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

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended **March 31, 2019**

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number: **000-33001**

NATUS MEDICAL INCORPORATED

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

77-0154833
(I.R.S. Employer
Identification No.)

6701 Koll Center Parkway, Suite 120, Pleasanton, CA 94566
(Address of principal executive offices) (Zip Code)

(925) 223-6700
(Registrant's telephone number, including area code)

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

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

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

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

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

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.001 par value per share	BABY	The Nasdaq Stock Market LLC (The Nasdaq Global Market)

The number of issued and outstanding shares of the registrant's Common Stock, \$0.001 par value, as of May 3, 2019 was 34,005,780.

NATUS MEDICAL INCORPORATED

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PART I. FINANCIAL INFORMATION**Item 1. Financial Statements****NATUS MEDICAL INCORPORATED AND SUBSIDIARIES****CONDENSED CONSOLIDATED BALANCE SHEETS**
(unaudited)
(in thousands, except share and per share amounts)

	March 31, 2019	December 31, 2018
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 53,423	\$ 56,373
Accounts receivable, net of allowance for doubtful accounts of \$7,451 in 2019 and \$6,960 in 2018	110,900	127,041
Inventories	82,866	79,736
Prepaid expenses and other current assets	26,793	22,625
Total current assets	<u>273,982</u>	<u>285,775</u>
Property and equipment, net	26,280	22,913
Operating lease right-of-use assets	18,982	—
Intangible assets, net	132,205	139,453
Goodwill	147,390	147,644
Deferred income tax	19,165	22,639
Other assets	20,559	19,716
Total assets	<u>\$ 638,563</u>	<u>\$ 638,140</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 25,103	\$ 28,805
Current portion of long-term debt	35,000	35,000
Accrued liabilities	51,157	52,568
Deferred revenue	19,017	17,073
Current portion of operating lease liabilities	6,251	—
Liabilities and accrued impairment held for sale	24,786	—
Total current liabilities	<u>161,314</u>	<u>133,446</u>
Long-term liabilities:		
Other liabilities	21,325	19,845
Operating lease liabilities	15,234	—
Long-term debt, net	64,522	69,474
Deferred income tax	8,467	16,931
Total liabilities	<u>270,862</u>	<u>239,696</u>
Stockholders' equity:		
Common stock, \$0.001 par value, 120,000,000 shares authorized; shares issued and outstanding 33,955,077 in 2019 and 33,804,379 in 2018	335,348	334,215
Preferred stock, \$0.001 par value; 10,000,000 shares authorized; no shares issued and outstanding in 2019 and 2019	—	—
Retained earnings	73,592	102,261
Accumulated other comprehensive loss	(41,239)	(38,032)
Total stockholders' equity	<u>367,701</u>	<u>398,444</u>
Total liabilities and stockholders' equity	<u>\$ 638,563</u>	<u>\$ 638,140</u>

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

NATUS MEDICAL INCORPORATED AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(unaudited)
(in thousands, except per share amounts)

	Three Months Ended March 31,	
	2019	2018
Revenue	\$ 114,757	\$ 128,609
Cost of revenue	46,370	55,369
Intangibles amortization	1,756	1,587
Gross profit	66,631	71,653
Operating expenses:		
Marketing and selling	33,729	35,872
Research and development	13,058	15,443
General and administrative	16,305	17,448
Intangibles amortization	3,786	4,806
Restructuring	37,372	812
Total operating expenses	104,250	74,381
Loss from operations	(37,619)	(2,728)
Other expense, net	(2,112)	(1,821)
Loss before benefit from income tax	(39,731)	(4,549)
Benefit from income tax	(9,730)	(1,401)
Net loss	\$ (30,001)	\$ (3,148)
Foreign currency translation adjustment	(1,875)	3,617
Comprehensive income (loss)	(31,876)	469
Loss per share:		
Basic	\$ (0.89)	\$ (0.10)
Diluted	\$ (0.89)	\$ (0.10)
Weighted average shares used in the calculation of loss per share:		
Basic	33,590	32,760
Diluted	33,590	32,760

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

NATUS MEDICAL INCORPORATED AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY
(unaudited)
(in thousands, except per share amounts)

	Common Stock		Retained Earnings	Accumulated Other Comprehensive Loss	Stockholders' Equity
	Shares	Amount			
Balances, December 31, 2018	33,804,379	\$ 334,215	\$ 102,261	\$ (38,032)	\$ 398,444
Reclassification of stranded tax effects for ASU 2018-02	—	—	1,332	(1,332)	—
Vesting of restricted stock units	42,130	—	—	—	—
Net issuance of restricted stock awards	139,718	—	—	—	—
Stock-based compensation expense	—	2,432	—	—	2,432
Taxes paid related to net share settlement of equity awards	(47,767)	(1,567)	—	—	(1,567)
Exercise of stock options	16,617	268	—	—	268
Other comprehensive loss	—	—	—	(1,875)	(1,875)
Net loss	—	—	(30,001)	—	(30,001)
Balances, March 31, 2019	33,955,077	\$ 335,348	\$ 73,592	\$ (41,239)	\$ 367,701

	Common Stock		Retained Earnings	Accumulated Other Comprehensive Loss	Stockholders' Equity
	Shares	Amount			
Balances, December 31, 2017	33,134,101	\$ 316,577	\$ 129,115	\$ (23,595)	\$ 422,097
Cumulative-effect adjustment for ASU 2016-16	—	—	(3,919)	—	(3,919)
Vesting of restricted stock units	100	—	—	—	—
Net issuance of restricted stock awards	239,649	—	—	—	—
Stock-based compensation expense	—	2,361	—	—	2,361
Repurchase of company stock	(147,893)	(4,736)	—	—	(4,736)
Taxes paid related to net share settlement of equity awards	(600)	(19)	—	—	(19)
Exercise of stock options	46,173	577	—	—	577
Other comprehensive income	—	—	—	3,617	3,617
Net loss	—	—	(3,148)	—	(3,148)
Balances, March 31, 2018	33,271,530	\$ 314,760	\$ 122,048	\$ (19,978)	\$ 416,830

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

NATUS MEDICAL INCORPORATED AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited)
(in thousands)

	Three Months Ended March 31,	
	2019	2018
Operating activities:		
Net loss	\$ (30,001)	\$ (3,148)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Provision for losses on accounts receivable	600	918
Depreciation and amortization	7,711	7,915
Loss on disposal of property and equipment	179	52
Warranty reserve	354	(1,125)
Share-based compensation	2,554	2,362
Impairment charge on held for sale entity	24,571	—
Changes in operating assets and liabilities:		
Accounts receivable	15,555	(2,242)
Inventories	(4,616)	2,885
Prepaid expenses and other assets	(7,703)	(5,390)
Accounts payable	(3,436)	(622)
Accrued liabilities	(1,319)	3,319
Deferred revenue	1,982	1,314
Deferred income tax	62	87
Net cash provided by operating activities	<u>6,493</u>	<u>6,325</u>
Investing activities:		
Purchase of property and equipment	(2,461)	(2,473)
Net cash used in investing activities	<u>(2,461)</u>	<u>(2,473)</u>
Financing activities:		
Proceeds from stock option exercises and Employee Stock Purchase Program purchases	268	577
Repurchase of common stock	—	(4,736)
Taxes paid related to net share settlement of equity awards	(1,567)	(19)
Principal payments of financing lease liability	(165)	—
Payment of contingent consideration related to a business combination	—	(147)
Payments on borrowings	(5,000)	(25,000)
Net cash used in financing activities	<u>(6,464)</u>	<u>(29,325)</u>
Exchange rate changes effect on cash and cash equivalents	(518)	994
Net decrease in cash and cash equivalents	(2,950)	(24,479)
Cash and cash equivalents, beginning of period	56,373	88,950
Cash and cash equivalents, end of period	<u>\$ 53,423</u>	<u>\$ 64,471</u>
Supplemental disclosure of cash flow information:		
Cash paid for interest	<u>\$ 1,347</u>	<u>\$ 1,482</u>
Cash paid for income taxes	<u>\$ 1,224</u>	<u>\$ 1,657</u>
Non-cash investing activities:		
Property and equipment included in accounts payable	<u>\$ 141</u>	<u>\$ 349</u>
Inventory transferred to property and equipment	<u>\$ 143</u>	<u>\$ 161</u>

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

NATUS MEDICAL INCORPORATED AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (unaudited)

1 - Basis of Presentation and Significant Accounting Policies

The accompanying interim condensed consolidated financial statements of Natus Medical Incorporated (“Natus,” or the “Company”) have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”). Except where noted below within Note 1, the accounting policies followed in the preparation of the interim condensed consolidated financial statements are consistent in all material respects with those presented in Note 1 to the consolidated financial statements included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2018.

Interim financial reports are prepared in accordance with the rules and regulations of the Securities and Exchange Commission; accordingly, the reports do not include all of the information and notes required by GAAP for annual financial statements. The interim financial information is unaudited, and reflects all normal adjustments that are, in the opinion of management, necessary for the fair presentation of our financial position, results of operations, and cash flows for the interim periods presented. The consolidated balance sheet as of December 31, 2018 was derived from audited financial statements, but does not include all disclosures required by GAAP. The accompanying financial statements should be read in conjunction with the financial statements included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2018.

Operating results for the three months ended March 31, 2019 are not necessarily indicative of the results that may be expected for the year ending December 31, 2019. The accompanying condensed consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation.

Recent Adopted Accounting Pronouncements

In February 2016, the FASB issued ASU 2016-02, Leases (Topic 842). This standard requires lease assets and lease liabilities arising from operating leases to be presented in the statement of financial position. Qualitative along with specific quantitative disclosures are required by lessees and lessors to meet the objective of enabling users of financial statements to assess the amount, timing, and uncertainty of cash flows arising from leases. ASU 2016-02 is effective for fiscal years beginning after December 15, 2018 including interim periods within those fiscal years. In July 2018, FASB issued ASU 2018-10, Codification Improvements to Topic 842, Leases, which affects narrow aspects of the guidance issued in the amendments in Update 2016-02. In July 2018, the FASB also issued ASU 2018-11, Targeted Improvements. The amendments in ASU 2018-11 provide additional clarification and implementation guidance on certain aspects of the previously issued ASU 2016-02 and have the same effective and transition requirements as ASU 2016-02.

The new standard provides a number of optional practical expedients in transition. The Company elected the 'package of practical expedients,' which permits an entity to not reassess prior conclusions about lease identification, lease classification and initial direct costs under the new standard. The Company has not elected the use-of-hindsight practical expedient or the practical expedient pertaining to land easements; the latter of which is not applicable to the Company. The Company made an accounting policy election to keep leases with an initial term of 12 months or less off the balance sheet. The Company will recognize those lease payments in the Consolidated Statements of Operations on a straight-line basis over the lease term.

The new standard became effective for the Company on January 1, 2019. The Company adopted the new standard using the modified retrospective transition method with the effective date as the date of initial application. Upon adoption, the Company recognized additional new lease assets of approximately \$19.5 million and additional lease liabilities of approximately \$22.3 million as of January 1, 2019. The standard did not materially affect consolidated net earnings. By electing the effective date as the date of initial application, financial performance will not be updated and the disclosures required under the new standard will not be provided for periods prior to January 1, 2019.

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The adoption of the new standard did not impact the Company's liquidity or debt-covenant compliance under its current agreements.

In February 2018, the FASB issued ASU 2018-02, Income Statement - Reporting Comprehensive Income (Topic 220). This update permits a company to reclassify its disproportionate income tax effects of the Tax Cuts and Jobs Act of 2017 (the "2017 Act") on items within accumulated other comprehensive income ("AOCI") to retained earnings (termed "stranded tax effects"). Only the stranded tax effects resulting from the 2017 Act are eligible for reclassification. The ASU is effective for the Company on January 1, 2019. Upon adoption, the Company reclassified its stranded tax effects resulting from the 2017 Act of \$1.3 million, resulting in a decrease to AOCI and an increase to retained earnings as of January 1, 2019.

In July 2018, the FASB issued ASU 2018-09, Codification Improvements. This update makes changes to a variety of topics to clarify, correct errors in, or make minor improvements to the Accounting Standard Codification. The majority of the amendments in ASU 2018-09 will be effective for us in annual periods beginning after December 15, 2018. The adoption of this guidance did not have an impact on the Company's consolidated financial statements.

Recent Issued Accounting Pronouncements

In June 2016, the FASB issued ASU 2016-13, Credit Losses (Topic 326). This update requires financial assets measured at amortized cost, such as trade receivables and contract assets, be presented net of expected credit losses, which may be estimated based on relevant information such as historical experience, current conditions, and future expectation for each pool of similar financial asset. The new guidance requires enhanced disclosures related to trade receivables and associated credit losses. The guidance is effective beginning January 1, 2020. The Company is evaluating the impact, if any, that this pronouncement will have on its consolidated financial statements.

In January 2017, the FASB issued ASU 2017-04, Intangibles - Goodwill and Other (Topic 350). This update modifies the concept of impairment from the condition that exists when the carrying amount of goodwill exceeds its implied fair value to the condition that exists when the carrying amount of a reporting unit exceeds its fair value. An entity no longer will determine goodwill impairment by calculating the implied fair value of goodwill by assigning the fair value of a reporting unit to all of its assets and liabilities as if that reporting unit had been acquired in a business combination. Because these amendments eliminate Step 2 from the goodwill impairment test, they should reduce the cost and complexity of evaluating goodwill for impairment. ASU 2017-04 is effective for the Company's annual and any interim goodwill impairment tests performed on or after January 1, 2020. The Company does not expect the adoption of ASU 2017-04 to have a material impact on its consolidated financial statements.

In August 2018, the FASB issued ASU 2018-13 Fair Value Measurement (Topic 813), Disclosure Framework-Changes to the Disclosure Requirements for Fair Value Measurement. This update amends Topic 820 to add, remove, and clarify disclosure requirements related to fair value measurement disclosure. For calendar year-end entities, the update will be effective for annual periods beginning January 1, 2020, and interim periods within those fiscal years. Early adoption of the amendments is permitted, including adoption in any interim period. As the standard relates only to disclosures, the Company does not expect the adoption to have a material impact on the consolidated financial statements and is still evaluating if it will early adopt.

Significant Accounting Policies

Leases

The Company determines if an arrangement is a lease at inception. Right-of-use ("ROU") assets represent the right to use an underlying asset for the lease term, and lease liabilities represent an obligation to make lease payments arising from the lease. Operating lease ROU assets and liabilities are recognized at commencement date based on the present value of lease payments over the lease term. As most of the Company's leases do not provide an implicit borrowing rate, an incremental borrowing rate is used in determining the present value of lease payments based on information available at commencement date. The Company uses the implicit rate when readily determinable. The operating lease ROU asset also includes any lease payments made and excludes lease incentives. The Company's lease terms may include options to exclude or terminate the lease when it is reasonably certain that they will exercise that option. Lease expense for lease payments are recognized on a straight-line basis over the lease term.

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Operating leases are included in operating lease ROU assets, accrued liabilities, and operating lease liabilities in the Company's consolidated balance sheet. Finance leases are included in property and equipment, accrued liabilities, and other liabilities in the consolidated balance sheet.

The Company has lease agreements with lease and non-lease components, which are generally accounted for based on the type of asset. For real estate and telecom leases, the Company accounts for these components separately. For equipment leases, such as office equipment and vehicles, the Company accounts for the lease and non-lease components as a single lease component.

Assets and Liabilities Held for Sale

The Company considers assets and liabilities to be held for sale when all of the following criteria are met:

- Management approves and commits to a formal plan to sell the asset or disposal group;
- The assets or disposal group is available for immediate sale in its present condition;
- An active program to locate a buyer and other actions required to complete the sale have been initiated;
- The sale of the asset or disposal group is expected to be completed within one year;
- The asset or disposal group is being actively marketed for sale at a price that is reasonable in relation to the current fair value; and
- It is unlikely that significant changes will be made to the plan.

Assets held for sale are not depreciated. Upon designation of the asset or disposal group as held for sale, the Company records the asset or disposal group at the lower of its carrying value or its estimated fair value, less estimated costs of sale. The Company considers deferrals accumulated in other comprehensive income, including cumulative currency translation adjustments, in the total carrying value of the disposal group in accordance with GAAP. Any loss resulting from this measurement is recognized on the Company's income statement as a restructuring operating expense in the period in which the held for sale criteria are met and gains, if any are not recognized until the date of sale. The Company assesses the fair value of assets held for sale less any costs to sell each reporting period it remains classified as held for sale and reports any reduction in fair value as an adjustment to the carrying value of the assets held for sale.

2 - Revenue

Unbilled accounts receivable ("AR") for the periods presented primarily represent the difference between revenue recognized based on the relative selling price of the related performance obligations and the contractual billing terms in the arrangements. Deferred revenue for the periods presented primarily relates to extended service contracts, installation, and training, for which the service fees are billed up-front. The associated deferred revenue is generally recognized ratably over the extended service period or when installation and training are complete.

The following table summarizes the changes in the unbilled AR and deferred revenue balances for the three months ended March 31, 2019 (in thousands):

Unbilled AR, December 31, 2018	\$	3,012
Additions		26
Transferred to Trade Receivable		(495)
Unbilled AR, March 31, 2019	\$	<u>2,543</u>
Deferred Revenue, December 31, 2018	\$	21,410
Additions		9,143
Revenue Recognized		(7,164)
Deferred Revenue, March 31, 2019	\$	<u>23,389</u>

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At March 31, 2019, the short-term portion of deferred revenue of \$19.0 million and the long-term portion of \$4.4 million were included in deferred revenue and other long term liabilities respectively, in the consolidated balance sheet. As of March 31, 2019, the Company expects to recognize revenue associated with deferred revenue of approximately \$16.4 million in 2019, \$4.4 million in 2020, \$1.3 million in 2021, \$0.8 million in 2022, and \$0.5 million thereafter.

3 - Earnings Per Share

The components of basic and diluted EPS are as follows (in thousands, except per share amounts):

	Three Months Ended March 31,	
	2019	2018
Net loss	\$ (30,001)	\$ (3,148)
Weighted average common shares	33,590	32,760
Dilutive effect of stock based awards	—	—
Diluted Shares	33,590	32,760
Basic loss per share	\$ (0.89)	\$ (0.10)
Diluted loss per share	\$ (0.89)	\$ (0.10)
Shares excluded from calculation of diluted EPS	119	390

4 - Inventories

Inventories consist of the following (in thousands):

	March 31, 2019	December 31, 2018
Raw materials and subassemblies	\$ 36,107	\$ 31,459
Work in process	2,424	2,424
Finished goods	63,277	63,932
Total inventories	101,808	97,815
Less: Non-current inventories	(18,942)	(18,079)
Inventories, current	\$ 82,866	\$ 79,736

As of March 31, 2019 and December 31, 2018, the Company has classified \$18.9 million and \$18.1 million, respectively, of inventories as other assets. This inventory consists primarily of service components used to repair products held by customers pursuant to warranty obligations and extended service contracts, including service components for products the Company no longer sells, inventory purchased for lifetime buys, and inventory that is turning over at a slow rate. The Company believes these inventories will be utilized for their intended purpose.

5 – Intangible Assets

The following table summarizes the components of gross and net intangible asset balances (in thousands):

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	March 31, 2019				December 31, 2018			
	Gross Carrying Amount	Accumulated Impairment	Accumulated Amortization	Net Book Value	Gross Carrying Amount	Accumulated Impairment	Accumulated Amortization	Net Book Value
Intangible assets with definite lives:								
Technology	\$ 110,161	\$ (6,630)	\$ (51,387)	\$ 52,144	\$ 111,198	\$ (6,768)	\$ (50,046)	\$ 54,384
Customer related	98,403	(50)	(42,160)	56,193	99,440	(1,961)	(38,574)	58,905
Trade names	46,875	(3,812)	(21,161)	21,902	47,217	(4,397)	(19,250)	23,570
Internally developed software	16,266	—	(14,670)	1,596	16,264	—	(14,164)	2,100
Patents	2,937	(132)	(2,765)	40	2,718	(133)	(2,524)	61
Service Agreements	1,190	—	(860)	330	1,190	—	(757)	433
Definite-lived intangible assets	<u>\$ 275,832</u>	<u>\$ (10,624)</u>	<u>\$ (133,003)</u>	<u>\$ 132,205</u>	<u>\$ 278,027</u>	<u>\$ (13,259)</u>	<u>\$ (125,315)</u>	<u>\$ 139,453</u>

Finite-lived intangible assets are amortized over their weighted average lives, which are 14 years for technology, 10 years for customer related intangibles, 7 years for trade names, 6 years for internally developed software, 13 years for patents, 2 years for service agreements and 11 years weighted average in total.

Internally developed software consists of \$14.0 million relating to costs incurred for development of internal use computer software and \$2.2 million for development of software to be sold.

Amortization expense related to intangible assets with definite lives was as follows (in thousands):

	Three Months Ended March 31,	
	2019	2018
Technology	\$ 1,738	\$ 1,819
Customer related	2,183	2,881
Trade names	1,498	1,626
Internally developed software	504	530
Patents	20	22
Service Agreements	102	—
Total amortization	<u>\$ 6,045</u>	<u>\$ 6,878</u>

The amortization expense amounts shown above include internally developed software not held for sale of \$459.0 thousand for the three months ended March 31, 2019 which is recorded within the Company's income statement as a general and administrative operating expense.

Expected amortization expense related to amortizable intangible assets is as follows (in thousands):

Nine months ending December 31, 2019	\$ 17,250
2020	21,678
2021	20,791
2022	17,349
2023	16,378
2024	14,487
Thereafter	24,272
Total expected amortization expense	<u>\$ 132,205</u>

6 – Goodwill

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The carrying amount of goodwill and the changes in the balance are as follows (in thousands):

December 31, 2018	\$	147,644
Foreign currency translation		(254)
March 31, 2019	\$	147,390

7 - Property and Equipment, net

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

	March 31, 2019	December 31, 2018
Land	\$ 1,677	\$ 1,828
Buildings	6,184	7,036
Leasehold improvements	4,703	4,649
Finance lease right-of-use assets	3,064	—
Equipment and furniture	26,879	23,487
Computer software and hardware	12,936	12,803
Demonstration and loaned equipment	12,646	12,843
	68,089	62,646
Accumulated depreciation	(41,809)	(39,733)
Total	\$ 26,280	\$ 22,913

Depreciation expense of property and equipment was approximately \$1.5 million for the three months ended March 31, 2019 and approximately \$1.0 million for the three months ended March 31, 2018.

8 - Reserve for Product Warranties

The Company provides a warranty for products that is generally one year in length, but in some cases regulations may require them to provide repair or remediation beyond the typical warranty period. If any of the products contain defects, the Company may incur additional repair and remediation costs. Service for domestic customers is provided by Company-owned service centers that perform all service, repair, and calibration services. Service for international customers is provided by a combination of Company-owned facilities, vendors on a contract basis, and distributors.

A warranty reserve is included in accrued liabilities for the expected future costs of servicing products. Additions to the reserve are based on management's best estimate of probable liability. The Company considers a combination of factors including material and labor costs, regulatory requirements, and other judgments in determining the amount of the reserve. The reserve is reduced as costs are incurred to honor existing warranty and regulatory obligations.

As of March 31, 2019, the Company had accrued \$3.2 million of estimated costs to bring certain products into U.S. regulatory compliance. The Company's estimate of these costs associated with bringing the products into compliance is primarily based upon the number of units outstanding that may require repair, costs associated with shipping, and the assumption the FDA will approve the Company's plan for compliance.

The details of activity in the warranty reserve are as follows (in thousands):

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	Three Months Ended	
	March 31,	
	2019	2018
Balance, beginning of period	\$ 9,391	\$ 10,995
Additions charged to expense	609	(1,125)
Utilizations	(1,511)	(802)
Changes in estimate related to product remediation activities	(255)	—
Divestiture adjustments	(9)	—
Balance, end of period	\$ 8,225	\$ 9,068

The estimates the Company uses in projecting future product warranty costs may prove to be incorrect. Any future determination that product warranty reserves are understated could result in increases to cost of sales and reductions in operating profits and results of operations.

9 - Share-Based Compensation

As of March 31, 2019, the Company has two active share-based compensation plans, the 2018 Equity Incentive Plan and the 2011 Employee Stock Purchase Plan.

In January 2019, the Company granted market stock unit (“MSU”) awards to certain employees. These MSUs fully vest on December 31, 2021 and have separate market performance goals than the performance stock unit (“PSU”) awards the Company grants. Each MSU represents the right to one share of common stock. The actual number of MSUs which will be eligible to vest will be based on the performance of Natus' stock price over the vesting period. The maximum number of MSUs which will be eligible to vest are 200% of the MSUs initially granted. The Company used a third-party service provider to estimate the fair value of the MSUs at their grant date using a Monte Carlo simulation model. This model simulates the stock price movements of the Company using certain assumptions, including the stock price of the company.

The terms of all other awards granted during the three months ended March 31, 2019 and the methods for determining grant-date fair value of the awards are consistent with those described in the consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2018.

Details of share-based compensation expense are as follows (in thousands):

	Three Months Ended	
	March 31,	
	2019	2018
Cost of revenue	\$ 67	\$ 68
Marketing and selling	230	198
Research and development	245	276
General and administrative	1,890	1,820
Total	\$ 2,432	\$ 2,362

As of March 31, 2019, unrecognized compensation expense related to the unvested portion of stock options and other stock awards was approximately \$15.0 million, which is expected to be recognized over a weighted average period of 2.5 years.

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10 - Other Income (Expense), net

Other income (expense), net consists of (in thousands):

	Three Months Ended March 31,	
	2019	2018
Interest income	\$ 20	\$ 10
Interest expense	(1,527)	(1,960)
Foreign currency gain (loss)	(598)	604
Other expense	(7)	(475)
Total other expense, net	<u>\$ (2,112)</u>	<u>\$ (1,821)</u>

11 - Income Taxes

The Company's tax provision for interim periods is determined using an estimated annual effective tax rate, adjusted for discrete events arising in each respective quarter. During each interim period, the Company updates the estimated annual effective tax rate which is subject to significant volatility due to several factors, including the Company's ability to accurately predict the income (loss) before provision for income taxes in multiple jurisdictions, the effects of acquisitions, the integration of those acquisitions, and changes in tax law. In circumstances where the Company is unable to predict income (loss) in multiple jurisdictions, the actual year to date effective tax rate may be the best estimate of the annual effective tax rate for purposes of determining the interim provision for income tax.

The Company recorded a benefit from income tax of \$9.7 million and a benefit from income tax of \$1.4 million for the three months ended March 31, 2019 and March 31, 2018, respectively. Of the \$9.7 million benefit from income tax recorded for the three months ended March 31, 2019, \$8.2 million relates to the tax accounting effects of the planned divestiture of Medix. The effective tax rate was 24.5% and 30.8% for the three months ended March 31, 2019 and March 31, 2018, respectively.

The decrease in the effective tax rate for the three months ended March 31, 2019 compared with the three months ended March 31, 2018 is primarily attributable to the tax accounting effects of the planned divestiture of Medix. The Company's effective tax rate for the three months ended March 31, 2019 differed from the federal statutory rate of 21% primarily due to the tax accounting effects of the planned divestiture of Medix. Other significant factors that impact the effective tax rate are Federal and California research and development credits, non-deductible executive compensation expenses, and inclusions related to global intangible low-taxed income.

The Company recorded \$0.2 million of net tax expense related to unrecognized tax benefits for the three months ended March 31, 2019, primarily due to the increase in uncertain tax positions related to the prior year. The Company reclassified \$2.2 million of unrecognized tax benefits to long-term taxes payable as a result of the legislative developments in the current period. Within the next twelve months, it is possible that the uncertain tax benefit may change with a range of approximately zero to \$3.8 million. The Company's tax returns remain open to examination as follows: U.S Federal, 2015 through 2018, U.S. States, 2014 through 2018, and significant foreign jurisdictions, generally 2014 through 2018.

12 - Debt and Credit Arrangements

The Company has a Credit Agreement with JP Morgan Chase Bank ("JP Morgan"), Citibank, NA ("Citibank"), and Wells Fargo Bank, National Association ("Wells Fargo"). The Credit Agreement provides for an aggregate \$225.0 million of secured revolving credit facility. The Credit Agreement contains covenants, including covenants relating to maintenance of books and records, financial reporting and notification, compliance with laws, maintenance of properties and insurance, and limitations on guaranties, investments, issuance of debt, lease obligations and capital expenditures, and is secured by virtually all of the Company's assets. The Credit Agreement provides for events of default, including failure to pay any principal or interest when due, failure to perform or

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observe covenants, bankruptcy or insolvency events and the occurrence of a material adverse effect. The Company has no other significant credit facilities.

In addition to the customary restrictive covenants listed above, the Credit Agreement also contains financial covenants that require the Company to maintain a certain leverage ratio and fixed charge coverage ratio, each as defined in the Credit Agreement:

- Leverage Ratio, as defined, to be no higher than 2.75 to 1.00.
- Interest Coverage Ratio, as defined, to be at least 1.75 to 1.00 at all times.

At March 31, 2019, the Company was in compliance with the Leverage Ratio and the Interest Coverage Ratio covenants as defined in the Credit Agreement.

At March 31, 2019, the Company had \$100.0 million outstanding under the Credit Agreement.

Pursuant to the terms of the Credit Agreement, the outstanding principal balance will bear interest at either (a) a fluctuating rate per annum equal to the Applicable Rate, as defined in the Credit Agreement, depending on our leverage ratio plus the higher of (i) the federal funds rate plus one-half of one percent per annum; (ii) the prime rate in effect on such a day; and (iii) the LIBOR rate plus one percent, or (b) a fluctuating rate per annum of LIBOR Rate plus the Applicable Rate, which ranges between 1.75% to 2.75%. The effective interest rate during the three months ended March 31, 2019 was 4.75%. The Credit Agreement matures on September 23, 2021, at which time all principal amounts outstanding under the Credit Agreement will be due and payable.

Long-term debt consists of (in thousands):

	March 31, 2019	December 31, 2018
Revolving credit facility	\$ 100,000	\$ 105,000
Debt issuance costs	(478)	(526)
Less: current portion of long-term debt	35,000	35,000
Total long-term debt	\$ 64,522	\$ 69,474

Maturities of long-term debt as of March 31, 2019 are as follows (in thousands):

	March 31, 2019	December 31, 2018
2019	\$ —	\$ —
2020	—	—
2021	100,000	105,000
Thereafter	—	—
Total	\$ 100,000	\$ 105,000

As of March 31, 2019, the carrying value of total debt approximated fair market value.

13 - Financial Instruments and Derivatives

The Company uses interest rate swap derivative instruments to manage earnings and cash flow exposure resulting from changes in interest rates. These interest rate swaps apply a fixed interest rate on a portion of the Company's expected LIBOR-indexed floating-rate borrowings. The Company held the following interest rate swaps as of March 31, 2019 (in thousands):

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Hedged Item	Current Notional Amount	Designation Date	Effective Date	Termination Date	Fixed Interest Rate	Floating Rate	Estimated Fair Value
1-month USD LIBOR Loan	\$ 40,000	May 31, 2018	June 1, 2018	September 23, 2021	2.611%	1-month USD LIBOR	\$ 179
Total interest rate derivatives designated as cash flow hedge	\$ 40,000						\$ 179

The Company designated these derivative instruments as cash flow hedges. The Company assesses the effectiveness of these derivative instruments and records the change in the fair value of a derivative instrument designated as a cash flow hedge as unrealized gains or losses in accumulated other comprehensive income ("AOCI"), net of tax. Once the hedged item affects earnings, the effective portion of any gain or loss will be reclassified to earnings. If the hedged cash flow does not occur, or if it becomes probable that it will not occur, the Company will reclassify the amount of any gain or loss on the related cash flow hedge to interest expense at that time.

As of March 31, 2019, the Company expects that approximately \$44.0 thousand of losses associated with the cash flow hedge, net of tax, could be reclassified from AOCI into earnings within the next twelve months.

14 - Leases

The Company has operating and finance leases for offices, warehouses, and certain equipment. The leases have remaining lease terms of one to eight years, some of which include options to extend the leases for up to ten years. The Company's leases do not have any residual value guarantees or any restrictions or covenants imposed by leases.

Components of lease cost were as follows (in thousands):

	Three Months Ended March 31,	
	2019	
Operating lease cost	\$	1,765
Finance lease cost:		
Amortization of right-of-use assets (principal payments)		165
Interest on lease liabilities		22
Short-term lease cost		38
Variable lease cost		884
Sublease income		(34)
Total lease cost	\$	2,840

Supplemental cash flow information related to leases was as follows (in thousands):

	Three Months Ended March 31,	
	2019	
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flows from operating leases	\$	3,493
Operating cash flows from finance leases		37
Financing cash flows from finance leases		165
Right-of-use assets obtained in exchange for lease obligations:		
Operating leases		1,120
Finance leases		87

Supplemental balance sheet information related to leases was as follows (in thousands):

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	March 31, 2019	
Operating Leases		
Operating lease right-of-use assets	\$	18,982
Accrued liabilities	\$	6,251
Operating lease liabilities		15,234
Total operating lease liabilities	\$	21,485
Finance Leases		
Property and equipment, gross	\$	3,064
Accumulated amortization		1,537
Property and equipment, net	\$	1,527
Accrued liabilities	\$	563
Other liabilities		1,023
Total finance lease liabilities	\$	1,586
Weighted Average Remaining Lease Term		
Operating leases		4.1 years
Finance leases		3.7 years
Weighted Average Discount Rate		
Operating leases		5.3 %
Finance leases		5.1 %

As of March 31, 2019, future minimum lease payments included in the measurement of lease liabilities on the consolidated balance sheet, for the following five fiscal years and thereafter, were as follows (in thousands):

Year ending December 31,	Operating Leases	Finance Leases
2019	\$ 6,925	\$ 609
2020	5,850	486
2021	4,414	370
2022	2,850	167
2023	2,190	42
Thereafter	1,121	—
Total lease payments	23,350	1,674
Less imputed interest	(1,865)	(88)
Total	\$ 21,485	\$ 1,586

As the Company elected to apply the provisions of Topic 842 on a prospective basis, the following comparative period disclosure is being presented in accordance with Topic 840. The future minimum commitments under the Company's leases as of December 31, 2018 were as follows (in thousands):

Year ending December 31,	Operating Leases
2019	\$ 8,092
2020	6,951
2021	5,290
2022	3,423
2023	2,426
Thereafter	1,365
Total minimum lease payments	\$ 27,547

15 - Segment, Customer and Geographic Information

The Company operates in one reportable segment in which the Company provides healthcare products and services used for the screening, detection, treatment, monitoring and tracking of common medical ailments.

End-user customer base includes hospitals, clinics, laboratories, physicians, audiologists, and governmental agencies. Most of the Company's international sales are to distributors who resell products to end users or sub-distributors.

Revenue and long-lived asset information are as follows (in thousands):

	Three Months Ended March 31,	
	2019	2018
Consolidated Revenue:		
United States	\$ 66,067	\$ 68,671
International	48,690	59,938
Totals	\$ 114,757	\$ 128,609

	Three Months Ended March 31,	
	2019	2018
Revenue by End Market:		
Neurology Products		
Devices and Systems	\$ 45,749	\$ 46,041
Supplies	15,841	17,172
Services	800	2,737
Total Neurology Revenue	62,390	65,950
Newborn Care Products		
Devices and Systems	12,711	15,966
Supplies	9,323	9,522
Services	4,845	5,403
Total Newborn Care Revenue	26,879	30,891
Audiology Products		
Devices and Systems	23,459	29,523
Supplies	2,029	2,245
Total Audiology Revenue	25,488	31,768
Total Revenue	\$ 114,757	\$ 128,609

	March 31, 2019	December 31, 2018
Property and equipment, net:		
United States	\$ 13,177	\$ 10,019
Ireland	5,419	5,083
Canada	4,543	4,504
Denmark	1,952	1,371
Argentina	—	999
Other countries	1,189	937
Totals	\$ 26,280	\$ 22,913

During the three months ended March 31, 2019 and 2018, no single customer or country outside the United States contributed more than 10% of the Company's consolidated revenue.

16 - Fair Value Measurements

ASC 820 defines fair value, establishes a framework for measuring fair value and expands disclosures about fair value measurements. Fair value is defined under ASC 820 as the exit price associated with the sale of an asset or transfer of a liability in an orderly transaction between market participants at the measurement date. ASC 820 establishes the following three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value:

Level 1 - Quoted prices (unadjusted) in active markets that are accessible at the measurement date for assets or liabilities. The fair value hierarchy gives the highest priority to Level 1 inputs.

Level 2 - Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices for similar assets and liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3 - Unobservable inputs that are used when little or no market data is available. The fair value hierarchy gives the lowest priority to Level 3 inputs.

The derivative financial instruments described in Note 13 are measured at fair value on a recurring basis and are presented on the consolidated balance sheets at fair value. The table below presents the fair value of the derivative financial instruments as well as the classification on the consolidated balance sheet (in thousands):

	December 31, 2018	Additions	Payments	Adjustments	March 31, 2019
Liabilities:					
Interest Rate Swap	\$ 77	\$ —	\$ —	\$ 102	\$ 179
Total	\$ 77	\$ —	\$ —	\$ 102	\$ 179

The Company estimates the fair value of the interest rate swaps by calculating the present value of the expected future cash flows of each swap. The calculation incorporated the contractual terms of the derivatives, observable market interest rates which are considered to be Level 2 inputs, and credit risk adjustments, if any, to reflect the counterpart's as well as the Company's nonperformance risk. As of March 31, 2019, there have been no events of default under the interest rate swap agreement.

The following financial instruments are not measured at fair value on the Company's consolidated balance sheet as of March 31, 2019 and December 31, 2018, but require disclosure of their fair values: cash and cash equivalents, accounts receivable, and accounts payable. The carrying value of these financial instruments approximates fair values because of their relatively short maturity.

17 - Sale of Certain Subsidiary Assets

On January 15, 2019, the Company announced the implementation of a restructuring plan designed to improve operational performance, known as "One Natus." As part of the restructuring, the Company identified its wholly owned subsidiary, Medix Medical Devices, SRL ("Medix") as a targeted divestiture. Effective March 18, 2019, a letter of intent was executed that included the mutually agreed upon steps and details to effectuate the sale. The letter outlined the plan to sell Medix, including all of its assets and liabilities, to the local managing director via a stock sale. The transaction was finalized in the second quarter of 2019 when, on April 2, 2019, the Company signed the stock purchase agreement and completed the divestiture of Medix. The purchase price of the sale was \$2,500 in cash and as part of the transaction, the Company provided a \$2.2 million limited-recourse note to Medix, secured by certain assets of Medix, and whereby repayment is conditional upon the sale of those specific assets.

As part of the transactions, the Company and the buyer also entered into an International Distributor Agreement whereby Medix will continue to distribute Natus products in addition to Medix and other third party products.

The held for sale criteria under GAAP was met when the sale became probable on March 18, 2019. As such, the Company segregated the assets and liabilities into relevant held for sale accounts and completed the asset

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impairment analysis. It was determined that the assets of Medix were fully impaired. The impact of the impairment analysis resulted in the full impairment of all assets held for sale with a residual liability of \$24.8 million reported on the liabilities and accrued impairment held for sale line on the consolidated financial statements. This amount consists primarily of held for sale liabilities inclusive of accrued impairment for liabilities associated with the anticipated realization of deferred losses related to foreign currency changes included within accumulated other comprehensive income.

The Company does not believe the sale of Medix constituted a strategic shift that would have a major effect on its operations or financial results. As a result, this transaction is not classified as discontinued operations in the Company's consolidated financial statements and the Company has classified the assets and liabilities as held for sale as of March 31, 2019. Due to the classification of these assets and liabilities as held for sale, the Company recognized a loss of \$24.6 million which includes an accrual for the anticipated realization of deferred foreign currency related adjustments in accumulated other comprehensive income of \$28.2 million and adjustment of \$4.6 million for assets with a book value in excess of their fair market value.

ITEM 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Overview

The following Management Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") supplements the MD&A in the Annual Report on Form 10-K for the year ended December 31, 2018 of Natus Medical Incorporated. MD&A should be read in conjunction with our condensed consolidated financial statements and accompanying footnotes, the risk factors referred to in Part II, Item 1A of this report, our Annual Report filed on Form 10-K for the year ended December 31, 2018 and the cautionary information regarding forward-looking statements at the end of this section.

Our Business

Natus is a leading provider of neurology, newborn care, and hearing and balance assessment healthcare products and services used for the screening, treatment and monitoring of common medical conditions in newborn care, hearing, balance impairment, neurological dysfunction and sleep disorders.

We have completed a number of acquisitions since 2003, consisting of either the purchase of a company, substantially all of the assets of a company, or individual products or product lines.

End Markets

Our products address the below end markets:

- **Neuro** - Includes products and services that provide diagnostic, therapeutic and surgical solutions in neurodiagnostics, neurocritical care and neurosurgery. Neuro's comprehensive neurodiagnostic solutions include electroencephalography and long term monitoring, Intensive Care Unit monitoring, electromyography, sleep analysis or polysomnography, and intra-operative monitoring.
- **Newborn Care** - Includes products and services for newborn care including hearing screening, brain injury, ROP vision screening, thermoregulation, jaundice management, and various disposable newborn care supplies, as well as products for diagnostic hearing assessment for children through adult populations, and products to diagnose and assist in treating balance and mobility disorders.
- **Audiology** - Includes products hearing and diagnostics and hearing aid fitting, including computer-based audiological, otoneurologic and vestibular instrumentation and sound rooms for hearing and balance care professionals. Audiology has a complete product and brand portfolio known for its sophisticated design technology in the hearing and balance assessment markets. Global brands include Aurical®, ICS®, and Madsen®.

Segment and Geographic Information

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We operate in one reportable segment, which we have presented as the aggregation of our Neuro, Newborn Care, and Audiology end markets. Within this reportable segment we are organized on the basis of the healthcare products and services we provide which are used for the screening, detection, treatment, monitoring, and tracking of common medical ailments in newborn care, hearing impairment, neurological dysfunction, epilepsy, and sleep disorders.

Our end-user customer base includes hospitals, clinics, laboratories, physicians, nurses, audiologists, and governmental agencies. Most of our international sales are to distributors, who in turn resell our products to end users or sub-distributors.

Information regarding our sales and long-lived assets in the U.S. and in countries outside the U.S. is contained in Note 15 – Segment, Customer and Geographic Information of our condensed consolidated financial statements included in this report and is incorporated in this section by reference.

Revenue by Product Category

We generate our revenue from sales of Devices and Systems, which are generally non-recurring, and from related Supplies and Services, which are generally recurring. The products that are attributable to these categories are described in our Annual Report on Form 10-K for the year ended December 31, 2018. Revenue from Devices and Systems, Supplies, and Services, as a percent of total revenue for the three months ended March 31, 2019 and 2018, is as follows:

	Three Months Ended March 31,	
	2019	2018
Devices and Systems	71 %	71 %
Supplies	24 %	23 %
Services	5 %	6 %
Total	100 %	100 %

2019 First Quarter Overview

Our business and operating results are driven in part by worldwide economic conditions. Our sales are significantly dependent on both capital spending by hospitals in the United States and healthcare spending by ministries of health outside the United States.

Our consolidated revenue decreased \$13.9 million in the first quarter ended March 31, 2019 to \$114.8 million compared to \$128.6 million in the first quarter of the previous year. The decline in revenue was driven primarily by the exit of the GND and Neurocom businesses, our Medix business in Argentina and Audiology products pending product registrations.

Net loss was \$30.0 million or \$0.89 per share in the three months ended March 31, 2019, compared with net loss of \$3.1 million or \$0.10 per diluted share in the same period in 2018. The increase in net loss was driven by an impairment recorded related to the held for sale status of Medix, which included an accrual for the anticipated realization of deferred foreign currency related adjustments in accumulated other comprehensive income of \$28.2 million and adjustment of \$4.6 million for assets with a book value in excess of their fair market value.

Application of Critical Accounting Policies

We prepare our financial statements in accordance with accounting principles generally accepted in the United States of America. In so doing, we must often make estimates and use assumptions that can be subjective, and, consequently, our actual results could differ from those estimates. For any given individual estimate or assumption we make, there may also be other estimates or assumptions that are reasonable.

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We believe that the following critical accounting policies require the use of significant estimates, assumptions, and judgments:

- Revenue recognition
- Income taxes
- Inventory valuation

The use of different estimates, assumptions, or judgments could have a material effect on the reported amounts of assets, liabilities, revenue, expenses, and related disclosures as of the date of the financial statements and during the reporting period. These critical accounting policies are described in more detail in our Annual Report on Form 10-K for the year ended December 31, 2018, under Item 7, *Management's Discussion and Analysis of Financial Condition and Results of Operations*.

Results of Operations

The following table sets forth selected consolidated statement of operations data as a percentage of total revenue for the periods indicated:

	Three Months Ended March 31,	
	2019	2018
Revenue	100.0 %	100.0 %
Cost of revenue	40.4 %	43.1 %
Intangibles amortization	1.5 %	1.2 %
Gross profit	58.1 %	55.7 %
Operating expenses:		
Marketing and selling	29.4 %	27.9 %
Research and development	11.4 %	12.0 %
General and administrative	14.2 %	13.6 %
Intangibles amortization	3.3 %	3.7 %
Restructuring	32.6 %	0.6 %
Total operating expenses	90.9 %	57.8 %
Loss from operations	(32.8)%	(2.1)%
Other expense, net	(1.9)%	(1.4)%
Loss before benefit from income tax	(34.7)%	(3.5)%
Benefit from income tax	(8.5)%	(1.1)%
Net loss	(26.2)%	(2.4)%

Revenues

The following table shows revenue by products during the three months ended March 31, 2019 and March 31, 2018 (in thousands):

	Three Months Ended March 31,		
	2019	2018	Change
Neuro Products			
Devices and Systems	\$ 45,749	\$ 46,041	(1)%
Supplies	15,841	17,172	(8)%
Services	800	2,737	(71)%
Total Neurology Revenue	62,390	65,950	(5)%
Newborn Care Products			
Devices and Systems	12,711	15,966	(20)%
Supplies	9,323	9,522	(2)%
Services	4,845	5,403	(10)%
Total Newborn Care Revenue	26,879	30,891	(13)%
Audiology Products			
Devices and Systems	23,459	29,523	(21)%
Supplies	2,029	2,245	(10)%
Total Audiology Revenue	25,488	31,768	(20)%
Total Revenue	\$ 114,757	\$ 128,609	(11)%

For the three months ended March 31, 2019, Neuro revenue decreased by 5% compared to the same quarter last year. Revenue from sales of Neuro Devices and Systems decreased by 1% driven by a decline in the neurosurgery business and electromyography (“EMG”) products offset by growth in the electroencephalography (“EEG”) products. Revenue from Supplies decreased by 8% due to lower sales of neurodiagnostic products in our international markets and lower neurosurgery business in our domestic market. Revenue from Services decreased by 71% due to the exit of GND, our ambulatory EEG services business, as of January 31, 2019.

For the three months ended March 31, 2019, Newborn Care revenue decreased by 13% compared to the same quarter last year. The decrease was due to the impact of end of life products, a decline in balance and mobility revenue as we exit our Neurocom business, lower Medix business in Argentina, and reduced billings for Peloton.

For the three months ended March 31, 2019, Audiology revenue decreased by 20% compared to the same period last year. The decrease in revenue was due to products on hold pending international product registrations and end of sale products.

Revenue from domestic sales decreased to \$66.1 million for the three months ended March 31, 2019 compared to \$68.7 million in the three months ended March 31, 2018. The decrease in domestic revenue was driven by the exit of GND and Neurocom businesses, lower neurosurgery product revenue and a decline in Peloton billings, partly offset by growth in EEG devices.

Revenue from international sales decreased to \$48.7 million for the three months ended March 31, 2019 compared to \$59.9 million for the three months ended March 31, 2018. Decreases are due to audiology products on hold pending international product registrations and end of sales for certain audiology and newborn care products.

Cost of Revenue and Gross Profit

Cost of revenue and gross profit consists of (in thousands):

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	Three Months Ended March 31,	
	2019	2018
Revenue	\$ 114,757	\$ 128,609
Cost of revenue	46,370	55,369
Intangibles amortization	1,756	1,587
Gross profit	66,631	71,653
Gross profit percentage	58.1%	55.7%

For the three months ended March 31, 2019, gross profit as a percentage of revenue increased 2.4% compared to the same period in the prior year. This increase was primarily driven by increased margins on neurodiagnostic services and Audiology products, in addition to the benefit from exiting the GND business.

Operating Costs

Operating costs consist of (in thousands):

	Three Months Ended March 31,	
	2019	2018
Marketing and selling	\$ 33,729	\$ 35,872
Percentage of revenue	29.4%	27.9%
Research and development	\$ 13,058	\$ 15,443
Percentage of revenue	11.4%	12.0%
General and administrative	\$ 16,305	\$ 17,448
Percentage of revenue	14.2%	13.6%
Intangibles amortization	\$ 3,786	\$ 4,806
Percentage of revenue	3.3%	3.7%
Restructuring	\$ 37,372	\$ 812
Percentage of revenue	32.6%	0.6%

Marketing and Selling

Marketing and selling expenses decreased for the three months ended March 31, 2019. The reduction was primarily driven by exiting the GND business and lower expenses due to One Natus.

Research and Development

Research and development expenses decreased during the three months ended March 31, 2019 compared to the same period in 2018. The decrease is due mainly to lower recall and remediation costs in the current periods.

General and Administrative

General and administrative expense during the three months ended March 31, 2019 decreased when compared to the same period in the prior year. This decrease was due to a reduction in bad debt expense related to our GND and Peloton businesses.

Intangibles Amortization

Intangibles amortization decreased during the three months ended March 31, 2019 as compared to the same period in 2018. This decrease was due to a reduction of intangible assets for impairments recognized during the fourth quarter of 2018 for GND, Neurocom, and Bio-Logic core technology.

Restructuring

Restructuring expenses increased during the three months ended March 31, 2019 compared to the same period in 2018. The increase was driven by an impairment recorded related to the held for sale status of Medix, which included an accrual for the anticipated realization of deferred foreign currency related adjustments in

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accumulated other comprehensive income of \$28.2 million and adjustment of \$4.6 million for assets with a book value in excess of their fair market value. In addition to the impairment for Medix, the Company also incurred restructuring expenses related to exiting the GND business and our One Natus restructuring project.

Other Income (Expense), net

Other income (expense), net consists of investment income, interest expense, net currency exchange gains and losses, and other miscellaneous income and expense. For the three months ended March 31, 2019 we reported \$2.1 million of other expense compared to \$1.8 million of other expense for the same period in 2018. This increase in expense was attributable to foreign currency fluctuations.

Benefit from Income Tax

Our tax provision for interim periods is determined using an estimated annual effective tax rate, adjusted for discrete events arising in each respective quarter. During each interim period, we update the estimated annual effective tax rate which is subject to significant volatility due to several factors, including our ability to accurately predict the income (loss) before provision for income taxes in multiple jurisdictions, the effects of acquisitions, the integration of those acquisitions, and changes in tax law. In circumstances where we are unable to predict income (loss) in multiple jurisdictions, the actual year to date effective tax rate may be the best estimate of the annual effective tax rate for purposes of determining the interim provision for income tax.

We recorded a benefit from income tax of \$9.7 million and a benefit from income tax of \$1.4 million for the three months ended March 31, 2019 and March 31, 2018, respectively. Of the \$9.7 million benefit from income tax recorded for the three months ended March 31, 2019, \$8.2 million relates to the tax accounting effects of the planned divestiture of Medix. The effective tax rate was 24.5% and 30.8% for the three months ended March 31, 2019 and March 31, 2018, respectively.

The decrease in the effective tax rate for the three months ended March 31, 2019 compared with the three months ended March 31, 2018 is primarily attributable to the tax accounting effects of the planned divestiture of Medix. The effective tax rate for the three months ended March 31, 2019 differed from the federal statutory rate of 21% primarily due to the tax accounting effects of the planned divestiture of Medix. Other significant factors that impact the effective tax rate are Federal and California research and development credits, non-deductible executive compensation expenses, and inclusions related to global intangible low-taxed income.

We recorded \$0.2 million of net tax expense related to unrecognized tax benefits for the three months ended March 31, 2019, primarily due to the increase in uncertain tax positions related to the prior year. We reclassified \$2.2 million of unrecognized tax benefits to long-term taxes payable as a result of the legislative developments in the current period. Within the next twelve months, it is possible that the uncertain tax benefit may change with a range of approximately zero to \$3.8 million. Our tax returns remain open to examination as follows: U.S Federal, 2015 through 2018, U.S. States, 2014 through 2018, and significant foreign jurisdictions, generally 2014 through 2018.

Liquidity and Capital Resources

Liquidity and capital resources consist of (in thousands):

	<u>March 31, 2019</u>	<u>December 31, 2018</u>
Cash and cash equivalents	\$ 53,423	\$ 56,373
Working capital	112,668	152,329

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	Three Months Ended	
	March 31,	
	2019	2018
Net cash provided by operating activities	\$ 6,493	\$ 6,325
Net cash used in investing activities	(2,461)	(2,473)
Net cash used in financing activities	(6,464)	(29,325)

We believe that our current cash and cash equivalents and any cash generated from operations will be sufficient to meet our ongoing operating requirements for the foreseeable future.

As of March 31, 2019, we had cash and cash equivalents outside the U.S. in certain of our international subsidiaries of \$44.9 million. We intend to permanently reinvest the cash held by our international subsidiaries except for Excel-Tech and Natus Ireland, which we intend to repatriate. If, however, a portion of these funds were needed for and distributed to our operations in the United States, we would be subject to additional U.S. income taxes and foreign withholding taxes depending on facts and circumstances at the time of distribution. The amount of taxes due would depend on the amount and manner of repatriation, as well as the country from which the funds were repatriated.

On September 23, 2016, we entered into a Credit Agreement with JP Morgan Chase Bank and Citibank, NA that provides for an aggregate \$150.0 million secured revolving credit facility. On September 15, 2017, we exercised our right to increase the amount available under the facility by \$75.0 million, which added Wells Fargo as an augmenting lender and brought the aggregate revolving credit facility to \$225.0 million. The Credit Agreement contains covenants, including covenants relating to maintenance of books and records, financial reporting and notification, compliance with laws, maintenance of properties and insurance, and limitations on guaranties, investments, issuances of debt, lease obligations and capital expenditures. The Credit Agreement provides for events of default, including failure to pay any principal or interest when due, failure to perform or observe covenants, bankruptcy or insolvency events and the occurrence of a material adverse effect. We have no other significant credit facilities. As of March 31, 2019 we had \$100.0 million outstanding under the Credit Facility.

During the three months ended March 31, 2019 cash provided by operating activities of \$6.5 million was the result of \$30.0 million of net loss, non-cash adjustments to net loss of \$36.0 million, and net cash inflows of \$0.5 million from changes in operating assets and liabilities. The change in non-cash adjustment to net loss was driven by an impairment recorded related to the held for sale status of Medix, which included which included an accrual for the anticipated realization of deferred foreign currency related adjustments in accumulated other comprehensive income of \$28.2 million and adjustment of \$4.6 million for assets with a book value in excess of their fair market value. Cash used in investing activities during the period was \$2.5 million to acquire other property and equipment. Cash used in financing activities during the three months ended March 31, 2019 was \$6.5 million and consisted of repayment of borrowing of \$5.0 million, \$1.6 million for taxes paid related to net share settlement of equity awards, \$0.2 million for principal payments of financing lease liability, offset by stock option exercises of \$0.3 million.

During the three months ended March 31, 2018 cash provided by operating activities of \$6.3 million was the result of \$3.1 million of net loss, non-cash adjustments to net loss of \$10.1 million, and net cash outflows of \$0.6 million from changes in operating assets and liabilities. The change in non-cash adjustment to net loss was driven by increased depreciation and amortization due to the Neurosurgery assets acquisition and share based compensation. Cash used in investing activities during the period was \$2.5 million, driven by cash used to acquire other property and equipment. Cash used in financing activities during the three months ended March 31, 2018 was \$29.3 million and consisted of repayment of borrowing of \$25.0 million, \$4.7 million for repurchases of common stock under our share program, and \$0.1 million for a contingent consideration payment partially offset by stock option exercises of \$0.6 million.

Our future liquidity and capital requirements will depend on numerous factors, including the:

- Extent to which we make acquisitions;

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- Amount and timing of revenue;
- Extent to which our existing and new products gain market acceptance;
- Cost and timing of product development efforts and the success of these development efforts;
- Cost and timing of marketing and selling activities;
and
- Availability of borrowings under line of credit arrangements and the availability of other means of financing.

Commitments and Contingencies

In the normal course of business, we enter into obligations and commitments that require future contractual payments. The commitments result primarily from firm, non-cancellable purchase orders placed with contract vendors that manufacture some of the components used in our medical devices and related disposable supply products, as well as commitments for leased office space, and bank debt. The following table summarized our contractual obligations and commercial commitments as of March 31, 2019 (in thousands):

	Payments Due by Period				
	Total	Less than 1 Year	1-3 Years	3-5 Years	More than 5 Years
Unconditional purchase obligations	\$ 63,813	\$ 61,865	\$ 1,948	\$ —	\$ —
Bank debt	100,000	—	100,000	—	—
Interest payments	7,695	4,684	3,011		
Repatriation tax	9,992	800	1,751	2,517	4,924
Total	<u>\$ 181,500</u>	<u>\$ 67,349</u>	<u>\$ 106,710</u>	<u>\$ 2,517</u>	<u>\$ 4,924</u>

Purchase obligations are defined as agreements to purchase goods or services that are enforceable and legally binding. Included in the purchase obligations category above are obligations related to purchase orders for inventory purchases under our standard terms and conditions and under negotiated agreements with vendors. We expect to receive consideration (products or services) for these purchase obligations. The purchase obligation amounts do not represent all anticipated purchases in the future, but represent only those items for which we are contractually obligated. The table above does not include obligations under employment agreements for services rendered in the ordinary course of business.

The Company's Credit Agreement with JP Morgan, Citibank, and Wells Fargo matures in 2021. We have recorded this obligation in the payments due in one to three years category in the table above based on the maturity date of the Agreement. As of March 31, 2019, we have classified \$35.0 million out of the \$100.0 million outstanding as short-term on our balance sheet due to our intent to repay this portion over the next twelve months.

The interest payments note above are an estimate of expected interest payments, but could vary materially based on the timing of future loan draws and payments. See Note 12 to these Condensed Consolidated Financial Statements for additional discussion on our debt and credit arrangements.

We are not able to reasonably estimate the timing of any potential payments for uncertain tax positions under ASC 740, *Accounting for Uncertainty in Income Taxes—an interpretation of FASB Statement 109*. As a result, the preceding table excludes any potential future payments related to our ASC 740 liability for uncertain tax positions. See Note 11 of our Condensed Consolidated Financial Statements for further discussion on income taxes.

Recent Accounting Pronouncements

See Note 1 to our Condensed Consolidated Financial Statements for a discussion of new accounting pronouncements that affect us.

Cautionary Information Regarding Forward Looking Statements

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This report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934 about Natus Medical Incorporated. These statements include, among other things, statements concerning our expectations, beliefs, plans, intentions, future operations, financial condition and prospects, and business strategies. The words “may,” “will,” “continue,” “estimate,” “project,” “intend,” “believe,” “expect,” “anticipate,” and other similar expressions generally identify forward-looking statements. Forward-looking statements in this Item 2 include, without limitation, statements regarding our ability to capitalize on improving market conditions, the sufficiency of our current cash, cash equivalents and short-term investment balances, any cash generated from operations to meet our ongoing operating and capital requirements for the foreseeable future, outcomes of new product development, improved operations performance and profitability as the result of restructuring activities, and our intent to acquire additional technologies, products or businesses.

Forward-looking statements are not guarantees of future performance and are subject to substantial risks and uncertainties that could cause the actual results predicted in the forward-looking statements as well as our future financial condition and results of operations to differ materially from our historical results or currently anticipated results. Investors should carefully review the information contained under the caption “Risk Factors” referred to in Part II, Item 1A of this report for a description of risks and uncertainties. All forward-looking statements are based on information available to us on the date hereof, and we assume no obligation to update forward-looking statements.

ITEM 3. Quantitative and Qualitative Disclosures about Market Risk

We are exposed to interest rate risk on our LIBOR-indexed floating-rate debt. We have entered into an interest rate swap agreement to effectively convert a portion of our floating-rate debt to a fixed-rate. The principal objective of the swap contract is to reduce the variability of future earnings and cash flows associated with our floating-rate debt. Please refer to Part II, Item 7A, Quantitative and Qualitative Disclosures About Market Risk included in our Annual Report on Form 10-K for the ended December 31, 2018 for a more complete discussion on the market risks we encounter.

ITEM 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Under the rules of the Securities and Exchange Commission, “disclosure controls and procedures” are controls and other procedures that are designed to ensure that information required to be disclosed in the reports that we file or submit under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the Securities and Exchange Commission. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in our reports that we file or submit under the Securities Exchange Act of 1934 is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

Our management, including our chief executive officer and chief financial officer, does not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent all errors and all fraud due to inherent limitations of internal controls. Because of such limitations, there is a risk that material misstatements will not be prevented or detected on a timely basis by internal control over financial reporting. However, these inherent limitations are known features of the financial reporting process. Therefore, it is possible to design into the process safeguards to reduce, though not eliminate, this risk.

Our management, with the participation of our chief executive officer and our chief financial officer, has evaluated the effectiveness of our disclosure controls and procedures as of the end of the period covered by this report. Based on that evaluation, our management, including our chief executive officer and chief financial officer, has concluded that our disclosure controls and procedures were effective at a reasonable assurance level as of March 31, 2019.

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Changes in Internal Control over Financial Reporting

There were no changes in the Company's internal control over financial reporting during the first quarter of 2019, which were identified in connection with management's evaluation required by paragraph (d) of Rules 13a-15 and 15d-15 under the Exchange Act, that have materially affected, or are reasonable likely to materially affect, the Company's internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. Legal Proceedings

We currently are, and may from time to time become, a party to various other legal proceedings or claims that arise in the ordinary course of business. Our management reviews these matters if and when they arise and believes that the resolution of any such matters currently known will not have a material effect on our results of operations or financial position.

In January 2017, a putative class action lawsuit (Badger v. Natus Medical Incorporation, et al, No. 17-cv-00458-JSW) alleging violations of federal securities laws was filed in the United States District Court for the Northern District of California, naming as defendants the Company and certain officers and a director. This case was dismissed in March 2019.

ITEM 1A. Risk Factors

A description of the risks associated with our business, financial condition and results of operations is set forth in Part 1, Item 1A "Risk Factors" of our Annual Report on Form 10-K for the fiscal year ended December 31, 2018. There have been no material changes in our risks from such description.

ITEM 2. Unregistered Sales of Equity Securities and Use of Proceeds

None.

ITEM 5. Other Information

None

ITEM 6. Exhibits

(a) Exhibits

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Exhibit No.	Exhibit	Incorporated By Reference			
		Filing	Exhibit No.	File Date	Filed Herewith
3.4	Amended and Restated Bylaws of Natus Medical Incorporated, as amended April 9, 2019				X
31.1	Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				X
31.2	Certification of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				X
32.1	Certification of Principal Executive Officer and Principal Financial Officer pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002				X
101	The following materials from the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2019, formatted in XBRL (Extensible Business Reporting Language): (i) Condensed Consolidated Balance Sheets, (ii) Condensed Consolidated Statements of Operations and Comprehensive Income, (iii) Condensed Consolidated Statements of Cash Flows, and (iv) Notes to Condensed Consolidated Financial Statements.				X

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SIGNATURES

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

Dated: May 8, 2019

NATUS MEDICAL INCORPORATED

By: /s/ Jonathan A. Kennedy

Jonathan A. Kennedy
President and Chief Executive Officer
(Principal Executive Officer)

Dated: May 8, 2019

By: /s/ B. Drew Davies

B. Drew Davies
Executive Vice President and
Chief Financial Officer
(Principal Financial and Accounting Officer)

AMENDED AND RESTATED BYLAWS
OF
NATUS MEDICAL INCORPORATED

(As in effect on December 7, 2018, as amended on April 9, 2019)

Article 1
Offices

Section 1.1. Registered Office. The registered office of the Corporation which is required by the state of Delaware to be maintained in the state of Delaware shall be the registered office named in the charter documents of the Corporation, or such other office as may be designated from time to time by the Board of Directors in the manner provided by law.

Section 1.2. Other Offices. The Corporation may also have offices at such other places both within and without the state of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

Article 2
Stockholders

Section 2.1. Place of Meetings. All meetings of the stockholders shall be held at the principal office of the Corporation, or at such other place within or without the state of Delaware as shall be specified or fixed in the notices or waivers of notice thereof.

Section 2.2. Quorum; Adjournment of Meetings. Unless otherwise required by law or provided in the charter documents of the Corporation or these Bylaws, (i) the holders of a majority of the stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at any meeting of stockholders for the transaction of business, (ii) in all matters other than election of directors, the affirmative vote of the holders of a majority of such stock so present or represented at any meeting of stockholders at which a quorum is present shall constitute the act of the stockholders, and (iii) where a separate vote by a class or classes is required, a majority of the outstanding shares of such class or classes, present in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter and the affirmative vote of the majority of the shares of such class or classes present in person or represented by proxy at the meeting shall be the act of such class. The stockholders present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum, subject to the provisions of clauses (ii) and (iii) above.

Notwithstanding the other provisions of the charter documents of the Corporation or these Bylaws, the chairman of the meeting or the holders of a majority of the issued and outstanding stock, present in person or represented by proxy and entitled to vote thereat, at any meeting of stockholders, whether or not a quorum is present, shall have the power to adjourn such meeting from time to time, without any notice other than announcement at the meeting of the time and place of the holding of the adjourned meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at such meeting. At such adjourned meeting at which a quorum shall be present or represented any business may be transacted which might have been transacted at the meeting as originally called.

Section 2.3. Annual Meeting. (a) An annual meeting of the stockholders, for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place (within or without the state of Delaware), on such date, and at such time as the Board of Directors shall fix and set forth in the notice of the meeting, which date shall be within thirteen (13) months subsequent to the last annual meeting of stockholders.

(b) At an annual meeting of stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be: (A) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (B) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (C) otherwise properly brought before the meeting by a stockholder. For business to be properly brought before an annual meeting by a stockholder, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation not less than sixty (60) calendar days in advance of the date specified in the Corporation's proxy statement released to stockholders in connection with the previous year's annual meeting of stockholders; provided, however, that in the event that no annual meeting was held in the previous year or the date of the annual meeting has been changed by more than thirty (30) days from the date contemplated at the time of the previous year's proxy statement, notice by the stockholder to be timely must be so received a reasonable time before the solicitation is made. A stockholder's notice to the Secretary shall set forth as to each matter the stockholder proposes to bring before the annual meeting: (i) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, (ii) the name and address, as they appear on the Corporation's books, of the stockholder proposing such business, (iii) the class and number of shares of the Corporation which are beneficially owned by the stockholder, (iv) any material interest of the stockholder in such business and (v) any other information that is required to be provided by the stockholder pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "1934 Act"), in his capacity as a proponent to a stockholder proposal. Notwithstanding the foregoing, in order to include information with respect to a stockholder proposal in the proxy statement and form of proxy for a stockholder's meeting, stockholders must provide notice as required by the regulations promulgated under the 1934 Act. Notwithstanding anything in these Bylaws to the contrary, no business shall be conducted at any annual meeting except in accordance with the procedures set forth in this paragraph (b). The chairman of the annual meeting shall, if the facts warrant, determine and declare at the meeting that business was not properly brought before the meeting and in accordance with the provisions of this paragraph (b), and, if he should so determine, he shall so declare at the meeting that any such business not properly brought before the meeting shall not be transacted.

(c) Only persons who are nominated in accordance with the procedures set forth in this paragraph (c) or in accordance with Article 2, Section 2.13, shall be eligible for election as Directors. Nominations of persons for election to the Board of Directors of the Corporation may be made at a meeting of stockholders by or at the direction of the Board of Directors or by any stockholder of the Corporation entitled to vote in the election of Directors at the meeting who complies with the notice procedures set forth in this paragraph (c) or by an Eligible Stockholder (as defined in Article 2, Section 2.13) who seeks to include a Nominee (as defined in Article 2, Section 2.13) in the Corporation's proxy statement for an annual meeting of stockholders pursuant to Article 2, Section 2.13). Such nominations, other than those made by or at the direction of the Board of Directors or made in accordance with Article 2, Section 2.13, shall be made pursuant to timely notice in writing to the Secretary of the Corporation in accordance with the provisions of paragraph (b) of this Section 2.3. Such stockholder's notice shall set forth (i) as to each person, if any, whom the stockholder proposes to nominate for election or re-election as a Director: (A) the name, age, business address and residence address of such person, (B) the principal occupation or employment of such person, (C) the class and number of shares of the Corporation which are beneficially owned by such person, (D) a description of all arrangements or understandings between the stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nominations are to be made by the stockholder, and (E) any other information relating to such person that is required to be disclosed in solicitations of proxies for elections of Directors, or is otherwise required, in each case pursuant to Regulation 14A under the 1934 Act (including without limitation such person's written consent to being named in the proxy statement, if any, as a nominee and to serving as a Director if elected); and (ii) as to such stockholder giving notice, the information required to be provided pursuant to paragraph (b) of this Section 2.3. At the request of the Board of Directors, any person nominated by a stockholder for election as a Director shall furnish to the Secretary of the Corporation that information required to be set forth in the stockholder's notice of nomination, which pertains to the nominee. No person shall be eligible for election as a Director of the Corporation unless nominated in accordance with the procedures set forth

in this paragraph (c) or in accordance with the provisions of Article 2, Section 2.13. The chairman of the meeting shall, if the facts warrant, determine and declare at the meeting that a nomination was not made in accordance with the procedures prescribed by these Bylaws, and if he should so determine, he shall so declare at the meeting, and the defective nomination shall be disregarded.

Section 2.4. Special Meetings. Special meetings of stockholders may be called at any time by a majority of the Board of Directors, by the Chairman of the Board, the Chief Executive Officer or by the holders of at least 10% of the shares of the Corporation's capital stock entitled to vote at such meeting, but such special meetings may not be called by any other person or persons; provided, however, that effective upon closing of the Corporation's initial public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of shares of its Common Stock for the account of the Corporation to the public (the "IPO") and the Corporation is no longer subject to Section 2115 of the California Corporation Code, special meetings of stockholders may be called at any time by a majority of the Board of Directors, by the Chairman of the Board, by the Chief Executive Officer or by the holders of at least 25% of the shares of the Corporation's capital stock entitled to vote at such meeting, but such special meetings may not be called by any other person or persons.

Section 2.5. Record Date. For the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders, or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors of the Corporation may fix a date as the record date for any such of stockholders, which record date shall not precede the date on which the resolutions fixing the record date are adopted and which record date shall not be more than sixty (60) days nor less than ten (10) days before the date of such meeting of stockholders, nor more than sixty (60) days prior to any other action to which such record date relates.

If the Board of Directors does not fix a record date for any meeting of the stockholders, the record date for determining stockholders entitled to notice of or to vote at such meeting shall be at the close of business on the day next preceding the day on which notice is given, or, in accordance with Article 7, Section 7.3 of these Bylaws notice is waived, at the close of business on the day next preceding the day on which the meeting is held. The record date for determining stockholders for any other purpose (other than the consenting to corporate action in writing without a meeting) shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

For the purpose of determining the stockholders entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. If the Board of Directors does not fix the record date, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is necessary, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation at its registered office in the state of incorporation of the Corporation or at its principal place of business. If the Board of Directors does not fix the record date, and prior action by the Board of Directors is necessary, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

Section 2.6. Notice of Meetings. Written notice of the place, date and hour of all meetings, and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be given by or at the direction of the President, the Secretary or the other person(s) calling the meeting to each stockholder entitled to vote thereat not less than ten (10) nor more than sixty (60) days before the date of the meeting. Such notice may be delivered either personally or by mail.

If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation.

Section 2.7. Stockholder List. A complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order for each class of stock and showing the address of each such stockholder and the number of shares registered in the name of such stockholder, shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The stockholder list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

Section 2.8. Proxies. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to a corporate action in writing without a meeting may authorize another person or persons to act for him by proxy. Proxies for use at any meeting of stockholders shall be filed with the Secretary, or such other officer as the Board of Directors may from time to time determine by resolution, before or at the time of the meeting. All proxies shall be received and taken charge of and all ballots shall be received and canvassed by the secretary of the meeting, who shall decide all questions touching upon the qualification of voters, the validity of the proxies, and the acceptance or rejection of votes, unless an inspector or inspectors shall have been appointed by the chairman of the meeting, in which event such inspector or inspectors shall decide all such questions.

No proxy shall be valid after three (3) years from its date, unless the proxy provides for a longer period. Each proxy shall be revocable unless expressly provided therein to be irrevocable and coupled with an interest sufficient in law to support an irrevocable power.

Should a proxy designate two or more persons to act as proxies, unless such instrument shall provide the contrary, a majority of such persons present at any meeting at which their powers thereunder are to be exercised shall have and may exercise all the powers of voting or giving consents thereby conferred, or if only one be present, then such powers may be exercised by that one; or, if an even number attend and a majority do not agree on any particular issue, each proxy so attending shall be entitled to exercise such powers in respect of such portion of the shares as is equal to the reciprocal of the fraction equal to the number of proxies representing such shares divided by the total number of shares represented by such proxies.

Section 2.9. Voting; Election; Inspectors. Unless otherwise required by law or provided for in the charter documents of the Corporation, each stockholder shall on each matter submitted to a vote at a meeting of stockholders have one vote for each share of the stock entitled to vote which is registered in his name on the record date for the meeting. For the purposes hereof, each election to fill a directorship shall constitute a separate matter. Shares registered in the name of another corporation, domestic or foreign, may be voted by such officer, agent or proxy as the bylaws (or comparable body) of such corporation may determine. Shares registered in the name of a deceased person may be voted by the executor or administrator of such person's estate, either in person or by proxy.

All voting, except as required by the charter documents of the Corporation or where otherwise required by law, may be by a voice vote; provided, however, upon request of the chairman of the meeting or upon demand therefor by stockholders holding a majority of the issued and outstanding stock present in person or by proxy at any meeting a stock

vote shall be taken. Every stock vote shall be taken by written ballots, each of which shall state the name of the stockholder or proxy voting and such other information as may be required under the procedure established for the meeting. The directors of the Corporation need not be elected by written ballot unless a stockholder demands election by written ballot at the meeting and before voting begins, or unless the Bylaws so provide.

At any meeting at which a vote is taken by written ballots, the chairman of the meeting may appoint one or more inspectors; each of whom shall subscribe an oath or affirmation to execute faithfully the duties of inspector at such meeting with strict impartiality and according to the best of such inspector's ability. Such inspector shall receive the written ballots, count the votes, and make and sign a certificate of the result thereof. The chairman of the meeting may appoint any person to serve as inspector, except no candidate for the office of director shall be appointed as an inspector.

Each holder of voting stock or of any class or series thereof shall be entitled to cumulative voting rights as to the directors to be elected by each series or class or the combined classes in accordance with the provisions of Section 214 of the Delaware General Corporation Law.

Section 2.10. Conduct of Meetings. The meetings of the stockholders shall be presided over by the President, or, if the President is not present, by a chairman elected at the meeting. The Secretary of the Corporation, if present, shall act as secretary of such meetings, or, if the Secretary is not present, an Assistant Secretary shall so act; if neither the Secretary or Assistant Secretary is present, then a secretary shall be appointed by the chairman of the meeting.

The chairman of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to the chairman in order.

Section 2.11. Treasury Stock. The Corporation shall not vote, directly or indirectly, shares of its own stock owned by it and such shares shall not be counted for quorum purposes. Nothing in this Section 2.11 shall be construed as limiting the right of the Corporation to vote stock, including but not limited to its own stock, held by it in a fiduciary capacity.

Section 2.12. Action Without Meeting. Unless otherwise provided in the Certificate of Incorporation, any action which may be taken at any annual or special meeting of stockholders may be taken without a meeting and without prior notice, if a consent in writing, setting forth the action so taken, is signed by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take that action at a meeting at which all shares entitled to vote on that action were present and voted.

Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing. If the action which is consented to is such as would have required the filing of a certificate under any section of the General Corporation Law of Delaware if such action had been voted on by stockholders at a meeting thereof, then the certificate filed under such section shall state, in lieu of any statement required by such section concerning any vote of stockholders, that written notice and written consent have been given as provided in Section 228 of the General Corporation Law of Delaware.

Effective upon the closing of the Corporation's IPO and the date that the Corporation is no longer subject to Section 2115 of the California Corporations Code, no action of stockholders shall be taken by the stockholders except at an annual or special meeting of stockholders called in accordance with the notice requirements of Section 2.6 above and no action of the stockholders shall be taken by written consent.

Section 2.13. Stockholder Nominations Included in the Corporation's Proxy Materials

(a) Subject to the provisions of this Article 2, Section 2.13, if expressly requested in the relevant Nomination Notice (as defined below), the Corporation shall include in its proxy statement for any annual meeting of stockholders: (i) the name or names of any person or persons nominated for election (each, a "Nominee"), which shall also be included on the Corporation's form of proxy and ballot, by any Eligible Holder (as defined below) or group of up to twenty (20) Eligible Holders that has (individually and collectively, in the case of a group) satisfied, as determined by the Board of Directors, all applicable conditions and complied with all applicable procedures set forth in this Article 2, Section 2.13 (such Eligible Holder or group of Eligible Holders being a "Nominating Stockholder"), (ii) disclosure about each Nominee and the Nominating Stockholder required under the rules of the Securities and Exchange Commission or other applicable law to be included in the proxy statement, (iii) any statement included by the Nominating Stockholder in the Nomination Notice for inclusion in the proxy statement in support of each Nominee's election to the Board of Directors (subject, without limitation, to Article 2, Section 2.13(e)(ii)), if such statement does not exceed five hundred (500) words and fully complies with Section 14 of the Securities Exchange Act of 1934 (the "Exchange Act"), and the rules and regulations thereunder, including Rule 14a-9 (the "Supporting Statement"), and (iv) any other information that the Corporation or the Board of Directors determines, in their discretion, to include in the proxy statement relating to the nomination of each Nominee, including, without limitation, any statement in opposition to the nomination, any of the information provided pursuant to this Article 2, Section 2.13 and any solicitation materials or related information with respect to a Nominee.

For purposes of this Article 2, Section 2.13, any determination to be made by the Board of Directors may be made by the Board of Directors, a committee of the Board of Directors or any officer of the Corporation designated by the Board of Directors or a committee of the Board of Directors, and any such determination shall be final and binding on the Corporation, any Eligible Holder, any Nominating Stockholder, any Nominee and any other person so long as made in good faith (without any further requirements). The presiding officer of any annual meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall have the power and duty to determine whether a Nominee has been nominated in accordance with the requirements of this Article 2, Section 2.13 and, if not so nominated, shall direct and declare at the meeting that such Nominee shall not be considered.

(b)(i) The Corporation shall not be required to include in the proxy statement for an annual meeting of stockholders more Nominees than that number of directors constituting the greater of (i) two (2) or (ii) twenty percent (20%) of the total number of directors of the Corporation on the last day on which a Nomination Notice may be submitted pursuant to this Article 2, Section 2.13 (rounded down to the nearest whole number) (the "Maximum Number"). The Maximum Number for a particular annual meeting shall be reduced by: (1) Nominees who the Board of Directors itself decides to nominate for election at such annual meeting, (2) Nominees who cease to satisfy, or Nominees of Nominating Stockholders that cease to satisfy, the eligibility requirements in this Article 2, Section 2.13, as determined by the Board of Directors, (3) Nominees whose nomination is withdrawn by the Nominating Stockholder or who become unwilling to serve on the Board of Directors, and (4) the number of incumbent directors who had been Nominees with respect to any of the preceding two annual meetings of stockholders and whose reelection at the upcoming annual meeting is being recommended by the Board of Directors. In the event that one or more vacancies for any reason occurs on the Board of Directors after the deadline for submitting a Nomination Notice as set forth in Article 2, Section 2.13(d) below but before the date of the annual meeting, and the Board of Directors resolves to reduce the size of the board in connection therewith, the Maximum Number shall be calculated based on the number of directors in office as so reduced. (ii) If the number of Nominees pursuant to this Article 2, Section 2.13 for any annual meeting of stockholders exceeds the Maximum Number then, promptly upon notice from the Corporation, each Nominating Stockholder will select one Nominee for inclusion in the proxy statement until the Maximum Number is reached, going in order of the amount (largest to smallest) of the ownership position as disclosed in each Nominating

Stockholder's Nomination Notice, with the process repeated if the Maximum Number is not reached after each Nominating Stockholder has selected one Nominee. If, after the deadline for submitting a Nomination Notice as set forth in Article 2, Section 2.13 (d), a Nominating Stockholder or a Nominee ceases to satisfy the eligibility requirements in this Article 2, Section 2.13, as determined by the Board of Directors, a Nominating Stockholder withdraws its nomination or a Nominee becomes unwilling to serve on the Board of Directors, whether before or after the mailing or other distribution of the definitive proxy statement, then the nomination shall be disregarded, and the Corporation: (1) shall not be required to include in its proxy statement or on any ballot or form of proxy the disregarded Nominee or any successor or replacement nominee proposed by the Nominating Stockholder or by any other Nominating Stockholder and (2) may otherwise communicate to its stockholders, including without limitation by amending or supplementing its proxy statement or ballot or form of proxy, that a Nominee will not be included as a nominee in the proxy statement or on any ballot or form of proxy and will not be voted on at the annual meeting.

(c)(i) An "Eligible Holder" is a person who has either (1) been a record holder of the shares of common stock used to satisfy the eligibility requirements in this Article 2, Section 2.13 (c) continuously for the three-year period specified in Subsection (ii) below or (2) provides to the Secretary of the Corporation, within the time period referred to in Article 2, Section 2.13 (d), evidence of continuous ownership of such shares for such three-year period from one or more securities intermediaries in a form that the Board of Directors determines would be deemed acceptable for purposes of a shareholder proposal under Rule 14a-8(b)(2) under the Exchange Act (or any successor rule). (ii) An Eligible Holder or group of up to twenty (20) Eligible Holders may submit a nomination in accordance with this Article 2, Section 2.13 only if the person or group (in the aggregate) has continuously owned at least the Minimum Number (as defined below) of shares of the Corporation's common stock throughout the three-year period preceding and including the date of submission of the Nomination Notice, and continues to own at least the Minimum Number through the date of the annual meeting. Two or more funds that are (A) under common management and investment control, (B) under common management and funded primarily by the same employer or (C) a "group of investment companies," as such term is defined in Section 12(d)(1)(G)(ii) of the Investment Company Act of 1940, as amended, shall be treated as one Eligible Holder if such Eligible Holder shall provide together with the Nomination Notice documentation reasonably satisfactory to the Corporation that demonstrates that the funds meet the criteria set forth in (A), (B) or (C) hereof. For the avoidance of doubt, in the event of a nomination by a group of Eligible Holders, any and all requirements and obligations for an individual Eligible Holder that are set forth in this Article 2, Section 2.13, including the minimum holding period, shall apply to each member of such group; provided, however, that the Minimum Number shall apply to the ownership of the group in the aggregate. Should any stockholders cease to satisfy the eligibility requirements in this Article 2, Section 2.13, as determined by the Board of Directors, or withdraw from a group of Eligible Holders, at any time prior to the annual meeting of stockholders, the group of Eligible Stockholders shall only be deemed to own the shares held by the remaining members of the group. (iii) The "Minimum Number" of shares of the Corporation's common stock means three percent (3%) of the number of outstanding shares of common stock as of the most recent date for which such amount is given in any filing by the Corporation with the SEC prior to the submission of the Nomination Notice. (iv) For purposes of this Article 2, Section 2.13, an Eligible Holder "owns" only those outstanding shares of the Corporation as to which the Eligible Holder possesses both: (A) the full voting and investment rights pertaining to the shares and (B) the full economic interest in (including the opportunity for profit and risk of loss on) such shares; provided, however, that the number of shares calculated in accordance with clauses (A) and (B) shall not include any shares: (1) purchased or sold by such Eligible Holder or any of its affiliates in any transaction that has not been settled or closed, (2) sold short by such Eligible Holder, (3) borrowed by such Eligible Holder or any of its affiliates for any purpose or purchased by such Eligible Holder or any of its affiliates pursuant to an agreement to resell or subject to any other obligation to resell to another person, or (4) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement entered into by such Eligible Holder or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding shares of the Corporation, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of: (x) reducing in any manner, to any extent or at any time in the future, such Eligible Holder's or any of its affiliates' full right to vote or direct the voting of any such shares, and/or (y) hedging, offsetting, or altering to any degree, gain or loss arising from the full economic ownership of such shares by such Eligible Holder or any of its affiliates. An Eligible Holder "owns" shares held in the name of a nominee or other intermediary so long as the Eligible Holder retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. An Eligible Holder's ownership of shares shall be deemed to continue during any period in which the Eligible Holder has delegated any voting power by means of a proxy, power of attorney, or other similar instrument or arrangement that is revocable at any time by the Eligible Holder. An Eligible Holder's ownership of shares shall be deemed to continue during any period in which the Eligible Holder has loaned such shares provided that the Eligible Holder has the power to recall such loaned shares on five (5) business days' notice. The terms "owned," "owning" and other variations of the word "own" shall have correlative meanings. Whether outstanding shares of the Corporation are "owned" for these purposes shall be determined by the Board. (v) No Eligible Holder shall be permitted to be in more than one group constituting a Nominating Stockholder, and if any Eligible Holder appears as a member of more than one group, it shall be deemed to be a member of the group that has the largest ownership position as reflected in the Nomination Notice.

(d) To nominate a Nominee, the Nominating Stockholder must, not less than one hundred twenty (120) nor more than one hundred fifty (150) calendar days prior to the anniversary date of the date (as specified in the Corporation's proxy materials for its immediately preceding annual meeting of stockholders) on which the Corporation first sent its proxy materials for its immediately preceding annual meeting of stockholders, deliver or mail to the Secretary at the principal executive office of the Corporation all of the below information and documents (collectively, the "Nomination Notice"), and the Nomination Notice must be received by the Secretary within such period of time; provided, however, that in the event the annual meeting is called for a date that is not within thirty (30) calendar days of the anniversary date of the date on which the immediately preceding annual meeting of shareholders was called, the Nomination Notice shall be given in the manner provided herein by the later of the close of business on the date that is one hundred eighty (180) days prior to the date of the annual meeting or the close of business on the tenth (10th) calendar day following the day on which public announcement of the date of the annual meeting is first made. In no event will the public announcement of an adjournment of an annual meeting of stockholders commence a new time period for the giving of the Nomination Notice as provided above. For the purposes of these bylaws, the Nomination Notice shall include the following: (i) A Schedule 14N (or any successor form) relating to each Nominee, completed and filed with the SEC by the Nominating Stockholder as applicable, in accordance with SEC rules, (ii) a written notice, in a form deemed satisfactory by the Board of Directors, of the nomination of each Nominee that includes the following additional information, agreements, representations and warranties by the Nominating Stockholder (including each group member) (A) the information required with respect to the nomination of directors pursuant to Article 2, Section 2.13 of these Bylaws, (B) the details of any relationship that existed within the past three (3) years and that would have been described pursuant to Item 6(e) of Schedule 14N (or any successor item) if it existed on the date of submission of the Schedule 14N, (C) a representation and warranty that the Nominating Stockholder acquired the securities of the Corporation in the ordinary course of business and did not acquire, and is not holding, securities of the Corporation for the purpose or with the effect of influencing or changing control of the Corporation, (D) a representation and warranty that each Nominee's candidacy or, if elected, Board membership would not violate applicable state or federal law or the rules of any stock exchange on which the Corporation's securities are traded, (E) a representation and warranty that each Nominee: (1) does not have any direct or indirect relationship with the Corporation that would cause the Nominee to be considered not independent pursuant to the Corporation's Board Governance Guidelines as most recently published on its website and otherwise qualifies as independent under the rules of the primary stock exchange on which the Corporation's shares of common stock are traded, (2) meets the audit committee and compensation committee independence requirements under the rules of the primary stock exchange on which the Corporation's shares of common stock are traded, (3) is a "non-employee director" for the purposes of Rule 16b-3 under the Exchange Act (or any successor rule), (4) is an "outside director" for the purposes of Section 162(m) of the Internal Revenue Code (or any successor provision) and (5) is not and has not been subject to any event specified in Rule 506(d)(1) of Regulation D (or any successor rule) under the Securities Act of 1933, as amended or Item 401(f) of Regulation S-K (or any successor rule) under the Exchange Act, without reference to whether the event is material to an evaluation of the ability or integrity of such Nominee, (F) a representation and warranty that the Nominating Stockholder satisfies the eligibility requirements set forth in Article 2, Section 2.13 (c) and has provided evidence of ownership to the extent required by Article 2, Section 2.13 (c)(i), (G) a representation and warranty that the Nominating Stockholder intends to continue to satisfy the eligibility requirements described in Article 2, Section 2.13 (c) through the date of the annual meeting (H) details of any position of a Nominee as an officer or director of any competitor (that is, any entity that produces products or provides services that compete with or are alternatives to the products produced or services provided by the Corporation or its affiliates) of the Corporation, within the three (3) years preceding the submission of the Nomination Notice, (I) a representation and warranty that the Nominating Stockholder will not engage in a "solicitation" within the meaning of Rule 14a-1(l) (without reference to the exception in Section 14a-1(l)(2)(iv)) (or any successor rules) with respect to the annual meeting, other than with respect to a Nominee or any nominee of the Board, (J) a representation and warranty that the Nominating Stockholder will not use any proxy card other than the Corporation's proxy card in soliciting stockholders in connection with the election of a Nominee at the annual meeting, (K) if desired, a Supporting Statement, and (L) in the case of a nomination by a group, the designation by all group members of one group member that is authorized to act on behalf of all group members with respect to matters relating to the nomination, including withdrawal of the nomination; (iii) An executed agreement, in a form deemed satisfactory by the Board of Directors, pursuant to which the Nominating Stockholder (including each group member) agrees: (A) to comply with all applicable laws, rules and regulations in connection with the nomination, solicitation and election, (B) to file any written solicitation or other communication with the Corporation's stockholders relating to one or more of the Corporation's directors or director nominees or any Nominee with the Securities and Exchange Commission, regardless of whether any such filing is required under rule or regulation or whether any exemption from filing is available for such

materials under any rule or regulation, (C) to assume all liability stemming from an action, suit or proceeding concerning any actual or alleged legal or regulatory violation arising out of any communication by the Nominating Stockholder or any of its Nominees with the Corporation, its stockholders or any other person in connection with the nomination or election of directors, including, without limitation, the Nomination Notice, (D) to indemnify and hold harmless (jointly with all other group members, in the case of a group member) the Corporation and each of its directors, officers and employees individually against any liability, loss, damages, expenses or other costs (including attorneys' fees) incurred in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Corporation or any of its directors, officers or employees arising out of or relating to a failure or alleged failure of the Nominating Stockholder or any of its Nominees to comply with, or any breach or alleged breach of, its or their obligations, agreements or representations under this Article 2, Section 2.13, (E) in the event that any information included in the Nomination Notice, or any other communication by the Nominating Stockholder (including with respect to any group member), with the Corporation, its stockholders or any other person in connection with the nomination or election ceases to be true and accurate in all material respects (or omits a material fact necessary to make the statements made not misleading), or that the Nominating Stockholder (including any group member) has failed to continue to satisfy the eligibility requirements described in Article 2, Section 2.13 (c), to promptly (and in any event within forty-eight (48) hours of discovering such misstatement, omission or failure) notify the Corporation and any other recipient of such communication of (x) the misstatement or omission in such previously provided information and of the information that is required to correct the misstatement or omission or (y) such failure, and (iv) An executed agreement, in a form deemed satisfactory by the Board of Directors, by each Nominee (A) to provide to the Corporation such other information and certifications, including completion of the Corporation's director questionnaire, as it may reasonably request; (B) at the reasonable request of the Nominating and Corporate Governance Committee, to meet with the Nominating and Corporate Governance Committee to discuss matters relating to the nomination of such Nominee to the Board of Directors, including the information provided by such Nominee to the Corporation in connection with his or her nomination and such Nominee's eligibility to serve as a member of the Board of Directors; (C) that such Nominee has read and agrees, if elected, to serve as a member of the Board of Directors, to adhere to the Corporation's Board Governance Guidelines and Code of Business Conduct and Ethics and any other Corporation policies and guidelines applicable to directors; and (D) that such Nominee is not and will not become a party to (i) any compensatory, payment or other financial agreement, arrangement or understanding with any person or entity in connection with his or her nomination, service or action as a director of the Corporation that has not been disclosed to the Corporation, (ii) any agreement, arrangement or understanding with any person or entity as to how such Nominee would vote or act on any issue or question as a director (a "Voting Commitment") that has not been disclosed to the Corporation or (iii) any Voting Commitment that could limit or interfere with such Nominee's ability to comply, if elected as a director of the Corporation, with its fiduciary duties under applicable law. The information and documents required by this Article 2, Section 2.13 (d) to be provided by the Nominating Stockholder shall be: (i) provided with respect to and executed by each group member, in the case of information applicable to group members; and (ii) provided with respect to the persons specified in Instruction 1 to Items 6(c) and (d) of Schedule 14N (or any successor item) in the case of a Nominating Stockholder or group member that is an entity. The Nomination Notice shall be deemed submitted on the date on which all the information and documents referred to in this Article 2, Section 2.13 (d) (other than such information and documents contemplated to be provided after the date the Nomination Notice is provided) have been delivered to or, if sent by mail, received by the Secretary of the Corporation.

(e)(i) Notwithstanding anything to the contrary contained in this Article 2, Section 2.13, the Corporation may omit from its proxy statement any Nominee and any information concerning such Nominee (including a Nominating Stockholder's Supporting Statement) and no vote on such Nominee will occur (notwithstanding that proxies in respect of such vote may have been received by the Corporation), and the Nominating Stockholder may not, after the last day on which a Nomination Notice would be timely, cure in any way any defect preventing the nomination of such Nominee, if (A) the Corporation receives a notice pursuant to Article 2, Section 2.3 of these Bylaws that a stockholder intends to nominate a candidate for director at the annual meeting, whether or not such notice is subsequently withdrawn or made the subject of a settlement with the Corporation, (B) the Nominating Stockholder or the designated lead group member, as applicable, or any qualified representative thereof, does not appear at the meeting of stockholders to present the nomination submitted pursuant to this Article 2, Section 2.13, the Nominating Stockholder withdraws its nomination or the presiding officer of the annual meeting declares that such nomination was not made in accordance with the procedures prescribed by this Article 2, Section 2.13 and shall therefore be disregarded, (C) the Board of Directors determines that such Nominee's nomination or election to the Board of Directors would result in the Corporation violating or failing to be in compliance with the Corporation's bylaws or certificate of incorporation or any applicable law, rule or regulation to which the Corporation is subject, including any rules or regulations of the primary stock exchange on which the Corporation's common stock is traded, (D) such Nominee was nominated for election to the Board of Directors pursuant to this Article 2, Section 2.13 at one of the Corporation's two preceding annual meetings of stockholders and either withdrew or became ineligible, (E) such Nominee has been, within the past three years, an officer or director of a competitor, as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914, as amended, or (F) the Corporation is notified, or the Board of Directors determines, that the Nominating Stockholder or the Nominee has failed to continue to satisfy the eligibility requirements described in Article 2, Section 2.13 (c), any of the representations and warranties made in the Nomination Notice ceases to be true and accurate in all material respects (or omits a material fact necessary to make the statements made not misleading), such Nominee becomes unwilling or unable to serve on the Board of Directors or any material violation or breach occurs of the obligations, agreements, representations or warranties of the Nominating Stockholder or such Nominee under this Article 2, Section 2.13. (ii) Notwithstanding anything to the contrary contained in this Article 2, Section 2.13, the Corporation may omit from its proxy statement, or may supplement or correct, any information, including all or any portion of the Supporting Statement or any other statement in support of a Nominee included in the Nomination Notice, if the Board of Directors determines that (A) such information is not true in all material respects or omits a material statement necessary to make the statements made not misleading, (B) such information directly or indirectly impugns the character, integrity or personal reputation of, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation, with respect to, any person, or (C) the inclusion of such information in the proxy statement would otherwise violate the Securities and Exchange Commission proxy rules or any other applicable law, rule or regulation.

The Corporation may solicit against, and include in the proxy statement its own statement relating to, any Nominee.

Article 3 Board of Directors

Section 3.1. Power; Number; Term of Office. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors, and, subject to the restrictions imposed by law or the charter documents of the Corporation, the Board of Directors may exercise all the powers of the Corporation.

Notwithstanding anything contained in these Bylaws to the contrary, at any time that a valid agreement among the stockholders is in force with respect to the nomination, election and removal of directors or similar matters, such agreement is hereby recognized and directors shall be nominated, elected and removed in accordance therewith.

The number of directors which shall constitute the whole Board of Directors shall be determined from time to time by the Board of Directors (provided that no decrease in the number of directors which would have the effect of shortening the term of an incumbent director may be made by the Board of Directors). Each director shall hold office for the term for which such director is elected, and until such director's successor shall have been elected and qualified or until such director's earlier death, resignation or removal.

Unless otherwise provided in the charter documents of the Corporation, directors need not be stockholders nor resident of the state of Delaware.

Section 3.2. Classes of Directors. Effective upon the closing of the Corporation's IPO and the date that the Corporation is no longer subject to Section 2115 of the California Corporations Code, the Directors shall be divided into three classes designated as Class I, Class II and Class III, respectively. Directors shall be assigned to each class in accordance with a resolution or resolutions adopted by the Board of Directors. At the first annual meeting of stockholders following the closing of the IPO, the term of office of the Class I Directors shall expire and Class I Directors shall be elected for a full term of three years. At the second annual meeting of stockholders following the closing of the IPO, the term of office of the Class II Directors shall expire and Class II Directors shall be elected for a full term of three years. At the third annual meeting of stockholders following the closing of the Initial Public Offering, the term of office of the Class III Directors shall expire and Class III Directors shall be elected for a full term of three years.

At each succeeding annual meeting of stockholders, Directors shall be elected for a full term of three years to succeed the Directors of the class whose terms expire at such annual meeting.

Notwithstanding the foregoing provisions of this Article, each Director shall serve until his successor is duly elected and qualified or until his earlier death, resignation or removal. No decrease in the number of Directors constituting the Board of Directors shall shorten the term of any incumbent Director.

A nominee for director shall be elected to the Board of Directors of the Corporation if the votes cast for such nominee's election exceed the votes cast against such nominee's election; provided, however, that directors shall be elected by a plurality of the votes cast at any meeting of stockholders for which (i) the secretary of the Corporation receives a notice that a stockholder has nominated a person for election to the Board of Directors in compliance with the advance notice requirements for stockholder nominees for director set forth in Article 2, Section 2.3 of these bylaws or that an Eligible Stockholder (as defined in Section Article 2, Section 2.13) seeks to include a Nominee (as defined in Article 2, Section 2.13) in the Corporation's proxy statement in compliance with Article 2, Section 2.13, and (ii) such nomination has not been withdrawn by such stockholder, or any such Nominee has not been withdrawn by such Eligible Stockholder, on or before the tenth (10th) day before the Corporation first mails its notice of meeting for such meeting to the stockholders. If directors are to be elected by a plurality of the votes cast, stockholders shall not be permitted to vote against a nominee.

Section 3.3. Quorum; Voting. Unless otherwise provided in the charter documents of the Corporation, a majority of the number of directors then in office shall constitute a quorum for the transaction of business of the Board of Directors and the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 3.4. Place of Meetings; Order of Business. The directors may hold their meetings and may have an office and keep the books of the Corporation, except as otherwise provided by law, in such place or places, within or without the state of incorporation of the Corporation, as the Board of Directors may from time to time determine. At all meetings of the Board of Directors business shall be transacted in such order as shall from time to time be determined by the President or by the Board of Directors.

Section 3.5. First Meeting. Each newly elected Board of Directors may hold its first meeting for the purpose of organization and the transaction of business, if a quorum is present, immediately after and at the same place as the annual meeting of the stockholders. Notice of such meeting shall not be required. At the first meeting of the Board of Directors in each year at which a quorum shall be present, held after the annual meeting of stockholders, the Board of Directors shall elect the officers of the Corporation.

Section 3.6. Regular Meetings. Regular meetings of the Board of Directors shall be held at such times and places as shall be designated from time to time by the President, or in the President's absence, by another officer of the Corporation. Notice of such regular meetings shall not be required.

Section 3.7. Special Meetings. Special meetings of the Board of Directors may be called by the President, or on the written request of any director, by the Secretary, in each case on at least twenty-four (24) hours' personal, written, telegraphic, cable or wireless notice to each director. Such notice, or any waiver thereof pursuant to Article 7, Section 7.3 hereof, need not state the purpose or purposes of such meeting, except as may otherwise be required by law or provided for in the charter documents of the Corporation or these Bylaws. Meetings may be held at any time without notice if all the directors are present or if those not present waive notice of the meeting in writing.

Section 3.8. Removal. Any director or the entire Board of Directors may be removed as set forth in the Certificate of Incorporation of the Corporation, as amended from time to time.

Section 3.9. Vacancies; Increases in the Number of Directors. Any director may resign effective on giving written notice to the chairman of the board, the president, the secretary or the board of directors, unless the notice specifies a later time for that resignation to become effective. If the resignation of a director is effective at a future time, the board of directors may elect a successor to take office when the resignation becomes effective.

Unless otherwise provided in the Certificate of Incorporation or these bylaws, vacancies in the board of directors may be filled by a majority of the remaining directors, even if less than a quorum, or by a sole remaining director; however, a vacancy created by the removal of a director by the vote or written consent of the stockholders or by court order may be filled only by the affirmative vote of a majority of the shares represented and voting at a duly held meeting at which a quorum is present (which shares voting affirmatively also constitute a majority of the required quorum), or by the unanimous written consent of all shares entitled to vote thereon. Each director so elected shall hold office until the next annual meeting of the stockholders and until a successor has been elected and qualified. Notwithstanding the foregoing, however, effective upon the closing of the Corporation's IPO and the date that the Corporation is no longer subject to Section 2115 of the California Corporations Code, the number of directors which shall constitute the whole Board of Directors shall be fixed exclusively by one or more resolutions adopted from time to time by the Board of Directors.

Unless otherwise provided in the Certificate of Incorporation or these bylaws:

(i) Vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director.

(ii) Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the certificate of incorporation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.

If at any time, by reason of death or resignation or other cause, the Corporation should have no directors in office, then any officer or any stockholder or an executor, administrator, trustee or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the certificate of incorporation or these bylaws, or may apply to the Court of Chancery for a decree summarily ordering an election as provided in Section 211 of the General Corporation Law of Delaware.

If, at the time of filling any vacancy or any newly created directorship, the directors then in office constitute less than a majority of the whole board (as constituted immediately prior to any such increase), then the Court of Chancery may, upon application of any stockholder or stockholders holding at least ten (10) percent of the total number of the shares at the time outstanding having the right to vote for such directors, summarily order an election to be held to fill any such vacancies or newly created directorships, or to replace the directors chosen by the directors then in office as aforesaid, which election shall be governed by the provisions of Section 211 of the General Corporation Law of Delaware as far as applicable.

Section 3.10. Compensation. Directors and members of standing committees may receive such compensation as the Board of Directors from time to time shall determine to be appropriate, and shall be reimbursed for all reasonable expenses incurred in attending and returning from meetings of the board of Directors.

Section 3.11. Action Without a Meeting: Telephone Conference Meeting. Unless otherwise restricted by the charter documents of the Corporation, any action required or permitted to be taken at any of the Board of Directors or any committee designated by the Board of Directors may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board of Directors or committee. Such consent shall have the same force and effect as a unanimous vote at a meeting, and may be stated as such in any document or instrument filed with the Secretary of State of the state of incorporation of the Corporation.

Unless otherwise restricted by the charter documents of the Corporation, subject to the requirement for notice of meetings, members of the Board of Directors, or members of any committee designated by the Board of Directors, may participate in a meeting of such Board of Directors or committee, as the case may be, by means of a conference telephone connection or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in such a meeting shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section 3.12. Approval or Ratification of Acts or Contracts by Stockholders. The Board of Directors in its discretion may submit any act or contract for approval or ratification at any annual meeting of the stockholders, or at any special meeting of the stockholders called for the purpose of considering any such act or contract, and any act or contract that shall be approved or be ratified by the vote of the stockholders holding a majority of the issued and outstanding shares of stock of the Corporation entitled to vote and present in person or by proxy at such meeting (provided that a quorum is present) shall be as valid and as binding upon the Corporation and upon all the stockholders as if it has been approved or ratified by every stockholder of the Corporation. In addition, any such act or contract may be approved or ratified by the written consent of stockholders holding a majority of the issued and outstanding shares of capital stock of the Corporation entitled to vote, and such consent shall be as valid and binding upon the Corporation and upon all the stockholders as if it had been approved or ratified by every stockholder of the Corporation.

Article 4 Committees

Section 4.1. Designation; Powers. The Board of Directors may, by resolution passed by a majority of the board, designate one or more committees, including, if they shall so determine, an executive committee and a compensation committee, with each such committee to consist of one or more of the directors of the Corporation. Any such designated committee shall have and may exercise such of the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation as may be provided in such resolution, except that no such committee shall have the power or authority of the Board of Directors in reference of amending the charter documents of the Corporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property and assets, recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution of the Corporation, or amending, altering or repealing these Bylaws or adopting new bylaws for the Corporation. Any such designated committee may authorize the seal of the Corporation to be affixed to all papers, which may require it. In addition to the above, such committee or committees shall have such other powers and limitations of authority as may be determined from time to time by the Board of Directors.

Section 4.2. Procedure; Meetings; Quorum. Any committee designated pursuant to this Article 4 shall keep regular minutes of its actions and proceedings in a book provided for that purpose and report the same to the Board of Directors at its meeting next succeeding such action, shall fix its own rules or procedures, and shall meet at such times and at such place or places as may be provided by such rules, or by such committee or the board of Directors. Should a committee fail to fix its own rules, the provisions of these Bylaws, pertaining to the calling of meetings and conduct of business by the Board of Directors, shall apply as nearly as may be possible. At every meeting of any such committee, the presence of a majority of all the members thereof shall constitute a quorum, except as provided in Section 4.3 of this Article 4 and the affirmative vote of a majority of the members present shall be necessary for the adoption by it of any resolution.

Section 4.3. Substitution and Removal of Members; Vacancies. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not constituting a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of the absent or disqualified member. The Board of Directors shall have the power at any time to remove any member(s) of a committee and to appoint other directors in lieu of the person(s) so removed and shall also have the power to fill vacancies in a committee.

Article 5 Officers

Section 5.1. Number, Titles, and Term of Office. The officers of the Corporation shall be a President, Treasurer, a Secretary, and such other officers as the Board of Directors may from time to time elect or appoint (including, but not limited to, a Chairman of the Board, and or more Vice Presidents, (anyone or more of whom may be designated Executive Vice President or Senior Vice President) Vice Chairman of the Board, one or more Assistant Secretaries and one or more Assistant Treasurers). Each officer shall hold office until such officer's successor shall be duly elected and shall qualify or until such officer's death or until such officer shall resign or shall have been removed. Any number of offices may be held by the same person, unless the Articles of Incorporation of the Corporation provide otherwise. Except for the Chairman of the Board and the Vice Chairman of the Board, no officer need be a director.

Section 5.2. Powers and Duties of the President. The President shall be the chief executive officer of the Corporation. Subject to the control of the Board of Directors and the Executive Committee (if any), the President shall have general executive charge, management and control of the properties, business and operations of the Corporation with all such powers as may be reasonably incident to such responsibilities; may agree upon and execute all leases, contracts, evidences of indebtedness and other obligations in the name of the Corporation and may sign all certificates for shares of capital stock of the Corporation; and shall have such other powers and duties as designated in accordance with these Bylaws and as from time to time may be assigned to the President by the Board of Directors. The President shall preside at all meetings of the stockholders and of the Board of Directors.

Section 5.3. Vice Presidents. Each Vice President shall at all times possess power to sign all certificates, contracts and other instruments of the Corporation, except as otherwise limited in writing by the Chairman of the Board, the President or the Vice Chairman of the Board of the Corporation. Each Vice President shall have such other powers and duties as from time to time may be assigned to such Vice President by the Board of Directors, the Chairman of the Board, the President or the Vice Chairman of the Board.

Section 5.4. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors, committees of the Board of Directors and the stockholders, in books provided for that purpose; shall attend to the giving and serving of all notices; may in the name of the Corporation affix the seal of the Corporation to all contracts and attest the affixation of the seal of the Corporation thereto; may sign with the other appointed officers all certificates for shares of capital stock of the Corporation; shall have charge of the

certificate books, transfer books and stock ledgers, and such other books and papers as the Board of Directors may direct, all of which shall at all reasonable times be open to inspection of any director upon application at the office of the Corporation during business hours; shall have such other powers and duties as designated in these Bylaws and as from time to time may be assigned to the Secretary by the Board of Directors, the Chairman of the Board, the President or the Vice Chairman of the Board; and shall in general perform all acts incident of the office of Secretary, subject to the control of the Board of Directors, the Chairman of the Board, the President or the Vice Chairman of the Board.

Section 5.5. Assistant Secretaries. Each Assistant Secretary shall have the usual powers and duties pertaining to such offices, together with such other powers and duties as designated in these Bylaws and as from time to time may be assigned to an Assistant Secretary by the board of directors, the President, or the Secretary. The Assistant Secretaries shall exercise the powers of the Secretary during that officer's absence or inability or refusal to act.

Section 5.6. Treasurer. The Treasurer shall have responsibility for the custody and control of all the funds and securities of the Corporation, and shall have such other powers and duties as designated in these Bylaws and as from time to time may be assigned to the Treasurer by the Board of Directors or the President. The Treasurer shall perform all acts incident to the position of Treasurer, subject to the control of the Board of Directors or the President; and the Treasurer shall, if required by the Board of Directors, give such bond for the faithful discharge of the Treasurer's duties in such form as the Board of Directors may require.

Section 5.7. Assistant Treasurers. Each Assistant Treasurer shall have the usual powers and duties pertaining to such office, together with such other powers and duties as designated in these Bylaws and as from time to time may be assigned to each Assistant Treasurer by the Board of Directors, the President, or the Treasurer. The Assistant Treasurers shall exercise the powers of the Treasurer during that officer's absence or inability or refusal to act.

Section 5.8. Action with Respect to Securities of Other Corporations. Unless otherwise directed by the Board of Directors, the President, together with the Secretary or any Assistant Secretary shall have power to vote and otherwise act on behalf of the Corporation, in person or by proxy, at any meeting of security holders of or with respect to any action of security holders of any other corporation in which this Corporation may hold securities and otherwise to exercise any and all rights and powers which this Corporation may possess by reason of its ownership of securities in such other corporation.

Section 5.9. Delegation. For any reason that the Board of Directors may deem sufficient, the Board of Directors may, except where otherwise provided by statute, delegate the powers or duties of any officer to any other person, and may authorize any officer to delegate specified duties of such office to any other person. Any such delegation or authorization by the Board shall be effected from time to time by resolution of the Board of Directors.

Article 6 Capital Stock

Section 6.1. Stock Certificates and Transfers. The shares of the capital stock of the Corporation shall be evidenced by certificates, provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by certificate until such certificate is surrendered to the Corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of, the Corporation in such form as the appropriate officers of the Corporation may from time to time prescribe. Transfers of stock of the Corporation shall be made on the books of the Corporation, and, in the case of certificated shares, by the holder thereof in person or by such person's attorney upon surrender for cancellation of certificates for at least the same number of shares, with an assignment and power of transfer endorsed thereon or attached thereto, duly executed, and with such proof of the authenticity of the signature as the Corporation or its agents may reasonably require or, in the case of uncertificated shares, upon receipt of proper transfer instructions from the registered holder or by such person's attorney, and with such proof of the authenticity of the signature as the Corporation or its agents may reasonably require. The certificates of stock shall be numbered and signed by the Chairman of the Board of Directors, the President, an Executive Vice President, a Senior Vice President or a Vice President, and also by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary. Any and all signatures may be facsimiles. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer, transfer agent or registrar at the date of issue.

Section 6.2. Ownership of Shares. The Corporation shall be entitled to treat the holder of record of any share or shares of capital stock of the Corporation as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the state of Delaware.

Section 6.3. Regulations Regarding Certificates. The Board of Directors shall have the power and authority to make all such rules and regulations as they may deem expedient concerning the issue, transfer and registration or the replacement of certificates for shares of capital stock of the Corporation.

Section 6.4. Lost or Destroyed Certificates. The Board of Directors may determine the conditions upon which the Corporation may issue a new certificate of stock in place of a certificate theretofore issued by it which is alleged to have been lost, stolen or destroyed and may require the owner of such certificate or such owner's legal representative to give bond, with surety sufficient to indemnify the Corporation and each transfer agent and registrar against any and all losses or claims which may arise by reason of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate in the place of the one so lost, stolen or destroyed.

Article 7 Miscellaneous Provisions

Section 7.1. Fiscal Year. The fiscal year of the Corporation shall begin on the first day of January of each year.

Section 7.2. Corporate Seal. The corporate seal shall be circular in form and shall have inscribed thereon the name of the Corporation and the state of its incorporation, which seal shall be in the charge of the Secretary and shall be affixed to certificates of stock, debentures, bonds and other documents, in accordance with the direction of the Board of Directors or a committee thereof, and as may be required by law; however, the Secretary may, if the Secretary deems it expedient, have a facsimile of the corporate seal inscribed on any such certificates of stock, debentures, bonds, contract or other documents. Duplicates of the seal may be kept for use by any Assistant Secretary.

Section 7.3. Notice and Waiver of Notice. Whenever any notice is required to be given by law, the charter documents of the Corporation or under the provisions of these Bylaws, said notice shall be deemed to be sufficient if given (i) by telegraphic, cable or wireless transmission (including by teletype or facsimile transmission) or (ii) by deposit of the same in a post office box or by delivery to an overnight courier service company in a sealed prepaid wrapper addressed to the person entitled thereto at such person's post office address, as it appears on the records of the Corporation, and such notice shall be deemed to have been given on the day of such transmission or mailing or delivery to courier, as the case may be. Whenever notice is required to be given by law, the charter documents of the Corporation or under any of the provisions of these Bylaws, a written waiver thereof, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person, including without limitation a director, at meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of,

any regular or special meeting of the stockholders, directors, or members of a committee of directors need be specified in any written waiver of notice unless so required by the charter documents of the Corporation or these Bylaws.

Section 7.4. Facsimile Signature. In addition to the provisions for the use of facsimile signatures elsewhere specifically authorized in these Bylaws, facsimile signatures of any officer or officers of the Corporation may be used whenever and as authorized by the Board of Directors.

Section 7.5. Reliance upon Books, Reports and Records. A member of the Board of Directors, or a member of any committee designated by the Board of Directors, shall, in the performance of such person's duties, be protected to the fullest extent permitted by law in relying upon the records of the Corporation and upon information, opinion, reports or statements presented to the Corporation.

Section 7.6. Application of Bylaws. In the event that any provisions of these Bylaws is or may be in conflict with any law of the United States, of the state of Delaware, or of any other governmental body or power having jurisdiction over this Corporation, or over the subject matter to which such provision of these Bylaws applies, or may apply, such provision of these Bylaws shall be inoperative to the extent only that the operation thereof unavoidably conflicts with such law, and shall in all other respects be in full force and effect.

Article 8 Indemnification of Officers and Directors

Section 8.1. Indemnification. The Corporation shall, to the maximum extent and in the manner permitted by the General Corporation Law of Delaware, indemnify each of its directors and officers against expenses (including attorneys' fees), judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding, arising by reason of the fact that such person is or was an agent of the Corporation. For purposes of this Section 6.1, a "director" or "officer" of the Corporation includes any person (i) who is or was a director or officer of the Corporation, (ii) who is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, or (iii) who was a director or officer of a corporation which was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation.

Section 8.2. Indemnification of Others. The Corporation shall have the power, to the maximum extent and in the manner permitted by the General Corporation Law of Delaware, to indemnify each of its employees and agents (other than directors and officers) against expenses (including attorneys' fees), judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding, arising by reason of the fact that such person is or was an agent of the Corporation. For purposes of this Section 6.2, an "employee" or "agent" of the Corporation (other than a director or officer) includes any person (i) who is or was an employee or agent of the Corporation, (ii) who is or was serving at the request of the Corporation as an employee or agent of another corporation, partnership, joint venture, trust or other enterprise, or (iii) who was an employee or agent of a corporation which was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation.

Section 8.3. Insurance. The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of the General Corporation Law of Delaware.

Article 9 Amendments

Section 9.1. Amendments. The Board of Directors shall have the power to adopt, amend and repeal from time to time Bylaws of the Corporation, subject to the right of the stockholders entitled to vote with respect thereto to amend or repeal such Bylaws as adopted or amended by the Board of Directors.

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Jonathan A. Kennedy, certify that:

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

Date: May 8, 2019

/s/ Jonathan A. Kennedy

Jonathan A. Kennedy

President and Chief Executive Officer

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, B. Drew Davies, certify that:

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

Date: May 8, 2019

/s/ B. Drew Davies

B. Drew Davies

Executive Vice President
and Chief Financial Officer

CERTIFICATIONS OF PRINCIPAL EXECUTIVE OFFICER AND PRINCIPAL FINANCIAL OFFICER
PURSUANT TO TITLE 18, UNITED STATES CODE, SECTION 1350, AS ADOPTED
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Natus Medical Incorporated (the "Company") on Form 10-Q for the quarter ended March 31, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Jonathan A. Kennedy, President and Chief Executive Officer of the Company, certify, pursuant to Title 18, United States Code, Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

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

/s/ Jonathan A. Kennedy

Print Name: Jonathan A. Kennedy

Title: President and Chief Executive Officer

Date: May 8, 2019

In connection with the Quarterly Report of Natus Medical Incorporated (the "Company") on Form 10-Q for the quarter ended March 31, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, B. Drew Davies, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to Title 18, United States Code, Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

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

/s/ B. Drew Davies

Print Name: B. Drew Davies

Title: Executive Vice President and Chief Financial Officer

Date: May 8, 2019