after an annual meeting without being re-elected as a result of the classification of the board of directors (all of such options are referred to as Nonemployee Director s Options).

Securities Subject to the 2004 Plan. Currently, no more than 4,800,000 shares of our common stock may be issued and outstanding or subject to outstanding awards granted under the 2004 Plan. If Proposal 3 is approved, the number of shares of our common stock that may be issued and outstanding or subject to outstanding awards granted under the 2004 Plan will increase by 16,000,000 to 20,800,000 shares. Shares of common stock subject to unexercised portions of any award that expire, terminate or are canceled, and shares of common stock issued pursuant to an award that we reacquire pursuant to the terms of the award under which the shares were issued, will again become eligible for the grant of further awards under the 2004 Plan. The shares to be issued under the 2004 Plan are made available either from authorized but unissued shares of our common stock or from previously issued shares of our common stock that we reacquire, including shares purchased on the open market.

Adjustments. The number and kind of shares of common stock or other securities available under the 2004 Plan in general, as well as the number and kind of shares of common stock or other securities subject to outstanding awards and the price per share of such awards, may be proportionately adjusted to reflect stock splits, stock dividends and other capital stock transactions. If we are the surviving corporation in any merger or consolidation, each outstanding and vested option will entitle the optionee to receive the same consideration received by holders of the same number of shares of our common stock in such merger or consolidation.

Section 162(m) of the Internal Revenue Code Limitations. In general, Section 162(m) of Internal Revenue Code, imposes a $1 million limit on the amount of compensation that we may deduct in any tax year with respect to our Chief Executive Officer and each of our other four most highly compensated officers, including any compensation relating to an award granted under the 2004 Plan. The 2004 Plan is designed to allow us to grant awards that are not subject to the $1 million limit imposed by Section 162(m). Currently, no single employee may be granted any awards with respect to more than 1,000,000 shares of common stock or, in the case of a performance award, in excess of $1 million in any one calendar year; provided, however, that this limitation does not apply if it is not required in order for the compensation attributable to such awards to

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qualify as performance-based compensation as described in Section 162(m) and the regulations issued thereunder. If Proposal 3 is approved, the aggregate number of shares of our common stock that may be issued to any eligible person under the 2004 Plan per calendar year will increase to 7,000,000 shares. Furthermore, if Section 162(m) would otherwise apply and if the amount of compensation a person would receive under an award is not based solely upon an increase in the value of the underlying shares of our common stock after the date of grant or award, the compensation committee is authorized to condition the grant, vesting or exercisability of such an award on the attainment of a pre-established objective performance goal. The 2004 Plan defines a pre-established objective performance goal to include one or more of the following performance criteria: cash flow; earnings per share (including earnings before interest, taxes and amortization); return on equity; total stockholder return; return on capital; return on assets or net assets; income or net income; operating margin; return on operating revenue; attainment of stated goals related to our research and development or clinical trial programs; attainment of stated goals related to our capitalization, costs, financial condition or results of operations; and any other similar performance criteria.

Change in Control. Unless the compensation committee provides otherwise in a written agreement, in the event of a change in control (as defined in the 2004 Plan), the compensation committee will provide that all options (other than Nonemployee Director s Options) either: vest in full immediately preceding the change in control and terminate upon the change in control; be assumed or continued in effect in connection with the change in control transaction; be cashed out for an amount equal to the consideration per share offered in connection with the change in control transaction less the exercise price; or be substituted for similar awards of the surviving corporation. The compensation committee will determine the effect that a change in control has on an award (other than an option) outstanding at the time such a change in control occurs. Immediately prior to a change in control, all outstanding Nonemployee Director s Options will vest in full.

Non-Assignability of Awards. Awards are generally not transferable by a recipient during the life of the recipient, except that (i) incentive stock options are transferable by will or the laws of descent and distribution and (ii) all other awards are transferable by will or the laws of descent and distribution, to immediate family members and upon dissolution of marriage. Awards are generally exercisable during the life of a recipient only by the recipient.

Stockholder Rights. No recipient or permitted transferee of an award under the 2004 Plan has any rights as a stockholder with respect to any shares issuable or issued in connection with the award until we receive all amounts payable in connection with exercise of the award and performance by the recipient of all obligations under such award.

Award Types

Stock Options. Stock options granted under the 2004 Plan may be incentive stock options (Incentive Stock Options), which are intended to qualify under the provisions of Section 422 of the Internal Revenue Code, or nonqualified stock options (Nonqualified Stock Options), which do not so qualify.

The exercise price for each option (other than Nonemployee Director s Options) is determined by the compensation committee at the date of grant and may not be set below the fair market value of the underlying common stock on the date of grant, subject to permissible discounts of up to 15% from fair market value on the date of grant for Nonqualified Stock Options in lieu of salary or bonus. Notwithstanding the foregoing, in no event may the exercise price be less than the par value of the shares of common stock subject to the option, and the exercise price of an Incentive Stock Option may not be less than 100% of the fair market value on the date of grant. Fair market value is equal to the closing price of our common stock on the date of grant. On October 14, 2005, the fair market value of our common stock was $0.66 per share.

The exercise price of any option may be paid in cash or by other consideration deemed by the compensation committee to be acceptable, including delivery of our capital stock (surrendered by or on behalf of the optionee) or surrender of other awards previously granted to the recipient exercising the option. Subject to applicable law, the compensation committee may allow exercise in a broker-assisted transaction in which the exercise price will not be received until after exercise if the exercise of the option is followed by an

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immediate sale of all or a portion of the underlying shares and a portion of the sales proceeds is dedicated to full payment of the exercise price.

Options (other than Nonemployee Director s Options) granted under the 2004 Plan vest, become exercisable and terminate as determined by the compensation committee. All options granted under the 2004 Plan may be exercised at any time after they vest and before their expiration date or earlier termination; provided that no option may be exercised more than 10 years after the date of its grant; and provided further that the exercise period may be less than 10 years if required by the Internal Revenue Code. In the absence of a specific written agreement to the contrary, and in each case subject to earlier termination on the option s original expiration date, options will generally terminate: immediately upon termination of the recipient s employment with us for just cause; 12 months after death or permanent disability; 24 months after normal retirement; and, with respect to termination of employment for any reason other than just cause, disability or retirement, three months in the case of Incentive Stock Options and six months in the case of Nonqualified Stock Options. Notwithstanding the foregoing, however, the compensation committee may designate shorter or longer periods after termination of employment to exercise any option (other than a Nonemployee Director s Option) if provided for in the instrument evidencing the grant of the options or if agreed upon in writing by the recipient. Options cease to vest upon termination of employment, but the compensation committee may accelerate the vesting of any or all options that had not become exercisable on or prior to the date of such termination. In the event that a nonemployee director ceases to be a director, an option granted to such director (other than a Nonemployee Director s Option) is exercisable, to the extent exercisable at that date, for a period of five years after that date or longer if permitted by the compensation committee.

Other Awards. In addition to options, the compensation committee may also grant performance awards, restricted stock, stock appreciation rights (SARs), stock payments and dividend equivalents. Performance awards entitle the recipient to a payment in cash or shares of our common stock upon the satisfaction of certain performance criteria. Shares of restricted stock may be granted by the compensation committee to recipients who may not transfer the restricted shares until the restrictions are removed or expire. These restrictions will be for a period of at least one year for performance-based grants and three years for non-performance-based grants, unless the amendment to eliminate such minimum restriction periods with respect to restricted stock pursuant to Proposal 3 is approved. SARs, either related or unrelated to options, entitle the recipient to payment (in the form of cash, stock or a combination thereof) of the difference between the fair market value of a share of common stock as of a specified date and the exercise price of the related option or initial base amount, multiplied by the number of shares as to which such SAR is exercised. The compensation committee may also approve stock payments of our common stock to any eligible person and may also grant dividend equivalents payable in cash, common stock or other awards to recipients of options, SARs or other awards denominated in shares of common stock. For all such awards, the compensation committee will generally determine the relevant criteria, terms and restrictions.

Nonemployee Director s Options. Under the 2004 Plan, each of our nonemployee directors automatically receives, upon becoming a nonemployee director, a one-time grant of a Nonqualified Stock Option to purchase up to 40,000 shares of our common stock at an exercise price equal to the fair market value of a share of the common stock on the date of grant. These Nonemployee Director s Options have a term of 10 years and vest with respect to 25% of the underlying shares on the grant date and with respect to an additional 25% of the underlying shares on the date of each of the first three anniversaries of such grant, but only if the director has remained a nonemployee director for the entire period from the date of grant to such date.

In addition, each nonemployee director, upon re-election to our board of directors or upon continuing as a director after an annual meeting without being re-elected due to the classification of the board of directors, automatically receives a grant of an additional Nonqualified Stock Option to purchase up to 10,000 shares of our common stock. These additional Nonemployee Director s Options have a term of 10 years and vest and become exercisable upon the earlier to occur of the first anniversary of the grant date or immediately prior to the annual meeting of stockholders next following the grant date; provided that the director has remained a director for the entire period from the grant date to such earlier date. The exercise price for these additional Nonemployee Director s Options is the fair market value of our common stock on the date of their grant.

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Finally, all outstanding Nonemployee Director s Options vest in full immediately prior to any change in control.

FEDERAL INCOME TAX CONSEQUENCES

The following summary of certain federal income tax consequences of the receipt and exercise of awards granted by us is based upon the laws and regulations in effect as of the date of this proxy statement and does not purport to be a complete statement of the law in this area. Furthermore, the discussion below does not address the tax consequences of the receipt and exercise of awards under foreign, state and local tax laws, and such tax laws may not correspond to the federal income tax treatment described herein. The exact federal income tax treatment of transactions under the 2004 Plan will vary depending upon the specific facts and circumstances involved and participants are advised to consult their personal tax advisors with regard to all consequences arising from the grant or exercise of awards and the disposition of any acquired shares.

Incentive Stock Options. Except as discussed below, a recipient of an Incentive Stock Option generally will not owe tax on the grant or the exercise of the option if the recipient exercises the option while the recipient is our employee (or an employee of any parent or subsidiary corporation) or within three months following termination of the recipient s employment (or within one year, if termination was due to a permanent and total disability).

If the recipient of the Incentive Stock Option sells the shares acquired upon the exercise of the option at any time within one year after the date we issue such shares to the recipient or within two years after the date we grant the Incentive Stock Option to the recipient, then:

- if the recipient s sales price exceeds the purchase price paid for the shares upon exercise of the Incentive Stock Option, the recipient will recognize capital gain equal to the excess, if any, of the sales price over the fair market value of the shares on the date of exercise, and will recognize ordinary income equal to the excess, if any, of the lesser of the sales price or the fair market value of the shares on the date of exercise over the purchase price paid for the shares upon exercise of the Incentive Stock Option; or

- if the recipient s sales price is less than the purchase price paid for the shares upon exercise of the Incentive Stock Option, the recipient will recognize a capital loss equal to the excess of the purchase price paid for the shares upon exercise of the Incentive Stock Option over the sales price of the shares.

If the recipient sells shares acquired upon exercise of an Incentive Stock Option at any time after the recipient has held the shares for at least one year after the date we issue such shares to the recipient pursuant to the recipient s exercise of the Incentive Stock Option and at least two years after the date we grant the recipient the Incentive Stock Option, then the recipient will recognize capital gain or loss equal to the difference between the sales price and the purchase price paid for the shares upon exercise of the Incentive Stock Option.

The amount by which the fair market value of shares the recipient acquires upon exercise of an Incentive Stock Option (determined as of the date of exercise) exceeds the purchase price paid for the shares upon exercise of the Incentive Stock Option will be included as a positive adjustment in the calculation of the recipient s alternative minimum taxable income in the year of exercise.

In the case of an early disposition of shares by a recipient that results in the recognition of ordinary income, we will be entitled to a deduction equal to the amount of such ordinary income. If the recipient holds the shares for the requisite period described above, and therefore solely recognizes capital gain upon the sale of such shares, we will not be entitled to any deduction.

Nonqualified Stock Options. The grant of a Nonqualified Stock Option to a recipient is generally not a taxable event for the recipient. Upon the exercise of a Nonqualified Stock Option, the recipient will generally recognize ordinary income equal to the excess of the fair market value of the shares the recipient acquires upon exercise (determined as of the date of exercise) over the purchase price paid for the shares upon exercise of the Nonqualified Stock Option. We generally will be entitled to deduct as a compensation expense the

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amount of such ordinary income. Provided the shares are held as a capital asset, the recipient s subsequent sale of the shares generally will give rise to capital gain or loss equal to the difference between the sale price and the sum of the purchase price paid for the shares plus the ordinary income recognized with respect to the shares, and such capital gain or loss will be taxable as long term or short term capital gain or loss depending upon the recipient s holding period after exercise.

Stock Appreciation Rights (SARs). Generally, the holder of a SAR will recognize ordinary income equal to the value we pay (whether in cash, stock or a combination thereof) pursuant to the SAR on the date the holder receives payment. If we place a limit on the amount that will be payable under a SAR, the holder may recognize ordinary income equal to the value of the holder s right under the SAR at the time the value of such right equals such limit and the SAR is exercisable. We will generally be entitled to a deduction in an amount equal to the ordinary income recognized by the holder.

Stock Purchase Rights Restricted Stock. Under the 2004 Plan, we are authorized to grant rights to purchase shares of restricted common stock subject to a right to repurchase such stock at the price paid by the participant if the participant s employment relationship with us terminates prior to the lapse of such repurchase right. In general, there will be no tax consequences to a participant upon the grant of a right to purchase such restricted stock or upon purchase of such restricted stock. Instead, the participant will be taxed at ordinary income rates at the time our repurchase rights expire or are removed on an amount equal to the excess of the fair market value of the stock at that time over the amount the participant paid to acquire such stock. A participant who acquires restricted stock, however, may make an election under Section 83(b) of the Internal Revenue Code with respect to such stock. If such an election is made within 30 calendar days after the participant s acquisition of the stock, the participant is taxed at ordinary income rates in the year in which the participant acquires the restricted stock. The ordinary income the participant must recognize is equal to the excess of the fair market value of the stock at the time of the participant s acquisition of the stock (determined without regard to the restrictions) over the amount that the participant paid to acquire such stock. If a participant makes a timely election under Section 83(b) of the Internal Revenue Code with respect to restricted stock, the participant generally will not be required to report any additional income with respect to such restricted stock until he or she disposes of such stock, at which time he or she will generally recognize capital gain or loss (provided the shares are held as a capital asset) equal to the difference between the sales price and the fair market value of the stock at the time of the participant s acquisition of the stock (determined without regard to the restrictions). In the event that a participant forfeits (as a result of a repurchase) restricted stock with respect to which an election under Section 83(b) of the Internal Revenue Code has been made, the participant ordinarily will not be entitled to recognize any loss for federal income tax purposes (except to the extent the amount realized by the participant at the time of such forfeiture is less than the participant s purchase price for such stock). We generally will be entitled to a deduction equal to the amount of ordinary income, if any, recognized by a participant.

Other Awards. In addition to the awards described above, the 2004 Plan authorizes certain other types of awards that may include payments in cash, our common stock or a combination of cash and our common stock. The tax consequences of such awards will depend upon the specific terms of such awards. Generally, however, a participant who receives an award payable in cash will recognize ordinary income, and we will be entitled to a deduction, with respect to such award at the earliest time at which the participant has an unrestricted right to receive the amount of the cash payment. In general, the sale or grant of stock to a participant under the 2004 Plan will be a taxable event at the time of the sale or grant if such stock at that time is not subject to a substantial risk of forfeiture or is transferable within the meaning of Section 83 of the Internal Revenue Code in the hands of the participant. For such purposes, stock is ordinarily considered to be transferable if it can be transferred to another person who takes the stock free of any substantial risk of forfeiture. In such case, the participant will recognize ordinary income, and we will be entitled to a deduction, equal to the excess of the fair market value of such stock on the date of the sale or grant over the amount, if any, that the participant paid for such stock. Stock that, at the time of receipt by a participant, is subject to restrictions that constitute a substantial risk of forfeiture and that is not transferable within the meaning of Section 83 of the Internal Revenue Code generally will be taxed under the rules applicable to restricted stock as described above.

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Withholding. In the event that an optionee or other recipient of an award under the 2004 Plan is our employee, we generally will be required to withhold applicable federal income taxes with respect to any ordinary income recognized by such optionee or other award recipient in connection with stock options or other awards under the 2004 Plan.

Certain Additional Rules Applicable to Awards. The terms of awards granted under the 2004 Plan may provide for accelerated vesting in connection with a change in control. In that event, and depending upon the individual circumstances of the recipient, certain amounts with respect to such awards may constitute excess parachute payments under the golden parachute provisions of the Internal Revenue Code. Under these provisions, a participant will be subject to a 20% excise tax on any excess parachute payments and we will be denied any deduction with respect to such payment.

We generally are entitled to a deduction equal to the ordinary income recognized by a recipient in connection with an award. However, our deduction (including the deduction related to ordinary income recognized by a recipient) for compensation paid to our Chief Executive Officer and each our other four most highly compensated officers may be limited to $1 million per person annually. Depending on the nature of the award, all or a portion of the ordinary income attributable to certain awards granted under the 2004 Plan may be included in the compensation subject to such deduction limitation.

INTEREST OF CERTAIN PERSONS IN MATERS TO BE ACTED UPON

Each of our current directors, executive officers and employees is eligible to receive Incentive Awards under the 2004 Plan. Other than automatic option awards to nonemployee directors, the compensation committee has the discretion to determine which eligible persons will receive Incentive Awards under the 2004 Plan. On the dates of future annual meetings, each continuing and re-elected nonemployee director will automatically receive an additional Nonemployee Director s Option to purchase up to 10,000 shares of our common stock.

Up to a maximum of approximately 1,351,693 shares of restricted stock, representing an aggregate value of approximately $892,117 (based on the closing price per share of our common stock of $0.66 on the Nasdaq National Market on October 14, 2005), may be granted or allocated to all of our current executive officers as a group pursuant to the retention agreements we entered into in connection with the purchase agreement. See Proposal 1 Terms of the Retention Agreements. Any additional benefits or amounts that will be granted or allocated to (i) any of our named executive officers, (ii) all of our current executive officers as a group, (iii) all of our current directors who are not executive officers as a group and (iv) all of our employees, including all current officers who are not executive officers, as a group, are not determinable as of the date of this proxy statement.

VOTE REQUIRED

The affirmative vote of a majority of the votes cast on Proposal 3 is required to approve the proposed amendments to the 2004 Plan. Executed proxies with no instructions indicated thereon with respect to Proposal 3 will be voted for Proposal 3. **If Proposal 2 is not approved, Proposal 3 will not be implemented.**

If Proposal 1 is approved and Proposal 3 is not approved, we are obligated under the purchase agreement to hold another stockholders meeting after the closing to seek approval of Proposal 3. We have been advised by the Investors that they currently intend to vote the shares they will acquire at the closing for the approval of Proposal 3 at such subsequent stockholders meeting. Based on the total number of shares currently outstanding, the aggregate number of shares the Investors currently hold and the aggregate number of shares the Investors would acquire at the closing, the Investors are expected to have a sufficient number of shares following the closing to approve Proposal 3 by their votes alone.

OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE FOR PROPOSAL 3.

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PROPOSAL 4
APPROVAL OF ONE-FOR-FIVE REVERSE STOCK SPLIT

GENERAL

We are seeking approval to effect a decrease in the number of issued and outstanding shares of our common stock by means of a reverse stock split at a ratio of 1:5, that is, one (1) share for five (5) shares.

If the stockholders approve Proposal 4, the board of directors will cause a certificate of amendment to our certificate of incorporation to be filed with the Secretary of State of the State of Delaware after the amendment described in Proposal 2 is filed and the transactions described in Proposal 1 have closed (assuming that our stockholders have approved Proposals 1 and 2 at the special meeting). The one-for-five reverse stock split will become effective upon the filing of the certificate of amendment with the Secretary of State of the State of Delaware without further action by us or our stockholders. A form of the certificate of amendment to our certificate of incorporation is attached to the proxy statement at Annex I.

REASONS FOR THE REVERSE STOCK SPLIT

Under the purchase agreement, we have agreed to seek stockholder approval to effect the one-for-five reverse stock split. In addition, the reverse stock split is being proposed to help maintain the eligibility of our common stock for listing on the Nasdaq National Market and to increase the common stock s attractiveness to potential investors. In order to maintain our listing on the Nasdaq National Market, the minimum daily closing bid price per share of our common stock must be $1.00 or greater. On April 26, 2005, Nasdaq notified us that our common stock had failed to maintain a minimum closing bid price greater than or equal to $1.00 for 30 consecutive trading days. The failure to comply with this requirement for continued listing on the Nasdaq National Market subjects our common stock to possible delisting. Based on recent trading prices, and the consideration we expect to receive under the purchase agreement from the pending issuance and sale of shares of our common stock and warrants to the Investors, we anticipate that if we effect the reverse stock split, our common stock may trade higher than $1.00 per share. Although our common stock may already have been delisted from the Nasdaq National Market and our common stock may be trading on the Nasdaq Capital Market by the time of the special meeting, if Proposal 4 is not approved, our common stock may cease to be listed and traded on the Nasdaq Capital Market. Such delisting would significantly and adversely affect the trading in and liquidity of our common stock. If Proposal 4 is approved and our common stock trades higher than $1.00 per share for the requisite period of time, we may qualify to apply for reinstatement of our listing on the Nasdaq National Market.

The board of directors is also seeking the authority to effect the reverse stock split because it hopes that the reverse stock split will broaden the market for our common stock and that the resulting anticipated increased price level will encourage interest in the common stock and possibly promote greater liquidity for our stockholders. Various brokerage house policies and practices tend to discourage individual brokers within those firms from dealing with low-priced stocks. In addition, the current price per share of our common stock may result in individual stockholders paying higher per-share transaction costs because fixed-price brokers commissions represent a higher percentage of the stock price on lower priced stock than fixed-price commissions on a higher priced stock.

While our board of directors believes that our common stock would trade at higher prices after the consummation of the reverse stock split, there can be no assurance that the increase in the trading price will occur, or, if it does occur, that it will equal or exceed the price that is five times the market price of the common stock prior to the reverse stock split. In some cases, the total market capitalization of a company following a reverse stock split is lower, and may be substantially lower, than the total market capitalization before the reverse stock split. We cannot offer any assurance that our common stock will continue to meet the Nasdaq National Market s or the Nasdaq Capital Market s continued listing requirements following the reverse stock split. The market price of our common stock is based on our performance and other factors, some of which may be unrelated to the number of our shares outstanding.

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EFFECTS OF THE PROPOSED AMENDMENT

The principal effect of the reverse stock split would be to decrease the number of issued and outstanding shares of common stock from 162,152,686 shares (based on outstanding share information as of October 14, 2005 and including the shares to be issued to the Investors as described in Proposal 1) to approximately 32,430,537 shares. The reverse stock split will not be dilutive to our earnings per share or book value per share. Upon effectiveness of the amendment, every five (5) issued and outstanding shares of common stock will, simultaneous with the effectiveness of the amendment and automatically and without any action on the part of the stockholders, be converted into and reconstituted as one (1) share of common stock. The amendment will not decrease the number of authorized shares of preferred stock or common stock authorized at the effective time of the reverse stock split. The amendment will not affect a stockholder s proportionate equity interest or the relative rights, preferences or priorities a stockholder is currently entitled to, except for minor differences resulting from adjustments for fractional shares as described below.

As of October 14, 2005, we had 510 holders of record of our common stock (as determined in accordance with Rule 12g5-1 under the Securities Exchange Act of 1934, as amended (the Exchange Act)). If Proposal 4 is approved and the one-for-five reverse stock split is implemented, the Company expects to have more than 300 holders of record of its common stock (and a significantly greater number of beneficial owners). The reverse stock split is not being effected as the first step in a going private transaction under Rule 13e-3 of the Exchange Act and the Company expects to continue to be subject to the reporting requirements under the Exchange Act after completing the reverse stock split.

Under Delaware law, our certificate of incorporation and our bylaws, dissenting stockholders have no appraisal rights in connection with the reverse stock split. Our board of directors may make any and all changes to the form of certificate of amendment that it deems necessary in order to file the certificate of amendment with the Secretary of State of the State of Delaware and to give effect to the reverse split under Delaware law.

If Proposal 4 is approved and the amendment becomes effective, the number of shares of common stock subject to outstanding stock options and the per share exercise price of these options will automatically be proportionately adjusted for the reverse stock split so that the aggregate exercise prices thereunder remain unchanged. Accordingly, the number of shares of common stock authorized for future issuances under the 2004 Plan will also be proportionately adjusted after the amendment is effective, if ever, pursuant to the terms of the plan.

In addition, if Proposal 1 and Proposal 2 are approved, we expect to issue the closing warrants to the Investors upon closing under the purchase agreement. If Proposal 1 is approved and Proposal 2 is not approved, we expect to issue the first closing warrants and the second closing warrants to the Investors upon closing under the purchase agreement. If Proposal 4 is approved and the amendment becomes effective, the exercise price of the closing warrants (or, as applicable, the first closing warrants and the second closing warrants) and, accordingly, the number of shares of our common stock issuable upon exercise of the closing warrants (or the first closing warrants and the second closing warrants) will be proportionately adjusted, as specified in the documents governing such warrants and described in Proposal 1.

The reverse stock split is likely to result in some stockholders owning odd-lots of less than 100 shares of common stock. Brokerage commissions and other costs of transactions in odd-lots are generally somewhat higher than the costs of transactions on round-lots of even multiples of 100 shares.

EFFECTIVE DATE

The amendment will be effective as of the date and time that is stated in the certificate of amendment that is filed with the Secretary of State of the State of Delaware in accordance with the Delaware General Corporation Law. If the amendment is approved by the stockholders and the board of directors elects to effect the reverse stock split as described above, the reverse stock split will be effective simultaneously with the amendment becoming effective.

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EXCHANGE OF STOCK CERTIFICATES AND PAYMENT FOR FRACTIONAL SHARES

If Proposal 4 is approved by the requisite vote of our stockholders, the combination of our shares of common stock will occur on the date that we file the amendment with the Secretary of State of the State of Delaware without any further action on the part of our stockholders and without regard to the date that any stockholder physically surrenders the stockholder s certificates representing pre-reverse split shares of common stock for certificates representing post-reverse split shares. As soon as practicable after the effective date of the amendment, our transfer agent will mail transmittal forms to each holder of record of certificates formerly representing shares of our common stock that will be used in forwarding such certificates for surrender and exchange for new certificates representing the number of shares of our common stock the holder is entitled to receive as a consequence of the reverse split. STOCKHOLDERS SHOULD NOT SEND IN CERTIFICATES REPRESENTING SHARES OF OUR COMMON STOCK UNTIL THEY RECEIVE A TRANSMITTAL FORM FROM OUR TRANSFER AGENT.

After receipt of a transmittal form, each holder should surrender the certificates formerly representing shares of our common stock and will receive in exchange therefor certificates representing the number of shares of our common stock to which the holder is entitled as a result of the reverse stock split. The transmittal form will be accompanied by instructions specifying other details of the exchange. No stockholder will be required to pay a transfer or other fee to exchange his, her or its certificates. In connection with the reverse stock split, the CUSIP number on our common will be changed. The new CUSIP number will appear on all newly issued stock certificates representing shares of our post-reverse split common stock.

In the event that the number of shares of post-reverse split common stock for any stockholder includes a fraction, we will pay that stockholder, in lieu of the issuance of fractional shares, a cash amount (without interest) equal to the fair market value of such fraction of a share, based upon (i) the closing price per share of our common stock as reported on the Nasdaq National Market or the Nasdaq Capital Market, as applicable, on the day preceding the effective date of the amendment or (ii) if our common stock is not then listed on the Nasdaq National Market or the Nasdaq Capital Market, the determination of fair market value by our board of directors. This cash payment represents merely a mechanical rounding off of the fractions in the exchange pursuant to the reverse stock split, and is not a separately bargained-for consideration. Similarly, no fractional shares will be issued on the exercise of our warrants and options, as specified in the documents governing our warrants and options.

As of the effective date of the amendment, each certificate representing pre-reverse split shares of common stock will be deemed cancelled and, for all corporate purposes, will be deemed to represent only the number of post-reverse split shares of common stock and the right to receive the amount of cash for any fractional shares as a result of the reverse stock split. However, a stockholder will not be entitled to receive any dividends or other distributions payable by us after the amendment is effective until that stockholder surrenders and exchanges its certificates. If there are any dividends or distributions, they will be withheld, accumulated and be paid to each stockholder, without interest, once that stockholder surrenders and exchange its certificates.

FEDERAL INCOME TAX CONSEQUENCES

The following is a summary of the material anticipated federal income tax consequences of a one-for-five reverse stock split of our issued and outstanding shares of common stock. This summary is based upon the Internal Revenue Code existing and proposed regulations thereunder, judicial decisions and current administrative rulings, authorities and practices, all as amended and in effect on the date of this proxy statement. Any of these authorities could be repealed, overruled or modified at any time. Any such change could be retroactive and, accordingly, could cause the tax consequences to vary substantially from the consequences described below. No ruling from the Internal Revenue Service (the IRS) with respect to the matters discussed herein has been requested or will be requested, and there is no assurance that the IRS would agree with the conclusions set forth in this summary.

This summary is provided for general information only and does not purport to address all aspects of the possible federal income tax consequences of the reverse stock split and is not intended as tax advice to any

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person. In particular, and without limiting the foregoing, this summary does not consider the federal income tax consequences to our stockholders in light of their individual investment circumstances or to holders who may be subject to special treatment under the federal income tax laws (such as dealers in securities, insurance companies, foreign individuals and entities, financial institutions and tax exempt entities). In addition, this summary does not address any consequences of the reverse stock split under any state, local or foreign tax laws. As a result, it is the responsibility of each stockholder to obtain and rely on advice from his, her or its tax advisor as to, but not limited to, the following (i) the effect on his, her or its tax situation of the reverse stock split, including, but not limited to, the application and effect of state, local and foreign income and other tax laws; (ii) the effect of possible future legislation or regulations; and (iii) the reporting of information required in connection with the reverse stock split on his, her or its own tax returns. It will be the responsibility of each stockholder to prepare and file all appropriate federal, state and local tax returns.

We believe that the reverse stock split will constitute a tax-free recapitalization under the Internal Revenue Code and that we should not recognize any gain or loss as a result of the reverse stock split. In addition, our stockholders should not recognize any gain or loss if they receive only common stock upon the reverse stock split. If a stockholder receives cash in lieu of a fractional share of common stock that otherwise would be held as a capital asset, the stockholder generally will recognize capital gain or loss equal to the difference, if any, between the cash received and the stockholder s basis in the fractional share. For this purpose, a stockholder s basis in the fractional share of common stock will be determined in the manner described below as if the stockholder actually received the fractional share. However, under unusual circumstances, cash received in lieu of a fractional share might possibly be deemed a dividend. The stockholder should consult a tax advisor to determine which of these treatments will apply upon the receipt of cash in lieu of a fractional share of common stock.

We further believe that a stockholder s aggregate basis of his, her or its post-reverse split shares of common stock will equal his, her or its aggregate basis in the pre-reverse split shares of common stock owned by that stockholder that are exchanged for the post-reverse split shares of common stock. Generally, the aggregate basis will be allocated among the post-reverse split shares on a pro rata basis. However, if a stockholder has used the specific identification method to identify his, her or its basis in pre-reverse split shares of common stock surrendered in the reverse stock split, the stockholder should consult a tax advisor to determine his, her or its basis in the post-reverse split shares. The holding period of the post-reverse split shares of common stock received by a stockholder will generally include the stockholder s holding period for the pre-reverse split shares of common stock with respect to which post-reverse split shares of common stock are issued, provided that the pre-reverse split shares of common stock were held as a capital asset on the date of the exchange.

ACCOUNTING EFFECTS OF THE REVERSE STOCK SPLIT

Following the effective date of the reverse stock split, the par value of our common stock will remain at $0.01 per share. The number of outstanding shares of common stock will be reduced by approximately 80%, taking into account such additional decrease resulting from our repurchase of fractional shares that otherwise would result from the reverse stock split. Accordingly, the aggregate par value of the issued and outstanding shares of our common stock, and therefore the stated capital associated with our common stock, will be reduced, and the additional paid-in capital (capital paid in excess of the par value) will be increased in a corresponding amount for statutory and accounting purposes. If the reverse stock split is effected, all share and per share information in our financial statements will be restated to reflect the reverse stock split for all periods presented in our future filings, after the effective date of the amendment, with the SEC and the Nasdaq National Market or the Nasdaq Capital Market, as applicable. Stockholders equity will remain unchanged.

VOTE REQUIRED

The affirmative vote of the holders of a majority of the voting power of all outstanding shares of our capital stock entitled to vote at the special meeting is required to approve the reverse stock split. Executed proxies with no instructions indicated thereon with respect to Proposal 4 will be voted for Proposal 4. **If Proposal 4 is not approved, the reverse stock split will not be implemented.**

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If Proposal 1 is approved and Proposal 4 is not approved, we are obligated under the purchase agreement to hold another stockholders meeting after the closing to seek approval of Proposal 4. We have been advised by the Investors that they currently intend to vote the shares they will acquire at the closing for the approval of Proposal 4 at such subsequent stockholders meeting. Based on the total number of shares currently outstanding, the aggregate number of shares the Investors currently hold and the aggregate number of shares the Investors would acquire at the closing, the Investors are expected to have a sufficient number of shares following the closing to approve Proposal 4 by their votes alone.

OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE FOR PROPOSAL 4.

EQUITY COMPENSATION PLAN INFORMATION

The following table provides information as of December 31, 2004 with respect to shares of our common stock that may be issued under our equity compensation plans, and does not include option grants after December 31, 2004 or the potential issuances of restricted stock pursuant to the retention agreements entered into on October 6, 2005 with our key employees in connection with the purchase agreement.

	(a)	(b)	(c)
Plan Category	**Number of Securities to Be Issued upon Exercise of Outstanding Options, Warrants and Rights**	**Weighted-Average Exercise Price of Outstanding Options, Warrants and Rights**	**Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (Excluding Securities Reflected in Column (a))**
Equity compensation plans approved by security holders	8,978,464(1)(2)	$ 4.44(3)	864,958(4)(5)(6)
Equity compensation plans not approved by security holders			

(1) Outstanding options to purchase shares of our common stock under the La Jolla Pharmaceutical Company 1994 Stock Incentive Plan (the 1994 Plan) and the 2004 Plan as of December 31, 2004.

(2) As of October 14, 2005, there were outstanding options to purchase 10,815,992 shares of our common stock under the 1994 Plan and the 2004 Plan.

(3) As of October 14, 2005, the weighted average exercise price of outstanding options under the 1994 Plan and the 2004 Plan was $3.29.

(4) Includes 655,367 shares subject to the 2004 Plan and 209,591 shares subject to the La Jolla Pharmaceutical Company 1995 Employee Stock Purchase Plan (the 1995 ESPP) as of December 31, 2004.

(5) As of October 14, 2005, there were 485,515 shares available for issuance under the 2004 Plan and 530,283 shares available for purchase under the 1995 ESPP.

(6) If our stockholders approve both Proposal 2 and Proposal 3, the number of shares available under the 2004 Plan will be increased by 16,000,000.

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EXECUTIVE COMPENSATION AND OTHER INFORMATION

Summary Compensation Table

The following table sets forth the compensation paid for the last three fiscal years to our Chief Executive Officer and our four most highly compensated executive officers other than the Chief Executive Officer who were serving as executive officers at the end of our fiscal year ended December 31, 2004 and whose total annual salary and bonus for that fiscal year exceeded $100,000 (collectively, the named executive officers), and does not include any compensation paid to date in our current fiscal year or the potential payments to be made pursuant to the retention agreements entered into with our key employees in connection with the purchase agreement.

		Annual Compensation		Long-Term Compensation-Awards- Securities Underlying Options (#)	All Other Compensation ($)
Name and Principal Position	**Year**	**Salary ($)**	**Bonus ($)**		
Steven B. Engle	2004	$ 418,855	$ 144,474	300,000	$
Chief Executive Officer and	2003	392,798	140,664	300,000	
Chairman of the Board	2002	374,946	77,406	515,000	
Matthew D. Linnik, Ph.D.	2004	290,577	87,998	122,000	
Chief Scientific Officer and	2003	275,445	77,035	150,000	
Executive Vice President of Research	2002	251,158	40,661	150,000	