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As filed with the Securities and Exchange Commission on April 2, 2004

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM S-3

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

QUESTCOR PHARMACEUTICALS, INC.

(Exact Name of Registrant as Specified in Its Charter)

CALIFORNIA	2834	33-0476164
(State or Other Jurisdiction of Incorporation or Organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

3260 Whipple Road
Union City, California 94587
(510) 400-0700
(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Agent For Service:	Copies To:
Charles J. Casamento	David A. Hahn, Esq.
Chief Executive Officer	Latham & Watkins LLP
Questcor Pharmaceuticals, Inc.	600 W. Broadway, Suite 1800
3260 Whipple Road	San Diego, California 92101
Union City, California 94587	(619) 236-1234
(510) 400-0700	

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this Registration Statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. o

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. ☒

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. o

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share(1)	Proposed Maximum Offering Price(1)	Amount of Registration Fee
Common Stock, no par value per share(2)	4,878,201	$0.91	$4,439,163	$563

(1) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(c) based on the average of the high and low reported sales prices of the Registrant's common stock on the American Stock Exchange on March 31, 2004.

(2) Each share of the Registrant's common stock includes a right to purchase one one-hundredth of a share of Series C Junior Participating Preferred Stock, no par value per share.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

SUBJECT TO COMPLETION—DATED APRIL 2, 2004

The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not a solicitation of an offer to buy these securities in any state where the offer or sale is not permitted.

PROSPECTUS

4,878,201 Shares

QUESTCOR PHARMACEUTICALS, INC.

Common Stock

The shareholders named on page 12 are selling up to 4,878,201 shares of our common stock.

Our common stock is listed on the American Stock Exchange under the symbol "QSC." On March 31, 2004, the last sale price of our common stock as reported on the American Stock Exchange was $0.90.

See "Risk Factors" beginning on page 3 for factors that you should consider before investing in the shares of our common stock.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of the prospectus.

The date of this prospectus is , 2004.

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The terms “Questcor,” “Company,” “we,” “our,” “ours” and “us” refer to Questcor Pharmaceuticals, Inc. and its consolidated subsidiaries, unless the context requires otherwise, and not to the selling shareholders. All references to “common stock” refer to our common stock, no par value per share.

QUESTCOR PHARMACEUTICALS, INC.

We are a specialty pharmaceutical company that acquires, markets and sells brand name prescription drugs through our U.S. direct sales force and international commercialization partners. We focus on the treatment of central nervous system, or CNS, diseases and gastroenterological disorders, which are served by a concentrated group of physicians such as neurologists and gastroenterologists. Our strategy is to acquire pharmaceutical products that we believe have sales growth potential, are promotionally responsive to a focused and targeted sales and marketing effort, and complement our existing products. In addition, through corporate collaborations, we intend to develop new patented intranasal formulations of medications previously approved by the Food and Drug Administration, or the FDA. For the year ended December 31, 2003, our total revenues were $14.1 million.

Large multinational companies dominate the U.S. prescription pharmaceutical market. These companies tend to focus on drugs with annual sales in excess of $1 billion and often divest products that, as a result of consolidation or lack of strategic fit, do not meet the threshold level of sales required for continued marketing and promotion. Since our inception, we have acquired and licensed products from Aventis Pharmaceuticals, Inc., or Aventis, Schwartz Pharma AG, Nastech Pharmaceutical Company, Inc., or Nastech, and other pharmaceutical companies. Smaller drug development or biotech companies that do not have the capabilities to effectively market and sell FDA approved products may also be sources of new products for us. In 2003 we acquired an FDA approved product from Nastech.

Since 1995, we have introduced seven products and currently market five products in the United States. We promote certain of our products through our nationwide sales and marketing force of approximately 30 professionals, targeting high-prescribing acute care and specialty physicians such as gastroenterologists and neurologists. We contract with third parties for the manufacture of all our products as well as the warehousing and distribution of our products.

Our current products are: HP Acthar® Gel, or Acthar, an injectable drug that is approved for the treatment of certain CNS disorders with an inflammatory component, including the treatment of flares associated with multiple sclerosis, or MS, and is also commonly used in treating patients with infantile spasm; Nascobal®, the only prescription nasal gel used for the treatment of various Vitamin B-12 deficiencies, such as MS and Crohn’s Disease; Ethamolin®, an injectable drug used to treat enlarged weakened blood vessels at the entrance to the stomach that have recently bled, known as esophageal varices; Glofil®-125, an injectable agent that assesses how well the kidney is working by measuring glomerular filtration rate, or kidney function; and VSL#3, a patented probiotic marketed as a dietary supplement to promote normal gastrointestinal function. Probiotics are living organisms in food and dietary supplements, which, upon ingestion in certain numbers, improve the health of the host beyond their inherent basic nutrition.

Consistent with our efforts to focus on sales and marketing, our spending on research and development activities is minimal. We have entered into several agreements with pharmaceutical and biotechnology companies to further the development of certain acquired technology. In June 2002, we signed a definitive License Agreement with Fabre Kramer Pharmaceuticals, Inc., or Fabre Kramer, whereby we granted Fabre Kramer exclusive worldwide rights to develop and commercialize Hypnostat™ (intranasal triazolam for the treatment of insomnia) and Panistat™ (intranasal alprazolam for the treatment of panic disorders). We have partnered with Rigel Pharmaceuticals, Inc. of South San Francisco, California for our antiviral drug discovery program and Dainippon Pharmaceuticals Co., Ltd. of Osaka, Japan for our antibacterial program.

We have rights to the following registered trademarks: HP Acthar® Gel, Ethamolin®, Nascobal® and Glofil®-125. We also have the following unregistered trademarks: Migrastat™, Emitasol™, Hypnostat™ and Panistat™. VSL#3® is owned by VSL Pharmaceuticals, Inc. Pramidin® is owned by sirton pharmaceuticals S.p.A , or sirton. Emitasol is approved in Italy as Pramidin and has been marketed in the past by sirton. Each other trademark, trade name or service mark appearing in this document belongs to its respective holder.

Questcor is the surviving corporation of a merger between Cypros Pharmaceutical Corporation and RiboGene, Inc. The merger was completed on November 17, 1999. Our principal executive office is located at 3260 Whipple Road, Union City, California 94587 and our telephone number is (510) 400-0700. Our corporate Internet address is www.questcor.com. We do not intend for the information contained on our website to be part of this prospectus.

RISK FACTORS

You should carefully consider the following risk factors, in addition to the other information included in this prospectus, before purchasing shares of our common stock. Each of these risks could adversely affect our business, financial condition and results of operations, as well as adversely affect the value of an investment in our common stock.

We have a history of operating losses and may never generate sufficient revenue to achieve profitability.

We have a history of recurring operating losses. Our accumulated deficit through December 31, 2003 is $82.9 million, of which $5.9 million represented the net loss applicable to common stockholders for the twelve months ended December 31, 2003, $2.8 million represented the net loss for the year ended December 31, 2002, and $8.7 million represented the net loss for the year ended December 31, 2001. Operating losses are expected to continue at least through the end of 2004. To date, our revenues have been generated principally from sales of Acthar, Nascobal, Ethamolin, Glofil-125, Inulin and VSL#3. In July 2003, we began selling Nascobal, a product that we acquired in June 2003. We discontinued selling Inulin in September 2003. We do not expect Emitasol, Hypnostat or Panistat to be commercially available for a number of years, if at all.

Our ability to achieve a consistent, profitable level of operations will be dependent in large part upon our ability to:

- increase sales of current products,
- finance and acquire additional marketed products,
- finance the future growth of our sales/marketing and customer service organization,
- finance operations with external capital until consistent positive cash flows are achieved,
- properly and timely complete the transfer of the manufacturing of Acthar API to the new contract manufacturer and the transfer of the release assay to a third party laboratory including receiving the appropriate approvals from the FDA and other regulatory authorities,
- continue to receive products from our sole-source contract manufacturers on a timely basis and at acceptable costs,
- continue to control our operating expenses, and
- ensure customers' compliance with our sales and exchange policies.

If we are unable to generate sufficient revenues from the sale of our products, or if we are unable to contain costs and expenses, we may not achieve profitability and may ultimately be unable to fund our operations.

If our revenues from product sales decline or fail to grow, we may not have sufficient revenues to fund our operations.

We rely heavily on sales of Acthar and Nascobal. Acthar revenues comprised 58%, 65% and 41% of our total net product revenues for the years ended December 31, 2003, 2002 and 2001 (sales of Acthar began in September 2001), respectively. Nascobal sales comprised 15% of net product revenues for the year ended December 31, 2003 (sales of Nascobal began in July 2003, while promotion began in October 2003). We anticipate that as a percentage of our total sales, Nascobal will increase and Acthar will decrease. We review external data sources to estimate customer demand for our products. In the event that demand for our products is less than our sales to wholesalers, excess inventory may result at the wholesaler level, which may impact future product sales. If the supply of Acthar or Nascobal available at the wholesale level exceeds the future demand, our future revenues from the sales of Acthar or Nascobal may be affected adversely.

We monitor the amount of Acthar and Nascobal at the wholesale level as well as prescription data obtained from third party sources to help assess product demand in 2004. We expect that Acthar and Nascobal will continue to constitute a significant portion of our revenues in 2004. Although our goal is to actively promote Acthar and Nascobal, and we have no reason to believe that our promotion of Acthar and Nascobal will not be successful, we cannot predict whether the demand for Acthar and Nascobal will continue in the future or that we will continue to generate significant revenues from sales of Acthar and Nascobal. We may choose, in the future, to reallocate our sales and promotion efforts for Acthar and Nascobal which may result in a decrease in revenues from one or both of the products. If the demand for Acthar or Nascobal declines, or if we are forced to reduce the prices, or if exchanges of expired products are higher than anticipated, or if we are forced to re-negotiate contracts or terms, or if our customers do not comply with our existing policies, our revenues from the sale of Acthar or Nascobal would decline. If the cost to produce Acthar increases, and we are unable to raise the price correspondingly, our gross margins on the sale of Acthar would decline. If our revenues from the sale of Acthar or Nascobal decline or fail to grow, our total revenues, gross margins and operating results would be harmed and we may not have sufficient revenues to fund our operations.

Effective January 1, 2004, VSL Pharmaceuticals, Inc. assigned the VSL#3 promotion agreement to Sigma Tau Pharmaceuticals, Inc., or Sigma Tau. Sigma Tau entered into a promotion agreement with InKine Pharmaceutical Company, Inc., or InKine. Under the terms of the agreement, Sigma Tau will pay to InKine a fixed fee to promote VSL#3 to gastroenterologists as a second detail. In the short term, we could benefit from this increased promotion effort in that we are responsible for taking orders and shipping VSL#3 directly to customers. As such, we recognize the revenues for the sale of VSL#3 in the United States regardless of which company promotes the product. However, there is no assurance that our promotion agreement will be renewed or if it is renewed that the terms of the agreement will not be substantially different than the current terms of the agreement. If the agreement is not renewed, we will not recognize any revenue from VSL#3 sales once the agreement expires in January 2005.

If we are unsuccessful in completing the Acthar site transfer, we may be unable to meet the demand for Acthar and lose potential revenues.

Any delays or problems associated with the site transfer of the manufacturers or third party contract laboratories for testing of Acthar could reduce the amount of the product that will be available for sale and adversely affect our operating results. Under our agreement with Aventis, Aventis manufactured and supplied Acthar for us through July 2002. During 2003, we signed a definitive agreement with Chesapeake Biological Laboratories, or CBL, a contract manufacturer for Acthar finished product, and transferred the final fill and packaging process from Aventis to CBL. Under our agreement with Aventis, we purchased the active pharmaceutical ingredient, or API, and other inventory residing at Aventis. We believe that this API should be sufficient to meet our forecasted demand through 2006. CBL, the new final fill manufacturer, began supplying to us finished product during 2003 using the API manufactured by Aventis.

We have selected a new contract laboratory to perform various bioassays associated with the release of API and finished product. These assays have been performed and are continuing to be performed by Aventis. However, we have experienced delays and cost overruns in the validation of the potency bioassay from Aventis to our new third party contract laboratory. Beginning in 2004, we will resume the testing necessary to transfer the assay to a new contact laboratory. If this laboratory is unable to validate this specific assay, we may be forced to find a new contractor to complete this work, which in turn could increase our costs substantially. If we are unable to efficiently and timely validate the potency assay before the date when Aventis can no longer conduct this assay, we will not be able to release API and finished goods and therefore we may not be able to meet the expected demand for Acthar.

As described above, the process of manufacturing Acthar is complex and we may encounter problems associated with the site transfer. Once the site transfer to our new API manufacturer, BioVectra, has been completed and the bioassays have been validated and they begin supplying released API to us, the cost of the product is expected to increase which may cause our gross margins to decline. In addition, if the site transfer and the corresponding approval by the FDA and other regulatory authorities do not occur on a timely basis at the appropriate costs to us, we will lose sales. Moreover, contract manufacturers that we may use must continually adhere to current good manufacturing practices regulations enforced by the FDA. If the facilities of these manufacturers cannot pass an inspection, we may lose the FDA approval of our products. Failure to obtain products for sale for any reason may result in an inability to meet product demand and a loss of potential revenues.

If our customers do not comply with our exchange policy and/or demand that we implement a return policy, our revenues would be significantly impacted.

We have an exchange policy in which we will ship replacement product for expired product returned to us within six months after expiration. This policy is not commonplace in the industry as the standard policy is to issue credit memoranda in exchange for expired product that is returned. Our customers have expressed dissatisfaction with our exchange policy and, although they have complied to date, have suggested that they may choose not to adhere to it in the future. Since we sell a majority of our products to the three largest distributors and no viable alternatives exist, we may be forced to change our current policy to a return policy in which credit memoranda are issued. In the event this occurred, the negative financial impact on our revenues, operations and cash position would be substantial in the near term.

In December 2002, we noted that certain of our customers were not complying with our expired product exchange policy. These customers were deducting from amounts owed to us the full price of expired Acthar they planned to return to us. While we reached an agreement with these customers to pay these short-remittances, or returns receivable, upon their receipt of replacement product for the Acthar that expired in November 2002 and May 2003, customers have continued to deduct from amounts owed to us the full price of expired Acthar they return to us. Additionally, certain customers received an administration fee from us for the expired product that was exchanged. Certain of our customers continued to short-remit for expired product returns in 2003. As of December 31, 2003, the returns receivable amount is $420,000. A majority of returns of expired product, which in turn has created this returns receivable,

have been replaced in accordance with our exchange policy, and we are in the process of seeking reimbursement. The next batches of Acthar expire in January 2004 and December 2004, the next batches of Ethamolin expire in January and February 2004 and the next Nascobal batch expires in February 2005. We expect that our customers will continue to short remit us in the future as these batches expire and our customers seek to return expired product. Should our customers not reimburse us for the returns receivable upon shipment of replacement product, the negative impact on our cash and operations would be substantial.

In 2002 and 2001, the Acthar vials we sold had a one year shelf life and, in the first quarter of 2003, we began shipping product which expired in January 2004. In November 2002, the shelf life of Acthar was increased to 18 months. Due to the short shelf life of Acthar, significant quantities could expire at the wholesale or pharmacy level, which could then be returned for replacement product under our exchange policy. We are actively monitoring inventory levels at the wholesalers and have implemented a plan designed to minimize the amount of returns of expired product, however there can be no assurance that our actions will be effective in reducing the return of expired product or minimizing the negative impact on receivables and future sales. Such shipment of replacement product may displace future sales.

We have little or no control over our wholesalers' buying patterns, which may impact future revenues, exchanges and excess inventory.

We sell our products primarily through major drug wholesalers located in the United States. Consistent with the pharmaceutical industry, most of our revenues are derived from the three largest drug wholesalers. Our three largest customers represented over 75% of our net product sales for fiscal year 2003. While we attempt to estimate inventory levels of our products at our major wholesale customers using inventory data obtained from these customers, historical prescription information and historical purchase patterns, this process is inherently imprecise. We rely solely upon our wholesale customers to effect the distribution allocation of our products. There can be no assurance that these customers will adequately manage their local and regional inventories to avoid outages or inventory build-ups. We noted in the second quarter of 2003 that one of our major customers had purchased Ethamolin units in excess of what we estimated their historical demand to be. This build-up of inventory adversely impacted Ethamolin sales in fiscal year 2003 and may adversely impact future sales of Ethamolin.

Our therapeutic pharmaceutical products have expiration dates that range from 18 to 36 months from date of manufacture. We will generally accept for exchange pharmaceutical products that have reached the expiration date. We establish reserves for these exchanges at the time of sale. There can be no assurance that we will be able to accurately forecast the reserve requirement that will be needed in the future. Although our estimates are reviewed quarterly for reasonableness, our product return activity could differ significantly from our estimates because our analysis of product shipments, prescription trends and the amount of product in the distribution channel may not be accurate. Judgment is required in estimating these reserves. The actual amounts could be different from the estimates and differences are accounted for in the period in which they become known.

We do not control or significantly influence the purchasing patterns of wholesale customers. These are highly sophisticated customers that purchase our products in a manner consistent with their industry practices and perceived business interests. Our sales are subject to the purchase requirements of our major customers, which, presumably, are based upon their projected demand levels. Purchases by any customer, during any period, may be above or below actual prescription volumes of one or more of our products during the same period, resulting in increases or decreases in product inventory existing in the distribution channel.

We provide reserves for potentially excess, dated or otherwise impaired inventory. Reserves for excess inventory are based on an analysis of expected future sales that will occur before the inventory on hand will expire. Judgment is required in estimating reserves for excess inventories. The actual amounts of required reserves could be different from the estimates and differences are accounted for in the period in which they become known.

We have limited experience marketing Nascobal and may be unsuccessful in doing so.

In June 2003, we acquired Nascobal, a nasal gel used for the treatment of various Vitamin B-12 deficiencies. We currently have limited sales and marketing experience with respect to Nascobal. We also cannot predict what the demand for Nascobal will be. If the demand for Nascobal is less than we anticipate, or if we are unsuccessful in marketing Nascobal, our revenues from the sale of Nascobal will be less than we are currently anticipating. As part of the acquisition, we also acquired the rights to Nascobal nasal spray, a new dosage form, for which an NDA was filed with the FDA by Nastech in December 2003. Subject to the approval of the NDA for the new Nascobal nasal spray dosage form by the FDA, we will make a $2 million payment to Nastech for the transfer of the NDA from Nastech to us. Further, subject to the approval of the NDA by the FDA for the new Nascobal nasal spray dosage form and upon issuance of a pending U.S. patent for the new Nascobal nasal spray dosage form, we will make a second $2 million payment to

Nastech. We need to generate revenues from sales of Nascobal in order to raise the necessary funds to make these payments. If we are not successful in marketing Nascobal, we may need to seek other sources of cash to make such payments or to fund operations. Moreover, if the amount of Nascobal inventory at the wholesale level at the time that we purchased Nascobal was higher than we anticipated, this may also adversely affect the demand for Nascobal in the near term.

Our inability to secure additional funding could lead to a loss of your investment.

While we raised gross proceeds of $10 million through a private placement of Series B Preferred Stock in January 2003, $5 million through a private placement of common stock in June 2003, and $2.4 million and the surrender of outstanding warrants through a private placement of common stock in January 2004, we anticipate that our capital resources based on our internal forecasts and projections will be adequate to fund operations and capital expenditures through at least December 31, 2004, unless a substantial portion of our cash is used for product acquisition or our fiscal year 2004 revenues are less than we expect. If Nastech is successful in obtaining approval for the NDA covering the nasal spray formulation, and if the patent covering this formulation issues after the approval of the NDA, we would be required to pay $4 million to Nastech. If we experience unanticipated cash requirements, or if revenues fail to grow, or we are required to make the milestone payments to Nastech, we could be required to raise additional funds. Regardless, we may seek additional funds, before the end of 2004, through public or private equity financing or from other sources to potentially avoid the payment of additional dividends of 6% under our Series B Convertible Preferred Stock, to acquire additional products, to expand our operations or to meet future obligations. Additionally, we may seek to raise capital whenever conditions in the financial markets are favorable, even if we do not have an immediate need for additional cash at that time. There can be no assurance that additional funds can be obtained on desirable terms or at all.

In order to conduct our operating activities, we may require substantial additional capital resources in order to acquire new products, increase sales of existing products, and maintain our operations. In addition, if revenues from product sales do not significantly increase or if further capital investments do not materialize, or if such investments cannot be completed at attractive terms to us, or if we are unable to receive any additional capital investments at all, this may further limit our ability to fund operations. Our future capital requirements will depend on many factors, including the following:

- existing product sales performance,
- cost maintenance and potential future expansion of our sales force,
- the cost and timing of the Acthar site transfer,
- achieving better operating efficiencies,
- maintaining customer compliance with our policies,
- obtaining product from our sole-source contract manufacturers and completing the site transfer to new contract manufacturers, and
- acquiring additional products.

We anticipate obtaining additional financing through public or private debt or equity financings. However, additional financing may not be available to us on acceptable terms, if at all. Further, additional equity financings will be dilutive to our shareholders. If sufficient capital is not available, then we may be required to reduce our operations or to delay, reduce the scope of, eliminate or divest one or more of our products, product acquisition or manufacturing efforts.

If we are unable to contract with third party manufacturers, we may be unable to meet the demand for our products and lose potential revenues.

We will rely on third party contract manufacturers to produce our marketed products, Acthar, Nascobal, Ethamolin, Glofil and VSL#3, and other products that we may develop, commercialize or acquire in the future. Third party manufacturers may not be able to meet our needs with respect to timing, cost, quantity or quality. All of our manufacturers are sole-source manufacturers and no currently qualified alternative suppliers exist.

Ethamolin is currently being manufactured by Ben Venue Laboratories, or Ben Venue. We do not have a formal Ethamolin manufacturing contract in place with Ben Venue, rather we have an agreement on terms and conditions, and we purchase product on a purchase order basis under these agreed upon terms and conditions. Glofil is manufactured by ISO-Tex Diagnostics, Inc. from whom we purchase on a lot by lot basis. Nascobal is manufactured by Nastech under a long-term supply agreement. VSL#3 is supplied by Sigma Tau Pharmaceuticals under a promotion agreement we have with them. Sigma Tau Pharmaceuticals has the sole responsibility for manufacturing and/or acquiring the VSL#3 product. See “If we are unsuccessful in completing the Acthar site transfer, we may be unable to meet the demand for Acthar and lose potential revenues” for discussion of third party manufacturers of Acthar.

If we are unable to contract for a sufficient supply of our required products and services on acceptable terms, or if we should encounter delays or difficulties in our relationships with our manufacturers, or if the site transfer and the corresponding approval by the FDA and other regulatory authorities does not occur on a timely basis at the appropriate costs to us, we will lose sales. Moreover, contract manufacturers that we may use must continually adhere to current good manufacturing practices enforced by the FDA. If the facilities of these manufacturers cannot pass an inspection, we may lose the FDA approval of our products. Failure to obtain products for sale for any reason may result in an inability to meet product demand and a loss of potential revenues.

If our third party distributors are unable to distribute our products, we will lose potential revenues.

We currently outsource certain functions previously performed in our Carlsbad, California distribution center, including, but not limited to, warehousing, shipping and quality control studies. The outsourcing of these functions is complex, and we may experience difficulties at the third party contractor level that could result in the non-shipment of our products. We have transferred the distribution of Acthar, Nascobal, Ethamolin and Glofil to third party distributors, and we distribute VSL#3 from our Union City facility. If we encounter problems with the distribution of these products at the third party distribution level the products could become unavailable and we could lose revenues, or the costs to distribute these products could become higher than we anticipated.

If we lose the services of certain key personnel or are unable to hire skilled personnel in the future, our business will be harmed.

We are highly dependent on the services of our Chairman, President, and Chief Executive Officer, Mr. Charles J. Casamento, our Senior Vice President of Finance and Administration and Chief Financial Officer, Mr. Timothy E. Morris, and our Vice President of Sales and Marketing, Mr. R. Jerald Beers. If we were to lose Mr. Casamento, Mr. Morris or Mr. Beers as employees, our business could be harmed. Moreover, we do not carry key person life insurance for our senior management or other personnel. Additionally, the future potential growth and expansion of our business is expected to place increased demands on our management skills and resources. Although only minor increases in staffing levels are expected during 2004, recruiting and retaining management and operational personnel to perform sales and marketing, business development, regulatory affairs, quality assurance, medical affairs and contract manufacturing in the future will also be critical to our success. We do not know if we will be able to attract and retain skilled and experienced management and operational personnel in the future on acceptable terms given the intense competition among numerous pharmaceutical and biotechnology companies for such personnel. If we are unable to hire necessary skilled personnel in the future, our business could be harmed.

Our commercial products and our products in the development stage may not be accepted by the market, which may result in lower future revenues as well as a decline in our competitive positioning.

Our commercial products and any products that we successfully develop, if approved for marketing, may never achieve market acceptance. These products, if successfully developed, will compete with drugs and therapies manufactured and marketed by major pharmaceutical and other biotechnology companies. Physicians, patients or the medical community in general may not accept and utilize the products that we may develop or that our corporate partners may develop.

The degree of market acceptance of our commercial products and any products that we successfully develop will depend on a number of factors, including:

- The establishment and demonstration of the clinical efficacy and safety of the product candidates,
- Their potential advantage over alternative treatment methods and competing products,
- Reimbursement policies of government and third party payers, and
- Our ability to market and promote the products effectively.

The failure of our products to achieve market acceptance may result in lower future revenues as well as a decline in our competitive positioning.

A large percentage of our voting stock is beneficially owned by a small number of shareholders, who in the future could attempt to take over control of our management and operations or exercise voting power to advance their own best interests and not necessarily those of other shareholders.

Sigma-Tau Finanziaria S.p.A. and its affiliates, or Sigma-Tau, beneficially own, directly or indirectly, approximately 24% of the voting power of our outstanding voting capital stock, and they beneficially own, including shares of our common stock issuable upon

conversion of a convertible debenture, approximately 28% of our outstanding common stock, as of March 31, 2004. Additionally, as reported on Amendment No. 1 to Schedule 13D, filed with the SEC on February 13, 2004, Corporate Opportunities Fund, L.P. and its affiliates and Montreux Equity Partners II SBIC, L.P. and its affiliates beneficially own approximately 11% of our voting capital stock. Accordingly, these shareholders, acting individually or together, could control the outcome of certain shareholder votes, including votes concerning the election of directors, the adoption or amendment of provisions in our Articles of Incorporation, and the approval of mergers and other significant corporate transactions. This level of concentrated ownership may, at a minimum, have the effect of delaying or preventing a change in the management or voting control of us by a third party. It may also place us in the position of having these large shareholders take control of us and having new management inserted and new objectives adopted.

If competitors develop and market products that are more effective than ours, our commercial opportunity will be reduced or eliminated.

The pharmaceutical and biotechnology industries are intensely competitive and subject to rapid and significant technological change. A number of companies are pursuing the development of pharmaceuticals and products that target the same diseases and conditions that we target. For example, there are products on the market that compete with Acthar, Nascobal, Ethamolin, Glofil-125, and VSL#3. Moreover, technology controlled by third parties that may be advantageous to our business may be acquired or licensed by competitors of ours, preventing us from obtaining this technology on favorable terms, or at all.

Our ability to compete will depend on our ability to create and maintain scientifically advanced technology, and to develop, acquire and commercialize pharmaceutical products based on this technology, as well as our ability to attract and retain qualified personnel, obtain patent protection, or otherwise develop proprietary technology or processes, and secure sufficient capital resources for the expected substantial time period between technological conception and commercial sales of products based upon our technology.

Many of the companies developing competing technologies and products have significantly greater financial resources and expertise in development, manufacturing, obtaining regulatory approvals, and marketing than we do. Other smaller companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies.

Academic institutions, government agencies and other public and private research organizations may also seek patent protection and establish collaborative arrangements for clinical development, manufacturing, and marketing of products similar to ours. These companies and institutions will compete with us in recruiting and retaining qualified sales and marketing and management personnel, as well as in acquiring technologies complementary to our programs. We will face competition with respect to:

- product efficacy and safety,
- the timing and scope of regulatory approvals,
- availability of resources,
- price, and
- patent position, including potentially dominant patent positions of others.

If our competitors succeed in developing technologies and drugs that are more effective or less costly than any that we are developing, our technology and future drugs may be rendered obsolete and noncompetitive. In addition, our competitors may succeed in obtaining the approval of the FDA or other regulatory approvals for drug candidates more rapidly than we will. Companies that complete clinical trials, obtain required regulatory agency approvals and commence commercial sale of their drugs before their competitors may achieve a significant competitive advantage, including patent and FDA marketing exclusivity rights that would delay our ability to market specific products. We do not know if drugs resulting from the joint efforts of our existing or future collaborative partners will be able to compete successfully with our competitors' existing products or products under development or whether we will obtain regulatory approval in the U.S. or elsewhere.

If we fail to maintain or enter into new contracts related to collaborations and in-licensed or acquired technology and products, our product development and commercialization could be delayed.

Our business model has been dependent on our ability to enter into licensing and acquisition arrangements with commercial or academic entities to obtain technology for commercialization or marketed products. If we are unable to enter into any new agreements in the future, our development and commercialization efforts will be delayed. Disputes may arise regarding the inventorship and corresponding rights in inventions and know-how resulting from the joint creation or use of intellectual property by us and our licensors or scientific collaborators. We may not be able to negotiate additional license and acquisition agreements in the future on

acceptable terms, if at all. In addition, current license and acquisition agreements may be terminated, and we may not be able to maintain the exclusivity of our exclusive licenses.

If collaborators do not commit sufficient development resources, technology, regulatory expertise, manufacturing, marketing and other resources towards developing, promoting and commercializing products incorporating our discoveries, the development of our licensed products progress will be stalled. Further, competitive conflicts may arise among these third parties that could prevent them from working cooperatively with us. The amount and timing of resources devoted to these activities by the parties could depend on the achievement of milestones by us and otherwise generally may be controlled by other parties. In addition, we expect that our agreements with future collaborators will likely permit the collaborators to terminate their agreements upon written notice to us. This type of termination would substantially reduce the likelihood that the applicable research program or any lead candidate or candidates would be developed into a drug candidate, would obtain regulatory approvals and would be manufactured and successfully commercialized.

If none of our collaborations are successful in developing and commercializing products, or if we do not receive milestone payments or generate revenues from royalties sufficient to offset our significant investment in product development and other costs, then our business could be harmed. Disagreements with our collaborators could lead to delays or interruptions in, or termination of, development and commercialization of certain potential products or could require or result in litigation or arbitration, which could be time-consuming and expensive and may result in lost revenues and substantial legal costs which could negatively impact our results from operations. In addition, if we are unable to acquire new marketed products on a timely basis at an appropriate purchase price and terms, we may not reach profitability and may not generate sufficient cash to fund operations.

If we are unable to protect our proprietary rights, we may lose our competitive position and future revenues.

Our success will depend in part on our ability to:

- obtain patents for our products and technologies,
- protect trade secrets,
- operate without infringing upon the proprietary rights of others, and
- prevent others from infringing on our proprietary rights.

We will only be able to protect our proprietary rights from unauthorized use by third parties to the extent that these rights are covered by valid and enforceable patents or are effectively maintained as trade secrets and are otherwise protectable under applicable law. We will attempt to protect our proprietary position by filing U.S. and foreign patent applications related to our proprietary products, technology, inventions and improvements that are important to the development of our business.

The patent positions of biotechnology and biopharmaceutical companies involve complex legal and factual questions and, therefore, enforceability cannot be predicted with certainty. Patents, if issued, may be challenged, invalidated or circumvented. Thus, any patents that we own or license from third parties may not provide any protection against competitors. Pending patent applications we may file in the future, or those we may license from third parties, may not result in patents being issued. Also, patent rights may not provide us with proprietary protection or competitive advantages against competitors with similar technology. Furthermore, others may independently develop similar technologies or duplicate any technology that we have developed or we will develop. The laws of some foreign countries may not protect our intellectual property rights to the same extent as do the laws of the United States.

In addition to patents, we rely on trade secrets and proprietary know-how. We currently seek protection, in part, through confidentiality and proprietary information agreements. These agreements may not provide meaningful protection or adequate remedies for proprietary technology in the event of unauthorized use or disclosure of confidential and proprietary information. The parties may not comply or may breach these agreements. Furthermore, our trade secrets may otherwise become known to, or be independently developed by competitors.

Our success will further depend, in part, on our ability to operate without infringing the proprietary rights of others. If our activities infringe on patents owned by others, we could incur substantial costs in defending ourselves in suits brought against a licensor or us. Should our products or technologies be found to infringe on patents issued to third parties, the manufacture, use and sale of our products could be enjoined, and we could be required to pay substantial damages. In addition, we, in connection with the development and use of our products and technologies, may be required to obtain licenses to patents or other proprietary rights of third parties, which may not be made available on terms acceptable to us, if at all.

Since we must obtain regulatory approval to market our products in the United States and in foreign jurisdictions, we cannot predict whether or when we will be permitted to commercialize our products.

Any products that we develop are subject to regulation by federal, state and local governmental authorities in the United States., including the FDA, and by similar agencies in other countries. Any product that we develop must receive all relevant regulatory approvals or clearances before it may be marketed in a particular country. The regulatory process, which includes extensive pre-clinical studies and clinical trials of each product to establish its safety and efficacy, is uncertain, can take many years and requires the expenditure of substantial resources. Data obtained from pre-clinical and clinical activities are susceptible to varying interpretations that could delay, limit or prevent regulatory approval or clearance. In addition, delays or rejections may be encountered based upon changes in regulatory policy during the period of product development and the period of review of any application for regulatory approval or clearance for a product. Delays in obtaining regulatory approvals or clearances could:

- stall the marketing, selling and distribution of any products that our corporate partners or we develop,
- impose significant additional costs on our corporate partners and us,
- diminish any competitive advantages that we or our corporate partners may attain, and
- decrease our ability to receive royalties and generate revenues and profits.

Regulatory approval, if granted, may entail limitations on the indicated uses for which a new product may be marketed that could limit the potential market for the product. Product approvals, once granted, may be withdrawn if problems occur after initial marketing. Furthermore, manufacturers of approved products are subject to pervasive review, including compliance with detailed regulations governing FDA good manufacturing practices. The FDA periodically revises the good manufacturing practices regulations. Failure to comply with applicable regulatory requirements can result in warning letters, fines, injunctions, civil penalties, recall or seizure of products, total or partial suspension of production, refusal of the government to grant marketing applications and criminal prosecution.

In addition, we cannot predict the extent of government regulations or the impact of new governmental regulations that may result in a delay in the development, production and marketing of our products. As such, we may be required to incur significant costs to comply with current or future laws or regulations. For example, successful late stage Phase III clinical trials for such potentially important treatments such as diabetic gastroparesis and delayed onset emesis may require the enrollment of many patients. Together, the costs of these trials, if funded solely by us, could exceed our current financial resources.

Our ability to generate revenues is affected by the availability of reimbursement on our products, and our ability to generate revenues will be diminished if we fail to obtain an adequate level of reimbursement for our products from third party payors.

In both domestic and foreign markets, sales of our products will depend in part on the availability of reimbursement from third party payors such as state and federal governments (for example, under Medicare and Medicaid programs in the United States) and private insurance plans. Because of VSL#3's non-prescription status, it is not widely covered by third party payors. In certain foreign markets, the pricing and profitability of our products generally are subject to government controls. In the United States, there have been, and we expect there will continue to be, a number of state and federal proposals that limit the amount that state or federal governments will pay to reimburse the cost of drugs. We believe the increasing emphasis on managed care in the United States has and will continue to put pressure on the price and usage of our products, which may also impact product sales. Further, when a new therapeutic is approved, the reimbursement status and rate of such a product is uncertain. In addition, current reimbursement policies for existing products may change at any time. Changes in reimbursement or our failure to obtain reimbursement for our products may reduce the demand for, or the price of, our products, which could result in lower product sales or revenues, thereby weakening our competitive position and negatively impacting our results of operations.

In the United States, proposals have called for substantial changes in the Medicare and Medicaid programs. Any such changes enacted may require significant reductions from currently projected government expenditures for these programs. The Medicare Prescription Drug Improvement Act, enacted in December 2003, provides for, among other things, an immediate reduction in the Medicare reimbursement rates for many drugs administered in a physician's office. The Medicare Act, as well as other changes in government legislation or regulation or in private third party payors' policies toward reimbursement for our products, may reduce or eliminate reimbursement of our products' costs. Driven by budget concerns, Medicaid managed care systems have been implemented in several states and local metropolitan areas. If the Medicare and Medicaid programs implement changes that restrict the access of a significant population of patients to its innovative medicines, the market acceptance of these products may be reduced. We are unable to predict what impact the Medicare Act or other future legislation, if any, relating to third party reimbursement, will have on our product sales.

To facilitate the availability of our products for Medicaid patients, we have contracted with the Center for Medicare and Medicaid Services. As a result, we pay quarterly rebates consistent with the utilization of our products by individual states. We also must give discounts under contract on purchases or reimbursements of pharmaceutical products by certain other federal and state agencies and programs. If these discounts and rebates become burdensome to us and we are not able to sell our products through these channels, our net sales could decline.

Our stock price has a history of volatility, and an investment in our stock could decline in value.

The price of our common stock, like that of other specialty pharmaceutical companies, is subject to significant volatility. Our stock price has ranged in value from $0.60 to $2.18 over the last two years since March 31, 2002. Any number of events, both internal and external to us, may continue to affect our stock price. These include, without limitation, the quarterly and yearly revenues and earnings/losses; our ability to acquire and market appropriate pharmaceuticals; announcement by us or our competitors regarding product development efforts, including the status of regulatory approval applications; the outcome of legal proceedings, including claims filed by us against third parties to enforce our patents and claims filed by third parties against us relating to patents held by the third parties; the launch of competing products; our ability to obtain product from our contract manufacturers; the resolution of (or failure to resolve) disputes with collaboration partners and corporate restructuring by us.

If product liability lawsuits are successfully brought against us or we become subject to other forms of litigation, we may incur substantial liabilities and costs and may be required to limit commercialization of our products.

Our business will expose us to potential liability risks that are inherent in the testing, manufacturing and marketing of pharmaceutical products. The use of any drug candidates ultimately developed by us or our collaborators in clinical trials may expose us to product liability claims and possible adverse publicity. These risks will expand for any of our drug candidates that receive regulatory approval for commercial sale and for those products we currently market. Product liability insurance for the pharmaceutical industry is generally expensive, if available at all. We currently have product liability insurance for claims up to $10,000,000. However, if we are unable to maintain insurance coverage at acceptable costs, in a sufficient amount, or at all, or if we become subject to a product liability claim, our reputation, stock price and ability to devote the necessary resources to the commercialization of our products could be negatively impacted.

NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains and incorporates by reference forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. These forward-looking statements are subject to a number of risks, uncertainties and assumptions about us, including, among other things, those set forth elsewhere in this prospectus under the heading “Risk Factors.” You can identify these forward-looking statements by forward-looking words such as “believe,” “may,” “could,” “will,” “estimate,” “continue,” “anticipate,” “intend,” “seek,” “plan,” “expect,” “should,” “would” and similar expressions in this prospectus.

We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. In light of these risks and uncertainties, the forward-looking events and circumstances discussed in this prospectus may not occur and actual results could differ materially from those anticipated or implied in the forward-looking statements.

We have not authorized any person to make a statement that differs from what is in this prospectus. If any person does make a statement that differs from what is in this prospectus, you should not rely on it. This prospectus is not an offer to sell, nor is it seeking an offer to buy, these securities in any state where the offer or sale is not permitted. The information in this prospectus is complete and accurate as of its date, but the information may change after that date.

USE OF PROCEEDS

We are registering the shares of our common stock offered by this prospectus for the account of the selling shareholders identified in the section of this prospectus entitled “Selling Shareholders.” All of the net proceeds from the sale of our common stock by this prospectus will go to the selling shareholders who offer and sell their shares of our common stock. We will not receive any part of the proceeds from the sale of these securities.

SELLING SHAREHOLDERS

The following table provides the name of each selling shareholder and the number of shares of our common stock offered by each selling shareholder under this prospectus. The shares of common stock being offered under this prospectus were issued to the indicated selling shareholder in January 2004 in a private placement. Because the selling shareholders may sell all or part of their shares of our common stock being offered under this prospectus, and since this offering is not being underwritten on a firm commitment basis, we cannot determine the number and percentage of shares of our common stock that the selling shareholders will hold at the end of the offering covered by this prospectus. However, for purposes of calculating the number and percentage of shares of our common stock that the selling shareholders will hold at the end of the offering covered by this prospectus in the table below only, we have assumed that all shares being offered in the offering covered by this prospectus will have been sold by the selling shareholders.

	Shares Beneficially Owned Before the Offering			Shares Beneficially Owned After the Offering	
Name	Number	Percent(1)	Shares Being Offered	Number	Percent
Broadwood Partners, L.P.(2)	2,182,160	4.28%	761,350	1,420,810	2.78%
Craig Drill Capital, L.P.(3)	800,000	1.57%	300,000	500,000	*
Craig Drill Capital Limited(4)	800,000	1.57%	300,000	500,000	*
John de Benedetti	69,000	*	23,000	46,000	*
Defiante Farmaceutica Unipessoal L.D.A.(5)	14,631,375(6)	27.98%	759,493	13,871,882(6)	26.53%
Islandia, L.P.(7)	1,036,233(8)	2.03%	178,218	858,015(8)	1.68%
Itros I, L.P.(9)	53,050	*	22,140	30,910	*
Itros II QP, L.P.(10)	414,165	*	177,390	236,775	*
Itros Offshore, Ltd.(11)	532,785	1.04%	250,470	282,315	*
The Larry Haimovitch 2000 Separate Property Revocable Trust(12)	171,400(13)	*	56,500	114,900(13)	*
Midsummer Investment, Ltd.(14)	2,334,790	4.58%	671,020	1,663,770	3.26%
ProMed Partners, L.P.(15)	493,725	*	253,620	240,105	*
ProMed Offshore Fund, Ltd.(16)	77,975	*	43,500	34,475	*
SF Capital Partners Ltd.(17)	2,546,452(18)	4.99%	1,000,000	2,025,317(18)	3.82%
Robert A. Schindler and Janet Schindler	64,500	*	21,500	43,000	*
Truk Opportunity Fund, LLC(19)	30,000	*	30,000	—	*
George S. Taylor	384,650(20)	*	30,000	354,650(20)	*

* Ownership is less than 1%

(1) Calculated in accordance with Rule 13d-3 promulgated under the Securities Exchange Act of 1934, as amended, and based on 51,031,096 shares of common stock outstanding as of March 31, 2004.

(2) Broadwood Partners, L.P. is a private investment partnership managed by Broadwood Capital, Inc. based in New York City. As President of Broadwood Capital, Inc., Neal C. Bradsher may be deemed to have dispositive power over the shares listed herein.

(3) Craig Drill Capital, L.P. is a private Delaware limited partnership. The General Partner of Craig Drill Capital, L.P. is Craig Drill Capital, LLC. The Manager of Craig Drill Capital, LLC is Craig A. Drill. As Manager of the General Partner, Craig A. Drill may be deemed to have dispositive power over the shares listed herein.

(4) Craig Drill Capital Limited is a British Virgin Islands corporation. The Investment Manager of Craig Drill Capital Limited is Craig Drill Capital Corporation. The President of Craig Drill Capital Corporation is Craig A. Drill. As President of the Investment Manager, Craig A. Drill may be deemed to have dispositive power over the shares listed herein.

(5) Defiante Farmaceutica Unipessoal L.D.A. is a wholly owned subsidiary of Sigma Tau Finanziaria S.p.A., which is controlled by Paolo Cavazza and Claudio Cavazza.

(6) Includes 1,265,823 shares of common stock issuable upon conversion of a debenture.

(7) John Lang, Inc., a Delaware corporation ("John Lang"), is general partner of Islandia, L.P., a Delaware limited partnership ("Islandia Investment"). By reason of such relationship, John Lang may be deemed to share dispositive power over the shares of common stock owned by Islandia Investment. John Lang disclaims beneficial ownership of such shares of common stock.

Mr. Richard Berner ("Berner") is the president of John Lang. By reason of such relationship, Berner may be deemed to share dispositive power over the shares of common stock stated as beneficially owned by Islandia Investment. Berner disclaims beneficial ownership of such shares of common stock. No other person has sole or shared voting or dispositive power with respect to the shares of common stock being offered by Islandia Investment, as those terms are used for the purposes of Regulation 13D-G under the Securities Exchange Act of 1934, as amended. No other person or "group" (as that term is used in Section 13(d) of the Securities Exchange Act of 1934, as amended, or the SEC's Regulation 13D-G) controls John Lang.

(8) Includes 135,996 shares of common stock issuable upon exercise of a warrant.

(9) Itros Capital Management, LLC, a Delaware limited liability company ("Itros Capital Management"), is the investment manager of Itros I, L.P. and shares dispositive power over the shares of common stock stated as beneficially owned by Itros I, L.P. John R. Schroer is the Managing Member of Itros Capital Management and disclaims beneficial ownership of such shares of common stock.

(10) Itros Capital Management, LLC, a Delaware limited liability company ("Itros Capital Management"), is the investment manager of Itros II QP, L.P. and shares dispositive power over the shares of common stock stated as beneficially owned by Itros II QP, L.P. John R. Schroer is the Managing Member of Itros Capital Management and disclaims beneficial ownership of such shares of common stock.

(11) Itros Capital Management, LLC, a Delaware limited liability company ("Itros Capital Management"), is the investment manager of Itros Offshore, Ltd. and shares dispositive power over the shares of common stock stated as beneficially owned by Itros Offshore, Ltd. John R. Schroer is the Managing Member of Itros Capital Management and disclaims beneficial ownership of such shares of common stock.

(12) As the sole trustee of The Larry Haimovitch 2000 Separate Property Revocable Trust, Larry Haimovitch may be deemed to have dispositive power over the shares listed herein.

(13) Includes 10,000 shares of common stock issuable upon exercise of stock options.

(14) Midsummer Capital, LLC, a New York limited liability company ("Midsummer Capital"), serves as investment advisor to Midsummer Investment Ltd., a Bermuda company ("Midsummer Investment"). By reason of such relationship, Midsummer Capital may be deemed to share dispositive power over the shares of common stock owned by Midsummer Investment. Midsummer Capital disclaims beneficial ownership of such shares of common stock.

Messrs. Michel A. Amsalem ("Amsalem") and Scott D. Kaufman ("Kaufman") are members of Midsummer Capital. By reason of such relationships, Amsalem and Kaufman may be deemed to share dispositive power over the shares of common stock stated as beneficially owned by Midsummer Investment. Amsalem and Kaufman disclaim beneficial ownership of such shares of common stock. No other person has sole or shared voting or dispositive power with respect to the shares of common stock being offered by Midsummer Investment, as those terms are used for the purposes of Regulation 13D-G under the Securities Exchange Act of 1934, as amended. No other person or "group" (as that term is used in Section 13(d) of the Securities Exchange Act of 1934, as amended, or the SEC's Regulation 13D-G) controls Midsummer Capital.

(15) ProMed Partners, L.P. is a healthcare investment fund managed by Barry Kurokawa and David B. Musket.

(16) ProMed Offshore Fund, Ltd. is a healthcare investment fund managed by Barry Kurokawa and David B. Musket.

(17) SF Capital Partners Ltd. is an international business company organized under the laws of the British Virgin Islands. Stark Investments Limited Partnership, a Wisconsin limited partnership ("Stark"), and Shepherd Investments International, Ltd., an international business company organized under the laws of the British Virgin Islands ("Shepherd") are the sole beneficial shareholders of SF Capital Partners Ltd. Staro Asset Management, L.L.C. ("Staro"), a Wisconsin limited liability company, serves as the general partner of Stark and as the investment manager of Shepherd. Michael A. Roth and Brian J. Stark, in their capacity as the managing members of Staro, exercise investment control on behalf of SF Capital Partners Ltd.

(18) Ownership percentage based on 1,265,823 shares of common stock issuable upon conversion of a debenture and 759,494 shares of common stock issuable upon exercise of a warrant. The debenture and warrant issued to SF Capital Partners Ltd. contain provisions limiting SF Capital Partners Ltd.'s ability to convert the debenture and/or exercise the warrant to the extent that such exercise would result in SF Capital Partners Ltd. beneficially owning (for purposes of Section 13(d) of the Securities Exchange Act of 1934) more than 4.99% of our common stock, and such provision could be waived by SF Capital Partners Ltd. on no less than sixty one days notice to us.

(19) Truk Opportunity Fund, LLC is a Delaware limited liability company. Atoll Asset Management, LLC., a Delaware limited liability company qualified to do business in NYC, is the managing member of the Truk Opportunity Fund, LLC and is responsible for making trading and investment decisions on behalf of the fund. The principal executives of the managing member are Michael E. Fein and Stephen E. Saltzstein.

(20) Includes 131,550 shares of common stock issuable upon exercise of a warrant and 10,000 shares of common stock issuable upon exercise of stock options.

Pursuant to agreements between us and the selling shareholders, we agreed to file a registration statement covering the shares of common stock issuable to the selling shareholders.

Neal C. Bradsher, who indirectly owns shares of our common stock through Broadwood Partners, L.P., is a member of our board of directors. Defiante Farmaceutica Unipessoal L.D.A. is a wholly owned subsidiary of Sigma Tau Finanziaria S.p.A. Sigma Tau Finanziaria S.p.A and its affiliates beneficially own, directly or indirectly, approximately 24% of the voting power of our outstanding voting capital stock, and they beneficially own, including shares of our common stock issuable upon conversion of a convertible debenture, approximately 28% of our outstanding common stock, as of March 31, 2004. None of the other selling shareholders has any position, office or other material relationship with us or any of our affiliates, nor have they had any position, office or material relationship with us or any of our affiliates within the past three years.

PLAN OF DISTRIBUTION

The selling shareholders and any of their pledgees, assignees and successors-in-interest may, from time to time, sell any or all of their shares of common stock on any stock exchange, market or trading facility on which the shares are traded or in private transactions. These sales may be at fixed or negotiated prices. The selling shareholders may use any one or more of the following methods when selling shares:

- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the shares as an agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- short sales;
- broker-dealers may agree with the selling shareholders to sell a specified number of such shares at a stipulated price per share;
- a combination of any such methods of sale; and
- any other method permitted pursuant to applicable law

The selling shareholders may also sell shares under Rule 144 under the Securities Act of 1933, if available, rather than under this prospectus.

Broker-dealers engaged by the selling shareholders may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the selling shareholders (or, if any broker-dealer acts as agent for the purchaser of shares, from the purchaser) in amounts to be negotiated. Each of the selling shareholders does not expect these commissions and discounts from such selling shareholder to exceed what is customary in the types of transactions involved.

The selling shareholders may from time to time pledge or grant a security interest in some or all of the shares of common stock or warrants owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the shares of common stock from time to time under this prospectus, or under an amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act of 1933 amending the list of selling shareholders to include the pledgee, transferee or other successors in interest as selling shareholders under this prospectus.

The selling shareholders also may transfer the shares of common stock in other circumstances, in which case the transferees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

The selling shareholders and any broker-dealers or agents that are involved in selling the shares may be deemed to be “underwriters” within the meaning of the Securities Act of 1933 in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the shares purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act of 1933. Each of the selling shareholders has informed us that they do not have any agreement or understanding, directly or indirectly, with any person to distribute the common stock.

We are required to pay all fees and expenses incident to the registration of the shares. We have agreed to indemnify the selling shareholders against certain losses, claims, damages and liabilities, including liabilities under the Securities Act of 1933.

LEGAL MATTERS

The legality of our common stock offered by this prospectus will be passed upon by Latham & Watkins LLP, San Diego, California.

EXPERTS

Ernst & Young, LLP, independent auditors, have audited our consolidated financial statements and schedule included in our Annual Report on Form 10-K for the year ended December 31, 2003, as set forth in their report, which is incorporated by reference in this prospectus and elsewhere in the registration statement. Our consolidated financial statements and schedule are incorporated by reference in reliance on Ernst & Young LLP's report, given on their authority as experts in accounting and auditing.

WHERE TO FIND ADDITIONAL INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy materials we have filed with the SEC at the SEC's Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the operation of its Public Reference Room. Our SEC filings also are available to the public on the SEC's Internet site at www.sec.gov. In addition, you may obtain a copy of our SEC filings at no cost by writing or telephoning our Chief Financial Officer at:

Questcor Pharmaceuticals, Inc.
3260 Whipple Road
Union City, California 94587
(510) 400-0700

The SEC allows us to "incorporate by reference" in this prospectus information we file with the SEC, which means that we may disclose important information in this prospectus by referring you to the document that contains the information. The information incorporated by reference is considered to be a part of this prospectus, and later information filed with the SEC will update and supersede this information. We incorporate by reference the documents listed below and any future filings we make with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, until the offering of securities covered by this prospectus is completed:

- Our Annual Report on Form 10-K for the fiscal year ended December 31, 2003, filed with the SEC on March 30, 2004;
- Our Definitive Proxy Statement on Schedule 14A filed with the SEC on March 29, 2004; and
- The description of our common stock contained in our (formerly Cypros Pharmaceutical Corporation) Registration Statement on Form 8-A filed with the SEC on October 26, 1992, as amended.

All documents filed by us pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date this Registration Statement is filed with the SEC and prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold shall be deemed to be incorporated by reference in this Registration Statement and to be a part of it from the respective dates of filing of such documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

We have filed with the SEC a Registration Statement on Form S-3 under the Securities Act of 1933 relating to the securities that may be offered by this prospectus. This prospectus is a part of that Registration Statement, but does not contain all of the information in the Registration Statement. For more detail concerning Questcor and any securities offered by this prospectus, you may examine the Registration Statement and the exhibits filed with it at the offices of the SEC.

You should rely only on the information provided or incorporated by reference in this prospectus or in the applicable supplement to this prospectus. You should not assume that the information in this prospectus and the applicable supplement is accurate as of any date other than the date on the front cover of the document.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. ***Other Expenses of Issuance and Distribution***

Our estimated expenses in connection with the distribution of the securities being registered are as set forth in the following table:

SEC Registration Fee	$ 563
Legal Fees and Expenses	20,000
Accounting Fees and Expenses	9,000
Printing and Engraving Expenses	0
Miscellaneous	4,437
Total	$34,000

All of the above items except the registration fee are estimates.

Item 15. ***Indemnification of Directors and Officers***

Section 317 of the California General Corporation Law authorizes a court to award, or a corporation's Board of Directors to grant, indemnity to directors and officers who are parties or are threatened to be made parties to any proceeding (with exceptions) by reason of the fact that the person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with the proceeding if that person acted in good faith and in a manner the person reasonably believed to be in the best interests of the corporation. This limitation on liability has no effect on a director's liability (i) for acts or omissions that involve intentional misconduct or a knowing and culpable violation of law, (ii) for acts or omissions that a director believes to be contrary to the best interests of the corporation or its security holders or that involve the absence of good faith on the part of the director, (iii) relating to any transaction from which a director derived an improper personal benefit, (iv) for acts or omissions that show a reckless disregard for the director's duty to the corporation or its security holders in circumstances in which the director was aware, or should have been aware, in the ordinary course of performing a director's duties, of a risk of a serious injury to the corporation or its security holders, (v) for acts or omissions that constitute an unexcused pattern of inattention that amounts to an abdication of the directors' duty to the corporation or its security holders, (vi) under Section 310 of the California General Corporation Law (concerning contracts or transactions between the corporation and a director) or (vii) under Section 316 of the California General Corporation Law (directors' liability for improper dividends, loans and guarantees). The provision does not extend to acts or omissions of a director in his capacity as an officer. Further, the provision has no effect on claims arising under federal or state securities laws and does not affect the availability of injunctions and other equitable remedies available to our security holders for any violation of a director's fiduciary duty to us or our security holders. Although the validity and scope of the legislation underlying the provision have not yet been interpreted to any significant extent by the California courts, the provision may relieve directors of monetary liability to us for grossly negligent conduct, including conduct in situations involving attempted takeovers of Questcor.

In accordance with Section 317, our Amended and Restated Articles of Incorporation, or Articles, limit the liability of a director to us or our security holders for monetary damages to the fullest extent permissible under California law, and authorizes us to provide indemnification to our agents (including our officers and directors), subject to the limitations set forth above. Our Bylaws further provide for indemnification of corporate agents to the maximum extent permitted by the California General Corporation Law.

Pursuant to the authority provided in our Articles, we have entered into indemnification agreements with each of our officers and directors, indemnifying them against potential liabilities that may arise as a result of their service and providing for other protection.

We also maintain insurance policies that insure our officers and directors against liabilities arising from their positions.

The foregoing summaries are necessarily subject to the complete text of the statute, our Articles, our Bylaws and the agreements referred to above and are qualified in their entirety by reference thereto.

Item 16. ***Exhibits***

The Exhibit Index is attached hereto on page E-1.

Item 17. ***Undertakings***

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in this registration statement; provided, however, that subparagraphs (a)(1)(i) and (a)(1)(ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the SEC by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in this registration statement;

provided, however, that the undertakings set forth in paragraphs (a)(1)(i) and (a)(1)(ii) above do not apply if the Registration Statement is on Form S-3, Form S-8 or Form F-3, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Company pursuant to Section 13 or 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby further undertakes that, for the purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to existing provisions or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Union City, County of Alameda, State of California, on April 2, 2004.

QUESTCOR PHARMACEUTICALS, INC.

By: /s/ CHARLES J. CASAMENTO
Charles J. Casamento
Chairman, President and Chief Executive Officer

POWER OF ATTORNEY

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed below by the following persons in the capacities and on the dates indicated.

Each person whose signature appears below hereby constitutes and appoints Charles J. Casamento and Timothy E. Morris, and each of them, his true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, or any registration statement for the same offering that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act of 1933, and to file the same, with exhibits thereto and other documents in connection therewith or in connection with the registration of the common stock offered hereby under the Securities Act of 1933, with the SEC, granting unto such attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary in connection with such matters and hereby ratifying and confirming all that such attorneys-in-fact and agents, and each of them, may do or cause to be done by virtue hereof.

Signature	Title	Date
/s/ CHARLES J. CASAMENTO **Charles J. Casamento**	Chairman, President and Chief Executive Officer and Director (Principal Executive Officer)	April 2, 2004
/s/ TIMOTHY E. MORRIS **Timothy E. Morris**	Senior Vice President, Finance & Administration, and Chief Financial Officer (Principal Financial and Accounting Officer)	April 2, 2004
/s/ NEAL C. BRADSHER **Neal C. Bradsher**	Director	April 2, 2004
/s/ BRIAN C. CUNNINGHAM **Brian C. Cunningham**	Director	April 2, 2004
/s/ FRANK J. SASINOWSKI **Frank J. Sasinowski**	Director	April 2, 2004
/s/ JON S. SAXE **Jon S. Saxe**	Director	April 2, 2004
/s/ ROGER G. STOLL **Roger G. Stoll**	Director	April 2, 2004
/s/ VIRGIL D. THOMPSON **Virgil D. Thompson**	Director	April 2, 2004

EXHIBIT INDEX

Exhibit Number	Description
4.1(1)	Form of Common Stock Certificate.
4.2	Form of Common Stock Purchase Agreement dated as of January 15, 2004 by and between the Registrant and the purchasers of common stock thereto.
5.1	Opinion of Latham & Watkins LLP.
23.1	Consent of Latham & Watkins LLP (contained in Exhibit 5.1).
23.2	Consent of Ernst & Young LLP, Independent Auditors.
24.1	Powers of Attorney (contained on the signature page of this Registration Statement).

(1) Filed as an exhibit to Questcor Pharmaceuticals, Inc.'s, formerly Cypros Pharmaceutical Corporation, Registration Statement on Form 8-A, as amended (File No. 33-51682), and incorporated herein by reference.

Exhibit 4.2

COMMON STOCK PURCHASE AGREEMENT

This Common Stock Purchase Agreement (the "Agreement") is made as of January 15, 2004 between Questcor Pharmaceuticals, Inc., a California corporation (the "Company"), and the purchasers who are signatories hereto (the "Purchasers").

AGREEMENT

1. Purchase and Sale of Common Stock.

1.1. Sale to the Purchasers. Subject to the terms and conditions hereof, the Company will issue and sell to each Purchaser the number of shares (the "Shares") of Common Stock of the Company, no par value per share (the "Common Stock"), set forth opposite such Purchaser's name on the signature page hereto at a purchase price of $0.644 per Share (the "Purchase Price"). The obligations of each Purchaser hereunder are several and not joint and no Purchaser shall be obligated to purchase any Shares in excess of the number set forth opposite such Purchaser's name on the signature page hereto.

1.2. Payment of Purchase Price. On or prior to the date hereof (the "Closing Date"), the Purchase Price shall be payable by the Purchasers by delivery to the Company of (i) the cash consideration ("Cash Consideration") indicated on the signature page hereto plus (ii) the value of the warrants to be surrendered to the Company for cancellation as indicated on the signature page hereto (the "Warrant Valuation"), together as payment of the Purchase Price for the Shares purchased by such Purchaser hereunder.

2. Closing Date and Delivery.

2.1. Closing Date. The closing of the purchase and sale of the Shares hereunder (the "Closing") will be held on the Closing Date and shall occur at the offices of the Company, 3260 Whipple Road, Union City, CA 94587.

2.2. Deliveries at Closing. At the Closing, the Company shall deliver to each Purchaser a stock certificate registered in such Purchaser's name, or in such nominee name(s) as designated by the Purchaser in writing, representing the Shares purchased by such Purchaser. At the Closing, each Purchaser shall (i) effect a wire transfer to the Company in the amount of the Cash Consideration and (ii) surrender the warrants set forth opposite such Purchaser's name on the signature page hereto to the Company for cancellation, each as provided in Section 1.2.

3. Representations and Warranties by the Company. The Company represents and warrants to each Purchaser as of the Closing Date that, except as set forth in the SEC Reports (as hereinafter defined):

3.1. Organization and Standing. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of California, and has the requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted. The Company is qualified to do business and is in good standing as a foreign corporation in every jurisdiction in which the failure to so qualify would have a material adverse effect on the financial condition or business of the Company.

3.2. Changes. Except as set forth in the SEC Reports, since September 30, 2003, the Company has not, to the extent material to the Company: (a) incurred any debts, obligations or liabilities, absolute, accrued or contingent, whether due or to become due, other than in the ordinary course of business; (b) mortgaged, pledged or subjected to lien, charge, security interest or other encumbrance any of its assets, tangible or intangible, other than in the ordinary course of business; (c) waived any debt owed to the Company or its subsidiaries, other than in the ordinary course of business; (d) satisfied or discharged any lien, claim or encumbrance or paid any obligation other than in the ordinary course of business; (e) declared or paid any dividends, other than in the ordinary course of business; or (f) entered into any transaction other than in the ordinary course of business.

3.3. Litigation. Except as set forth in the SEC Reports, there are no legal actions, suits, arbitrations or other legal, administrative or governmental proceedings pending or, to the Company's knowledge, threatened against the Company or its properties, assets or business, and the Company is not aware of any facts which might result in or form the basis for any such action,

suit or other proceeding, in each case which, if adversely determined, would individually or in the aggregate have a material adverse effect on the financial condition or business of the Company.

3.4. Compliance with Other Instruments. Except for such matters which, either individually or in the aggregate, would not have a material adverse effect on the financial condition or business of the Company, the execution and delivery of, and the performance and compliance with, this Agreement and the transactions contemplated hereby, with or without the giving of notice or passage of time, will not (a) result in any breach of, or constitute a default under, or result in the imposition of any lien or encumbrance upon any asset or property of the Company pursuant to any agreement or other instrument to which the Company is a party or by which it or any of its properties, assets or rights is bound or affected; (b) violate the Amended and Restated Articles of Incorporation (the "Articles") or Amended and Restated Bylaws (the "Bylaws") of the Company, or any law, rule, regulation, judgment, order or decree; or (c) except for the registration of the Shares under the Securities Act of 1933, as amended (the "Securities Act"), the listing of the Shares on the AMEX and such consents, approvals, authorizations, registrations or qualifications as may be required under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and applicable state securities laws in connection with the purchase of the Shares by the Purchasers, require any consent, approval, authorization or order of or filing with any court or governmental agency or body. The Company is not in violation of its Articles or Bylaws nor in violation of, or in default under, any lien, mortgage, lease, agreement or instrument, except for such defaults which would not, individually or in the aggregate, have a material adverse effect on the financial condition or business of the Company. The Company is not subject to any restriction which would prohibit the Company from entering into or performing its obligations under this Agreement, except for such restrictions which would not, individually or in the aggregate, have a material adverse effect on the ability of the Company to perform its obligations under this Agreement.

3.5. Reports and Financial Statements. As of their respective filing dates, the Company's Form 10-K for the year ended December 31, 2002, the Company's Proxy Statement in connection with the 2003 Annual Meeting of Shareholders and all Forms 10-Q and 8-K filed by the Company with the Securities and Exchange Commission (the "SEC") after January 1, 2003, in each case without exhibits thereto (the "SEC Reports") were prepared in all material respects in accordance with the requirements of the Securities Act or the Exchange Act, as the case may be, and the rules and regulations of the SEC thereunder applicable to such SEC Reports. The SEC Reports, when read as a whole, do not contain any untrue statements of a material fact and do not omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The audited consolidated financial statements and unaudited interim financial statements of the Company included in the SEC Reports have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis (except as may be indicated therein or in the notes thereto) and fairly present, in all material respects, the financial position of the Company as at the dates thereof and the results of its operations and cash flows for the periods then ended subject, in the case of the unaudited interim financial statements, to normal year-end adjustments and any other adjustments described in such financial statements.

3.6. Securities. The Shares are duly and validly authorized, issued and outstanding, fully paid, nonassessable and free and clear of all pledges, liens, encumbrances and restrictions (other than arising under federal or state securities laws). The issuance of the Shares is not subject to any preemptive or other similar rights.

3.7. Capital Stock. As of December 17, 2003, 45,355,828 shares of the Common Stock were issued and outstanding, 2,155,715 shares of the Company's Series A Preferred Stock, no par value per share (the "Series A Preferred Stock"), which are convertible into 2,155,715 shares of Common Stock, were issued and outstanding, 9,100 shares of the Company's Series B Preferred Stock, no par value per share (the "Series B Preferred Stock"), which are convertible into 9,668,506 shares of Common Stock, were issued and outstanding, 2,531,646 shares of Common Stock issuable upon conversion of convertible debentures, and options and/or warrants to purchase 18,058,076 shares of Common Stock, were issued and outstanding. All of the outstanding shares of the Company's capital stock are validly issued, fully paid and nonassessable. Except as set forth in this Section 3.7, as of December 17, 2003, there are no outstanding subscriptions, options, warrants, calls, contracts, demands, commitments, conversion rights or other agreements or arrangements of any character or nature whatever under which the Company is or may be obligated to issue its Common Stock, Series A Preferred Stock, Series B Preferred Stock, or warrants or options to purchase the Common Stock or the Series A Preferred Stock

or Series B Preferred Stock. No holder of any security of the Company is entitled to any preemptive or similar rights to purchase any securities of the Company.

3.8. Corporate Acts and Proceedings. This Agreement has been duly authorized by the requisite corporate action and has been duly executed and delivered by an authorized officer of the Company, and is a valid and binding obligation of the Company, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights generally and as to limitations on the

enforcement of the remedy of specific performance and other equitable remedies. The requisite corporate action necessary for the authorization, reservation, issuance and delivery of the Shares has been taken by the Company.

3.9. No Implied Representations. All of the Company's representations and warranties are contained in this Agreement, and no other representations or warranties by the Company shall be implied.

3.10. Filing of Reports. Since the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2002, the Company has filed with the SEC all reports and other material required to be filed by it therewith pursuant to Section 13, 14 or 15(d) of the Exchange Act and the Company is eligible to register the offer and resale of the Shares by the holders thereof on a Registration Statement on Form S-3.

3.11. Compliance with Laws. The business and operations of the Company have been conducted in accordance with all applicable laws, rules and regulations of all governmental authorities, except for such violations which would not, individually or in the aggregate, have a material adverse effect on the financial condition or business of the Company.

3.12. Proprietary Rights. To the knowledge of the Company, the Company owns or is licensed to use all patents, patent applications, inventions, trademarks, trade names, applications for registration of trademarks, service marks, service mark applications, copyrights, trade secrets, licenses and rights in any thereof and any other intangible property and assets (herein called the "Proprietary Rights") which are material to the business of the Company. Except as would not have a material adverse effect on the financial condition or business of the Company, the Company does not have any knowledge of, and the Company has not given or received any notice of, any pending conflicts with or infringement of the rights of others with respect to any Proprietary Rights. Except as would not have a material adverse effect on the financial condition or business of the Company, no action, suit, arbitration, or legal, administrative or other proceeding, or investigation is pending or, to the knowledge of the Company, threatened, which involves any Proprietary Rights. Except as would not have a material adverse effect on the financial condition or business of the Company, to the knowledge of the Company, no Proprietary Rights used by the Company, and no services or products sold by the Company, conflict with or infringe upon any proprietary rights owned or licensed by any third party. Except as would not have a material adverse effect on the financial condition or business of the Company, no claims have been asserted by any person with respect to the validity of the Company's ownership or right to use the Proprietary Rights and, to the knowledge of the Company, there is no reasonable basis for any such claim to be successful.

3.13. Compliance with Environmental Laws. Except as would not, singly or in the aggregate, have a material adverse effect on the financial condition or business of the Company, the Company is not in violation of any applicable statute, law or regulation relating to the environment or occupational health and safety, and to the Company's knowledge, no expenditures material to the Company are or will be required to comply with any such existing statute, law or regulation. To the Company's knowledge, the Company does not have any liability to any governmental authority or other third party arising under or as a result of any such past or existing statute, law or regulation, which liability would be material to the Company.

3.14. Permits, Licenses, Etc. The Company owns, possesses or has obtained, and is operating in compliance with, all governmental and administrative licenses, permits, certificates, registrations, approvals, consents and other authorizations (collectively, "Permits") necessary to own or lease (as the case may be) and operate its properties, whether tangible or intangible, and to conduct its businesses or operations as currently conducted, except such licenses, permits, certificates, registrations, approvals, consents and authorizations the failure of which to obtain would not have a material adverse effect on the financial condition or business of the Company. The Company has not received any notice of proceedings relating to the revocation, modification or suspension of any Permits or any circumstance which would lead it to believe that such proceedings are reasonably likely.

3.15. Insurance. The Company maintains insurance of the type and in the amount which the Company believes is reasonably adequate for its business, including, but not limited to, insurance covering all real and personal property owned or leased by the Company against theft, damage, destruction, acts of vandalism and all other risks customarily insured against by similarly situated companies, all of which insurance is in full force and effect.

3.16. Brokers or Finders. No agent, broker, investment

banker or other person (as such term is defined in the Securities Act) is or will be entitled to any broker's or finder's fee or any other commission or similar fee from the Company in connection with any of the transactions contemplated hereby.

4. Representations and Warranties by the Purchasers; Restrictions on Transfer. Each Purchaser severally represents and warrants to, and covenants and agrees with, the Company, as of the Closing Date, as follows:

4.1. Authorization. Purchaser has all requisite legal and corporate or other power and capacity and has taken all requisite corporate or other action to execute and deliver this Agreement, to purchase the Shares to be purchased by it and to carry out and perform all of its obligations under this Agreement. This Agreement constitutes the legal, valid and binding obligation of Purchaser, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights generally and as to limitations on the enforcement of the remedy of specific performance and other equitable remedies.

4.2. Investor Status. Purchaser is an "Accredited Investor" as defined in Rule 501 of the Securities Act or a "Qualified Institutional Buyer," as such term is defined in Rule 144A of the Securities Act. Purchaser is aware of the Company's business affairs and financial condition and has had access to and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Shares. Purchaser has such business and financial experience as is required to give it the capacity to protect its own interests in connection with the purchase of the Shares and is able to bear the risks of an investment in the Shares. Purchaser is not itself a "broker" or a "dealer" as defined in the Exchange Act and is not an "affiliate" of the Company as defined in Rule 405 of the Securities Act.

4.3. Investment Intent. Purchaser is purchasing the Shares for its own account as principal, for investment purposes only, and not with a present view to or for resale, distribution or fractionalization thereof, in whole or in part, within the meaning of the Securities Act. Purchaser understands that its acquisition of the Shares has not been registered under the Securities Act or registered or qualified under any state securities law in reliance on specific exemptions therefrom, which exemptions may depend upon, among other things, the bona fide nature of Purchaser's investment intent as expressed herein. Purchaser has, in connection with its decision to purchase the Shares set forth in this Agreement, relied solely upon the representations and warranties of the Company contained herein. Purchaser will not, directly or indirectly, offer, sell, pledge, transfer or otherwise dispose of (or solicit any offers to buy, purchase or otherwise acquire or take a pledge of) any of the Shares, except in compliance with the Securities Act and the rules and regulations promulgated thereunder and all applicable state securities laws.

4.4. Registration or Exemption Requirements. Purchaser further acknowledges and understands that the Shares may not be resold or otherwise transferred except in a transaction registered under the Securities Act and applicable state securities laws unless counsel to the Company shall advise the Company that such transfer may be effected without such registration. Purchaser understands that until the Shares have been registered under the Securities Act and all applicable state securities laws, the certificates evidencing the Shares will be imprinted with a legend that prohibits the transfer of the Shares.

4.5. Restriction on Sales, Short Sales and Hedging Transactions. Purchaser represents and agrees that during the period from the date Purchaser was first contacted with respect to the potential purchase of the Shares through the date of the execution of this Agreement by Purchaser, Purchaser did not, directly or indirectly, execute or effect or cause to be executed or effected any short sale, option or equity swap transaction in or with respect to the Common Stock or any other derivative security transaction the purpose or effect of which is to hedge or transfer to a third party all or any part of the risk of loss associated with the ownership of the Shares by the Purchaser.

4.6. No Legal, Tax Or Investment Advice. Purchaser understands that nothing in this Agreement or any other materials presented to Purchaser in connection with the purchase and sale of the Shares constitutes legal, tax or investment advice. Purchaser has consulted such legal, tax and investment advisors as it, in its sole discretion, has deemed necessary or appropriate in connection with its purchase of the Shares.

4.7. Brokers or Finders. Upon the consummation of the transactions contemplated by this Agreement, no agent, broker, investment banker or other Person is or will be entitled to any broker's or finder's fee or any other commission or similar fee from the Purchaser in connection with any of the transactions contemplated hereby.

5. Covenants.

5.1. Registration Requirements.

(a) Promptly after, but not later than 5 days after, the Company files its Annual Report on Form 10-K for the fiscal year ending December 31, 2003 with the SEC (the "Filing Date"), the Company shall prepare and file a registration statement (the "Registration Statement") with the SEC to register the offer and resale of the Shares (the "Registrable Securities") by the Purchasers and shall use commercially reasonable efforts to cause such Registration Statement to become effective within 30 days

from the Filing Date or not more than five days from the date upon which the SEC shall allow the Company to accelerate effectiveness, whichever is shorter. In the event that the Company shall fail to file the Registration Statement on or prior to the Filing Date or shall fail to obtain effectiveness of the Registration Statement within the 30-day period following the Filing Date (the "Effectiveness Date"), then the Company will make pro rata payments to each Purchaser (the "Liquidated Damages Payments"), as liquidated damages and not as a penalty, in an amount equal to 1.0% of the aggregate amount of the Cash Consideration paid by such Purchaser for each 30-day period or pro rata for any portion therefore following the date by which such Registration Statement should have been effective; provided, however, that if the Registration Statement is subject to review by the SEC staff, then the Effectiveness Date shall be extended by an additional 90 days without any Liquidated Damages Payments required to be made; provided, further, the Company shall not be obligated to make any Liquidated Damages Payments if the Registration Statement is not effective due to the Purchaser's failure to provide any information about itself that is necessary to be contained in such Registration Statement.

(b) The Company shall pay all Registration Expenses (as defined below) in connection with any registration, qualification or compliance hereunder and each Purchaser shall pay all Selling Expenses (as defined below) and other expenses that are not Registration Expenses relating to the Registrable Securities resold by such Purchaser. "Registration Expenses" shall mean all expenses, except for Selling Expenses, incurred by the Company in complying with the registration provisions herein described, including, without limitation, all registration, qualification and filing fees, printing expenses, escrow fees, fees and disbursements of counsel for the Company, blue sky fees and expenses and the expense of any special audits incident to or required by any such registration. "Selling Expenses" shall mean all selling commissions, underwriting fees and stock transfer taxes applicable to the Registrable Securities and all fees and disbursements of counsel for any Purchaser.

(c) If the Registration Statement becomes effective, the Company will use commercially reasonable efforts to: (i) keep such registration effective until the second anniversary of the date such Registration Statement is declared effective; (ii) except as provided in Section 5.1(f), prepare and file with the SEC such amendments and supplements to the Registration Statement and the prospectus used in connection with the Registration Statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by the Registration Statement; (iii) furnish such number of prospectuses and other documents incident thereto, including any amendment of or supplement to the prospectus, as a Purchaser from time to time may reasonably request; (iv) cause the Shares to be listed on the AMEX or any securities exchange or quoted on each quotation service on which the Common Stock of the Company is then listed or quoted; (v) provide a transfer agent and registrar for all securities registered pursuant to the Registration Statement and a CUSIP number for all such securities; and (vi) file the documents required of the Company and otherwise use commercially reasonable efforts to maintain requisite blue sky clearance in all U.S. jurisdictions in which any of the Shares are originally sold and all other states specified in writing by a Purchaser, provided, however, that the Company shall not be required to qualify to do business in any state in which it is not now so qualified or has not so consented.

(d) The Company shall furnish to each Purchaser upon request a reasonable number of copies of a supplement to or an amendment of the prospectus used in connection with the Registration Statement as may be necessary to facilitate the public sale or other disposition of all or any of the Registrable Securities held by Purchaser.

(e) With a view to making available to Purchasers the benefits of Rule 144 of the Securities Act and any other rule or regulation of the SEC that may at any time permit Purchasers to sell Registrable Securities to the public without registration, the Company covenants and agrees to use commercially reasonable efforts to: (i) make and keep public information available as those terms are understood and defined in Rule 144 of the Securities Act until the earlier of (A) the date on which the Registrable Securities may be sold pursuant to Rule 144(k) (or any successor rule) or (B) such date as all of the Registrable Securities shall have been resold; (ii) file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and Exchange Act; and (iii) furnish to any Purchaser upon request, as long as the Purchaser owns any Registrable Securities, (A) a written statement by the Company that it has complied with the reporting requirements of the Securities Act and the Exchange Act, (B) a copy of the most recent annual or quarterly report of the Company, and (C) such other information as may be reasonably requested in order to avail any Purchaser of any rule or regulation of the SEC that permits the selling of any such Registrable Securities without registration.

(f) Purchaser hereby acknowledges that there may be times when the Company must suspend the use of the prospectus forming a part of the Registration Statement until such time as an amendment to such Registration Statement has been filed by the Company and declared effective by the SEC or until the Company has amended or supplemented such prospectus. The Purchaser hereby covenants that it will not sell any securities pursuant to said prospectus during the period commencing at the time at which the Company gives the Purchaser written notice of the suspension of the use of said prospectus and ending at the time the Company gives the Purchaser written notice that Purchaser may thereafter effect sales pursuant to said prospectus. Notwithstanding

anything herein to the contrary, the Company shall not suspend use of the Registration Statement by Purchaser unless such suspension is required by the federal securities laws and the rules and regulations promulgated thereunder.

(g) As to any particular Registrable Securities, such securities shall cease to be Registrable Securities when: (i) a registration statement covering such securities shall have become effective under the Securities Act and such securities have been disposed of in accordance with such registration statement; (ii) such securities may be sold pursuant to Rule 144(k) (or any successor rule); or (iii) such securities shall have ceased to be outstanding.

(h) No Purchaser shall be entitled to any right provided for in this Section 5.1 after the earlier of (i) five (5) years following the effective date of the Registration Statement or (ii) the date on which the Registrable Securities may be sold pursuant to Rule 144(k) (or any successor rule).

5.2. Indemnification and Contribution.

(a) The Company agrees to indemnify and hold harmless each Purchaser from and against any losses, claims, damages or liabilities (or actions or proceedings in respect thereof) to which such Purchaser may become subject (under the Securities Act or otherwise) insofar as such losses, claims, damages or liabilities (or actions or proceedings in respect thereof) arise out of, or are based upon (i) any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact in the Registration Statement, on the effective date thereof, or any amendment or supplements thereto; or (ii) any violation by the Company of any Federal, state or common law rule or regulation applicable to the Company in connection with any such registration, and the Company will, as incurred, reimburse such Purchaser for any legal or other expenses reasonably incurred in investigating, defending or preparing to defend, settling, compromising or paying any such action, proceeding or claim; provided, however, that the Company shall not be liable in any such case to the extent that such loss, claim, damage or liability arises out of, or is based upon (i) an untrue statement or alleged untrue statement of a material fact or omission or alleged omission in any registration statement or prospectus in reliance upon and in conformity with written information furnished to the Company by or on behalf of such Purchaser specifically for use in preparation thereof; (ii) any untrue statement or alleged untrue statement of a material fact contained in any registration statement or prospectus delivered by the Purchaser after the Company had notified the Purchaser in writing that such registration statement or prospectus contained such untrue statement or alleged untrue statement; (iii) any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading after the Company had notified the Purchaser in writing that such registration statement or prospectus contained such omission or alleged omission; or (iv) the failure of the Purchaser to deliver any preliminary or final prospectus, or any amendments or supplements thereto, required under applicable securities laws, including the Securities Act, to be so delivered, provided that a sufficient number of copies thereof had been previously provided by the Company to the Purchaser.

(b) Each Purchaser, severally and not jointly, agrees to indemnify and hold harmless the Company from and against any losses, claims, damages or liabilities (or actions or proceedings in respect thereof) to which the Company may become subject (under the Securities Act or otherwise) insofar as such losses, claims, damages or liabilities (or actions or proceedings in respect thereof) arise out of, or are based upon (i) any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact in the Registration Statement, or any amendment or supplements thereto, in reliance upon and in conformity with written information furnished to the Company by or on behalf of such Purchaser specifically for use in preparation of the Registration Statement or (ii) an untrue statement or alleged untrue statement or omission or alleged omission in any prospectus that is corrected in any subsequent prospectus or supplement or amendment thereto, that was delivered to a Purchaser at least one (1) day prior to the pertinent sale or sales by such Purchaser and not delivered by such Purchaser to the entity to which it made such sale(s) prior to such sale(s), and each Purchaser, severally and not jointly, will, as incurred, reimburse the Company for any legal or other expenses reasonably incurred in investigating, defending or preparing to defend any such action, proceeding or claim.

(c) Promptly after receipt by any indemnified person of a notice of a claim or the beginning of any action in respect of which indemnity is to be sought against an indemnifying person pursuant to this Section 5.2, such indemnified person shall notify the indemnifying person in

writing of such claim or of the commencement of such action and, subject to the provisions hereinafter stated, in case any such action shall be brought against an indemnified person, the indemnifying person shall be entitled to participate therein, and, to the extent that it shall wish, to assume the defense thereof, with counsel reasonably satisfactory to the indemnified person. After notice from the indemnifying person to such indemnified person of the indemnifying person's election to assume the defense thereof, the indemnifying person shall not be liable to such indemnified person for any legal expenses subsequently incurred by such indemnified person in connection with the defense thereof; provided, however, that if there exists or shall exist a conflict of interest that would make it inappropriate in the opinion of outside counsel of the indemnified person for the same counsel to represent both the indemnified person and such indemnifying person or any affiliate or associate thereof, the

indemnified person shall be entitled to retain its own counsel at the expense of such indemnifying person; provided, further, that the indemnifying person shall not be obligated to assume the expenses of more than one counsel to represent all indemnified persons. No indemnifying person shall be liable for any settlement of any action or proceeding effected without its written consent. No indemnifying person shall, without the consent of the indemnified person (which consent shall not be reasonably withheld or delayed), consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified person of a release from all liability in respect to such claim or litigation.

(d) If the indemnification provided for in this Section 5.2 is unavailable to or insufficient to hold harmless an indemnified person under subsection (a) or (b) above in respect of any losses, claims, damages or liabilities (or actions or proceedings in respect thereof) referred to therein, then each indemnifying person shall contribute to the amount paid or payable by such indemnified person as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative fault of the Company on the one hand and each Purchaser on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or a Purchaser on the other. The Company and the Purchasers agree that it would not be just and equitable if contribution pursuant to this subsection (d) were determined by pro rata allocation (even if the Purchasers were treated as one entity for such purpose) or by any other method of allocation which does not take into account the equitable considerations referred to above in this subsection (d). The amount paid or payable by an indemnified person as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified person in connection with investigating or defending any such action or claim. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Purchaser's obligations in this subsection (d) to contribute are several in proportion to their sales of Shares, as the case may be, to which such loss relates and not joint.

(e) The obligations of the Company and the Purchasers under this Section 5.2 shall be in addition to any liability which the Company and the respective Purchasers may otherwise have and the indemnification obligations hereunder shall extend, as applicable, upon the same terms and conditions, to directors, officers, employees and agents of the Company and the Purchasers and to each person, if any, who controls the Company or any Purchaser within the meaning of the Securities Act and the Exchange Act.

5.3 AMEX Listing. Promptly following the Closing Date, the Company shall use its commercially reasonable efforts to cause the Shares to be listed on the AMEX. So long as the Purchasers beneficially own any Shares, the Company will use its commercially reasonable efforts to maintain the listing of the Common Stock on the AMEX or a registered national securities exchange.

5.4 Short Sales. Until the Registration Statement becomes effective pursuant to Section 5.1, each Purchaser shall not execute or effect or cause to be executed or effected any short sale, option or equity swap transaction in or with respect to the Common Stock or any other derivative security transaction the purpose or effect of which is to hedge or transfer to a third party all or any part of the risk of loss associated with the ownership of the Shares by the Purchaser.

6. Restrictions on Transferability of Shares; Compliance with Securities Act.

6.1. Restrictions on Transferability. The Shares shall not be resold or otherwise transferred except in a transaction registered under the Securities Act and applicable state securities laws unless counsel to the Company shall advise the Company that such transfer may be effected without such registration.

6.2. Restrictive Legend. Until and unless the Shares are registered under the Securities Act, each certificate representing the Shares shall bear substantially the following legend (in addition to any legends required under applicable state securities laws):

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED

UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR UNDER THE SECURITIES LAWS OF ANY STATE. THESE SECURITIES ARE SUBJECT TO

RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE ACT AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

6.3 Transfer of Shares. Each Purchaser hereby covenants with the Company not to make any sale of the Shares except either (a) a sale of Shares in accordance with the Registration Statement, in which case the Purchaser covenants to comply with the requirement of delivering a current prospectus, (b) a sale of Shares in accordance with Rule 144, in which case the Purchaser covenants to comply with Rule 144 and to deliver such additional certificates and documents as the Company may reasonably request, or (c) in accordance with another exemption from the registration requirements of the Securities Act. The legend set forth in Section 6.2 will be removed from a certificate representing Shares following and in connection with any sale of Shares pursuant to subsection (a) or (b) hereof but not in connection with any sale of Shares pursuant to subsection (c) hereof. The Company will substitute one or more replacement certificates without the legend at the request of the Purchaser promptly after such time as the Registration Statement becomes effective.

7. Miscellaneous.

7.1 Survival of Representations and Warranties. All representations and warranties contained herein shall survive the execution and delivery of this Agreement, any investigation at any time made by or on behalf of the Purchasers, and the sale and purchase of the Shares and payment therefor.

7.2. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous arrangements or understandings with respect thereto.

7.3. Headings. The headings of the sections of this Agreement have been inserted for convenience of reference only and do not constitute a part of this Agreement.

7.4. Choice of Law. It is the intention of the parties that the internal laws of the State of California, without regard to the body of law controlling conflicts of law, shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties set forth herein.

7.5. Counterparts. This Agreement may be executed concurrently in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7.6. Assignment; Parties in Interest. This Agreement may not be pledged, assigned or otherwise transferred by the Purchasers except by operation of law but all the terms and provision of this Agreement shall be binding upon and inure to the benefit of and be enforced by the successors in interest of the parties hereto. Each successive transferee of the Purchasers shall be deemed to be a Purchaser for the purpose of Section 5 of this Agreement.

7.7. Amendments. No amendment, modification, waiver, discharge or termination of any provision of this Agreement nor consent to any departure by the Purchasers or the Company therefrom shall in any event be effective unless the same shall be in writing and signed by the party to be charged with enforcement, and then shall be effective only in the specific instance and for the purpose for which given. No course of dealing between the parties hereto shall operate as an amendment of, or a waiver of any right under, this Agreement.

7.8. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid, but if any provision of this Agreement is held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not render invalid or unenforceable any other provision of this Agreement.

7.9. Notices. All notices, requests, consents and other communications hereunder to any party shall be deemed to be sufficient if contained in a written instrument delivered in person or sent by telecopy,

nationally recognized overnight courier or first class registered or certified mail, return receipt requested, postage prepaid, addressed to such party at the address set forth below or such other address as may hereafter be designated in writing by such party to the other party:

If to the Company, to:
Questcor Pharmaceuticals, Inc.
3260 Whipple Road
Union City, California 94587
Attn: CFO

With a copy to:
Latham & Watkins LLP
701 "B" Street, Suite 2100
San Diego, California 92101
Attn: David A. Hahn, Esq.

If to the Purchaser, to:
the address set forth on the
signature page of this Agreement

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have caused this Common Stock Purchase Agreement to be duly executed and delivered by their proper and duly authorized representatives as of the day and year first above written

Questcor Pharmaceuticals, Inc.

By:_____
Name:
Title:

PURCHASER SIGNATURE PAGE AND QUESTIONNAIRE

The undersigned Purchaser hereby executes the Common Stock Purchase Agreement with Questcor Pharmaceuticals, Inc. (the "Company") and hereby authorizes this signature page to be attached to a counterpart of such document executed by a duly authorized officer of the Company.

No. of shares of Common Stock
to be Purchased: [__]

[Purchaser Name]

Cash Consideration:
$[__]

By:_____
Name:
Title:

No. of Warrants to be
Surrendered to the Company
for Cancellation: [__]

Warrant Valuation:
$[__]

Aggregate Purchase
Price: $[__]

Name in which shares of Common Stock are to be registered:_____

Address of registered holder: _____

_____

Social Security or Tax ID No. of registered holder: _____

Contact name and telephone number regarding
Settlement and registration: _____
Name

_____
Telephone Number

Exhibit 5.1

LATHAM & WATKINS LLP

FIRM / AFFILIATE OFFICES

Boston	New Jersey
Brussels	New York
Chicago	Northern Virginia
Frankfurt	Orange County
Hamburg	Paris
Hong Kong	San Diego
London	San Francisco
Los Angeles	Silicon Valley
Milan	Singapore
Moscow	Tokyo
	Washington, D.C.

April 2, 2004

Questcor Pharmaceuticals, Inc.
3260 Whipple Road
Union City, California 94587

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

In connection with the registration by Questcor Pharmaceuticals, Inc., a California corporation (the "Company"), of 4,878,201 shares of common stock, no par value per share (the "Shares"), under the Securities Act of 1933, as amended, on Form S-3 filed with the Securities and Exchange Commission on April 2, 2004 (the "Registration Statement"), you have requested our opinion set forth below.

In our capacity as your counsel in connection with such registration, we are familiar with the proceedings taken and proposed to be taken by the Company in connection with the authorization, issuance and sale of the Shares, and for the purposes of this opinion, have assumed such proceedings will be timely completed in the manner presently proposed. In addition, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this letter.

We are opining herein as to the effect on the subject transaction only of the internal laws of the State of California, and we express no opinion with respect to the applicability thereto, or the effect thereon, of any other laws.

Subject to the foregoing, it is our opinion that as of the date hereof the Shares have been duly authorized by all necessary corporate action of the Company and are validly issued, fully paid and nonassessable.

We consent to your filing this opinion as an exhibit to the Registration Statement and to the reference to our firm contained under the heading "Legal Matters."

Very truly yours,

/s/ Latham & Watkins LLP

EXHIBIT 23.2

CONSENT OF ERNST & YOUNG LLP, INDEPENDENT AUDITORS

We consent to the reference to our firm under the caption "Experts" in the Registration Statement (Form S-3) and related Prospectus of Questcor Pharmaceuticals, Inc. for the registration of 4,878,201 shares of its common stock and to the incorporation by reference therein of our report dated February 12, 2004, with respect to the consolidated financial statements and schedule of Questcor Pharmaceuticals, Inc. included in its Annual Report (Form 10-K) for the year ended December 31, 2003, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Palo Alto, California
March 31, 2004