FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

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

FORM 10-Q

(Mark one)

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

For the quarterly period ended September 30, 2011

OR

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

For the transition period from to .

Commission file number: 001-34584

HARBOR BIOSCIENCES, INC.

(Exact name of registrant as specified in its charter)

Delaware	**13-3697002**
(State or other jurisdiction of incorporation)	**(I.R.S. Employer Identification No.)**
9191 Towne Centre Drive, Suite 409, San Diego, California	**92122**
(Address of principal executive offices)	**(zip code)**

Registrant' s telephone number, including area code: (858) 587-9333

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition of "accelerated filer", "large accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☐ Accelerated filer ☐

Non-accelerated filer ☐ (Do not check if a smaller reporting company) Smaller reporting company ☑

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

As of November 4, 2011 there were 35,422,140 shares of registrant' s Common Stock, $.01 par value, outstanding.

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HARBOR BIOSCIENCES, INC.

Form 10-Q
FOR THE QUARTER ENDED September 30, 2011

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Part I. Financial Information

Item 1. Financial Statements

Harbor BioSciences, Inc.
(A Development Stage Company)
Balance Sheets

All numbers in thousands	Sept 30, 2011 (Unaudited)	Dec. 31, 2010*
ASSETS:		
Current assets:		
Cash and cash equivalents	$2,326	$5,923
Prepaid expenses	109	100
Other receivable	75	1
Deposits	14	28
Total current assets	2,524	6,052
Property and equipment, net of accumulated depreciation of $65 and $273, respectively	8	44
Restricted cash	2,825	0
Total assets	$5,357	$6,096
LIABILITIES AND STOCKHOLDERS' EQUITY:		
Current liabilities:		
Accounts payable	$77	$201
Accrued expenses	455	1,005
Redeemable preferred stock	2,825	0
Other current liabilities	32	29
Total current liabilities	3,389	1,235
Commitments and contingencies	0	0
Stockholders' equity:		
Preferred stock, $.01 par value, 10,000 shares authorized; 2,000 and zero shares issued; 2,000 shares outstanding	0	0
Common stock, $.01 par value, 100,000 shares authorized; 35,525 and 35,525 shares issued; 35,466 shares outstanding	355	355
Paid-in capital	263,364	263,281
Cost of treasury stock (59 shares)	-346	-346
Deficit accumulated during development stage	-261,405	-258,429
Total stockholders' equity	1,968	4,861
Total liabilities and stockholders' equity	$5,357	$6,096

* Derived from the audited financial statements as of December 31, 2010

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

Harbor BioSciences, Inc.
(A Development Stage Company)
Statements of Operations
(Unaudited)

All numbers in thousands, except per share amounts

	Three Months ended Sept 30,		Nine Months ended Sept 30,		Period from Inception (Aug.15,1994) to Sept 30,
	2011	2010	2011	2010	2011
Revenue:					
Contract R&D revenue	$ 73	0	$ 146	0	$ 1,354
Total revenue	73	0	146	0	1,354
Operating expenses:					
Research and development	383	934	1,575	3,518	176,588
General and administrative	485	663	1,567	2,094	95,255
Total operating expenses	868	1,597	3,142	5,612	271,843
Other income (expense):					
Gain/(Loss) on disposal of assets	-7	-49	15	-55	-285
Non-cash amortization of deemed discount and deferred issuance costs on convertible debentures	0	0	0	0	-7,627
Interest income	0	4	5	13	17,384
Interest expense	0	0	0	0	-388
Total other income / (expense), net	-7	-45	20	-42	9,084
Net loss	-802	-1,642	-2,976	-5,654	-261,405
Net loss per share-basic and diluted	-0.02	-0.05	-0.08	-0.18	
Weighted average number of common shares outstanding-basic and diluted	35,466	35,459	35,466	31,915	

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

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Harbor BioSciences, Inc. (A Development Stage Company)

Statements of Cash Flows (Unaudited)

All numbers in thousands	Nine Months ended Sept 30, 2011	Nine Months ended Sept 30, 2010	Period from Inception (Aug. 15, 1994) to Sept 30, 2011
Cash flows from operating activities:			
Net loss	-2,976	-5,654	-261,405
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation	1	20	2,244
(Gain)/Loss on disposal of assets	-15	55	285
Compensation expense related to equity awards	85	559	11,369
Amortization of deemed discount on convertible debentures	0	0	6,470
Amortization of deferred issuance cost	0	0	1,157
Common stock issued for the company 401k plan	0	44	1,550
Common stock and options issued as consideration for license fees, milestone payments, interest, note repayment, services and amendments to license / finance agreements	0	0	2,926
Expense related to warrants issued as consideration to consultants	0	0	4,369
Expense related to warrants issued to a director for successful closure of merger	0	0	570
Expense related to stock options issued	0	0	5,718
Expense related to common stock issued for the purchase of technology	0	0	1,848
Common stock issued as consideration for In Process R&D	0	0	2,809
Deferred compensation expense related to options issued	0	0	1,210
Changes in assets and liabilities:			
Prepaid expenses	-9	63	-109
Deposits	14	21	-15
Other receivables	-74	81	-75
Accounts payable	-124	239	769
Accrued expenses	-550	-91	420
Other liabilities	3	0	32
Net cash used in operating activities	-3,645	-4,663	-217,858
Cash flows provided by (used in) investing activities:			
Proceeds from sale of property and equipment	48	26	276
Purchase of property and equipment	0	0	-2,825
Net cash provided by (used in) investing activities	48	26	-2,549
Cash flows from financing activities:			
Contributions from stockholder	0	0	104
Restricted cash	-2,825	34	-2,825
Net proceeds from sale of preferred stock	2,825	0	6,825
Net proceeds from sale of common stock	0	1,789	185,323
Net proceeds from issuance of convertible debentures and warrants	0	0	9,214
Purchase of treasury stock	0	0	-346

Proceeds from issuance of debt	0	0	371
Net proceeds from recapitalization	0	0	6,271
Net proceeds from warrants and options exercised	0	0	17,796
Net cash from financing activities	0	1,823	222,733
Net increase (decrease) in cash	-3,597	-2,814	2,326
Cash and equivalents at beginning of period	5,923	9,738	0
Cash and equivalents at end of period	2,326	6,924	2,326
Supplemental Disclosure of Cash Flow Information:			
Income taxes	0	0	0
Interest paid	0	0	388
Supplemental Disclosure of Non-Cash Financing Activities:			
Conversion of debt to equity	0	0	10,371
Warrants issued to consultants in lieu of cash, no vesting	0	0	559
Warrants issued in lieu of cash, commissions on private placement	0	0	733
Warrants issued in connection with convertible debentures	0	0	371

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

Harbor BioSciences, Inc.

(A Development Stage Company)

Notes to Financial Statements

(Unaudited)

1. Basis of Presentation

The information at September 30, 2011, and for the three-month and nine-month periods ended September 30, 2011 and 2010, and inception to date is unaudited. In the opinion of management, these financial statements include all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of the results for the interim periods presented. Interim results are not necessarily indicative of results for a full year. These financial statements should be read in conjunction with the Harbor BioSciences, Inc. ("Harbor BioSciences", "we" or the "Company") Annual Report on Form 10-K, for the year ended December 31, 2010, which was filed with the United States Securities and Exchange Commission on March 31, 2011.

Our operations to date have consumed substantial capital without generating any revenues other than the amount received under the Cystic Fibrosis Foundation Therapeutics ('CFFT") and Michael J. Fox Foundation for Parkinson' s Research ("MJFF") collaborations. We will continue to require substantial and increasing amounts of funds to conduct necessary research and development and preclinical and clinical testing of our drug candidates, and to market any drug candidates that receive regulatory approval. We do not expect to generate revenue from our biotechnology operations for the foreseeable future, and our ability to meet our cash obligations as they become due and payable will depend for at least the next several years on our ability to complete an acquisition of a profitable company, sell securities, borrow funds or some combination thereof. We expect that it will be very difficult to raise capital to continue our operations and our independent registered public accounting firm has issued an opinion with an explanatory paragraph to the effect that there is substantial doubt about our ability to continue as a going concern.

Recent Accounting Pronouncements

In January 2010, the FASB issued ASU No. 2010-06, Fair Value Measurements and Disclosures (Topic 820): Improving Disclosures about Fair Value Measurements. ASU 2010-06 amends Codification Subtopic 820-10 to add two new disclosures: (1) transfers in and out of Level 1 and 2 measurements and the reasons for the transfers, and (2) a gross presentation of activity within the Level 3 roll forward. The proposal also includes clarifications to existing disclosure requirements on the level of disaggregation and disclosures regarding inputs and valuation techniques. The proposed guidance would apply to all entities required to make disclosures about recurring and nonrecurring fair value measurements. The effective date of the ASU is the first interim or annual reporting period beginning after December 15, 2009, except for the gross presentation of the Level 3 roll forward information, which is required for annual reporting periods beginning after December 15, 2010 and for interim reporting periods within those years. The adoption by the Company has had minimal impact on its financial statements.

Accounts Payable and Accrued Expenses

Accrued expenses as of September 30, 2011 include approximately $0.2 million in accrued vacation expense and $0.3 million in other research and development and general and administrative expenses.

Accrued expenses as of December 31, 2010 include approximately $0.3 million in accrued vacation expense and $0.7 million in other research and development and general and administrative expenses.

Commitments and Contingencies

During July 2011, the proceeds from the sale of preferred stock totaling $2.825 million were placed into an escrow account. These funds are available under certain circumstances to pay certain Company related expenses and to fund the Company' s working capital needs beginning in January 2012. The preferred stockholders have the right to "put" the preferred shares back to the Company in return for the remaining cash held in escrow at the time of the put, upon the occurrence of certain events, The put right expires at the later of July 28, 2012 or 45 days following the 2012 annual stockholders meeting.

2. Other Agreements and Commitments

China State Institute of Pharmaceutical Industry Agreements

In January 2011, the Company announced that it had licensed the research and development and commercialization rights for three of its products, exclusively in the People' s Republic of China and Hong Kong, to the China State Institute of Pharmaceutical Industry ("CIPI"). Harbor BioSciences retains the rights to these products in the U.S. and the rest of the world, and CIPI will make available to the company all pre-clinical and clinical data it generates.

CIPI was recently formed by a merger of the Shanghai Institute of Pharmaceutical Industry and other institutes and companies. CIPI' s research and development ("R&D") focus has been in the areas of cancer, infectious diseases, cardiovascular, autoimmune disorders, endocrinology and central nervous system ("CNS"). CIPI is a subsidiary of the China National Pharmaceutical Group Corporation ("Sinopharm Group"), China' s largest pharmaceutical and health industrial group under the state-owned Assets Supervision and Administration Commission of the State Council. Sinopharm Group' s core businesses include R&D, manufacturing, distribution and retail sales. Its products are manufactured in more than 10 pharmaceutical and biological production facilities. Sinopharm Group has more than 20 joint ventures with global pharmaceutical companies and through trade and cooperative relations, has a presence in more than 100 countries and regions. Sinopharm Group reported 2010 revenues of approximately $12 billion U.S.

CIPI is a major supplier of both generic drugs and traditional Chinese medicines in China and Hong Kong. The three license agreements cover Harbor BioSciences compounds HE2000, Apoptone and Triolex for any clinical use in the People' s Republic of China and Hong Kong. CIPI plans to develop the Harbor BioSciences compounds for major indications including diabetes, cancer, inflammation and infectious diseases.

The Company believes these are the first drug development agreements between a western pioneer drug company and a government-owned Chinese drug developer for pharmaceutical development to be conducted in the People' s Republic of China. CIPI, a low cost drug manufacturer, has agreed to supply the licensed products to Harbor BioSciences for use in clinical studies and sales outside of China and Hong Kong. The Company can also elect to distribute these compounds in countries that accept the State Food and Drug Administration' s (SFDA) drug approval process.

Clinical drug development candidates licensed to CIPI include Triolex, which has completed Phase IIa clinical trials in patients with Type 2 diabetes and is in early stage development for ulcerative colitis and rheumatoid arthritis; Apoptone, which has demonstrated activity in Phase I/IIa trials of prostate cancer; and HE2000, which has shown to limit opportunistic infections, including tuberculosis, in humans infected with the HIV-1 virus, to reduce parasite levels in patients with uncomplicated malaria and to attenuate non-productive lung inflammation in animal models.

The Company will receive milestone payments for Triolex, Apoptone and HE2000, excluding infectious diseases, at the completion of Phase II and III clinical studies and upon approval by the SFDA. The Company will also receive royalties based on net profits for the life of each agreement. The term of each agreement runs until the latter of (1) the expiration of the last licensed patent or any Company, CIPI or joint improvement patent and (2) the first documented third party sale of a competing generic product in the licensed territory. In addition, the Company is CIPI' s sole agent with commercial development and sales rights to all of CIPI' s improvements that are sold outside the licensed territory. Sales of licensed drugs that are covered by CIPI' s improvements outside the territory bear a royalty to Harbor BioSciences. No milestones were met during the three and nine months ended September 30, 2011.

The Company announced in June 2011, the signing of an umbrella generic drugs distribution agreement with CIPI. This new agreement provides that Harbor BioSciences and CIPI will select one or more of CIPI' s drugs or other products for distribution outside China under separately negotiated sub agreements. The new agreement provides that the Company is to receive commercial development, sales and sublicense rights for products under executed sub agreements. Sales of CIPI' s products will bear a royalty to Harbor BioSciences.

3. Equity Transactions

On July 28, 2011, the Company sold an aggregate of 2,000,000 shares of its Series A Preferred Stock (the "Preferred Shares") to Amun, LLC, a Delaware limited liability company (the "Investor") pursuant to the terms of a Stock Purchase Agreement (the "Purchase Agreement") and related Stockholders Agreement (the "Stockholders Agreement"). The Preferred Shares represent approximately a 28% of the economic interest in the Company and also entitle the Investor to a number of votes equal to 38.28% of the total number of votes entitled to be cast by holders of all shares of the Company' s capital stock (including the Common Stock and Series A Preferred Stock) voting together as single class. Under the terms of these and other related agreements between the Company and the Investor, the Investor placed $2.825 million in cash into an escrow account, which amount is available under certain circumstances to pay certain Company related expenses and to fund the Company' s working capital needs. Amounts received are included as restricted cash as of September 30, 2011. The Stockholder Agreement provides that the Investor will have the right to "put" the Preferred Shares acquired pursuant to the Purchase Agreement back to the Company in return for the remaining cash held in escrow at the time of the put, upon the occurrence of certain events.

No options to purchase shares of common stock were granted in the nine-month periods ended September 30, 2011. There were no options to purchase shares of common stock exercised in the nine-month period ended September 30, 2011. The Company accounts for stock option grants in accordance with Accounting Standards Codification ("ASC") Topic 718, Share-Based Payment. Compensation costs related to share-based payments recognized in the Statements of Operations were approximately $42 and $85 thousand for the three-month and nine-month periods ended September 30, 2011, and $99 and $559 thousand for the same periods in 2010. Our outstanding options and warrants are anti-dilutive and are not reflected in the weighted average shares reflected on our income statement basic and diluted. The Company may from time to time extend previous option grants.

4. Fair Value Measurement

We adopted ASC Topic 820, Fair Value Measurement, as of January 1, 2008, for financial instruments measured at fair value on a recurring basis. ASC Topic 820 defines fair value, establishes a framework for measuring fair value in accordance with U.S. GAAP and expands disclosures about fair value measurements.

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. ASC Topic 820 establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (level 1 measurements) and the lowest priority to unobservable inputs (level 3 measurements). These tiers include:

Level 1, defined as observable inputs such as quoted prices for identical instruments in active markets;

Level 2, defined as inputs other than quoted prices in active markets that are directly or indirectly observable such as quoted prices for similar instruments in active markets or quoted prices for identical or similar instruments in markets that are not active; and

Level 3, defined as unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions, such as valuations derived from valuation techniques in which one or more significant value drivers are observable.

We measure certain financial instruments at fair value on a recurring basis. Financial assets measured at fair value on a recurring basis are as follows at September 30, 2011:

	Level 1	Level 2	Level 3	Total
		In Thousands		
Money Market funds included in cash and cash equivalents plus restricted cash	$3,833	$ 0	$ 0	$3,833
Total	$3,833	$ 0	$ 0	$3,833

5. Other Matters

The Company recognized $73 thousand of revenue from the Michael J. Fox Foundation ("MJFF") during the third quarter and $146 thousand for the nine-month year to date period. Expenses associated with the revenue recognition are contained in research and development expenses for the same periods.

From time to time, we may be involved in litigation relating to claims arising out of our operations in the normal course of business. While it is not possible to predict accurately or to determine the eventual outcome of these matters, as of the date of this report, we do not believe that we are engaged in any legal proceedings that are expected, individually or in the aggregate, to have a material adverse effect on our business, financial condition or operating results.

The Company' s common stock was delisted from the NASDAQ Stock Market at the opening of business on September 23, 2010 at which time the common stock became available for trading on the OTC bulletin board ("*OTCBB*") under the symbol HRBR.OB. On August 17, 2011, the Common Stock was delisted from the OTCBB when the Company filed a Form 15 pursuant to Rule 12g-4 and subsequently became available for trading on the "pink sheets" under the trading symbol HRBR.PK.

The Company has evaluated all subsequent events through November 4, 2011, which represents the filing date of this Form 10-Q with the Securities and Exchange Commission, to ensure that this Form 10-Q includes appropriate disclosure of events both recognized in the financial statements as of September 30, 2011 and events which occurred subsequent to September 30, 2011 but were not recognized in the financial statements.

On October 26, 2011, the stockholders approved several proposals to amend our Amended and Restated Certificate of Incorporation, as amended (the "Restated Certificate"), to authorize a 1-for-1,000 reverse stock split of the Common Stock, (the "Reverse Stock Split"), and to then immediately effect a 1,000-for-1 forward stock split of the Common Stock (the inverse ratio of the Reverse Stock Split) immediately following the Reverse Stock Split, (the "Forward Stock Split").

On October 26, 2011, we completed the Reverse Stock Split and the Forward Stock Split. As a result, as previously described in the Proxy Statement filed on September 1, 2011, pursuant to Section 3(e) of the Warrants issued to the investors in our June 2010 registered direct offering of Common Stock and Warrants, the holders of the Warrants are eligible to exercise a put right under the Warrants which, if exercised, would entitle them to receive a cash payment in an amount equal to the fair value of the Warrants as determined by reference to a formula set forth in the Warrants. In the event the put right is exercised, we are entitled to disbursement from an escrow account in an amount equal to the amount required to repurchase the Warrants.

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

The following discussion and analysis should be read in conjunction with the financial statements and notes included elsewhere in this report. The following discussion and analysis contains forward-looking statements that involve risks and uncertainties. This discussion represents our current judgment on the future direction of our business and our actual results may differ materially from those discussed here due to risks and factors including the timing, success and cost of preclinical research and clinical studies, the timing, acceptability and review periods for regulatory filings, the ability to obtain regulatory approval of products, our ability to obtain additional funding and the development of competitive products by others as well as the risks and factors set forth below under the caption "Risk Factors." Additional factors that could cause or contribute to such differences can be found in the financial statements and the related Management' s Discussion and Analysis of Financial Condition and Results of Operations contained in our Annual Report on Form 10-K for the year ended December 31, 2010, filed on March 31, 2011.

Overview

Harbor BioSciences, Inc. ("Harbor BioSciences", "we", "the Company"), a clinical-stage pharmaceutical company, is engaged in the discovery and development of products for the treatment of diseases related to aging. Our current development efforts are primarily focused on a series of steroid hormone analogs that are derived from the human adrenal metabolome.

We are a development-stage company with two product candidates which recently completed Phase I/IIa clinical trials: Apoptone® (HE3235) in patients with late-stage prostate cancer, and Triolex® (HE3286) in obese type 2 diabetes mellitus patients. Apoptone and Triolex represent two of the lead candidates from Harbor BioSciences' small molecule platform based on metabolites or synthetic analogs of endogenous human steroids.

Drawn from our unique and proprietary platform, our research program has identified additional lead candidates active in preclinical models of cancer, metabolic conditions, autoimmune conditions, lung inflammation, bone degeneration and organ regeneration.

We have been unprofitable since our inception in August 1994. As of September 30, 2011, we had an accumulated deficit of approximately $261.4 million. We expect to incur substantial additional operating losses and capital expenditures for the foreseeable future on pre-clinical testing and other activities in support of the development of our drug candidates. In addition, in the future, we may have to meet the substantial new challenge of developing the capability to market products if we are successful in obtaining regulatory approval for any of our current or future drug candidates. Accordingly, our activities to date are not as broad in depth or scope as the activities we may undertake in the future, and our historical operations and financial information are not indicative of the future operating results or financial condition or ability to operate profitably as a commercial enterprise when and if we succeed in bringing any drug candidates to market.

Results of Operations

We have devoted substantially all of our resources to the payment of research and development expenses and general and administrative expenses. From inception through September 30, 2011, we have incurred approximately $176.6 million in research and development expenses and $95.2 million in general and administrative expenses. From inception through September 30, 2011, we have generated approximately $1.4 million in revenues from providing research and development services. Of the $1.4 million in revenue, $0.2 million is under our current funding agreement with MJFF and $1.2 million under our Study Funding Agreement with the CFFT, which expired in December 1999. We have earned $9.1 million in net, other income, as our $17.4 million of interest income has been partly offset by $7.6 million in deemed discount expense, $0.4 million in interest expense and $0.3 million loss on disposal of assets. The combination of these resulted in a net loss of $261.4 million for the period from inception until September 30, 2011.

Research and development expenses were $0.4 and $1.6 million for the three-month and nine-month periods ended September 30, 2011, compared to $0.9 and $3.5 million for the same periods in 2010. The research and development expenses relate primarily to the ongoing development, preclinical testing and clinical trials for our drug candidates. Research and development expenses decreased by $0.5 and $1.9 million for the three-month and nine-month periods ended September 30, 2011 compared to the same periods in 2010. The decrease was primarily due to a reduction in staffing, clinical trial expenses, facilities, and stock option compensation expense.

General and administrative expenses were $0.5 and $1.6 million for the three-month and nine-month period ended September 30, 2011 compared to $0.7 and $2.1 million for the same period in 2010. General and administrative expenses relate primarily to salaries and benefits, facilities, legal, accounting/auditing, investor relations, consultants, insurance and travel. General and administrative expenses decreased by $0.2 and $0.5 million for the three-month and nine-month periods ended September 30, 2011, compared to the same periods in 2010. The decrease was due mainly to a decrease in staffing, NASDAQ fees and stock option compensation expense.

Other income (expense), net was approximately $(7) and $20 thousand for the three-month and nine-month periods ended September 30, 2011 compared to $(45) and $(42) thousand for the same period in 2010. In 2010, we incurred losses on disposal of assets and a modest gain on disposals during 2011.

Please refer to critical accounting policies included in the Form 10-K filed on March 31, 2011.

CIPI, our Chinese partner, has made progress during 2011. We have delivered to CIPI in excess of 20,000 pages of pre-clinical, non-clinical and chemistry, manufacture and control data for all three projects. These pages have been translated and evaluated by the dedicated project teams, one for each compound. Our historical data has been evaluated against the People' s Republic of China' s State Food and Drug Administration ("SFDA") criteria with their expert advisors.

Late in the second quarter, we met with CIPI in China to review CIPI' s project plans for each compound. We have been informed that CIPI intends to commence Phase I clinical trials for Apoptone during the first half of 2012 and for Triolex and HE2000 during the second half of 2012. According to CIPI, they have developed a small-scale synthesis method for each compound and intend to scale-up each synthesis into a larger batch processes that will be used for clinical trials materials. We were told by CIPI that the process will then be scaled-up to manufacture the final active pharmaceutical ingredients in quantities to meet market demands. CIPI also informed us that they are evaluating multiple formulations to identify and use an optimized formulation intended to be the final finished product to initiate their clinical trials. Our agreements with CIPI provide that these products will be made available to us for clinical trials outside of the licensed territory if these activities are successfully completed by CIPI. CIPI further told us that reproductive toxicology and certain other tox studies are planned for the first half of 2012.

During the fourth quarter, we intend to deliver the detailed clinical data from its clinical studies for the licensed compounds for translation and evaluation by CIPI' s clinical experts. In cooperation with CIPI' s advisors and the SFDA, a detailed clinical development strategy for each project with estimated timelines is expected during the first half of 2012.

The Chinese clinical trial strategy differs from the western world. In the western world, the clinical timelines and scope of the trials become longer and more involved as a compound progresses through the clinical development process. In China, the SFDA has a different clinical trial design than generally practiced in the west. Chinese Phase I safety studies typically are much larger in scope and longer in duration to insure the development program does not become halted for safety concerns during the more expensive downstream stages of a program. For similar reasons, a Phase I study does not commence until all of the safety and toxicology studies required by the SFDA have been completed and evaluated. Consequently, Phase II and Phase III studies are typically smaller in scope and faster than the western world.

Pursuant to our agreements with CIPI, as a matter of course, we are to receive data periodically from CIPI' s development efforts to supplement the existing data for each project. We intend to use this data for further partnering discussions in territories outside of China and Hong Kong.

Liquidity and Capital Resources

A summary of our current contractual obligations as of September 30, 2011 is as follows (in thousands):

	Payments Due by Period				
Contractual Obligations	Total	Less than one year	One to three years	Three to five years	More than five years
Operating Leases	$36	$ 36	$ 0	$ 0	$ 0
Preferred Stock Put Right	2,825	2,825	0	0	0
Total	$2,861	$ 2,861	$ 0	$ 0	$ 0

We may also be required to make substantial milestone or royalty payments in cash based on the terms of some of our agreements.

Our operations to date have consumed substantial capital without generating any revenues other than the amount received under the CFFT collaboration. We will continue to require substantial and increasing amounts of funds to conduct necessary research and development and preclinical and clinical testing of our drug candidates, and to market any drug candidates that receive regulatory approval. We do not expect to generate revenue from biotechnology operations for the foreseeable future, and our ability to meet our cash obligations as they become due and payable will depend for at least the next several years on our ability to acquire a profitable company, sell securities, borrow funds or some combination thereof. Based upon our current plans, we believe that our existing capital resources, together with interest thereon, will be sufficient to meet our operating expenses and capital requirements into late 2011. However, changes in our research and development plans or other events affecting our operating expenses may result in the expenditure of such cash before that time. As of September 30, 2011, our unrestricted cash and cash equivalents totaled approximately $2.3 million. In addition, we have $2.8 million of restricted cash that was placed in an escrow account upon the sale of 2,000,000 million preferred shares during July 2011 (see the next three paragraphs for additional information).

Under the terms of the Purchase Agreement, beginning January 1, 2012 and on the first day of each month thereafter, we will be entitled to disbursements from the restricted cash escrow account in the amount of $200 thousand (the “Working Capital Amount”) for so long as: (x) the Investor has not brought to the board of directors an offer for us to acquire a controlling interest in a profitable entity, which transaction would provide to us at least $5.0 million in cash plus an amount equal to the costs and expenses incurred by us in connection with such transaction (not to exceed $200 thousand), which amounts, together with any operating cash held by us immediately prior to closing such transaction, would be transferable, together with any and all (i) intellectual property and (ii) other assets related to our biotechnology business, to a newly formed subsidiary, which subsidiary will assume all of our liabilities as of immediately prior to such closing (a “Qualifying Transaction”), and a majority of our disinterested directors fail to recommend and approve the Qualifying Transaction within forty-five calendar days thereafter (a “Qualifying Transaction Proposal”), (y) for sixty calendar days following the Investor having made a Qualifying Transaction Proposal (provided that the sixty day period will be extended an additional fourteen calendar days in the event the sixty day period includes all or any part of the period from December 15 through December 31, 2011); and (z) in the event that a Qualifying Transaction has been presented and definitive documentation relating to such Qualifying Transaction has been executed, for so long as the Qualifying Transaction has not been consummated (unless the failure to consummate such Qualifying Transaction is due to our breach in any material respect of our obligations under the definitive agreements providing for the Qualifying Transaction, and if and until the Put Right, as described below, is exercised or the right to exercise the Put Right otherwise expires).

The Stockholders Agreement provides that the Investor will have the right to "put" the Preferred Shares acquired pursuant to the Purchase Agreement back to us in return for the remaining cash held in escrow at the time of the exercise of the put right, if applicable, upon the occurrence of certain events, including an "ownership change" as such term is defined by Section 382 of the Internal Revenue Code, or in the event that we fail to take certain actions or the board of directors fails to recommend and approve or consummate a Qualifying Transaction.

Based upon our current plans, we believe that beginning January 1, 2012, if disbursed to us from escrow, $200 thousand per month will be sufficient to meet our operating expenses and capital requirements at that time until such funds are depleted. Further, if the Qualifying Transaction is consummated, we believe that our capital resources, together with interest thereon, would be sufficient to meet our operating expenses and capital requirements into 2013.

The Company' s common stock was delisted from the NASDAQ Stock Market at the opening of business on September 23, 2010 at which time the common stock became available for trading on the OTCBB. On August 17, 2011, the Common Stock was delisted from the OTCBB when the Company filed a Form 15 pursuant to Rule 12g-4 and subsequently became available for trading on the "Pink Sheets®" under the trading symbol HRBR.PK. The Pink Sheets are maintained by Pink Sheets OTC Markets, Inc., a quotation service that collects and publishes market maker quotes for over-the-counter securities. The Pink Sheets is not a stock exchange or a regulated entity. Price quotations are provided by over-the-counter market makers and company information is provided by the over-the-counter companies. The Pink Sheets provide significantly less liquidity than the NASDAQ stock market or any other national securities exchange, which may make it more difficult to raise capital. Further, subject to certain exceptions, for as long as the Investor continues to hold 50% of the Preferred Shares, the Investor is entitled to purchase up to 100% of any securities offered by the Company by giving written notice to the Company within ten days. As a result, we expect that it will be very difficult to raise capital to continue our operations and our independent registered public accounting firm has issued an opinion with an explanatory paragraph to the effect that there is substantial doubt about our ability to continue as a going concern. We do not believe that we could succeed in raising additional capital needed to sustain our operations without the consummation of the Qualifying Transaction or another strategic transaction, such as a partnership or merger. If we are unable to consummate such a transaction, we expect that we would need to cease all operations and wind down. We cannot assure you that any actions that we take would raise or generate sufficient capital to fully address the uncertainties of our financial position. As a result, we may be unable to realize value from our assets and discharge our liabilities in the normal course of business. If we are unable to settle our obligations to our creditors or if we are unable to consummate a strategic transaction, we would likely need to liquidate the Company in a voluntary dissolution under Delaware law or seek protection under the provisions of the U.S. Bankruptcy Code. In that event, we, or a trustee appointed by the court, may be required to liquidate our assets. In either of these events, we might realize significantly less from our assets than the values at which they are carried on our financial statements. The funds resulting from the liquidation of our assets would be used first to satisfy obligations to creditors before any funds would be available to pay our stockholders, and any shortfall in the proceeds would directly reduce the amounts available for distribution, if any, to our creditors and to our stockholders. In the event we are required to liquidate under Delaware law or the federal bankruptcy laws, it is highly unlikely that stockholders would receive any value for their shares.

Cautionary Statement Regarding Forward-Looking Statements

This quarterly report on Form 10-Q contains forward-looking statements that are based on our management' s beliefs and assumptions and on information currently available to our management. Forward-looking statements include information concerning our possible or assumed future results of operations, business strategies, financing plans, competitive position, industry environment, potential growth opportunities, the effects of future regulation and the effects of competition. Forward-looking statements include all statements that are not historical facts and can be identified by terms such as "anticipates," "believes," "could," "estimates," "expects," "intends," "may," "plans," "potential," "predicts," "projects," "should," "will," "would" or similar expressions.

Forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause our actual results, performance or achievements to be materially different from any future results, performances or achievements expressed or implied by the forward-looking statements. We discuss these risks in greater detail in the "Risk Factors" section below and in our other filings with the Securities and Exchange Commission, including our annual report on Form 10-K for the year ended December 31, 2010, filed on March 31, 2011. Given these uncertainties, you should not place undue reliance on these forward-looking statements.

Also, forward-looking statements represent our management' s beliefs and assumptions only as of the date of this quarterly report on Form 10-Q. Our actual future results may be materially different from what we expect. Except as required by law, we assume no obligation to update these forward-looking statements publicly, or to update the reasons actual results could differ materially from those anticipated in these forward-looking statements, even if new information becomes available in the future.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

There have been no material changes to our investment portfolio from December 31, 2010 to the present. At September 30, 2011, our investment portfolio included only cash and money market accounts and did not contain fixed-income securities. There would be no material impact to our investment portfolio, in the short term, associated with any change in interest rates, and any decline in interest rates over time will reduce our interest income, while increases in interest rates over time will increase our interest income.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Based on the evaluation of our disclosure controls and procedures (as defined in Rule 13a-15(e) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) required by Rule 13a-15(b) of the Exchange Act, James M. Frincke, our chief executive officer, and Robert W. Weber, our chief financial officer, have concluded that, as of September 30, 2011, our disclosure controls and procedures were effective to ensure that the information required in the reports we file under the Exchange Act is gathered, reported-up, analyzed and disclosed with adequate timeliness, accuracy and completeness.

Changes in Internal Control over Financial Reporting

There have been no changes in our internal controls over financial reporting during the period covered by this report that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in the reports we file with or submit to the SEC under the Securities and Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC' s rules and forms and that such information is accumulated and communicated to our management, including our chief executive officer and chief financial officer as appropriate, to allow for 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 controls will prevent all errors and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls

can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by management override of the control. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. The size of our company makes full segregation of duties difficult. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected. Accordingly, our disclosure controls and procedures are designed to provide reasonable, not absolute, assurance that the objectives of our disclosure control system are met, and, as set forth above, our chief executive officer and chief financial officer have concluded, based on their evaluation, that our disclosure controls and procedures were effective as of the end of the period covered by this report to provide reasonable assurance that the objectives of our disclosure control system were met.

PART II Other Information

Item 1. Legal Proceedings

From time to time, we may be involved in litigation relating to claims arising out of our operations in the normal course of business. While it is impossible to predict accurately or to determine the eventual outcome of these matters, as of the date of this report, we do not believe that we are engaged in any legal proceedings that are expected, individually or in the aggregate, to have a material adverse effect on our business, financial condition or operating results.

Item 1A. Risk Factors

In evaluating our business, you should consider the following discussion of risks, in addition to other information contained in this report as well as our other public filings with the Securities and Exchange Commission. The description of risks below includes certain revisions to, and supersedes in its entirety, the description of the risk factors associated with our business previously disclosed in Part I, Item 1A of our Annual Report on Form 10-K for the fiscal year ended December 31, 2010 and our subsequent filings with the Securities and Exchange Commission. Any of the following risks could materially adversely affect our business, financial condition, results of operations and prospects and, as a result, the market price of our common stock could decline, and you may lose all or part of the money you paid to buy our common stock.

We are still a development stage company.

We have never had any revenues from sales of products. None of our drug candidates has been approved for commercial sale and we do not expect that any of our present or future drug candidates will be commercially available for a number of years, if at all. We have incurred losses since our inception and we expect to continue to incur significant additional operating losses for the foreseeable future as we fund clinical trials and other expenses in support of regulatory approval of our drug candidates.

We need to raise additional money before we achieve profitability; if we fail to raise additional money, it could be difficult or impossible to continue our business.

As of September 30, 2011, our unrestricted cash and cash equivalents totaled approximately $2.3 million. Based on our current plans, we believe these financial resources, and interest earned thereon, will be sufficient to meet our operating expenses and capital requirements into late 2011. However, changes in our research and development plans or other events affecting our operating expenses may result in the

expenditure of such cash before that time. Based upon our current plans, we believe that beginning January 1, 2012, if disbursed to us from the restricted cash escrow account, $200 thousand per month will be sufficient to meet our operating expenses and capital requirements at that time until such funds are depleted. Further, if the Qualifying Transaction is consummated, we believe that our capital resources, together with interest thereon, would be sufficient to meet our operating expenses and capital requirements into 2013. We will require substantial additional funds in order to finance our drug discovery and development programs, fund operating expenses, pursue regulatory clearances, develop manufacturing, marketing and sales capabilities, and prosecute and defend our intellectual property rights. We may seek additional funding through public or private financing or through collaborative arrangements with strategic partners.

You should be aware that in the future:

- we may not obtain additional financial resources when necessary or on terms favorable to us, if at all; the escrow funds may not be available to us; the Qualifying Transaction may not be consummated; and
- any available additional financing may not be adequate.

If we cannot raise additional funds when needed, or on acceptable terms, we will not be able to continue to develop our drug candidates.

We may need to liquidate the Company in a voluntary dissolution under Delaware law or seek protection under the provisions of the U.S. Bankruptcy Code, and in either event, it is unlikely that stockholders would receive any value for their shares.

We have not generated any revenues from product sales, and have incurred losses in each year since our inception in 1994. If a Qualifying Transaction is not consummated, we expect that it will be very difficult to raise capital to continue our operations and our independent registered public accounting firm has issued an opinion with an explanatory paragraph to the effect that there is substantial doubt about our ability to continue as a going concern in the annual report for the period ended December 31, 2010. If a Qualifying Transaction is not consummated, we do not believe that we could succeed in raising additional capital needed to sustain our operations without some strategic transaction, such as a partnership or merger. If we are unable to consummate such a transaction, we expect that we would need to cease all operations and wind down. Although we are currently evaluating our strategic alternatives with respect to all aspects of our business, we cannot assure you that any actions that we take would raise or generate sufficient capital to fully address the uncertainties of our financial position. As a result, we may be unable to realize value from our assets and discharge our liabilities in the normal course of business. If we are unable to settle our obligations to our creditors or if we are unable to consummate a strategic transaction, we would likely need to liquidate the Company in a voluntary dissolution under Delaware law or seek protection under the provisions of the U.S. Bankruptcy Code. In that event, we, or a trustee appointed by the court, may be required to liquidate our assets. In either of these events, we might realize significantly less from our assets than the values at which they are carried on our financial statements. The funds resulting from the liquidation of our assets would be used first to satisfy obligations to creditors before any funds would be available to pay our stockholders, and any shortfall in the proceeds would directly reduce the amounts available for distribution, if any, to our creditors and to our stockholders. In the event we are required to liquidate under Delaware law or the federal bankruptcy laws, it is highly unlikely that stockholders would receive any value for their shares. See “Liquidity and Capital Resources” in Part II, Item 7, “Management’ s Discussion and Analysis of Financial Condition and Results of Operations” and Note 1 to our financial statements in our Annual Report on Form 10-K.

We may be unable to obtain a quorum for meetings of our stockholders or obtain necessary stockholder approvals and therefore be unable to take certain actions

Our bylaws require that a quorum, consisting of a majority of the outstanding shares of voting stock, be represented in person or by proxy in order to transact business at a meeting or our stockholders. In addition, amendments to our amended and restated certificate of incorporation, such as an amendment to increase our authorized capital stock, require the approval of a majority of our outstanding shares. Under Rule 452 of the New York Stock Exchange, the U.S. broker-dealer may vote shares absent direction from the beneficial owner on certain matters, such as an amendment to our amended and restated articles of incorporation to increase authorized shares that are to be used for general corporate purposes and the ratification of our auditors. As a result, unless more stockholders elect to be presented in person or by proxy in future annual or special meetings of stockholders, we may be unable to obtain a quorum at such meetings or obtain stockholder approval of proposals when needed.

If we are unable to obtain a quorum at our stockholders meeting and thus fail to get stockholder approval of corporate actions, such failure could have a materially adverse effect on us. In addition, brokers may only vote on those matters for which broker discretionary voting is allowed under Rule 452 of the New York Stock Exchange, and we may not be able to obtain the required number of votes to approve certain proposals that require a majority of all outstanding share to approve the proposal due to our reliance on broker discretionary voting. Therefore, it is possible that even if we are able to obtain a quorum for our meetings of the stockholders we still may not receive enough votes to approve proxy proposals presented at such meeting and, depending on the proposal in question, such failure could have a material adverse effect on us.

If we do not obtain government regulatory approval for our products, we cannot sell our products and we will not generate revenues.

Our principal efforts are currently centered on a proprietary class of small compounds that we believe shows promise for the treatment of several diseases and disorders. However, all drug candidates require approval by the United States Food and Drug Administration (“FDA”) before they can be commercialized in the United States as well as approval by various foreign government agencies before they can be commercialized in other countries. These regulations change from time to time and new regulations may be adopted. While limited clinical trials of our drug candidates have been conducted to date, significant additional trials are required, and we may not be able to demonstrate that our drug candidates are safe or effective. In addition, success in early development does not mean that later development will be successful because, for example, drug candidates in later-stage clinical trials may fail to demonstrate sufficient safety and efficacy despite having progressed through initial clinical testing. Our clinical experience with our drug candidates is limited, and to date our drug candidates have been tested in less than the number of patients that will likely need to be studied to gain regulatory approval. The data collected from clinical trials with larger patient populations may not demonstrate sufficient safety and efficacy to support regulatory approval of these drug candidates. In addition, we do not know whether early results from any of our ongoing clinical trials will be predictive of final results of any such trial. If we are unable to demonstrate the safety and effectiveness of a particular drug candidate to the satisfaction of regulatory authorities, the drug candidate will not obtain required government approval and we will experience potentially significant delays in, or be required to abandon development of the drug candidate. If we do not receive FDA or foreign approvals for our drug candidates, we will not be able to sell products and will not generate revenues. If we receive regulatory approval of one of our drug candidates, such approval may impose limitations on the indicated uses for which we may market the resulting product, which may limit our ability to generate significant revenues. Further, U.S. or foreign regulatory agencies could change existing, or promulgate new, regulations at any time, which may affect our ability to obtain approval of our drug candidates or require significant additional costs to obtain such approvals. In addition, if regulatory authorities determine that we or a partner conducting research and development activities on our behalf have not complied with regulations in the research and development of one of our drug candidates, then they may not approve the drug candidate and we will not be able to market and sell it. If we were unable to market and sell our drug candidates, our business and results of operations would be materially and adversely affected.

Recent publicity concerning the safety of certain drug products has resulted in heightened scrutiny by the FDA in the process of approving new drugs, which could delay or limit any regulatory approvals we may obtain for our drug candidates.

In light of widely publicized events concerning the safety risk of certain drug products, the FDA, members of Congress, the Government Accountability Office, medical professionals and the general public have raised concerns about potential drug safety issues. These events have resulted in the withdrawal of drug products, revisions to drug labeling that further limit use of the drug products and establishment of risk management programs that may, for instance, restrict distribution of drug products after approval. In addition, the Food and Drug Administration Amendments Act of 2007, or FDAAA, grants significant expanded authority to the FDA, much of which is aimed at improving the safety of drug products before and after approval. In particular, the new law authorizes the FDA to, among other things, require post-approval studies and clinical trials, mandate changes to drug labeling to reflect new safety information and require risk evaluation and mitigation strategies for certain drugs, including certain currently approved drugs. It also significantly expands the federal government' s clinical trial registry and results databank, which we expect will result in significantly increased government oversight of clinical trials. Under the FDAAA, companies that violate these and other provisions of the new law are subject to substantial civil monetary penalties, among other regulatory, civil and criminal penalties. The increased attention to drug safety issues may result in a more cautious approach by the FDA in its review of data from our clinical trials. Data from clinical trials may receive greater scrutiny, particularly with respect to safety, which may make the FDA or other regulatory authorities more likely to require additional preclinical studies or clinical trials by drug development companies. As a result, the FDA may require us to conduct additional preclinical studies or clinical trials during the clinical development of one or more of our drug candidates as a condition precedent to approval which could potentially delay our development plans, limit the indications for which our drug candidates are ultimately approved, and otherwise adversely impact us.

If we do not successfully commercialize our products, we may never achieve profitability.

We have experienced significant operating losses to date because of the substantial expenses we have incurred to acquire and fund development of our drug candidates. We have never had significant operating revenues and have never commercially introduced a product. Our accumulated deficit was approximately $261.4 million as of September 30, 2011. Our net losses for fiscal years 2010, 2009 and 2008 were approximately $6.6 million, $15.6 million and $21.6 million, respectively. Many of our research and development programs are at an early stage. Potential drug candidates are subject to inherent risks of failure. These risks include the possibilities that no drug candidate will be found safe or effective, meet applicable regulatory standards or receive the necessary regulatory clearances. Even if we were ultimately to receive regulatory approval for one or more of our drug candidates, we may be unable to commercialize them successfully for a variety of reasons. These include, for example, the availability of alternative treatments, lack of cost effectiveness, the cost of manufacturing the product on a commercial scale, the effect of competition with other drugs, or because we may have inadequate financial or other resources to pursue one or more of our drug candidates through commercialization. If we are unable to develop safe, commercially viable drugs, we may never achieve profitability. If we become profitable, we may not remain profitable.

As a result of our intensely competitive industry, we may not gain enough market share to be profitable.

The biotechnology and pharmaceutical industries are intensely competitive. We have numerous competitors in the U.S. and elsewhere. Because we are pursuing potentially large markets, our competitors include major multinational pharmaceutical companies, specialized biotechnology firms as well as academic institutions, government agencies and private and public research institutions. Several of these entities have already successfully marketed and commercialized products that will compete with our drug candidates, assuming that our drug candidates gain regulatory approval. A large number of companies including Merck & Co., Inc., GlaxoSmithKline, Takeda Pharmaceuticals, Amylin Pharmaceuticals, Inc., AstraZeneca,

Novartis, Novo Nordisk, Pfizer Inc., Sanofi-Aventis and Eli Lilly and Co. are developing and marketing new drugs for the treatment of type 2 diabetes. Similarly, a large number of companies, including Merck & Co., Inc., Pfizer Inc., Johnson & Johnson Inc. and Amgen Inc., are developing and marketing new drugs for the treatment of chronic inflammatory conditions. In addition, there are also a number of other companies with drug candidates in development targeting late-stage prostate cancer, including compounds already in Phase 3 clinical trials. One or more such compounds may be approved before any of our drug candidates could potentially be approved. Many, if not all, of these competing drug development programs are being conducted by pharmaceutical and biotechnology companies with considerably greater financial resources, human resources and experience than ours.

All of these competitors have greater financial and other resources, larger research and development staffs and more effective marketing and manufacturing organizations than we do. In addition, academic and government institutions have become increasingly aware of the commercial value of their research findings. These institutions are now more likely to enter into exclusive licensing agreements with commercial enterprises, including our competitors, to develop and market commercial products.

Our competitors may succeed in developing or licensing technologies and drugs that are more effective, or less costly than any we are developing. Our competitors may succeed in obtaining FDA or other regulatory approvals for drug candidates before we do. If competing drug candidates prove to be more effective or less costly or better-marketed than our drug candidates, our drug candidates, even if approved for sale, may not be able to compete successfully with our competitors' existing products or new products under development. Similarly, we cannot predict whether any of our drug candidates, if approved, will have sufficient advantages to cause healthcare professionals to adopt our products over competing products. If we are unable to compete successfully, we may never be able to sell enough products at a price sufficient to permit us to generate profits.

Our common stock has a very limited trading market

Our common stock was recently delisted from the NASDAQ Stock Market and the OTCBB and now trades on the Pink Sheets. The Company' s common stock was delisted from the NASDAQ Stock Market at the opening of business on September 23, 2010 at which time the common stock became available for trading on the OTCBB. On August 17, 2011, the Common Stock was delisted from the OTCBB when the Company filed a Form 15 pursuant to Rule 12g-4 and subsequently became available for trading on the "Pink Sheets®" under the trading symbol HRBR.PK. The Pink Sheets is not a stock exchange or a regulated entity. Price quotations are provided by over-the-counter market makers and company information is provided by the over-the-counter companies. The Pink Sheets provide significantly less liquidity than the NASDAQ stock market or any other national securities exchange. In addition, trading in our common stock has historically been extremely limited. Further, our common stock stock may be subject to manipulation because of the thinness of the market for our stock. This limited trading may adversely affect the liquidity of our common stock, not only in terms of the number of shares that can be bought and sold at a given price, but also through delays in the timing of transactions and reduction in security analysts' and the media' s coverage of us. As a result, there could be a larger spread between the bid and the ask prices of our common stock and you may not be able to sell shares of our common stock when or at prices you desire.

Substantial sales of our stock may impact the market price of our common stock.

As evidenced by the completion of our registered direct offering completed in June 2010, future sales of substantial amounts of our common stock, including shares that we may issue upon exercise of options and warrants or conversion of convertible securities, could adversely affect the market price of our common stock. Further, if we raise additional funds through the issuance of common stock or securities convertible into or exercisable for common stock, the percentage ownership of our stockholders will be reduced and the price of our common stock may fall.

Issuing preferred stock with rights senior to those of our common stock could adversely affect holders of common stock.

Our charter documents give our board of directors the authority to issue shares of preferred stock without a vote or action by our stockholders. The board also has the authority to determine the terms of preferred stock, including price, preferences and voting rights. The rights granted to holders of preferred stock may adversely affect the rights of holders of our common stock. For example, a series of preferred stock may be granted the right to receive a liquidation preference – a pre-set distribution in the event of liquidation – that would reduce the amount available for distribution to holders of common stock. In addition, the issuance of the Series A Preferred Stock makes it more difficult for a third party to acquire a majority of our outstanding voting stock. As a result, common stockholders could be prevented from participating in transactions that would offer an optimal price for their shares.

If we were to lose the services of members of our management team, or fail to attract or retain qualified personnel in the future, our business objectives would be more difficult to implement, adversely affecting our operations.

Our ability to successfully implement our business strategy depends upon the continued services of our management team. If we lose the services of one or more of these individuals, replacement could be difficult and may take an extended period of time and could impede significantly the achievement of our business objectives.

Our results of operations and liquidity needs could be materially negatively affected by market fluctuations and economic downturn.

Our results of operations could be materially negatively affected by economic conditions generally, both in the U.S. and elsewhere around the world. Continuing concerns over inflation, energy costs, geopolitical issues, the availability and cost of credit, the U.S. mortgage market and a declining residential real estate market in the U.S. have contributed to increased volatility and diminished expectations for the economy and the markets going forward. These factors, combined with volatile oil prices, declining business and consumer confidence and increased unemployment, precipitated an economic recession from which the global economy is in stages of recovery. Domestic and international equity markets continue to experience heightened volatility and turmoil. These events and the continuing market upheavals may have an adverse effect on us. In the event of a market downturn, our results of operations could be adversely affected by those factors in many ways, including making it more difficult for us to raise funds if necessary and our stock price may further decline.

Failure to protect our proprietary technology could impair our competitive position.

We own or have obtained a license to a number of U.S. and foreign patents and patent applications. Our success depends in part on our ability to obtain and defend patent rights and other intellectual property rights that are important to our ability to commercialize our drug candidates, if approved and our ability to operate our business without infringing the proprietary rights of third parties. We place considerable importance on obtaining patent protection for significant new technologies, products and processes. Legal standards relating to the validity of patents covering pharmaceutical and biotechnology inventions and the scope of claims made under such patents are still developing. In some of the countries in which we intend to market our drug candidates, if approved, pharmaceuticals are either not patentable or have only recently become patentable. Past enforcement of intellectual property rights in many of these countries has been limited or non-existent. Future enforcement of patents and proprietary rights in many other countries may be problematic or unpredictable. Moreover, the issuance of a patent in one country does not assure the issuance of a similar patent in another country. Claim interpretation and infringement laws vary by nation, so the extent of any patent protection is uncertain and may vary in different jurisdictions. Our domestic patent

position is also highly uncertain and involves complex legal and factual questions. The applicant or inventors of subject matter covered by patent applications or patents owned by or licensed to us may not have been the first to invent or the first to file patent applications for such inventions. Due to uncertainties regarding patent law and the circumstances surrounding our patent applications, the pending or future patent applications we own or have licensed may not result in the issuance of any patents. Existing or future patents owned by or licensed to us may be challenged, infringed upon, invalidated, found to be unenforceable or circumvented by others. Further, any rights we may have under any issued patents may not provide us with sufficient protection against similar competitive products or technologies that do not infringe our patents or otherwise cover commercially valuable products or processes.

Litigation or other disputes regarding patents and other proprietary rights may be expensive, cause delays in bringing products to market and harm our ability to operate.

The manufacture, use or sale of our drug candidates may infringe on the patent rights of others. If we are unable to avoid infringement of the patent rights of others, we may be required to seek a license, defend an infringement action or challenge the validity of the patents in court. Patent litigation is costly and time consuming and can preclude, delay or suspend commercialization of our drug candidates. We may not have sufficient resources to bring these actions to a successful conclusion. In addition, if we do not obtain a license, develop or obtain non-infringing technology, or fail to successfully defend an infringement action or have the patents we are alleged to infringe declared invalid, we may:

- incur substantial money damages;
- encounter significant delays in bringing our drug candidates to market;
- be precluded from participating in the manufacture, use or sale of our drug candidates or methods of treatment without first obtaining licenses to do so; and/or
- not be able to obtain any required license on favorable terms, if at all.

In addition, if another party claims the same subject matter or subject matter overlapping with the subject matter that we have claimed in a U.S. patent application or patent, we may decide or be required to participate in interference proceedings in the U.S. Patent and Trademark Office in order to determine the priority of invention. Loss of such an interference proceeding would deprive us of patent protection sought or previously obtained and could prevent us from commercializing our products. Participation in such proceedings could result in substantial costs, whether or not the eventual outcome is favorable. These additional costs could adversely affect our financial results.

Litigation may be expensive and time consuming and may adversely affect our operations.

From time to time, we may be involved in litigation relating to claims arising out of our operations in the normal course of business. Participation in such proceedings is time consuming and could result in substantial costs, whether or not the eventual outcome is favorable. These additional costs could adversely affect our financial results.

Confidentiality agreements with employees and others may not adequately prevent disclosure of trade secrets and other proprietary information.

In order to protect our proprietary technology and processes, we also rely in part on confidentiality agreements with our employees, consultants, outside scientific collaborators and sponsored researchers and other advisors. These agreements may not effectively prevent disclosure of confidential information and may not provide an adequate remedy in the event of unauthorized disclosure of confidential information. In addition, others may independently discover trade secrets and proprietary information. Costly and time-consuming litigation could be necessary to enforce and determine the scope of our proprietary rights, and failure to obtain or maintain trade secret protection could adversely affect our competitive business position.

Existing and/or future pricing regulations and reimbursement limitations may limit our potential profits from the sale of our products.

The requirements governing product licensing, pricing and reimbursement vary widely from country to country. Some countries require approval of the sale price of a drug before it can be marketed. In many countries, the pricing review period begins after product-licensing approval is granted. As a result, we may obtain regulatory approval for a drug candidate in a particular country, but then be subject to price regulations that reduce our profits from the sale of the product. In some foreign markets pricing of prescription pharmaceuticals is subject to continuing government control even after initial marketing approval. In addition, certain governments may grant third parties a license to manufacture our product without our permission. Such compulsory licenses may be on terms that are less favorable to us and would likely have the effect of reducing our revenues.

Varying price regulation between countries can lead to inconsistent prices and some re-selling by third parties of products from markets where products are sold at lower prices to markets where those products are sold at higher prices. Any practice of exploiting price differences between countries could undermine our sales in markets with higher prices and reduce the sales of our future products, if any.

While we do not have any applications for regulatory approval of our drug candidates currently pending, any decline in the size of the markets in which we may in the future sell commercial products, assuming our receipt of the requisite regulatory approvals, could cause the perceived market value of our business and the price of our common stock to decline.

Our ability to commercialize our drug candidates successfully also will depend in part on the extent to which reimbursement for the cost of our drug candidates and related treatments will be available from government health administration authorities, private health insurers and other organizations. Third-party payers are increasingly challenging the prices charged for medical products and services. If we succeed in bringing any of our drug candidates to the market, such drug candidates may not be considered cost effective and reimbursement may not be available or sufficient to allow us to sell such drug candidates on a profitable or competitive basis.

Delays in the conduct or completion of preclinical or clinical studies or the analysis of the data from preclinical or clinical studies may result in delays in our planned filings for regulatory approvals, or adversely affect our ability to enter into collaborative arrangements.

The current status of our two lead drug candidates is set forth below. We have completed:

- Phase I and I/II clinical trials with Triolex in the United States under an IND, for the treatment of metabolic disorders;
- Phase IIa clinical trial with Triolex in the United States in type 2 diabetes patients under an IND for the treatment of metabolic disorders;
- Phase I/II clinical trial with Triolex in the United States under an IND for the treatment of gastrointestinal inflammatory conditions;
- Phase I clinical trial with Triolex in the United States in rheumatoid arthritis patients under an IND for the treatment of inflammatory conditions; and
- Phase I/IIa clinical trial with Apoptone in the United States in late-stage prostate cancer patients who have failed hormone therapy and at least one round of chemotherapy treatment or have not received chemotherapy under an IND for the treatment of hormone-sensitive cancers including prostate cancer.

Any of the following reasons, among others, could delay or suspend the completion of our future studies:

- delays in enrolling volunteers;
- interruptions in the manufacturing of our drug candidates or other delays in the delivery of materials required for the conduct of our studies;
- we may not be able to enter collaborative arrangements besides the CIPI agreements;
- we can not control the uncertainties and lack direct control over the developments of our licensed compounds in China;
- lower than anticipated retention rate of volunteers in a clinical trial;
- unfavorable efficacy results;
- serious side effects experienced by study participants relating to the drug candidate;
- reaching agreement on acceptable terms with prospective contract research organizations and clinical trial sites;
- failure to conduct a clinical trial in accordance with regulatory requirements or clinical protocols;
- inspection of a clinical trial operations or clinical trial site by regulatory authorities resulting in the imposition of a clinical hold;
- new communications from regulatory agencies about how to conduct these studies; or
- failure to raise additional funds resulting in lack of adequate funding to continue a clinical trial or study.

If the manufacturers of our drug candidates do not comply with current Good Manufacturing Practices regulations, or cannot produce sufficient quantities of our drug candidates to enable us to continue our development, we will fall behind on our business objectives.

Manufacturers producing our drug candidates must follow current Good Manufacturing Practices regulations enforced by the FDA and foreign equivalents. If a manufacturer of our drug candidates does not conform to current Good Manufacturing Practices regulations and cannot be brought up to such a standard, we will be required to find alternative manufacturers that do conform. This may be a long and difficult process, and may delay our ability to receive FDA or foreign regulatory approval of our drug candidates.

We also rely on our manufacturers to supply us with a sufficient quantity of our drug candidates to conduct clinical trials. If we have difficulty in the future with obtaining our required quantity and quality of supply, we could experience significant delays in our development programs and regulatory process.

Our ability to achieve any significant revenue may depend on our ability to establish effective sales and marketing capabilities.

Our efforts to date have focused on the development and evaluation of our drug candidates. As we continue preclinical and clinical studies and seek to commercialize our drug candidates, we may need to build a sales and marketing infrastructure. As a company, we have no experience in the sales and marketing of pharmaceutical products. If we fail to establish a sufficient marketing and sales force or to make alternative arrangements to have our drug candidates marketed and sold by others on attractive terms, it will impair our ability to commercialize our drug candidates and to enter new or existing markets. Our inability to effectively enter these markets would materially and adversely affect our ability to generate significant revenues.

We may face product liability claims related to the use or misuse of our drug candidates, which may cause us to incur significant losses.

We are currently exposed to the risk of product liability claims due to administration of our drug candidates in clinical trials, since the use or misuse of our drug candidates during a clinical trial could potentially result in injury or death. If we are able to commercialize our products, we will also be subject to the risk of losses in the future due to product liability claims in the event that the use or misuse of our commercial products results in injury or death. We currently maintain liability insurance on a claims-made basis. Because we cannot predict the magnitude or the number of claims that may be brought against us in the future, we do not know whether the insurance policies' coverage limits are adequate. The insurance is expensive, difficult to obtain and may not be available in the future on acceptable terms, or at all. Any claims against us, regardless of their merit, could substantially increase our costs and cause us to incur significant losses.

Our securities could be subject to extreme price fluctuations that could adversely affect your investment.

The market prices for securities of life sciences companies are highly volatile particularly those that are not profitable. Publicized events and announcements, most of which we cannot control, may have a significant impact on the market price of our common stock, which has been, and is likely to continue to be, volatile. For example:

biological or medical discoveries by competitors;

public concern about the safety of our drug candidates;

delays in the conduct or analysis of our preclinical or clinical studies;

unfavorable results from preclinical or clinical studies;

delays in obtaining or failure to obtain purchase orders of our drug candidates;

announcements in the scientific and research community;

changes in the potential commercial markets for our drug candidates;

unfavorable developments concerning patents or other proprietary rights;

unfavorable domestic or foreign regulatory or governmental developments or actions;

broader economic, industry and market trends unrelated to our performance;

issuances of new equity securities by us, pursuant to our effective shelf registration statement or otherwise;

discussion of us or our stock price by the financial and scientific press and in online investor communities; or

additions or departures of key personnel

may have the effect of temporarily or permanently driving down the price of our common stock. In addition, the stock market from time to time experiences extreme price and volume fluctuations which particularly affect the market prices for emerging and life sciences companies, such as ours, and which are often unrelated to the operating performance of the affected companies. For example, our stock price has ranged from $0.10 to $0.37 between July 1, 2010 and October 28, 2011.

These broad market fluctuations may adversely affect the ability of a stockholder to dispose of his shares at a price equal to or above the price at which the shares were purchased. In addition, in the past, following periods of volatility in the market price of a company' s securities, securities class-action litigation has often been instituted against that company. Any litigation against the Company, including this type of litigation, could result in substantial costs and a diversion of management' s attention and resources, which could materially adversely affect our business, financial condition and results of operations.

Item 1B. Unresolved Staff Comments

None.

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

We made no unregistered sales of securities or repurchases of our securities during the quarter ended September 30, 2011.

Item 3. Defaults Upon Senior Securities

None

Item 4. Reserved

Item 5. Other Information

None

Item 6. Exhibits

(a) The following exhibits are included as part of this report:

Exhibit Number	Description of Document
3.1	Amended and Restated Certificate of Incorporation
3.2	Certificate of Amendment to the Amended and Restated Certificate of Incorporation of the Corporation (Reverse Stock Split)
3.3	Certificate of Amendment to the Amended and Restated Certificate of Incorporation of the Corporation (Forward Stock Split)
31.1	Rule 13a-14(a)/15d-14(a) Certification of James M. Frincke.
31.2	Rule 13a-14(a)/15d-14(a) Certification of Robert W. Weber.
32.1	Section 1350 Certifications of James M. Frincke and Robert W. Weber.
101	The following financial statements and footnotes from the Harbor BioSciences Quarterly Report on Form 10-Q for the quarter ended September 30, 2011 formatted in eXtensible Business Reporting Language (XBRL): (i) Balance Sheets; (ii) Statement of Operations; (iii) Statement of Cash Flows; and (iv) Notes to financial Statements, tagged as blocks of text.

* Previously filed

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.

HARBOR BIOSCIENCES, INC.

Dated: November 4, 2011

/s/ Robert W. Weber

Robert W. Weber
Chief Financial Officer and Secretary
(Principal Financial and Accounting Officer)

Exhibit 3.1

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF HARBOR BIOSCIENCES, INC.

Robert Weber hereby certifies as follows:

FIRST: He is the Chief Financial Officer of Harbor Biosciences, Inc., a Delaware corporation (the "Corporation").

SECOND: The date of the filing of the Corporation' s original Certificate of Incorporation with the Secretary of State of Delaware was November 18, 1992 under the name Initial Acquisition Corp.

THIRD: This Amended and Restated Certificate of Incorporation amends and restates the Certificate of Incorporation, as amended to date.

* * *

ARTICLE I.

The name of this corporation is Harbor BioSciences, Inc.

ARTICLE II.

The address of the registered office of the corporation in the State of Delaware is 1209 Orange Street, City of Wilmington, County of New Castle, and the name of the registered agent of the corporation in the State of Delaware at such address is The Corporation Trust Company.

ARTICLE III.

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

ARTICLE IV.

A. This Corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the corporation is authorized to issue is one hundred ten million (110,000,000) shares. One hundred million (100,000,000) shares shall be Common Stock, each having a par value of one cent ($.01). Ten million (10,000,000) shares shall be Preferred Stock, each having a par value of one cent ($.01), Two million (2,000,000) of which shall be designated Series A Preferred Stock and Three Hundred Thousand (300,000) of which shall be designated Series B Junior Participating Preferred Stock.

B. In addition to the Series A Preferred Stock and the Series B Junior Participating Preferred Stock, the Preferred Stock may be issued, from time to time in one or more series. The Board of Directors is hereby authorized, by filing a certificate (a "Preferred Stock Designation") pursuant to the Delaware General Corporation Law, to fix or alter from time to time the designation,

powers, preferences and rights of the shares of each such series and the qualifications, limitations or restrictions of any wholly unissued series of Preferred Stock, and to establish from time to time the number of shares constituting any such series or any of them; and to increase or decrease the number of shares of any series subsequent to the issuance of shares of that series, but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be decreased in accordance with the foregoing sentence, the shares constituting such decrease shall resume the status that they had prior to the adoption of the resolution originally fixing the number of shares of such series.

C. The powers, preferences, rights, restrictions, and other matters relating to the Series A Preferred Stock, are as follows:

SECTION 1. Dividends.

(A) If and to the extent that the Corporation declares or pays dividends on the Common Stock, the Corporation shall declare and pay a participating dividend on each share of Series A Preferred Stock in an amount equal to the dividend that would have been payable to a holder of Series A Preferred Stock if their shares of Series A Preferred Stock had been converted into Common Stock on the date of determination of holders of Common Stock entitled to receive such dividends and shall pay such dividends on a *pari passu* basis with the amounts paid to each share of Common Stock.

(B) In the event that a dividend or other distribution provided for in this Article IV, Paragraph C, Section 1 shall be payable in property other than cash, its value will be deemed its fair market value as determined in good faith by the Board of Directors and in a manner consistent with such determination made with respect to a dividend or other distribution on the Common Stock.

SECTION 2. Liquidation Proceeds.

(A) In any liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary, the entire assets and funds of the Corporation legally available for distribution shall be distributed ratably among the holders of the Common Stock and Series A Preferred Stock pro rata and on a *pari passu* basis provided that the holders of the Series A Preferred Stock will be deemed to hold that number of shares of Common Stock into which such shares of Series A Preferred Stock are then convertible.

(B) In the event of a liquidation, dissolution or winding-up of the Corporation, if the consideration received by the Corporation is other than cash, its value will be deemed its fair market value as determined in good faith by the Board of Directors and in a manner consistent with such determination made with respect to a distribution of assets upon any liquidation, dissolution or winding-up of the Corporation to the holders of Common Stock.

SECTION 3. Voting Rights. Except as otherwise expressly provided in the Amended and Restated Certificate of Incorporation, or as required by law, the shares of Series A Preferred Stock outstanding together shall (A) be entitled to a number of votes equal to 38.28% of the total number of votes entitled to be cast by holders of Common Stock and Preferred Stock voting together, (B) be entitled to vote on all matters on which the holders of Common Stock shall be entitled to vote, in the same manner and with the same effect as the holders of Common Stock, (C) vote together with the Common Stock as a single class, including with respect to election of directors, and (D) be entitled to receive the same prior notice of any stockholders' meeting as provided to the holders of Common Stock in accordance with the Bylaws of the Corporation.

SECTION 4. Other Distributions. In the event the Corporation shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by the Corporation or other persons or assets (excluding cash dividends), then, in each such case the holders of a share of Series A Preferred Stock shall be entitled to a proportionate share of any such distribution as though they were the holders of that number of shares of Common Stock into which their shares of Series A Preferred Stock are then convertible.

SECTION 5. Conversion. The holders of shares of Series A Preferred Stock shall have the following conversion rights (the "Conversion Rights"):

(A) Right To Convert.

(I) Conversion Ratio. Each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, only in connection with the exercise of its rights to contribute shares of Common Stock pursuant to Section 8.3 of that certain Stockholders' Agreement dated July 28, 2011, as amended, and without the payment of any additional consideration by the holder thereof, after the date of issuance of such share, at the office of the Corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Series A Original Issue Price then in effect on the date the certificate is surrendered for conversion by the Conversion Price (as defined below) then in effect on the date the certificate is surrendered for conversion. The "Original Issue Price" per share of Series A Preferred Stock shall be $1.41. The "Conversion Price" per share of Series A Preferred Stock shall initially be $0.2014. The Conversion Price shall be subject to adjustment as hereinafter provided.

(B) Mechanics of Conversion.

(I) Before any holder of Series A Preferred Stock shall be entitled voluntarily to convert the same into shares of Common Stock, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for such stock, and shall give written notice to the Corporation at such office of election to convert the same and shall state therein the number of shares to be converted and the name or names in which the certificate or certificates for shares of Common Stock are to be issued. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Series A Preferred Stock, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of surrender of the shares of Series A Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date.

(II) Adjustments to Conversion Prices for Stock Splits and Subdivisions of Common Stock. In the event that the Corporation at any time or from time to time after the Series A Original Issue Date shall effect a subdivision of the outstanding shares of Common Stock into a greater number of shares of Common Stock (by stock split, reclassification or otherwise than by payment of a dividend in Common Stock or in any right to acquire Common Stock), then the applicable Conversion Price in effect immediately prior to such event shall, concurrently with the

effectiveness of such event, be proportionately decreased so that the number of shares of Common Stock issuable on conversion of each share of Series A Preferred Stock shall be increased in proportion to the increase in the aggregate number of shares of Common Stock outstanding.

(III) Adjustments to Conversion Prices for Reverse Stock Splits and Combinations of Common Stock. In the event that the Corporation at any time or from time to time after the applicable Original Issue Date shall combine or consolidate, by reclassification or otherwise, its outstanding shares of Common Stock into a lesser number of shares of Common Stock, then the applicable Conversion Price in effect immediately prior to such event shall, concurrently with the effectiveness of such event, be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to the decrease in the aggregate number of shares of Common Stock outstanding.

(IV) Adjustments for Reclassification and Reorganization. If the Common Stock issuable upon conversion of the Series A Preferred Stock shall be changed into the same or a different number of shares of any other class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for in Section 5(B)(II) or Section 5(B)(III) above or a liquidation, dissolution or winding up referred to in Section 2 above), the applicable Conversion Price then in effect shall, concurrently with the effectiveness of such reorganization or reclassification, be proportionately adjusted so that the Series A Preferred Stock shall be convertible into, in lieu of the number of shares of Common Stock which the holders would otherwise have been entitled to receive, a number of shares of such other class or classes of stock equivalent to the number of shares of Common Stock that would have been subject to receipt by the holders upon conversion of the Series A Preferred Stock immediately before that change.

(V) Other Distributions. In the event the Corporation shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by the Corporation or other persons or assets (excluding cash dividends), then, in each such case for the purpose of this Section 5(B)(V), the holders of the Series A Preferred Stock shall be entitled to a proportionate share of any such distribution as though they were the holders of the number of shares of Common Stock of the Corporation into which their shares of Series A Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of the Corporation entitled to receive such distribution.

(VI) Certificates as to Adjustments. Upon the occurrence of each adjustment or readjustment of the applicable Conversion Price pursuant to this Section 5(B)(VI), the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Series A Preferred Stock a certificate executed by the Corporation' s Chief Executive Officer or Chief Financial Officer setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Series A Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the new Conversion Price, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of the Series A Preferred Stock.

(VII) Notices of Record Date. In the event of any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any other right, the Corporation shall mail to each holder of Series A Preferred Stock, at least twenty (20) days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend, distribution or right, and the amount and character of such dividend, distribution or right.

(C) Issue Taxes. The Corporation shall pay any and all issue and other taxes that may be payable in respect of any issue or delivery of shares of Common Stock on conversion of Series A Preferred Stock pursuant hereto; provided, however, that the Corporation shall not be obligated to pay any transfer taxes resulting from any transfer requested by any holder in connection with any such conversion.

(D) Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series A Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series A Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Series A Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to the Amended and Restated Certificate of Incorporation.

(E) Fractional Shares. No fractional share shall be issued upon the conversion of any share or shares of Series A Preferred Stock. All shares of Common Stock (including fractions thereof) issuable upon conversion of more than one share of Series A Preferred Stock by a holder thereof shall be aggregated for purposes of determining whether the conversion would result in the issuance of any fractional share. If, after the aforementioned aggregation, the conversion would result in the issuance of a fraction of a shares of Common Stock, the Corporation shall, in lieu of issuing any fractional share, pay the holder otherwise entitled to such fraction a sum in cash equal to the fair market value of such fraction on the date of conversion (as determined in good faith by the Board of Directors). In case the number of shares of Series A Preferred Stock represented by the certificate or certificates surrendered pursuant to Section 5(B)(I) above exceeds the number of shares to be converted, the Corporation shall, upon such conversion, execute and deliver to the holder, at the expense of the Corporation, a new certificate or certificates for the number of shares of Series A Preferred Stock represented by the certificate or certificates surrendered which are not to be converted.

(F) Effect of Conversion. All shares of Series A Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate at the time of conversion, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor and to receive payment of any dividends declared but unpaid thereon.

(G) Notices. Any notice required by the provisions of this Section 5(G) to be given to the holders of shares of Series A Preferred Stock shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at his, her or its address appearing on the books of the Corporation, which notice upon any adjustment of the Conversion Price, shall state the Conversion Price resulting from such adjustment and setting forth in reasonable detail the method upon which such calculation is based.

SECTION 6. No Reissuance of Preferred Stock. No share or shares of Series A Preferred Stock acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be reissued, and all such shares shall be canceled, retired and eliminated from the shares which the Corporation shall be authorized to issue.

SECTION 7. Replacement Certificates. The Corporation shall replace any mutilated certificate at the holder' s expense upon surrender of that certificate to the Corporation. The Corporation shall replace certificates that become destroyed, stolen or lost at the holder' s expense upon delivery to the Corporation of reasonably satisfactory evidence that the certificate has been destroyed, stolen or lost, together with any indemnity that may be reasonably required by the Corporation.

SECTION 8. Waiver. Any of the rights, powers, preferences or other terms of the Series A Preferred Stock set forth herein may be waived on behalf of all holders of Series A Preferred Stock by the affirmative vote or written consent of the holders of greater than 50% of the shares of Series A Preferred Stock then outstanding.

SECTION 9. Transfer Books. The Corporation will at no time close its transfer books against the transfer of any Series A Preferred Stock or of any shares of Common Stock issued or issuable upon the conversion of any shares of Series A Preferred Stock in any manner which interferes with the timely conversion of such Series A Preferred Stock, except as may otherwise be required to comply with applicable securities laws.

SECTION 10. Amendment. The Amended and Restated Certificate of Incorporation may only be amended with the prior written consent of the holders of at least a majority of the then outstanding shares of Series A Preferred Stock and, in the event that any such amendment materially adversely affects a holder of Series A Preferred Stock in a manner disproportionate to the other holders of Series A Preferred Stock, without the prior written consent of such holder. The Corporation may take any action herein prohibited, or omit to perform any act herein required to be performed by it, only if the Corporation shall have obtained the written consent to such action or omission to act, of the holders of at least a majority of the then outstanding shares of Series A Preferred Stock and, in the event that any such action or omission to act materially adversely affects a holder of Series A Preferred Stock in a manner disproportionate to the other holders of Series A Preferred Stock, without the prior written consent of such holder.

D. The powers, preferences, rights, restrictions, and other matters relating to the Series B Junior Participating Preferred Stock, are as follows:

SECTION 1. Designation and Amount. Three hundred thousand (300,000) shares of Preferred Stock, $.01 par value, are designated "Series B Junior Participating Preferred Stock" with the designations and the powers, preferences and rights, and the qualifications, limitations and restrictions specified herein (the "Junior Preferred Stock"). Such number of shares may be increased or decreased by resolution of the Board of Directors; provided, that no decrease shall reduce the number of shares of Junior Preferred Stock to a number less than the number of shares then outstanding plus the number of shares reserved for issuance upon the exercise of outstanding options, rights or warrants or upon the conversion of any outstanding securities issued by the Company convertible into Junior Preferred Stock.

SECTION 2. Dividends and Distributions.

(A) Subject to the rights of the holders of any shares of any series of Preferred Stock (or any similar stock) ranking prior and superior to the Junior Preferred Stock with respect to dividends, the holders of shares of Junior Preferred Stock, in preference to the holders of Common Stock, par value $.01 per share (the "Common Stock"), of the Company, and of any other junior stock, shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for the purpose, quarterly dividends payable in cash on the first day of April, July, October and January in each year (each such date being referred to herein as a "Quarterly Dividend Payment Date"), commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Junior Preferred Stock, in an amount per share (rounded to the nearest cent) equal to the greater of (a) $1.00 or (b) subject to the provision for adjustment hereinafter set forth, 100 times the aggregate per share amount of all cash dividends, and 100 times the aggregate per share amount (payable in kind) of all non-cash dividends or other distributions, other than a dividend payable in shares of Common Stock or a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise), declared on the Common Stock since the immediately preceding Quarterly Dividend Payment Date or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Junior Preferred Stock. In the event the Company shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the amount to which holders of shares of Junior Preferred Stock were entitled immediately before such event under clause (b) of the preceding sentence shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately before such event.

(B) The Company shall declare a dividend or distribution on the Junior Preferred Stock as provided in paragraph (A) of this Section immediately after it declares a dividend or distribution on the Common Stock (other than a dividend payable in shares of Common Stock); provided, that in the event no dividend or distribution shall have been declared on the Common Stock during the period between any Quarterly Dividend Payment Date and the next subsequent Quarterly Dividend Payment Date, a dividend of $1.00 per share on the Junior Preferred Stock shall nevertheless be payable on such subsequent Quarterly Dividend Payment Date.

(C) Dividends shall begin to accrue and be cumulative on outstanding shares of Junior Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issue of such shares, unless the date of issue of such shares is before the record date for the first Quarterly Dividend Payment Date, in which case dividends on such shares shall begin to accrue from the date of issue of such shares, or unless the date of issue is a Quarterly Dividend Payment Date or is a date after the record date for the determination of holders of shares of Junior Preferred Stock entitled to receive a quarterly dividend and before such Quarterly Dividend Payment Date, in either of which events such dividends shall begin to accrue and be cumulative from such Quarterly Dividend Payment Date. Accrued but unpaid dividends shall not bear interest. Dividends paid on the shares of Junior Preferred Stock in an amount less than the total amount of such dividends at the time accrued

and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix a record date for the determination of holders of shares of Junior Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall be not more than 60 days before the date fixed for the payment thereof.

SECTION 3. Voting Rights. The holders of shares of Junior Preferred Stock shall have the following voting rights:

(A) Subject to the provision for adjustment hereinafter set forth, each share of Junior Preferred Stock shall entitle the holder thereof to 100 votes on all matters submitted to a vote of the stockholders of the Company. In the event the Company shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the number of votes per share to which holders of shares of Junior Preferred Stock were entitled immediately before such event shall be adjusted by multiplying such number by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately before such event.

(B) Except as otherwise provided herein, in any other Certificate of Designation creating a series of Preferred Stock or any similar stock, or by law, the holders of shares of Junior Preferred Stock and the holders of shares of Common Stock and any other capital stock of the Company having general voting rights shall vote together as one class on all matters submitted to a vote of stockholders of the Company.

(C) Except as set forth herein, or as otherwise provided by law, holders of Junior Preferred Stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote with holders of Common Stock as set forth herein) for taking any corporate action.

SECTION 4. Certain Restrictions.

(A) Whenever quarterly dividends or other dividends or distributions payable on the Junior Preferred Stock as provided in Section 2 are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on shares of Junior Preferred Stock outstanding shall have been paid in full, the Company shall not:

(I) declare or pay dividends, or make any other distributions, on any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Junior Preferred Stock;

(II) declare or pay dividends, or make any other distributions, on any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Junior Preferred Stock, except dividends paid ratably on the Junior Preferred Stock and all such parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled;

(III) redeem or purchase or otherwise acquire for consideration shares of any stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Junior Preferred Stock, provided that the Company may at any time redeem, purchase or otherwise acquire shares of any such junior stock in exchange for shares of any stock of the Company ranking junior (either as to dividends or upon dissolution, liquidation or winding up) to the Junior Preferred Stock; or

(IV) purchase or otherwise acquire for consideration any shares of Junior Preferred Stock, or redeem or purchase or otherwise acquire any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Junior Preferred Stock, except in accordance with a redemption/purchase offer/acquisition offer made in writing or by publication (as determined by the Board of Directors) to all holders of such shares upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

(B) The Company shall not permit any subsidiary of the Company to purchase or otherwise acquire for consideration any shares of stock of the Company unless the Company could, under paragraph (A) of this Section 4, purchase or otherwise acquire such shares at such time and in such manner.

SECTION 5. Reacquired Shares. Any shares of Junior Preferred Stock purchased or otherwise acquired by the Company in any manner whatsoever shall be retired and cancelled promptly after the acquisition thereof. All such shares shall upon their cancellation become authorized but unissued shares of Preferred Stock and may be reissued as part of a new series of Preferred Stock subject to the conditions and restrictions on issuance set forth herein, in the Amended and Restated Certificate of Incorporation, or in any other Certificate of Designation creating a series of Preferred Stock or any similar stock or as otherwise required by law.

SECTION 6. Liquidation, Dissolution or Winding Up. Upon any liquidation, dissolution or winding up of the Company, no distribution shall be made (A) to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Junior Preferred Stock unless, prior thereto, the holders of shares of Junior Preferred Stock shall have received the greater of (1) $100 per share, plus an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment, or (2) an amount, subject to the provision for adjustment hereinafter set forth, equal to 100 times the aggregate amount to be distributed per share to holders of shares of Common Stock, or (B) to the holders of shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Junior Preferred Stock, except distributions made ratably on the Junior Preferred Stock and all such parity stock in proportion to the total amounts to which the holders of all such shares are entitled upon such liquidation, dissolution or winding up. In the event the Company shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the aggregate amount to which holders of shares of Junior Preferred Stock were entitled immediately before such event under clause (A)(2) of the preceding sentence shall be adjusted by multiplying such amount by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately before such event.

SECTION 7. Consolidation, Merger, etc. In case the Company shall enter into any consolidation, merger, combination or other transaction in which generally the shares of Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such case each share of Junior Preferred Stock shall at the same time be similarly exchanged or changed into an amount per share, subject to the provision for adjustment hereinafter set forth, equal to 100 times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of Common Stock is changed or exchanged. In the event the Company shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the amount set forth in the preceding sentence with respect to the exchange or change of shares of Junior Preferred Stock shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately before such event.

If the Company has outstanding, under any stockholder rights plan or rights agreement containing "flip-over" provisions, any rights, then the Company shall have no authority to enter into any transaction of a kind which would implicate or trigger the "flip-over" provisions of such stockholder rights plan or rights agreement, unless the other party to such transaction (and/or, to the extent such "flip-over" provisions would apply to a parent of such other party, such parent) has expressly undertaken, for the benefit of the holders of such rights who would be entitled to exercise such "flip-over" rights, all obligations and duties which the "flip-over" provisions of such stockholder rights plan or rights agreement would purport to impose on such a party to such a transaction (and/or, if applicable, on such a parent), as if such party (and/or parent) had been an original contractual party to such stockholder rights plan or rights agreement.

SECTION 8. No Redemption. The shares of Junior Preferred Stock shall not be redeemable.

SECTION 9. Rank. The Junior Preferred Stock shall rank, with respect to the payment of dividends and the distribution of assets, junior to all series of the Company' s Preferred Stock.

SECTION 10. Amendment. The Amended and Restated Certificate of Incorporation of the Company shall not be amended in any manner which would materially alter or change the powers, preferences or special rights of the Junior Preferred Stock so as to affect them adversely without the affirmative vote of the holders of at least two-thirds of the outstanding shares of Junior Preferred Stock, voting together as a single class.

ARTICLE V.

For the management of the business and for the conduct of the affairs of the corporation, and in further definition, limitation and regulation of the powers of the corporation, of its directors and of its stockholders or any class thereof, as the case may be, it is further provided that:

A.

SECTION 1. The management of the business and the conduct of the affairs of the corporation shall be vested in its Board of Directors. The number of Directors which shall constitute the whole Board of Directors shall be fixed exclusively by one or more resolutions adopted by the Board of Directors.

SECTION 2. Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, the directors shall be elected by the stockholders at each annual meeting of stockholders (or any adjournment or continuation thereof) at which a quorum is present, to hold office until the next annual meeting of stockholders, but shall continue to serve despite the expiration of the director' s term until their respective successors are duly elected and qualified. Each director shall serve until his successor is duly elected and qualified or until his death, resignation or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

B.

SECTION 1. Subject to paragraph (h) of Section 42 of the Bylaws, the Bylaws may be altered or amended or new Bylaws adopted by the affirmative vote of the holders of a majority of the voting power of all the then-outstanding shares of voting stock of the corporation, entitled to vote at an election of directors. The Board of Directors shall also have the power to adopt, amend, or repeal Bylaws.

SECTION 2. The directors of the corporation need not be elected by written ballot unless the Bylaws so provide.

ARTICLE VI.

A. A director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for any breach of fiduciary duty as a director, except for liability (i) for any breach of the director' s duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit. If the Delaware General Corporation Law is amended after approval by the stockholders of this Article to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director shall be eliminated or limited to the fullest extent permitted by the Delaware General corporation Law, as so amended.

B. Any repeal or modification of this Article VI shall be prospective and shall not affect the rights under this Article VI in effect at the time of the alleged occurrence of any act or omission to act giving rise to liability or indemnification.

ARTICLE VII.

The corporation reserves the right to amend, alter, change or repeal any provision contained in this Amended and Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon the stockholders herein are granted subject to this reservation.

ARTICLE VIII.

SECTION 1. Definitions. As used in this Article VIII, the following capitalized terms have the following meanings when used herein with initial capital letters (and any references to any portions of Treasury Regulation § 1.382-2T shall include any successor provisions):

"5% Transaction" means any Transfer described in clause (a) or (b) of Section 2.

"Agent" has the meaning set forth in Section 6.

"Code" means the Internal Revenue Code of 1986, as amended.

"Corporation Securities" means (i) shares of Common Stock, (ii) shares of Preferred Stock (other than preferred stock described in Section 1504(a)(4) of the Code), (iii) warrants, rights, or options (including options within the meaning of Treasury Regulation § 1.382-2T(h)(4)(v)) to purchase Securities of the Corporation, and (iv) any Stock.

"Excess Securities" has the meaning given such term in Section 5.

"Expiration Date" means the beginning of the taxable year of the Corporation to which the Board of Directors determines that no Tax Benefits may be carried forward.

"Five-Percent Stockholder" means a Person or group of Persons that is (or assuming the exercise of any convertible securities, will be) a "5-percent stockholder" of the Corporation pursuant to Treasury Regulation § 1.382-2T(g).

"Percentage Stock Ownership" means the percentage Stock Ownership interest of any Person or group (as the context may require) for purposes of Section 382 of the Code as determined in accordance with Treasury Regulation § 1.382-2T(g), (h), (j) and (k) or any successor provision.

"Person" means any individual, firm, corporation or other legal entity, and includes any successor (by merger or otherwise) of such entity.

"Prohibited Distribution" has the meaning given such term in Section 6.

"Prohibited Transfer" means any purported Transfer of Corporation Securities to the extent that such Transfer is prohibited and/or void under this Article VIII.

"Public Group" has the meaning set forth in Treasury Regulation § 1.382-2T(f)(13).

"Purported Transferee" has the meaning set forth in Section 5.

"Securities" and "Security" each has the meaning set forth in Section 8.

"Stock" means any interest that would be treated as "stock" of the Corporation pursuant to Treasury Regulation § 1.382-2T(f)(18).

"Stock Ownership" means any direct or indirect ownership of Stock, including any ownership by virtue of application of constructive ownership rules, with such direct, indirect, and constructive ownership determined under the provisions of Code Section 382 and the regulations thereunder.

"Tax Benefit" means the net operating loss carryovers, capital loss carryovers, general business credit carryovers, alternative minimum tax credit carryovers and foreign tax credit carryovers, as well as any loss or deduction attributable to a "net unrealized built-in loss" within the meaning of Code Section 382, of the Corporation or any direct or indirect subsidiary thereof.

"Transfer" means, any direct or indirect sale, transfer, assignment, conveyance, pledge or other disposition or other action taken by a person that alters the Percentage Stock Ownership of any Person or group. A Transfer also shall include the creation or grant of an option (including an option within the meaning of Treasury Regulation § 1.382-2T(h)(4)(v)).

SECTION 2. Restrictions on Transfers. Any attempted Transfer of Corporation Securities prior to the Expiration Date and any attempted Transfer of Corporation Securities pursuant to an agreement entered into prior to the Expiration Date, shall be prohibited and void *ab initio* (a) if the transferor is a Five-Percent Stockholder or (b) to the extent that, as a result of such Transfer (or any series of Transfers of which such Transfer is a part), either (1) any Person or group of Persons would become a Five-Percent Stockholder or (2) the Percentage Stock Ownership in the Corporation of any Five-Percent Stockholder would be increased.

SECTION 3. Exceptions. The restrictions set forth in Section 2 shall not apply to an attempted Transfer that is a 5% Transaction if the transferor or the transferee obtains the prior written approval of the Board of Directors. As a condition to granting its approval pursuant to Section 3, the Board of Directors may, in its discretion, require (at the expense of the transferor and/or transferee) an opinion of counsel selected by the Board of Directors that the Transfer shall not result in the application of any Section 382 limitation on the use of the Tax Benefits. The Board of Directors may impose any conditions that it deems reasonable and appropriate in connection with such approval, including, without limitation, restrictions on the ability of any transferee to Transfer Corporation Securities acquired through a Transfer. The Board of Directors may exercise the authority granted by this Article VIII through duly authorized officers or agents of the Corporation. Approvals of the Board of Directors hereunder may be given prospectively or retroactively. Nothing in this Section 3 shall be construed to limit or restrict the Board of Directors in the exercise of its fiduciary duties under applicable law.

SECTION 4. Legend. Each certificate or book-entry, and any notice of issuance provided to stockholders, representing shares of Common Stock issued by the Corporation shall conspicuously include the following legend:

"THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION, AS AMENDED (THE "CERTIFICATE OF INCORPORATION") OF THE CORPORATION CONTAINS RESTRICTIONS PROHIBITING THE TRANSFER (AS DEFINED IN THE CORPORATION' S CERTIFICATE OF INCORPORATION) OF ANY STOCK OF THE CORPORATION (INCLUDING THE CREATION OR GRANT OF CERTAIN OPTIONS) WITHOUT THE PRIOR AUTHORIZATION OF THE BOARD OF DIRECTORS OF THE CORPORATION (THE "BOARD OF DIRECTORS") IF SUCH TRANSFER AFFECTS THE PERCENTAGE OF STOCK OF THE CORPORATION (WITHIN THE MEANING OF SECTION 382 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE") AND THE TREASURY REGULATIONS PROMULGATED THEREUNDER), THAT IS

TREATED AS OWNED BY A FIVE PERCENT STOCKHOLDER UNDER THE CODE AND SUCH REGULATIONS. IF THE TRANSFER RESTRICTIONS ARE VIOLATED, THEN THE TRANSFER WILL BE VOID *AB INITIO* AND THE PURPORTED TRANSFEREE OF THE STOCK WILL BE REQUIRED TO TRANSFER EXCESS SECURITIES (AS DEFINED IN THE CERTIFICATE OF INCORPORATION) TO THE CORPORATION' S AGENT. IN THE EVENT OF A TRANSFER WHICH DOES NOT INVOLVE SECURITIES OF THE CORPORATION WITHIN THE MEANING OF DELAWARE GENERAL CORPORATION LAW ("SECURITIES") BUT WHICH WOULD VIOLATE THE TRANSFER RESTRICTIONS, THE PURPORTED TRANSFEREE (OR THE RECORD OWNER) OF THE SECURITIES WILL BE REQUIRED TO TRANSFER SUFFICIENT SECURITIES PURSUANT TO THE TERMS PROVIDED FOR IN THE CORPORATION' S CERTIFICATE OF INCORPORATION TO CAUSE THE FIVE PERCENT STOCKHOLDER TO NO LONGER BE IN VIOLATION OF THE TRANSFER RESTRICTIONS. THE CORPORATION WILL FURNISH WITHOUT CHARGE TO THE HOLDER OF RECORD OF THIS CERTIFICATE A COPY OF THE CERTIFICATE OF INCORPORATION, CONTAINING THE ABOVE-REFERENCED TRANSFER RESTRICTIONS, UPON WRITTEN REQUEST TO THE CORPORATION AT ITS PRINCIPAL PLACE OF BUSINESS."

The Board of Directors may also require that any certificates issued by the Corporation representing shares of Common Stock issued by the Corporation that are subject to conditions imposed by the Board of Directors under Section 3 of this Article VIII also bear a conspicuous legend referencing the applicable restrictions.

SECTION 5. Excess Securities.

(a) No employee or agent of the Corporation shall record any Prohibited Transfer, and the purported transferee of such a Prohibited Transfer (the "Purported Transferee") shall not be recognized as a stockholder of the Corporation for any purpose whatsoever in respect of the Corporation Securities which are the subject of the Prohibited Transfer (the "Excess Securities"). Until the Excess Securities are acquired by another person in a Transfer that is not a Prohibited Transfer, the Purported Transferee shall not be entitled with respect to such Excess Securities to any rights of stockholders of the Corporation, including, without limitation, the right to vote such Excess Securities and to receive dividends or distributions, whether liquidating or otherwise, in respect thereof, if any, and the Excess Securities shall be deemed to remain with the transferor unless and until the Excess Securities are transferred to the Agent pursuant to Section 6 of this Article VIII or until an approval is obtained under Section 3 of this Article VIII. After the Excess Securities have been acquired in a Transfer that is not a Prohibited Transfer, the Corporation Securities shall cease to be Excess Securities. For this purpose, any Transfer of Excess Securities not in accordance with the provisions of this Section 5 or Section 6 shall also be a Prohibited Transfer.

(b) The Corporation may require as a condition to the registration of the Transfer of any Corporation Securities or the payment of any distribution on any Corporation Securities that the proposed transferee or payee furnish to the Corporation all information reasonably requested by the Corporation with respect to all the direct or indirect ownership interests in such Corporation Securities. The Corporation may make such arrangements or issue such instructions to its stock transfer agent as may be determined by the Board of Directors to be necessary or advisable to implement this Article VIII, including, without limitation, authorizing such transfer agent to require an affidavit from a Purported Transferee regarding such Person' s actual and constructive ownership of stock and other evidence that a Transfer will not be prohibited by this Article VIII as a condition to registering any transfer.

SECTION 6. Transfer to Agent. If the Board of Directors determines that a Transfer of Corporation Securities constitutes a Prohibited Transfer then, upon written demand by the Corporation sent within 30 days of the date on which the Board of Directors determines that the attempted Transfer would result in Excess Securities, the Purported Transferee shall transfer or cause to be transferred any certificate or other evidence of ownership of the Excess Securities within the Purported Transferee' s possession or control, together with any dividends or other distributions that were received by the Purported Transferee from the Corporation with respect to the Excess Securities ("Prohibited Distributions"), to an agent designated by the Board of Directors (the "Agent"). The Agent shall thereupon sell to a buyer or buyers, which may include the Corporation, the Excess Securities transferred to it in one or more arm' s-length transactions (on the public securities market on which such Excess Securities are traded, if possible, or otherwise privately); *provided, however*, that any such sale must not constitute a Prohibited Transfer and *provided, further,* that the Agent shall effect such sale or sales in an orderly fashion and shall not be required to effect any such sale within any specific time frame if, in the Agent' s discretion, such sale or sales would disrupt the market for the Corporation Securities or otherwise would adversely affect the value of the Corporation Securities. If the Purported Transferee has resold the Excess Securities before receiving the Corporation' s demand to surrender Excess Securities to the Agent, the Purported Transferee shall be deemed to have sold the Excess Securities for the Agent, and shall be required to transfer to the Agent any Prohibited Distributions and proceeds of such sale, except to the extent that the Corporation grants written permission to the Purported Transferee to retain a portion of such sales proceeds not exceeding the amount that the Purported Transferee would have received from the Agent pursuant to Section 7 if the Agent rather than the Purported Transferee had resold the Excess Securities.

SECTION 7. Application of Proceeds and Prohibited Distributions. The Agent shall apply any proceeds of a sale by it of Excess Securities and, if the Purported Transferee has previously resold the Excess Securities, any amounts received by it from a Purported Transferee, together, in either case, with any Prohibited Distributions, as follows: (a) first, such amounts shall be paid to the Agent to the extent necessary to cover its costs and expenses incurred in connection with its duties hereunder; (b) second, any remaining amounts shall be paid to the Purported Transferee, up to the amount paid by the Purported Transferee for the Excess Securities (or the fair market value at the time of the Transfer, in the event the purported Transfer of the Excess Securities was, in whole or in part, a gift, inheritance or similar Transfer) which amount shall be determined at the discretion of the Board of Directors; and (c) third, any remaining amounts shall be paid to one or more organizations qualifying under Section 501(c)(3) of the Code (or any comparable successor provision) selected by the Board of Directors. The Purported Transferee of Excess Securities shall have no claim, cause of action or any other recourse whatsoever against any transferor of Excess Securities. The Purported Transferee' s sole right with respect to such shares shall be limited to the amount payable to the Purported Transferee pursuant to this Section 7. In no event shall the proceeds of any sale of Excess Securities pursuant to this Section 7 inure to the benefit of the Corporation or the Agent, except to the extent used to cover costs and expenses incurred by the Agent in performing its duties hereunder.

SECTION 8. Modification of Remedies for Certain Indirect Transfers. In the event of any Transfer which does not involve a transfer of securities of the Corporation within the meaning of Delaware General Corporation Law ("Securities," and individually, a "Security") but which would

cause a Five-Percent Stockholder to violate a restriction on Transfers provided for in this Article VIII, the application of Section 6 and Section 7 shall be modified as described in this Section 8. In such case, no such Five-Percent Stockholder shall be required to dispose of any interest that is not a Security, but such Five-Percent Stockholder and/or any Person whose ownership of Securities is attributed to such Five-Percent Stockholder shall be deemed to have disposed of and shall be required to dispose of sufficient Securities (which Securities shall be disposed of in the inverse order in which they were acquired) to cause such Five-Percent Stockholder, following such disposition, not to be in violation of this Article VIII. Such disposition shall be deemed to occur simultaneously with the Transfer giving rise to the application of this provision, and such number of Securities that are deemed to be disposed of shall be considered Excess Securities and shall be disposed of through the Agent as provided in Section 6 and Section 7, except that the maximum aggregate amount payable either to such Five-Percent Stockholder or to such other Person that was the direct holder of such Excess Securities, in connection with such sale shall be the fair market value of such Excess Securities at the time of the purported Transfer. All expenses incurred by the Agent in disposing of such Excess Stock shall be paid out of any amounts due such Five-Percent Stockholder or such other Person. The purpose of this Section 8 is to extend the restrictions in Section 2 and Section 6 to situations in which there is a 5% Transaction without a direct Transfer of Securities, and this Section 8, along with the other provisions of this Article VIII, shall be interpreted to produce the same results, with differences as the context requires, as a direct Transfer of Corporation Securities.

SECTION 9. Legal Proceedings. If the Purported Transferee fails to surrender the Excess Securities or the proceeds of a sale thereof to the Agent within 30 days from the date on which the Corporation makes a written demand pursuant to Section 6 (whether or not made within the time specified in Section 6), then the Corporation shall use reasonable best efforts to take all actions necessary to enforce the provisions hereof, and/or enjoin or rescind any violation hereof, including the institution of legal proceedings to compel the surrender. Nothing in this Section 9 shall (a) be deemed inconsistent with any Transfer of the Excess Securities provided in this Article VIII being void *ab initio*, (b) preclude the Corporation in its discretion from immediately bringing legal proceedings without a prior demand or (c) cause any failure of the Corporation to act within the time periods set forth in Section 6 to constitute a waiver or loss of any right of the Corporation under this Article VIII.

SECTION 10. Damages. Any stockholder subject to the provisions of this Article VIII who knowingly violates the provisions of this Article VIII and any Persons controlling, controlled by or under common control with such stockholder shall be jointly and severally liable to the Corporation for, and shall indemnify and hold the Corporation harmless against, any and all damages suffered as a result of such violation, including but not limited to damages resulting from a reduction in, or elimination of, the Corporation' s ability to utilize its Tax Benefits, and attorneys' and auditors' fees incurred in connection with such violation.

SECTION 11. Board Authority.

(a) The Board of Directors of the Corporation shall have the power to determine all matters necessary for assessing compliance with this Article VIII, including, without limitation, (i) the identification of Five-Percent Stockholders, (ii) whether a Transfer is a 5% Transaction or a Prohibited Transfer, (iii) the Percentage Stock Ownership in the Corporation of any Five-Percent Stockholder, (iv) whether an instrument constitutes a Corporation Security, (v) the amount (or fair market value) due to a Purported Transferee pursuant to Section 7, and (vi) any other matters which

the Board of Directors determines to be relevant; and the good faith determination of the Board of Directors on such matters shall be conclusive and binding for all the purposes of this Article VIII. In addition, the Board of Directors may, to the extent permitted by law, from time to time establish, modify, amend or rescind by-laws, regulations and procedures of the Corporation not inconsistent with the provisions of this Article VIII for purposes of determining whether any Transfer of Corporation Securities would jeopardize the Corporation' s ability to preserve and use the Tax Benefits and for the orderly application, administration and implementation of this Article VIII.

(b) Nothing contained in this Article VIII shall limit the authority of the Board of Directors to take such other action to the extent permitted by law as it deems necessary or advisable to protect the Corporation and its stockholders in preserving the Tax Benefits. Without limiting the generality of the foregoing, in the event of a change in law making one or more of the following actions necessary or desirable, the Board of Directors may, by adopting a written resolution, (i) accelerate or extend the Expiration Date, (ii) modify the ownership interest percentage in the Corporation or the Persons or groups covered by this Article VIII, (iii) modify the definitions of any terms set forth in this Article VIII or (iv) modify the terms of this Article VIII as appropriate to prevent an ownership change for purposes of Section 382 of the Code as a result of any changes in applicable Treasury Regulations or otherwise; *provided, however*, that the Board of Directors shall not cause there to be such acceleration, extension, change or modification unless it determines, by adopting a written resolution, that such action is reasonably necessary or advisable to preserve the Tax Benefits or that the continuation of these restrictions is no longer reasonably necessary for the preservation of the Tax Benefits, and its conclusion is based upon a written opinion of tax counsel to the Corporation. Such written resolution of the Board of Directors shall be filed with the Secretary of the Corporation. Stockholders of the Corporation shall be notified of such determination through a filing with the Securities and Exchange Commission or such other method of notice as the Secretary of the corporation shall deem appropriate.

(c) In the case of an ambiguity in the application of any of the provisions of this Article VIII, including any definition used herein, the Board of Directors shall have the power to determine the application of such provisions with respect to any situation based on its reasonable belief, understanding or knowledge of the circumstances. In the event this Article VIII requires an action by the Board of Directors but fails to provide specific guidance with respect to such action, the Board of Directors shall have the power to determine the action to be taken so long as such action is not contrary to the provisions of this Article VIII. All such actions, calculations, interpretations and determinations which are done or made by the Board of Directors in good faith shall be conclusive and binding on the Corporation, the Agent, and all other parties for all other purposes of this Article VIII. The Board of Directors to the fullest extent permitted by law, may exercise the authority granted by this Article VIII through duly authorized officers or agents of the Corporation. Nothing in this Article VIII shall be construed to limit or restrict the Board of Directors in the exercise of its fiduciary duties under applicable law.

SECTION 12. Reliance. The Corporation and the members of the Board of Directors shall be fully protected in relying in good faith upon the information, opinions, reports or statements of the chief executive officer, the chief financial officer or the chief accounting officer of the Corporation or of the Corporation' s legal counsel, independent auditors, transfer agent, investment bankers or other employees and agents in making the determinations and findings contemplated by this Article VIII, and the members of the Board of Directors shall not be responsible for any good faith errors made in connection therewith. For purposes of determining the existence and identity of, and the amount of any Corporation Securities owned by any stockholder, the Corporation is entitled to rely conclusively on (a) the existence and absence of filings of Schedule 13D or 13G under the Securities and Exchange Act of 1934 (or similar schedules or filings), as of any date and (b) its actual knowledge of the ownership of Corporation Securities.

SECTION 13. Obligation to Provide Information. As a condition to the registration of the Transfer of any Stock, any Person who is a beneficial, legal or record holder of Stock, and any proposed transferee and any Person controlling, controlled by or under common control with the proposed transferee, shall provide such information as the Corporation may request from time to time in order to determine compliance with this Article VIII or the status of the Tax Benefits of the Corporation.

SECTION 14. General Authorization. The purpose of this Article VIII is to facilitate the Corporation' s ability to maintain or preserve its Tax Benefits. If any provision of this Article VIII or any application of any provision thereunder is determined to be invalid, the validity of the remaining provisions shall be unaffected and application of such provision shall be affected only to the extent necessary to comply with such determination.

SECTION 15. Amendment of Transfer Restrictions. Notwithstanding the provisions of Article VII, the Corporation may only amend or repeal any of the provisions set forth in this Article VIII by the affirmative vote of the holders of at least two-thirds of the outstanding shares entitled to vote thereon.

* * *

FOURTH: That the Board of Directors of the Corporation duly adopted resolutions proposing and declaring advisable the foregoing Amended and Restated Certificate of Incorporation and directing that said amendment and restatement be submitted to the stockholders of the Corporation for consideration in accordance with Sections 242 and 245 of the Delaware General Corporation Law

FIFTH: That, thereafter, the Annual Meeting of the Stockholders of the Corporation was dully called and held, upon notice delivered in accordance with Section 222 of the Delaware General Corporation Law, at which meeting the necessary number of shares as required by statute were voted in favor of the foregoing Amended and Restated Certificate of Incorporation.

SIXTH: The foregoing Amended and Restated Certificate of Incorporation has been duly adopted in accordance with the applicable provisions of Sections 242 and 245 of the Delaware General Corporation Law.

[Signature Page Follows]

IN WITNESS WHEREOF, Harbor BioSciences, Inc. has caused this Amended and Restated Certificate of Incorporation to be signed by Robert Weber, its duly authorized Chief Financial Officer and Secretary, this 26th day of October, 2011.

/s/ Robert Weber

Robert Weber
Chief Financial Officer and Secretary

Exhibit 3.2

CERTIFICATE OF AMENDMENT
TO
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
HARBOR BIOSCIENCES, INC.,
a Delaware corporation

HARBOR BIOSCIENCES, INC., a Delaware corporation (the "Corporation") organized and existing under and by virtue of the Delaware General Corporation Law, does hereby certify:

FIRST: That resolutions were duly adopted in accordance with Section 242 of the Delaware General Corporation Law ("DGCL") setting forth the following amendment to the Amended and Restated Certificate of Incorporation of the Corporation (the "Certificate of Incorporation"), declaring said amendment to be advisable and directing said amendment to be submitted to the stockholders of the Corporation. The amendments are as follows:

RESOLVED, that Article IV of the Certificate of Incorporation is hereby amended to add a paragraph B immediately subsequent to the current paragraph A and the current paragraph B shall be relettered to be paragraph C and the current paragraph C shall be relettered to be paragraph D. The newly added paragraph B shall provide in its entirety the following:

"B. Upon the filing and effectiveness (the "Effective Time") pursuant to the Delaware General Corporation Law of an amendment to this Amended and Restated Certificate of Incorporation adding this Paragraph B to Article IV, and without regard to any other provision contained herein, each 1,000 shares of Common Stock either issued and outstanding or held by the Corporation as treasury stock immediately prior to the Effective Time shall automatically and without any action on the part of the respective holders thereof or the Corporation, be reclassified and changed into one (1) fully-paid and nonassessable share of Common Stock without increasing or decreasing the amount of stated capital or paid-in surplus of the Corporation; *provided*, *however*, that no fractional shares shall be issued to any record holder of fewer than 1,000 shares of Common Stock immediately prior to the Effective Time, and the Corporation shall, in lieu of issuing fractional shares to such record stockholders, pay to each such record stockholder a cash payment, without interest, of $0.142 per share of Common Stock held by such record stockholder immediately prior to the Effective Time and such record stockholder shall no longer have any further rights as a stockholder of the Corporation."

SECOND: That thereafter, pursuant to a resolution of the Board of Directors, the Annual Meeting of the Stockholders of the Corporation was duly called and held, upon notice in accordance with Section 222 of the Delaware General Corporation Law, at which meeting the necessary number of shares as required by statute were voted in favor of the foregoing amendment of the Certificate of Incorporation.

THIRD: That said amendment was duly adopted in accordance with the provisions of Section 242 of the Delaware General Corporation Law.

[Signature Page Follows]

IN WITNESS WHEREOF, Harbor BioSciences, Inc. has caused this Certificate of Amendment to the Amended and Restated Certificate of Incorporation of the Corporation to be signed by Robert Weber, its duly authorized Chief Financial Officer and Secretary, this 26th day of October, 2011.

/s/ Robert Weber

Robert Weber
Chief Financial Officer and Secretary

Exhibit 3.3

CERTIFICATE OF AMENDMENT
TO
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
HARBOR BIOSCIENCES, INC.,
a Delaware corporation

HARBOR BIOSCIENCES, INC., a Delaware corporation (the "Corporation") organized and existing under and by virtue of the Delaware General Corporation Law, does hereby certify:

FIRST: That resolutions were duly adopted in accordance with Section 242 of the Delaware General Corporation Law ("DGCL") setting forth the following amendment to the Amended and Restated Certificate of Incorporation of the Corporation (the "Certificate of Incorporation"), declaring said amendment to be advisable and directing said amendment to be submitted to the stockholders of the Corporation. The amendments are as follows:

RESOLVED, that Article IV of the Certificate of Incorporation is hereby amended to add paragraph C immediately subsequent to paragraph B and the current paragraph C shall be relettered to be paragraph D and the current paragraph D shall be relettered to be paragraph E. The newly added paragraph C shall provide in its entirety the following:

"C. Effective immediately following the effectiveness of the amendment to this Amended and Restated Certificate of Incorporation adding paragraph B to Article IV, and without regard to any other provision contained herein, each one (1) share of Common Stock either issued and outstanding or held by the Corporation as treasury stock (and including each fractional share) immediately prior to the time this amendment becomes effective shall automatically and without any action on the part of the respective holders thereof or the Corporation, be reclassified and changed into 1,000 fully-paid and nonassessable shares of Common Stock (or, with respect to such fractional shares and interests, such lesser number of shares or interests as may be applicable based on such 1,000 to 1 ratio), without increasing or decreasing the amount of stated capital or paid-in surplus of the Corporation."

SECOND: That thereafter, pursuant to a resolution of the Board of Directors, the Annual Meeting of the Stockholders of the Corporation was duly called and held, upon notice in accordance with Section 222 of the Delaware General Corporation Law, at which meeting the necessary number of shares as required by statute were voted in favor of the foregoing amendment of the Certificate of Incorporation.

THIRD: That said amendment was duly adopted in accordance with the provisions of Section 242 of the Delaware General Corporation Law.

[Signature Page Follows]

IN WITNESS WHEREOF, Harbor BioSciences, Inc. has caused this Certificate of Amendment to Certificate of Incorporation to be signed by Robert Weber, its duly authorized officer Chief Financial Officer, this 26th day of October, 2011.

/s/ Robert Weber

Robert Weber Chief Financial Officer and Secretary

Exhibit 31.1

Certification

I, James M. Frincke, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Harbor BioSciences, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant' s other certifying officer(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: November 4, 2011

/s/ James M. Frincke

James M. Frincke
Chief Executive Officer and President
(Principal Executive Officer)

Exhibit 31.2

Certification

I, Robert W. Weber, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Harbor BioSciences, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant' s other certifying officer(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: November 4, 2011

/s/ Robert W. Weber

Robert W. Weber
Chief Financial Officer and Secretary
(Principal Financial and Accounting Officer)

Exhibit 32.1

Certification*

Pursuant to the requirement set forth in Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C.§ 1350), James M. Frincke, Chief Executive Officer and President of Harbor BioSciences, Inc., a Delaware corporation (the "Company"), and Robert W. Weber, Chief Financial Officer, Chief Accounting Officer and Vice President-Operations of the Company, each hereby certifies that, to the best of his knowledge:

1. The Company' s Quarterly Report on Form 10-Q for the period ended September 30, 2011, to which this Certification is attached as Exhibit 32.1 (the "***Periodic Report***") fully complies with the requirements of Section 13(a) of the Exchange Act, and

2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition and results of operations of the Company for the period covered by the Periodic Report.

Dated: November 4, 2011

/s/ James M. Frincke

James M. Frincke
Chief Executive Officer and President
(Principal Executive Officer)

Dated: November 4, 2011

/s/ Robert W. Weber

Robert W. Weber
Chief Financial Officer and Secretary
(Principal Financial and Accounting Officer)

* This certification accompanies the Periodic Report to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Harbor BioSciences, Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Periodic Report), irrespective of any general incorporation language contained in such filing.

Balance Sheets (Parenthetical) (USD $) In Thousands, except Per Share data	Sep. 30, 2011	Dec. 31, 2010
Balance Sheets [Abstract]		
Property and equipment, accumulated depreciation	$ 65	$ 273
Preferred stock, par value	$ 0.01	$ 0.01
Preferred stock, shares authorized	10,000	10,000
Preferred stock, shares issued	2,000	0
Preferred stock, shares outstanding	2,000	2,000
Common stock, par value	$ 0.01	$ 0.01
Common stock, shares authorized	100,000	100,000
Common stock, shares, issued	35,525	35,525
Common stock, shares, outstanding	35,466	35,466
Treasury stock, shares	59	59

Statements Of Operations (USD $) In Thousands, except Per Share data	3 Months Ended		9 Months Ended		208 Months Ended
	Sep. 30, 2011	Sep. 30, 2010	Sep. 30, 2011	Sep. 30, 2010	Sep. 30, 2011
Revenue:					
Contract R&D revenue	$ 73	$ 0	$ 146	$ 0	$ 1,354
Total revenue	73	0	146	0	1,354
Operating expenses:					
Research and development	383	934	1,575	3,518	176,588
General and administrative	485	663	1,567	2,094	95,255
Total operating expenses	868	1,597	3,142	5,612	271,843
Other income (expense):					
Gain/(Loss) on disposal of assets	(7)	(49)	15	(55)	(285)
Non-cash amortization of deemed discount and deferred issuance costs on convertible debentures	0	0	0	0	(7,627)
Interest income	0	4	5	13	17,384
Interest expense	0	0	0	0	(388)
Total other income / (expense), net	(7)	(45)	20	(42)	9,084
Net loss	$ (802)	$ (1,642)	$ (2,976)	$ (5,654)	$ (261,405)
Net loss per share-basic and diluted	$ (0.02)	$ (0.05)	$ (0.08)	$ (0.18)	
Weighted average number of common shares outstanding-basic and diluted	35,466	35,459	35,466	31,915	

Document And Entity Information	9 Months Ended Sep. 30, 2011	Nov. 04, 2011
Document And Entity Information [Abstract]		
Document Type	10-Q	
Amendment Flag	false	
Document Period End Date	Sep. 30, 2011	
Document Fiscal Year Focus	2011	
Document Fiscal Period Focus	Q3	
Entity Filer Category	Smaller Reporting Company	
Entity Registrant Name	Harbor BioSciences, Inc.	
Entity Central Index Key	0000899394	
Current Fiscal Year End Date	--12-31	
Entity Common Stock, Shares Outstanding		35,422,140

Equity Transactions

Equity Transactions [Abstract]

Equity Transactions

9 Months Ended Sep. 30, 2011

3. Equity Transactions

On July 28, 2011, the Company sold an aggregate of 2,000,000 shares of its Series A Preferred Stock (the "Preferred Shares") to Amun, LLC, a Delaware limited liability company (the "Investor") pursuant to the terms of a Stock Purchase Agreement (the "Purchase Agreement") and related Stockholders Agreement (the "Stockholders Agreement"). The Preferred Shares represent approximately a 28% of the economic interest in the Company and also entitle the Investor to a number of votes equal to 38.28% of the total number of votes entitled to be cast by holders of all shares of the Company's capital stock (including the Common Stock and Series A Preferred Stock) voting together as single class. Under the terms of these and other related agreements between the Company and the Investor, the Investor placed $2.825 million in cash into an escrow account, which amount is available under certain circumstances to pay certain Company related expenses and to fund the Company's working capital needs. Amounts received are included as restricted cash as of September 30, 2011. The Stockholder Agreement provides that the Investor will have the right to "put" the Preferred Shares acquired pursuant to the Purchase Agreement back to the Company in return for the remaining cash held in escrow at the time of the put, upon the occurrence of certain events.

No options to purchase shares of common stock were granted in the nine-month periods ended September 30, 2011. There were no options to purchase shares of common stock exercised in the nine-month period ended September 30, 2011. The Company accounts for stock option grants in accordance with Accounting Standards Codification ("ASC") Topic 718, Share-Based Payment. Compensation costs related to share-based payments recognized in the Statements of Operations were approximately $42 and $85 thousand for the three-month and nine-month periods ended September 30, 2011, and $99 and $559 thousand for the same periods in 2010. Our outstanding options and warrants are anti-dilutive and are not reflected in the weighted average shares reflected on our income statement basic and diluted. The Company may from time to time extend previous option grants.

Basis Of Presentation

Basis Of Presentation [Abstract]
Basis Of Presentation

9 Months Ended
Sep. 30, 2011

1. Basis of Presentation

The information at September 30, 2011, and for the three-month and nine-month periods ended September 30, 2011 and 2010, and inception to date is unaudited. In the opinion of management, these financial statements include all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of the results for the interim periods presented. Interim results are not necessarily indicative of results for a full year. These financial statements should be read in conjunction with the Harbor BioSciences, Inc. ("Harbor BioSciences", "we" or the "Company") Annual Report on Form 10-K, for the year ended December 31, 2010, which was filed with the United States Securities and Exchange Commission on March 31, 2011.

Our operations to date have consumed substantial capital without generating any revenues other than the amount received under the Cystic Fibrosis Foundation Therapeutics ('CFFT") and Michael J. Fox Foundation for Parkinson's Research ("MJFF") collaborations. We will continue to require substantial and increasing amounts of funds to conduct necessary research and development and preclinical and clinical testing of our drug candidates, and to market any drug candidates that receive regulatory approval. We do not expect to generate revenue from our biotechnology operations for the foreseeable future, and our ability to meet our cash obligations as they become due and payable will depend for at least the next several years on our ability to complete an acquisition of a profitable company, sell securities, borrow funds or some combination thereof. We expect that it will be very difficult to raise capital to continue our operations and our independent registered public accounting firm has issued an opinion with an explanatory paragraph to the effect that there is substantial doubt about our ability to continue as a going concern.

Recent Accounting Pronouncements

In January 2010, the FASB issued ASU No. 2010-06, Fair Value Measurements and Disclosures (Topic 820): Improving Disclosures about Fair Value Measurements. ASU 2010-06 amends Codification Subtopic 820-10 to add two new disclosures: (1) transfers in and out of Level 1 and 2 measurements and the reasons for the transfers, and (2) a gross presentation of activity within the Level 3 roll forward. The proposal also includes clarifications to existing disclosure requirements on the level of disaggregation and disclosures regarding inputs and valuation techniques. The proposed guidance would apply to all entities required to make disclosures about recurring and nonrecurring fair value measurements. The effective date of the ASU is the first interim or annual reporting period beginning after December 15, 2009, except for the gross presentation of the Level 3 roll forward information, which is required for annual reporting periods beginning after December 15, 2010 and for interim reporting periods within those years. The adoption by the Company has had minimal impact on its financial statements.

Accounts Payable and Accrued Expenses

Accrued expenses as of September 30, 2011 include approximately $0.2 million in accrued vacation expense and $0.3 million in other research and development and general and administrative expenses.

Accrued expenses as of December 31, 2010 include approximately $0.3 million in accrued vacation expense and $0.7 million in other research and development and general and administrative expenses.

Commitments and Contingencies

During July 2011, the proceeds from the sale of preferred stock totaling $2.825 million were placed into an escrow account. These funds are available under certain circumstances to pay certain Company related expenses and to fund the Company's working capital needs beginning in January 2012. The preferred stockholders have the right to "put" the preferred shares back to the Company in return for the remaining cash held in escrow at the time of the put, upon the occurrence of certain events, The put right expires at the later of July 28, 2012 or 45 days following the 2012 annual stockholders meeting.

Fair Value Measurement

Fair Value Measurement [Abstract]

Fair Value Measurement

9 Months Ended
Sep. 30, 2011

4. Fair Value Measurement

We adopted ASC Topic 820, Fair Value Measurement, as of January 1, 2008, for financial instruments measured at fair value on a recurring basis. ASC Topic 820 defines fair value, establishes a framework for measuring fair value in accordance with U.S. GAAP and expands disclosures about fair value measurements.

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. ASC Topic 820 establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (level 1 measurements) and the lowest priority to unobservable inputs (level 3 measurements). These tiers include:

Level 1, defined as observable inputs such as quoted prices for identical instruments in active markets;

Level 2, defined as inputs other than quoted prices in active markets that are directly or indirectly observable such as quoted prices for similar instruments in active markets or quoted prices for identical or similar instruments in markets that are not active; and

Level 3, defined as unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions, such as valuations derived from valuation techniques in which one or more significant value drivers are observable.

We measure certain financial instruments at fair value on a recurring basis. Financial assets measured at fair value on a recurring basis are as follows at September 30, 2011:

	Level 1	Level 2	Level 3	Total
	In Thousands			
Money Market funds included in cash and cash equivalents plus restricted cash	$3,833	$ 0	$ 0	$3,833
Total	$3,833	$ 0	$ 0	$3,833

Other Matters

Other Matters [Abstract]

Other Matters

9 Months Ended
Sep. 30, 2011

5. Other Matters

The Company recognized $73 thousand of revenue from the Michael J. Fox Foundation ("MJFF") during the third quarter and $146 thousand for the nine-month year to date period. Expenses associated with the revenue recognition are contained in research and development expenses for the same periods.

From time to time, we may be involved in litigation relating to claims arising out of our operations in the normal course of business. While it is not possible to predict accurately or to determine the eventual outcome of these matters, as of the date of this report, we do not believe that we are engaged in any legal proceedings that are expected, individually or in the aggregate, to have a material adverse effect on our business, financial condition or operating results.

The Company's common stock was delisted from the NASDAQ Stock Market at the opening of business on September 23, 2010 at which time the common stock became available for trading on the OTC bulletin board ("*OTCBB*") under the symbol HRBR.OB. On August 17, 2011, the Common Stock was delisted from the OTCBB when the Company filed a Form 15 pursuant to Rule 12g-4 and subsequently became available for trading on the "pink sheets" under the trading symbol HRBR.PK.

The Company has evaluated all subsequent events through November 4, 2011, which represents the filing date of this Form 10-Q with the Securities and Exchange Commission, to ensure that this Form 10-Q includes appropriate disclosure of events both recognized in the financial statements as of September 30, 2011 and events which occurred subsequent to September 30, 2011 but were not recognized in the financial statements.

On October 26, 2011, the stockholders approved several proposals to amend our Amended and Restated Certificate of Incorporation, as amended (the "Restated Certificate"), to authorize a 1-for-1,000 reverse stock split of the Common Stock, (the "Reverse Stock Split"), and to then immediately effect a 1,000-for-1 forward stock split of the Common Stock (the inverse ratio of the Reverse Stock Split) immediately following the Reverse Stock Split, (the "Forward Stock Split").

On October 26, 2011, we completed the Reverse Stock Split and the Forward Stock Split. As a result, as previously described in the Proxy Statement filed on September 1, 2011, pursuant to Section 3(e) of the Warrants issued to the investors in our June 2010 registered direct offering of Common Stock and Warrants, the holders of the Warrants are eligible to exercise a put right under the Warrants which, if exercised, would entitle them to receive a cash payment in an amount equal to the fair value of the Warrants as determined by reference to a formula set forth in the Warrants. In the event the put right is exercised, we are entitled to disbursement from an escrow account in an amount equal to the amount required to repurchase the Warrants.

Statements Of Cash Flows (USD $) In Thousands	9 Months Ended		208 Months Ended
	Sep. 30, 2011	Sep. 30, 2010	Sep. 30, 2011
Cash flows from operating activities:			
Net loss	$ (2,976)	$ (5,654)	$ (261,405)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation	1	20	2,244
(Gain)/Loss on disposal of assets	(15)	55	285
Compensation expense related to equity awards	85	559	11,369
Amortization of deemed discount on convertible debentures	0	0	6,470
Amortization of deferred issuance cost	0	0	1,157
Common stock issued for the company 401k plan	0	44	1,550
Common stock and options issued as consideration for license fees, milestone payments, interest, note repayment, services and amendments to license / finance agreements	0	0	2,926
Expense related to warrants issued as consideration to consultants	0	0	4,369
Expense related to warrants issued to a director for successful closure of merger	0	0	570
Expense related to stock options issued	0	0	5,718
Expense related to common stock issued for the purchase of technology	0	0	1,848
Common stock issued as consideration for In Process R&D	0	0	2,809
Deferred compensation expense related to options issued	0	0	1,210
Changes in assets and liabilities:			
Prepaid expenses	(9)	63	(109)
Deposits	14	21	(15)
Other receivables	(74)	81	(75)
Accounts payable	(124)	239	769
Accrued expenses	(550)	(91)	420
Other liabilities	3	0	32
Net cash used in operating activities	(3,645)	(4,663)	(217,858)
Cash flows provided by (used in) investing activities:			
Proceeds from sale of property and equipment	48	26	276
Purchase of property and equipment	0	0	(2,825)
Net cash provided by (used in) investing activities	48	26	(2,549)
Cash flows from financing activities:			
Contributions from stockholder	0	0	104
Restricted cash	(2,825)	34	(2,825)
Net proceeds from sale of preferred stock	2,825	0	6,825
Net proceeds from sale of common stock	0	1,789	185,323
Net proceeds from issuance of convertible debentures and warrants	0	0	9,214
Purchase of treasury stock	0	0	(346)

Proceeds from issuance of debt	0	0	371
Net proceeds from recapitalization	0	0	6,271
Net proceeds from warrants and options exercised	0	0	17,796
Net cash from financing activities	0	1,823	222,733
Net increase (decrease) in cash	(3,597)	(2,814)	2,326
Cash and equivalents at beginning of period	5,923	[1] 9,738	0
Cash and equivalents at end of period	2,326	6,924	2,326
Supplemental Disclosure of Cash Flow Information:			
Income taxes	0	0	0
Interest paid	0	0	388
Supplemental Disclosure of Non-Cash Financing Activities:			
Conversion of debt to equity	0	0	10,371
Warrants issued to consultants in lieu of cash, no vesting	0	0	559
Warrants issued in lieu of cash, commissions on private placement	0	0	733
Warrants issued in connection with convertible debentures	$ 0	$ 0	$ 371

[1] Derived from the audited financial statements as of December 31, 2010

Other Agreements And Commitments

Other Agreements And Commitments [Abstract]

Other Agreements And Commitments

9 Months Ended
Sep. 30, 2011

2. Other Agreements and Commitments

China State Institute of Pharmaceutical Industry Agreements

In January 2011, the Company announced that it had licensed the research and development and commercialization rights for three of its products, exclusively in the People's Republic of China and Hong Kong, to the China State Institute of Pharmaceutical Industry ("CIPI"). Harbor BioSciences retains the rights to these products in the U.S. and the rest of the world, and CIPI will make available to the company all pre-clinical and clinical data it generates.

CIPI was recently formed by a merger of the Shanghai Institute of Pharmaceutical Industry and other institutes and companies. CIPI's research and development ("R&D") focus has been in the areas of cancer, infectious diseases, cardiovascular, autoimmune disorders, endocrinology and central nervous system ("CNS"). CIPI is a subsidiary of the China National Pharmaceutical Group Corporation ("Sinopharm Group"), China's largest pharmaceutical and health industrial group under the state-owned Assets Supervision and Administration Commission of the State Council. Sinopharm Group's core businesses include R&D, manufacturing, distribution and retail sales. Its products are manufactured in more than 10 pharmaceutical and biological production facilities. Sinopharm Group has more than 20 joint ventures with global pharmaceutical companies and through trade and cooperative relations, has a presence in more than 100 countries and regions. Sinopharm Group reported 2010 revenues of approximately $12 billion U.S.

CIPI is a major supplier of both generic drugs and traditional Chinese medicines in China and Hong Kong. The three license agreements cover Harbor BioSciences compounds HE2000, Apoptone and Triolex for any clinical use in the People's Republic of China and Hong Kong. CIPI plans to develop the Harbor BioSciences compounds for major indications including diabetes, cancer, inflammation and infectious diseases.

The Company believes these are the first drug development agreements between a western pioneer drug company and a government-owned Chinese drug developer for pharmaceutical development to be conducted in the People's Republic of China. CIPI, a low cost drug manufacturer, has agreed to supply the licensed products to Harbor BioSciences for use in clinical studies and sales outside of China and Hong Kong. The Company can also elect to distribute these compounds in countries that accept the State Food and Drug Administration's (SFDA) drug approval process.

Clinical drug development candidates licensed to CIPI include Triolex, which has completed Phase IIa clinical trials in patients with Type 2 diabetes and is in early stage development for ulcerative colitis and rheumatoid arthritis; Apoptone, which has demonstrated activity in Phase I/IIa trials of prostate cancer; and HE2000, which has shown to limit opportunistic infections, including tuberculosis, in humans infected with the HIV-1 virus, to reduce parasite levels in patients with uncomplicated malaria and to attenuate non-productive lung inflammation in animal models.

The Company will receive milestone payments for Triolex, Apoptone and HE2000, excluding infectious diseases, at the completion of Phase II and III clinical studies and upon

approval by the SFDA. The Company will also receive royalties based on net profits for the life of each agreement. The term of each agreement runs until the latter of (1) the expiration of the last licensed patent or any Company, CIPI or joint improvement patent and (2) the first documented third party sale of a competing generic product in the licensed territory. In addition, the Company is CIPI's sole agent with commercial development and sales rights to all of CIPI's improvements that are sold outside the licensed territory. Sales of licensed drugs that are covered by CIPI's improvements outside the territory bear a royalty to Harbor BioSciences. No milestones were met during the three and nine months ended September 30, 2011.

The Company announced in June 2011, the signing of an umbrella generic drugs distribution agreement with CIPI. This new agreement provides that Harbor BioSciences and CIPI will select one or more of CIPI's drugs or other products for distribution outside China under separately negotiated sub agreements. The new agreement provides that the Company is to receive commercial development, sales and sublicense rights for products under executed sub agreements. Sales of CIPI's products will bear a royalty to Harbor BioSciences.

Balance Sheets (USD $) In Thousands	Sep. 30, 2011	Dec. 31, 2010	
ASSETS:			
Cash and cash equivalents	$ 2,326	$ 5,923	[1]
Prepaid expenses	109	100	[1]
Other receivable	75	1	[1]
Deposits	14	28	[1]
Total current assets	2,524	6,052	[1]
Property and equipment, net of accumulated depreciation of $65 and $273, respectively	8	44	[1]
Restricted cash	2,825	0	[1]
Total assets	5,357	6,096	[1]
LIABILITIES AND STOCKHOLDERS' EQUITY:			
Accounts payable	77	201	[1]
Accrued expenses	455	1,005	[1]
Redeemable preferred stock	2,825	0	[1]
Other current liabilities	32	29	[1]
Total current liabilities	3,389	1,235	[1]
Commitments and contingencies	0	0	[1]
Stockholders' equity:			
Preferred stock, $.01 par value, 10,000 shares authorized; 2,000 and zero shares issued; 2,000 shares outstanding	0	0	[1]
Common stock, $.01 par value, 100,000 shares authorized; 35,525 and 35,525 shares issued; 35,466 shares outstanding	355	355	[1]
Paid-in capital	263,364	263,281	[1]
Cost of treasury stock (59 shares)	(346)	(346)	[1]
Deficit accumulated during development stage	(261,405)	(258,429)	[1]
Total stockholders' equity	1,968	4,861	[1]
Total liabilities and stockholders' equity	$ 5,357	$ 6,096	[1]

[1] Derived from the audited financial statements as of December 31, 2010