

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

---

**FORM 8-K**

---

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

**Date of Report (Date of earliest event reported): February 12, 2015**

---

**NOVATEL WIRELESS, INC.**  
(Exact Name of Registrant as Specified in its Charter)

---

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

**000-31659**  
Commission file number

**86-0824673**  
(I.R.S. Employer  
identification number)

**9645 Scranton Road, San Diego, California 92121**  
(Address of principal executive offices) (Zip Code)

**Registrant's telephone number, including area code: (858) 812-3400**

**Not Applicable**  
(Former Name or Former Address, if Changed Since Last Report)

---

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
-

**Item 2.02. Results of Operations and Financial Condition.**

On February 19, 2015, Novatel Wireless, Inc. (the "Company") issued a press release containing preliminary financial results for the fourth quarter and full year ended December 31, 2014, a copy of which is attached as Exhibit 99.1 and incorporated herein by reference.

The information contained in this "Item 2.02. Results of Operations and Financial Condition" and Exhibit 99.1 attached hereto is furnished and shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that section. It may be incorporated by reference in a filing under the Exchange Act or the Securities Act of 1933, as amended, only if such subsequent filing specifically references this Form 8-K.

**Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

On February 12, 2015, the Board of Directors of the Company (the "Board") adopted the Second Amended and Restated Bylaws of the Company, effective as of such date (the "New Bylaws"). The New Bylaws are intended primarily to update the Company's prior bylaws (the "Prior Bylaws") to reflect statutory and case law developments since the Prior Bylaws were adopted and to include provisions commonly found in the bylaws of public Delaware corporations similar to the Company. The New Bylaws also reflect certain non-substantive changes that were made to improve style and readability. Set forth below is a summary of the material amendments contained in the New Bylaws.

*Advance Notice Provisions*

Article II, Sections 5 and 6 of the New Bylaws (the "Advance Notice Provisions") describe the manner in which a stockholder of the Company may properly bring business before, or nominate any person for election to the Board at, an annual or special meeting of stockholders. The Advance Notice Provisions set forth the various eligibility requirements that must be met by (a) any stockholder who wishes to bring such business before an annual or special meeting of stockholders and (b) any nominee for election to the Board. The Advance Notice Provisions also describe the substantive and procedural requirements that a stockholder must comply with in order to properly bring business, including nomination of any person for election to the Board, before an annual or special meeting.

Among other requirements, the Advance Notice Provisions provide that (i) a stockholder must provide to the secretary of the Company timely notice (generally 90-120 days prior to the one-year anniversary of the previous year's annual meeting of stockholders) of any business, including director nominations, proposed to be brought before the annual or special meeting, which notice must conform to the substantive requirements set forth in the New Bylaws, (ii) a stockholder must deliver certain information regarding the person(s) making the proposal, and in the case of any nominee for election to the Board, information regarding such nominee, in each case as set forth in the New Bylaws, (iii) any nominee for election to the Board must provide both an executed questionnaire regarding his or her background, qualifications, stock ownership and independence, and an executed representation agreement regarding voting commitments, indemnification or similar arrangements and compliance with Company policies applicable to members of the Board, and (iv) in order to call a special meeting of stockholders, the Secretary of the

Company must receive one or more written demands to call a special meeting, in accordance with the substantive requirements set forth in the New Bylaws, from stockholders holding not less than an aggregate of 25% of the Company's outstanding shares, which percentage was increased from the 10% aggregate share ownership required by the Prior Bylaws.

The Prior Bylaws did contain advance notice provisions and procedures for the Company's stockholders to bring business before, or nominate persons for election to the Board at, annual or special meetings of stockholders; however, they did not (A) require adequate disclosures with respect to proposing/nominating stockholder(s), stockholder nominees and stockholder proposals; (B) require that the proposing/nominating stockholder be present at the stockholders' meeting; or (C) require for the continuous updating of those disclosures contained within the notice.

#### *Number of Directors*

Article III, Section 2 of the New Bylaws gives the Board the exclusive authority to fix by resolution the number of directors of the Company, within the limits specified in the New Bylaws, which limits remain unchanged from the Prior Bylaws. The Prior Bylaws provided that the number of directors could be fixed by resolution of the Board or by the Company's stockholders.

#### *Exclusive Forum for Adjudication of Disputes*

Article IX of the New Bylaws designates the state or federal courts located within the state of Delaware, subject to such courts having personal jurisdiction over the parties named as defendants, as the exclusive forum for stockholder derivative actions or actions asserting (a) claims of breach of fiduciary duty, (b) claims under Delaware law or (c) claims governed by the internal affairs doctrine. The Prior Bylaws did not contain a forum selection provision.

The foregoing description of the New Bylaws does not purport to be complete and is qualified in its entirety by reference to the full text of the New Bylaws, a copy of which is attached as Exhibit 3.1 to this Form 8-K and is incorporated herein by reference.

#### **Item 9.01. Financial Statements and Exhibits.**

##### ***(d) Exhibits***

3.1 Second Amended and Restated Bylaws of Novatel Wireless, Inc.

99.1 Press Release, dated February 19, 2015

## SIGNATURES

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

**Novatel Wireless, Inc.**

By: /s/ Michael A. Newman

Michael A. Newman

*Executive Vice President, Chief Financial Officer*

*and Secretary*

Date: February 19, 2015

**SECOND AMENDED AND RESTATED  
BYLAWS**

**OF**

**NOVATEL WIRELESS, INC.**

**(Effective February 12, 2015)**

**ARTICLE I**  
**OFFICES**

**Section 1. Registered Office.** The registered office of Novatel Wireless, Inc. (the “**Corporation**”) shall be in the state of Delaware and shall be at such address as shall be set forth in the Amended and Restated Certificate of Incorporation of the Corporation (as the same may be amended from time to time, including by any certificate of designation, the “**Certificate of Incorporation**”).

**Section 2. Other Offices.** The Corporation may also have offices at such other places both within and outside of the state of Delaware as the Board of Directors of the Corporation (the “**Board**”) may from time to time designate or the business of the Corporation may require.

**ARTICLE II**

**MEETINGS OF STOCKHOLDERS**

**Section 1. Place of Meetings.** Meetings of stockholders shall be held at any place, within or outside of the state of Delaware, designated by the Board and stated in the notice of the meeting. In the absence of any such designation, stockholders’ meetings shall be held at the registered office of the Corporation. The Board may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication, as authorized by Section 211(a)(2) of the General Corporation Law of the State of Delaware (the “**DGCL**”).

**Section 2. Annual and Special Meetings.**

(a) The annual meeting of stockholders shall be held on such day and at such time as may be designated by the Board for the purpose of electing directors and for the transaction of such other business as may properly come before such meeting.

(b) Special meetings of stockholders, for any purpose or purposes, unless otherwise prescribed by statute or by the Certificate of Incorporation, may be called only by (i) the Board, (ii) the chairman of the board, or (iii) the chief executive officer of the Corporation.

**Section 3. Notice of Stockholders’ Meetings.** Except as otherwise provided by law, notice of each meeting of stockholders, whether annual or special, shall be given not less than ten (10) days nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting. The notices of all meetings shall state the place, if any, date and time of the meeting

and the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called.

**Section 4. Manner of Giving Notice; Affidavit of Notice; Waiver.**

(a) If mailed, notice to stockholders shall be deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders may be given by facsimile, telegraph, telex, or by electronic transmission in the manner provided in Section 232 of the DGCL. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under the provisions of the DGCL, the Certificate of Incorporation or these Bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Any stockholder who fails to object in writing to the Corporation, within sixty (60) days of having been given written notice by the Corporation of its intention to send such single notice, shall be deemed to have consented to receiving such single written notice. Any such consent shall be revocable by the stockholder by written notice to the Corporation.

(b) An affidavit of the secretary or an assistant secretary of the Corporation or of the transfer agent or any other agent of the Corporation that the notice has been given by mail or by a form of electronic transmission, as applicable, shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

(c) A written waiver of any notice, signed by a stockholder entitled to notice, or waiver by electronic transmission by such person, whether given before or after the time of the event for which notice is to be given, shall be deemed equivalent to the notice required to be given to such person. Neither the business nor the purpose of any meeting of the stockholders of the Corporation need be specified in such a waiver. Attendance at any meeting shall constitute a waiver of notice except attendance for the sole purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

**Section 5. Advance Notice Provisions for Stockholder Proposals.**

(a) At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (i) specified in the notice of meeting (or any supplement or amendment thereto) given by or at the direction of the Board, (ii) if not specified in a notice of meeting, otherwise brought before the meeting by or at the direction of the Board or any committee thereof, or (iii) otherwise properly brought before the meeting by a stockholder who (A) was a stockholder of record of the Corporation both at the time of giving the notice provided for in this Section 5 and at the time of the meeting, (B) is entitled to vote at the meeting, and (C) has complied with this Section 5 as to such business. The only matters that may be brought before a special meeting are the matters specified in the notice of meeting given by or at the direction of the person calling the meeting pursuant to Section 2(b) of this Article II, and stockholders shall not be permitted to propose business to be brought before a special meeting of stockholders. Stockholders seeking to nominate persons for election to the Board must comply with Section 6 of this Article II, and this Section 5 shall not be applicable to nominations except as expressly provided in Section 6 of this Article II.

(b) Without qualification, for business to be properly brought before an annual meeting by a stockholder, the stockholder must (i) provide Timely Notice (as defined below) thereof in writing and in proper form to the secretary of the Corporation, (ii) provide any updates or supplements to such notice at the times and in the forms required by this Section 5 and (iii) constitute a proper matter for stockholder action. To be timely, a stockholder's notice must be delivered to, or mailed and received at, the principal executive offices of the Corporation not later than the close of business on the ninetieth (90th) day nor earlier than the one hundred twentieth (120th) day prior to the one (1)-year anniversary of the preceding year's annual meeting; *provided, however*, that if the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the stockholder to be timely must be so delivered, or mailed and received, not earlier than the close of business on the one hundred twentieth (120th) day prior to such annual meeting and not later than the close of business on the ninetieth (90th) day prior to such annual meeting or, if later, the tenth (10th) day following the day on which public disclosure of the date of such annual meeting was first made (such notice within such time periods, "**Timely Notice**"). In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period (or extend any time period) for the giving of Timely Notice as described above.

(c) To be in proper form for purposes of this Section 5, a stockholder's notice to the secretary of the Corporation shall set forth:

(i) As to each Proposing Person (as defined below), (A) the name and address of such Proposing Person (including, if applicable, the name and address that appear on the Corporation's books and records); and (B) the class or series and number of shares of the



Corporation that are, directly or indirectly, owned of record or beneficially owned (within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (as so amended and inclusive of such rules and regulations, the “**Exchange Act**”)) by such Proposing Person, except that such Proposing Person shall in all events be deemed to beneficially own any shares of any class or series of the Corporation as to which such Proposing Person has a right to acquire beneficial ownership at any time in the future (the disclosures to be made pursuant to the foregoing clauses (A) and (B) are referred to as “**Stockholder Information**”);

(ii) As to each Proposing Person:

(A) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the Corporation or otherwise (a “**Derivative Instrument**”), that is, directly or indirectly, owned of record or beneficially owned by such Proposing Person, and any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation;

(B) any proxy, agreement, arrangement, understanding, or relationship pursuant to which such Proposing Person has or shares a right to vote any shares of any security of any class or series of the Corporation;

(C) any short interest in any security of the Corporation held by such Proposing Person (for purposes of this Section 5(c) a Proposing Person shall be deemed to have a short interest in a security if such person, directly or indirectly, through any agreement, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security) (“**Short Interests**”);

(D) any rights to dividends on the shares of any class or series of the Corporation that are, directly or indirectly, owned of record or beneficially owned by such Proposing Person that are separated or separable from the underlying shares of the Corporation;

(E) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such Proposing Person is a general partner or, directly or indirectly, is the owner of record or beneficially owns an interest in a general partner;

(F) any performance related fees (other than an asset based fee) that such Proposing Person is entitled to based on any increase or decrease in the price or value of

shares of any class or series of the Corporation, or any Derivative Instruments or Short Interests, if any, in each case with respect to clauses (A) through (F) herein as of the close of business on the date of such notice, including without limitation any such interests held by members of each such Proposing Person's immediate family sharing the same household;

(G) any material pending or threatened legal proceeding in which such Proposing Person is a party or material participant involving the Corporation or any of its officers or directors, or any affiliate of the Corporation;

(H) any other material relationship between such Proposing Person, on the one hand, and the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation, on the other hand;

(I) any direct or indirect material interest in any contract or agreement of such Proposing Person with the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement); and

(J) any other information relating to such Proposing Person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies or consents by such Proposing Person in support of the business proposed to be brought before the meeting pursuant to Section 14(a) of the Exchange Act (the disclosures to be made pursuant to the foregoing clauses (A) through (I) and this clause (J) are referred to as "**Disclosable Interests**"); *provided, however*, that Disclosable Interests shall not include any such disclosures with respect to the ordinary course business activities of any broker, dealer, commercial bank, trust company, or other nominee who is a Proposing Person solely as a result of being the stockholder directed to prepare and submit the notice required by these Bylaws on behalf of a beneficial owner;

(iii) As to each Proposing Person, (A) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business and (B) a representation as to whether the Proposing Person intends or is part of a group which intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal and/or (2) otherwise to solicit proxies or votes from stockholders in support of such proposal; and

(iv) As to each item of business that the stockholder proposes to bring before the annual meeting, (A) a reasonably brief description of the business desired to be brought before the annual meeting, the reasons for conducting such business at the annual meeting and any direct or indirect material interest in such business of each Proposing Person, (B) the text of

the proposal or business (including the text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), (C) a reasonably detailed description of all agreements, arrangements, and understandings (x) between or among any of the Proposing Persons or (y) between or among any Proposing Person and any other person or entity (including their names) in connection with the proposal of such business by such stockholder, and (D) any other information relating to such item of business that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies or consents in support of the business proposed to be brought before the meeting pursuant to Section 14(a) of the Exchange Act.

For purposes of this Section 5, the term “**Proposing Person**” shall mean (a) the stockholder providing the notice of business proposed to be brought before an annual meeting, (b) the beneficial owner or beneficial owners, if different, on whose behalf the notice of the business proposed to be brought before the annual meeting is made, (c) any participant (as defined in paragraphs (a) (ii)-(vi) of Instruction 3 to Item 4 of Schedule 14A) with such stockholder in such solicitation or associate (within the meaning of Rule 12b-2 under the Exchange Act for purposes of these Bylaws) of such stockholder or beneficial owner, and (d) any other person with whom such stockholder or beneficial owner (or any of their respective associates or other participants in such solicitation) is Acting in Concert (as defined below).

A person shall be deemed to be “**Acting in Concert**” with another person for purposes of these Bylaws if such person knowingly acts (whether or not pursuant to an express agreement, arrangement, or understanding) in concert with, or towards a common goal relating to the management, governance, or control of the Corporation in parallel with, such other person where (a) each person is conscious of the other person’s conduct or intent and this awareness is an element in their decision-making processes and (b) at least one (1) additional factor suggests that such persons intend to act in concert or in parallel, which such additional factor(s) may include, without limitation, exchanging information (whether publicly or privately), attending meetings, conducting discussions, or making or soliciting invitations to act in concert or in parallel; provided, that a person shall not be deemed to be Acting in Concert with any other person solely as a result of the solicitation or receipt of revocable proxies or consents from such other person in response to a solicitation made pursuant to, and in accordance with, Section 14(a) of the Exchange Act by way of a proxy or consent solicitation statement filed on Schedule 14A. A person Acting in Concert with another person shall be deemed to be Acting in Concert with any third party who is also Acting in Concert with such other person.

(d) A stockholder providing notice of business proposed to be brought before an annual meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 5 shall be

true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the secretary of the Corporation at the principal executive offices of the Corporation not later than five (5) business days following the later of the record date for the meeting or the date notice of the record date for the meeting is first publicly disclosed (in the case of the update and supplement required to be made as of such record date), and not later than eight (8) business days prior to the date for the meeting or, if practicable, any adjournment or postponement thereof (and, if not practicable, on the first practicable date prior to the date to which the meeting has been adjourned or postponed) (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof).

(e) The foregoing notice requirements of this Section 5 shall be deemed satisfied by a stockholder with respect to business other than a nomination if the stockholder has notified the Corporation of his, her, or its intention to present a proposal at an annual meeting in compliance with applicable rules and regulations promulgated under the Exchange Act and such stockholder's proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such annual meeting.

(f) Except as otherwise expressly provided in any applicable rule or regulation promulgated under the Exchange Act, no business shall be conducted at an annual meeting except in accordance with this Section 5. Except as otherwise provided by law, the chairperson of the meeting shall have the power and duty, if the facts warrant, (i) to determine whether business was properly brought before the meeting in accordance with this Section 5 (including whether the Proposing Person solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies or votes in support of such Proposing Person's proposal in compliance with such Proposing Person's representation as required by clause (c)(iii)(B) of this Section 5), and (ii) if he or she should so determine that the business was not proposed in compliance with this Section 5, he or she shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted. Notwithstanding the foregoing provisions of this Section 5, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual meeting of stockholders of the Corporation to present the proposed business, such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of these Bylaws, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager, or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

(g) Notwithstanding the foregoing provisions of this Section 5 with respect to any business proposed to be brought before an annual meeting, each Proposing Person shall comply with all applicable requirements of the Exchange Act with respect to any such business proposals; *provided, however*, that references in these Bylaws to the Exchange Act, or the rules and regulations promulgated thereunder, are not intended to and shall not limit the requirements of these Bylaws applicable to proposals or any other business to be considered pursuant to this Section 5 (including paragraphs (a)(iii) and (b) of this Section 5), and compliance with paragraphs (a)(iii) and (b) of this Section 5 shall be the exclusive means for a stockholder to submit other business (other than, as provided in paragraph (e) of this Section 5, business other than nominations brought properly under and in compliance with Rule 14a-8 of the Exchange Act). Nothing in this Section 5 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to any applicable rules and regulations promulgated under the Exchange Act.

(h) For purposes of these Bylaws, "**public disclosure**" shall include disclosure in a press release reported by the Dow Jones News Service, Associated Press, or other national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14, or 15(d) of the Exchange Act.

#### **Section 6. Advance Notice Provisions for Nominations of Directors.**

(a) Nominations of any person for election to the Board at an annual meeting or at a special meeting (but only if the election of directors is a matter specified in the notice of meeting given by or at the direction of the person calling such special meeting) may be made at such meeting only (i) by or at the direction of the Board, including by any committee or persons authorized to do so by the Board, (ii) pursuant to the Corporation's notice of meeting (or any supplement or amendment thereto), or (iii) by a stockholder who (A) was a stockholder of record of the Corporation both at the time of giving the notice provided for in this Section 6 and at the time of the meeting, (B) is entitled to vote at the meeting, and (C) has complied with this Section 6 as to such nomination.

(b) Without qualification:

(v) For a stockholder to make any nomination of a person or persons for election to the Board at an annual meeting, the stockholder must (A) provide Timely Notice (as defined in Section 5(b) of this Article II) thereof in writing and in proper form to the secretary of the Corporation and (B) provide any updates or supplements to such notice at the times and in the forms required by this Section 6.

(vi) If the election of directors is a matter specified in the notice of a special meeting given by or at the direction of the person calling a special meeting, then for a

stockholder to make any nomination of a person or persons for election to the Board at a special meeting, the stockholder must (A) provide timely notice thereof in writing and in proper form to the secretary of the Corporation at the principal executive offices of the Corporation and (B) provide any updates or supplements to such notice at the times and in the forms required by this Section 6. To be timely, a stockholder's notice for nominations to be made at a special meeting must be delivered to, or mailed and received at, the principal executive offices of the Corporation not earlier than the one hundred twentieth (120th) day prior to such special meeting and not later than the ninetieth (90th) day prior to such special meeting or, if later, the tenth (10th) day following the day on which public disclosure (as defined in Section 5(h) of this Article II) of the date of such special meeting and of the nominees proposed by the Board to be elected at such meeting was first made.

(c) In no event shall any adjournment or postponement of an annual meeting or special meeting or the announcement thereof commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(d) To be in proper form for purposes of this Section 6, a stockholder's notice to the secretary of the Corporation shall set forth:

(i) As to each Nominating Person (as defined below), the Stockholder Information (as defined in Section 5(c)(i) of this Article II, except that for purposes of this Section 6 the term "Nominating Person" shall be substituted for the term "Proposing Person" in all places it appears in Section 5(c)(i) of this Article II);

(ii) As to each Nominating Person, any Disclosable Interests (as defined in Section 5(c)(ii) of this Article II, except that for purposes of this Section 6 the term "Nominating Person" shall be substituted for the term "Proposing Person" in all places it appears in Section 5(c)(ii) of this Article II and the disclosure in clause (J) of Section 5(c)(ii) of this Article II shall be made with respect to the election of directors at the meeting);

(iii) As to each Nominating Person, the information required to be disclosed pursuant to Section 5(c)(iii) of this Article II, except that for purposes of this Section 6, the term "Nominating Person" shall be substituted for the term "Proposing Person" in all places it appears in Section 5(c)(iii) of this Article II and the references to "proposal" or "business" shall be deemed to be reference to "nomination"; and

(iv) As to each person whom a Nominating Person proposes to nominate for election as a director, (A) all information with respect to such proposed nominee that would be required to be set forth in a stockholder's notice pursuant to this Section 6 if such proposed nominee were a Nominating Person, (B) all information relating to such proposed nominee that is required to be disclosed in a proxy statement or other filings required to be made in connection

with solicitations of proxies for election of directors in a contested election pursuant to Section 14(a) under the Exchange Act (including such proposed nominee's written consent to being named in the proxy statement as a nominee and to serving as a director if elected), (C) a description of all direct and indirect compensation and other material agreements, arrangements, and understandings during the past three (3) years, and any other material relationships, between or among any Nominating Person, on the one hand, and each proposed nominee, his or her respective associates or any other participants in such solicitation, and any other persons with whom such proposed nominee (or any of his or her respective associates or other participants in such solicitation) is Acting in Concert, on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Item 404 under Regulation S-K if such Nominating Person were the "registrant" for purposes of such rule and the proposed nominee were a director or executive officer of such registrant, and (D) a completed and signed questionnaire, representation, and agreement as provided in Section 6(h) below (the disclosures and documents to be made or provided pursuant to the foregoing clauses (A) through (D) are referred to as "**Nominee Information**").

For purposes of this Section 6, the term "**Nominating Person**" shall mean (a) the stockholder providing the notice of the nomination proposed to be made at the meeting, (b) the beneficial owner or beneficial owners, if different, on whose behalf the notice of the nomination proposed to be made at the meeting is made, (c) any participant with such stockholder in such solicitation or associate of such stockholder or beneficial owner, and (d) any other person with whom such stockholder or such beneficial owner (or any of their respective associates or other participants in such solicitation) is Acting in Concert.

(e) The Corporation may require any proposed nominee to furnish such other information (i) as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation or (ii) that could be material to a reasonable stockholder's understanding of the independence or lack of independence of such proposed nominee.

(f) A stockholder providing notice of any nomination proposed to be made at an annual or special meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 6 shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the secretary of the Corporation at the principal executive offices of the Corporation not later than five (5) business days following the later of the record date for the meeting or the date notice of the record date for the meeting is first publicly disclosed (in the case of the update and supplement required to be made as of such record date), and not later than eight (8) business days prior to the date for the meeting

or, if practicable, any adjournment or postponement thereof (and if not practicable, on the first practicable date prior to the date to which the meeting has been adjourned or postponed) (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof).

(g) Except as otherwise expressly provided in any applicable rule or regulation promulgated under the Exchange Act, no person shall be eligible for election as a director of the Corporation unless nominated in accordance with this Section 6. Except as otherwise provided by law, the chairperson of the meeting shall have the power and duty, if the facts warrant, (i) to determine whether a nomination was properly made in accordance with this Section 6 (including whether the stockholder or beneficial owner, if any, on whose behalf the nomination or proposal is made solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies or votes in support of such stockholder's nominee or proposal in compliance with such stockholder's representation as required by clause (c)(iii) of this Section 6), and (ii) if he or she should so determine that any proposed nomination was not made in compliance with this Section 6, he or she shall so declare such determination to the meeting and the defective nomination shall be disregarded. Notwithstanding the foregoing provisions of this Section 6, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination, such nomination shall be disregarded, notwithstanding that proxies in respect of such vote may have been received by the Corporation.

(h) To be eligible to be a nominee for election as a director of the Corporation, the proposed nominee must deliver (in accordance with the time periods prescribed for delivery of notice under this Section 6) to the secretary of the Corporation at the principal executive offices of the Corporation a written questionnaire with respect to the background, qualifications, stock ownership, and independence of such proposed nominee (which questionnaire shall be provided by the secretary of the Corporation upon written request) and a written representation and agreement (in the form provided by the secretary of the Corporation upon written request) that such proposed nominee (i) is not and, if elected as a director, will not, during his or her term, become a party to (A) any agreement, arrangement, or understanding with, and has not given any commitment or assurance to, any person or entity as to how such proposed nominee, if elected as a director of the Corporation, will act or vote on any issue or question (a "**Voting Commitment**") that has not been disclosed to the Corporation or (B) any Voting Commitment that could limit or interfere with such proposed nominee's ability to comply, if elected as a director of the Corporation, with such proposed nominee's fiduciary duties under applicable law, (ii) is not and will not become a party to any agreement, arrangement, or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement, or indemnification in connection with service or action as a director that has not been disclosed to the Corporation, and (iii) in such proposed nominee's individual capacity and



on behalf of the stockholder (or the beneficial owner, if different) on whose behalf the nomination is made, would be in compliance, if elected to a director of the Corporation, and will comply with applicable publicly disclosed corporate governance, conflict of interest, confidentiality, and stock ownership and trading policies and guidelines of the Corporation.

(i) Notwithstanding anything in this Section 6 to the contrary, in the event that the number of directors to be elected to the Board at an annual meeting is increased effective after the time period for which nominations would otherwise be due under Section 6(b) a stockholder's notice required by this Section 6 shall also be considered timely, but only with respect to nominees for the additional directorships, if it shall be delivered to the secretary at the principal executive offices of the Corporation not later than the close of business on the tenth (10<sup>th</sup>) day following the day on which such public disclosure is first made by the Corporation.

(j) In addition to the requirements of this Section 6 with respect to any nomination proposed to be made at a meeting, each Nominating Person shall comply with all applicable requirements of the Exchange Act with respect to any such nominations; *provided, however*, that references in these Bylaws to the Exchange Act, or the rules and regulations promulgated thereunder, are not intended to and shall not limit the requirements of these Bylaws applicable to nominations to be considered pursuant to these Bylaws (including paragraphs (a)(iii) and (b) of this Section 6), and compliance with paragraphs (a)(iii) and (b) of this Section 6 shall be the exclusive means for a stockholder to make nominations. Nothing in this Section 6 shall be deemed to affect any rights (i) of stockholders to request inclusion of nominations in the Corporation's proxy statement pursuant to any applicable rules and regulations promulgated under the Exchange Act or (ii) of the holders of any series of Preferred Stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

#### **Section 7. Quorum and Adjournment.**

(a) At any meeting of the stockholders, the holders of a majority in voting power of the stock issued and outstanding and entitled to vote at the meeting, present in person, present by any means of remote communication authorized by the Board in its sole discretion, or represented by proxy, shall constitute a quorum for all purposes, unless or except to the extent that the presence of a larger number may be required by law, the Certificate of Incorporation, or these Bylaws. Where a separate vote by a class or classes or series is required, a majority of the voting power of the shares of such class or classes or series present in person, present by any means of remote communication authorized by the Board in its sole discretion, or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter. A quorum, once established at a meeting, shall not be broken by the withdrawal of enough votes to leave less than a quorum.

(b) If a quorum shall not be present or represented at any annual or special meeting of the stockholders, the chairperson of the meeting, or the holders of a majority in voting power of the shares of stock of the Corporation, which are entitled to vote at the meeting and are present in person, present by any means of remote communication authorized by the Board in its sole discretion, or represented by proxy, shall have power to adjourn the meeting from time to time until a quorum is present or represented. When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken; *provided, however*, that if the date of any adjourned meeting is more than thirty (30) days after the date for which the meeting was originally noticed, notice of the place, if any, date, and time of the adjourned meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, shall be given in conformity herewith. If, after the adjournment, a new record date for determination of stockholders entitled to vote is fixed for the adjourned meeting, the Board shall fix as the record date for determining stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote at the adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record as of the record date so fixed for notice of such adjourned meeting. At any adjourned meeting, any business may be transacted that might have been transacted at the original meeting.

**Section 8. Voting.** The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of Section 9 of this Article II, Section 217 (relating to voting rights of fiduciaries, pledgers, and joint owners of stock) and Section 218 (relating to voting trusts and other voting agreements) of the DGCL. Except as may be otherwise provided in the Certificate of Incorporation or these Bylaws, each stockholder voting shall be entitled to one (1) vote for each share of capital stock of the Corporation held by such stockholder that has voting power upon the matter in question. At all meetings of stockholders for the election of directors at which a quorum is present, a plurality of the votes cast shall be sufficient to elect a director. All other elections and questions presented to the stockholders at a meeting at which a quorum is present shall, unless otherwise provided by the Certificate of Incorporation, these Bylaws, the rules or regulations of any stock exchange applicable to the Corporation, or applicable law or pursuant to any regulation applicable to the Corporation or its securities, be decided by the affirmative vote of the holders of a majority in voting power of the shares of stock of the Corporation, which are entitled to vote at the meeting and are present in person, present by any means of remote communication authorized by the Board in its sole discretion, or represented by proxy.

**Section 9. Record Date.**

(a) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board may, except as otherwise required by law, fix a record date, which record date shall not precede the date on which the resolution fixing the record date is adopted and which record date shall, unless otherwise required by law, not be more than sixty (60) nor less than ten (10) days before the date of any meeting of stockholders. If the Board so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

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

(c) A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided, however*, that the Board may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

**Section 10. Proxies and Voting.** Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy authorized by an instrument in writing or by a transmission permitted by law filed in accordance with the procedure established for the meeting, but no such proxy shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212 of the DGCL. A stockholder may revoke any proxy that is not irrevocable by attending the meeting and voting in person or by delivering to the secretary of the Corporation a revocation of the proxy or a new proxy bearing a later date. A proxy may be in the form of a telegram, cablegram, or other means of electronic transmission, which sets forth or is submitted

with information from which it can be determined that the telegram, cablegram, or other means of electronic transmission was authorized by the stockholder.

**Section 11. Conduct of Business.** The chairman of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including the manner of voting and the conduct of business.

**Section 12. List of Stockholders Entitled to Vote.** The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting (*provided, however*, if the record date for determining the stockholders entitled to vote is less than ten (10) days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date); arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. The Corporation shall not be required to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of at least ten (10) days prior to the meeting: (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (b) during ordinary business hours, at the Corporation's principal executive office. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then the list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Such list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

### ARTICLE III

#### DIRECTORS

**Section 1. Powers.** Subject to the provisions of the DGCL and any limitations in the Certificate of Incorporation or these Bylaws relating to action required to be approved by the stockholders or by the outstanding shares, the business and affairs of the Corporation shall be managed and all corporate powers shall be exercised by or under the direction of the Board.

**Section 2. Number of Directors.** The number of directors which shall constitute the whole Board shall be eight (8), which number may be changed exclusively by resolution of the Board, acting by the vote of not less than a majority of the directors then in office. No decrease in the number of directors constituting the Board shall shorten the term of any incumbent director.

**Section 3. Election, Qualification, and Term of Office of Directors.** Except as provided in Section 4 of this Article III, and unless otherwise provided in the Certificate of Incorporation, each director shall be elected at each annual meeting of stockholders to hold office until the next annual meeting and until such director's successor is duly elected and qualified or until such director's earlier death, resignation, or removal. Directors need not be stockholders unless so required by the Certificate of Incorporation or these Bylaws. The Certificate of Incorporation or these Bylaws may prescribe other qualifications for directors.

**Section 4. Resignations and Vacancies.**

(i) Any director may resign at any time by giving notice in writing or by electronic transmission to the chairman of the board, the president, or the secretary of the Corporation. Such resignation shall take effect at the time specified therein or upon the happening of an event or events specified therein, or if the time is not specified and the resignation is not made contingent upon the happening of an event or events, upon receipt thereof; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

(j) Unless otherwise provided in the Certificate of Incorporation (i) vacancies resulting from death, resignation, disqualification, removal, or other causes and (ii) newly created directorships resulting from any increase in the authorized number of directors shall be filled by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum of the Board, or by a sole remaining director. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term in which the vacancy occurred or new directorship was created and until such director's successor is duly elected and qualified or until such director's earlier death, resignation, or removal.

(k) If at any time, by reason of death or resignation or other cause, the Corporation should have no directors in office, then any officer or any stockholder or an executor, administrator, trustee, or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the Certificate of Incorporation or these Bylaws, or may apply to the Court of Chancery for a decree summarily ordering an election as provided in Section 211 of the DGCL. If, at the time of filling any vacancy or any newly created directorship, the directors then in office constitute less than a majority of the whole Board (as constituted immediately prior to any such increase), then the Court of Chancery may, upon application of any stockholder or stockholders holding at least ten percent (10%) of the total

number of the shares at the time outstanding, having the right to vote for such directors, summarily order an election to be held to fill any such vacancies or newly created directorships, or to replace the directors chosen by the directors then in office as aforesaid, which election shall be governed by the provisions of Section 211 of the DGCL as far as applicable.

**Section 5. Place of Meetings; Meetings by Telephone.** The Board may hold meetings, both regular and special, either within or outside of the state of Delaware. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, members of the Board, or any committee designated by the Board, may participate in a meeting of the Board, or any committee, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting pursuant to this Section 5 shall constitute presence in person at the meeting.

**Section 6. Regular Meetings.** Regular meetings of the Board may be held without notice at such time and at such place as shall from time to time be determined by the Board.

**Section 7. Special Meetings; Notice.** Special meetings of the Board may be called by the chairman of the board or the chief executive officer on two (2) days' notice to each director if provided either by mail or overnight courier, or upon twenty-four (24) hours advance notice if provided either personally, by telephone, or email. Special meetings of the Board shall be called by the chairman of the board or the chief executive officer in like manner and on like notice on the written request of two (2) directors unless the Board consists of only one (1) director, in which case special meetings shall be called by the chairman of the board or the chief executive officer in like manner and on like notice on the written request of the sole director. The notice need not specify the purpose or place of the meeting, if the meeting is to be held at the principal executive office of the Corporation.

**Section 8. Quorum.** At all meetings of the Board, a majority of the authorized number of directors shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board, except as may be otherwise specifically provided by statute or by the Certificate of Incorporation. If a quorum is not present at any meeting of the Board, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

**Section 9. Board Action by Written Consent Without a Meeting.** Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board, or of any committee thereof, may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board or committee. Such filing

shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

**Section 10. Fees and Compensation of Directors.** Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, the Board shall have the authority to fix stated salaries for directors for their service in such capacity and to provide for payment of a fixed sum and expenses of attendance, if any, for attendance at each regular or special meeting of the Board. The Board shall also have the authority to provide for payment of a fixed sum and expenses of attendance, if any, payable to members of committees for attending committee meetings. No such compensation shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

**Section 11. Removal of Directors.** Unless otherwise restricted by statute, by the Certificate of Incorporation, or by these Bylaws, any director or the entire Board may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors. No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office.

**Section 12. Waivers.** A written waiver of any notice, signed by a director entitled to notice, or waiver by electronic transmission by such person, whether given before or after the time of the event for which notice is to be given, shall be deemed equivalent to the notice required to be given to such person. Neither the business nor the purpose of any meeting need be specified in such a waiver. Attendance at any meeting shall constitute a waiver of notice except attendance for the sole purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

**Section 13. Approval of Loans to Officers.** The Corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the Corporation or of its subsidiary, including any officer or employee who is a director of the Corporation or its subsidiary, whenever, in the judgment of the directors, such loan, guaranty or assistance may reasonably be expected to benefit the Corporation. The loan, guaranty or other assistance may be with or without interest and may be unsecured, or secured in such manner as the Board shall approve, including, without limitation, a pledge of shares of stock of the Corporation. Nothing in this Section 13 contained shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the Corporation at common law or under any statute.

**Section 14. Chairman of the Board of Directors.** The Corporation may also have, at the discretion of the Board, a chairman of the board of directors who shall be considered an officer of the Corporation. The chairman of the board shall, if present, preside at meetings of the Board and exercise and perform such other powers and duties as may from time to time be assigned to him by the Board or as may be prescribed by these Bylaws.

**ARTICLE IV**  
**COMMITTEES OF DIRECTORS**

**Section 1. Committees of Directors.** The Board may, by resolution passed by a majority of the Board, designate one (1) or more committees, each committee to consist of one (1) or more of the directors of the Corporation. The Board may designate one (1) or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board or in these Bylaws, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers that may require it; but no such committee shall have the power or authority to (a) approve or adopt, or recommend to the stockholders, any action or matter expressly required by the DGCL to be submitted to stockholders for approval or (b) adopt, amend, or repeal any bylaw of the Corporation.

**Section 2. Committee Minutes.** Each committee shall keep regular minutes of its meetings and report the same to the Board when required.

**Section 3. Meetings and Action of Committees.** Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of: Section 5 of Article III (Place of Meetings; Meetings by Telephone), Section 6 of Article III (Regular Meetings), Section 7 of Article III (Special Meetings; Notice), Section 8 of Article III (Quorum), Section 9 of Article III (Board Action by Written Consent Without a Meeting), and Section 12 of Article III (Waivers), with such changes in the context of those Bylaws as are necessary to substitute the committee and its members for the Board and its members. However, (a) the time of regular meetings of committees may be determined either by resolution of the Board or by resolution of the committee, (b) special meetings of committees may also be called by resolution of the Board, and (c) notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The Board may adopt rules for the government of any committee not inconsistent with the provisions of these Bylaws.

**ARTICLE V**

**OFFICERS**



**Section 1. Officers.** The officers of the Corporation shall be a chief executive officer, a president, a chief financial officer, and a secretary. The Corporation may also have, at the discretion of the Board, a chairman of the board, one (1) or more vice presidents, one (1) or more assistant secretaries, one (1) or more assistant treasurers, and any such other officers as may be appointed in accordance with the provisions of these Bylaws. Any number of offices may be held by the same person, unless the Certificate of Incorporation or these Bylaws otherwise provide.

**Section 2. Appointment of Officers.** The officers of the Corporation, except such officers as may be appointed in accordance with the provisions of Section 3 of this Article V, shall be appointed by the Board, subject to the rights, if any, of an officer under any contract of employment.

**Section 3. Subordinate Officers.** The Board may appoint, or empower the chief executive officer or the president, to appoint, such other officers and agents as the business of the Corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these Bylaws or as the Board may from time to time determine.

**Section 4. Removal and Resignation of Officers.**

(c) Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by an affirmative vote of the majority of the Board then in office at any regular or special meeting of the Board or, except in the case of an officer chosen by the Board, by any officer upon whom such power of removal may be conferred by the Board.

(d) Any officer may resign at any time by giving written notice to the Corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice. Unless otherwise specified in the notice of resignation, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party.

**Section 5. Vacancies in Offices.** Any vacancy occurring in any office of the Corporation shall be filled by the Board or as provided in Section 3 of this Article V.

**Section 6. Chief Executive Officer.** Subject to such supervisory powers, if any, as may be given by the Board to the chairman of the board, if any, the chief executive officer of the Corporation shall, subject to the control of the Board, have general supervision, direction, and control of the business, property, affairs, and the officers of the Corporation. He or she shall preside at all meetings of the stockholders and, in the absence or non-existence of a chairman of the board, at all meetings of the Board and shall have the general powers and duties of

management usually vested in the office of chief executive officer of a corporation and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

**Section 7. President.** Subject to such supervisory powers, if any, as may be given by the Board to the chairman of the board (if any) or the chief executive officer, the president shall have general supervision, direction, and control of the business and other officers of the Corporation. He or she shall have the general powers and duties of management usually vested in the office of president of a corporation and such other powers and duties as may be prescribed by the Board or these Bylaws.

**Section 8. Chief Financial Officer.**

(a) Unless otherwise set forth in a resolution of the Board, the chief financial officer shall be the treasurer of the Corporation. The chief financial officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the Corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital retained earnings, and shares. The books of account shall at all reasonable times be open to inspection by any director.

(b) The chief financial officer shall deposit all moneys and other valuables in the name and to the credit of the Corporation with such depositories as may be designated by the Board. He or she shall disburse the funds of the Corporation as may be ordered by the Board, shall render to the president, the chief executive officer, or the directors, upon request, an account of all his or her transactions as chief financial officer and of the financial condition of the Corporation, and shall have other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

**Section 9. Vice President.** In the absence of the chief executive officer and president or in the event of the chief executive's or president's inability or refusal to act, the vice presidents, if any, in order of their rank as fixed by the Board or, if not ranked, a vice president designated by the Board, or in the absences of any designation, then in order of their election shall perform all the duties of the president and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president. The vice presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board, these Bylaws, the president or the chairman of the board.

**Section 10. Secretary.**

(a) The secretary shall keep or cause to be kept, at the principal executive office of the Corporation or such other place as the Board may direct, a book of minutes of all meetings and actions of directors, committees of directors, and stockholders. The minutes shall show the time and place of each meeting, the names of those present at directors' meetings or committee meetings, the number of shares present or represented at stockholders' meetings, and the proceedings thereof.

(b) The secretary shall keep, or cause to be kept, at the principal executive office of the Corporation or at the office of the Corporation's transfer agent or registrar, as determined by resolution of the Board, a share register, or a duplicate share register, showing the names of all stockholders and their addresses, the number and classes of shares held by each, the number and date of certificates evidencing such shares, and the number and date of cancellation of every certificate surrendered for cancellation.

(c) The secretary shall give, or cause to be given, notice of all meetings of the stockholders and of the Board required to be given by law or by these Bylaws. He or she shall keep the seal of the Corporation, if one be adopted, in safe custody and shall have such other powers and perform such other duties as may be prescribed by the Board or by these Bylaws.

**Section 11. Representation of Shares of Other Corporations.** The chairman of the board, the chief executive officer, the president, any vice president, the chief financial officer, the secretary or assistant secretary of this Corporation, or any other person authorized by the Board or the chief executive officer or the president or a vice president, is authorized to vote, represent, and exercise on behalf of this Corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this Corporation. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by the person having such authority.

**Section 12. Authority and Duties of Officers.** In addition to the foregoing authority and duties, all officers of the Corporation shall respectively have such authority and perform such duties in the management of the business of the Corporation as may be designated from time to time by the Board or the stockholders.

## **ARTICLE VI INDEMNIFICATION**

**Section 1. Indemnification of Directors and Officers.** The Corporation shall, to the maximum extent and in the manner permitted by the DGCL, indemnify each of its directors and officers against expenses (including attorneys' fees), judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding, arising by reason

of the fact that such person is or was an agent of the Corporation. For purposes of this Section 1, a “director” or “officer” of the Corporation includes any person (a) who is or was a director or officer of the Corporation, (b) who is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, or (c) who was a director or officer of a Corporation which was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation.

**Section 2. Indemnification of Others.** The Corporation shall have the power, to the maximum extent and in the manner permitted by the DGCL, to indemnify each of its employees and agents (other than directors and officers) against expenses (including attorneys’ fees), judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding, arising by reason of the fact that such person is or was an agent of the Corporation. For purposes of this Section 2, an “employee” or “agent” of the Corporation (other than a director or officer) includes any person (a) who is or was an employee or agent of the Corporation, (b) who is or was serving at the request of the Corporation as an employee or agent of another corporation, partnership, joint venture, trust or other enterprise, or (c) who was an employee or agent of a corporation which was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation.

**Section 3. Payment of Expenses in Advance.** Expenses incurred in defending any action or proceeding for which indemnification is required pursuant to Section 1 of this Article VI or for which indemnification is permitted pursuant to Section 2 of this Article VI following authorization thereof by the Board shall be paid by the Corporation in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of the indemnified party to repay such amount if it shall ultimately be determined that the indemnified party is not entitled to be indemnified as authorized in this Article VI.

**Section 4. Indemnity Not Exclusive.** The indemnification provided by this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of shareholders or disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office, to the extent that such additional rights to indemnification are authorized in the Certificate of Incorporation.

**Section 5. Insurance.** The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of the DGCL.

**Section 6. Conflicts.** No indemnification or advance shall be made under this Article VI, except where such indemnification or advance is mandated by law or the order, judgment or decree of any court of competent jurisdiction, in any circumstance where it appears: (a) that it would be inconsistent with a provision of the Certificate of Incorporation, these Bylaws, a resolution of the stockholders or an agreement in effect at the time of the alleged cause of the action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or (b) that it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

## ARTICLE VII

### RECORDS AND REPORTS

**Section 1. Maintenance and Inspection of Records.** The Corporation shall, either at its principal executive offices or at such place or places as designated by the Board, keep a record of its stockholders listing their names and addresses and the number and class(es) of shares held by each stockholder, a copy of these Bylaws as amended to date, accounting books, and other records. Any stockholder, in person or by attorney or other agent, shall, upon written demand under oath stating the purpose thereof, have the right during the usual hours for business to inspect for any proper purpose the Corporation's stock ledger, a list of its stockholders, and its other books and records and to make copies or extracts therefrom. A proper purpose shall mean a purpose reasonably related to such person's interests as a stockholder. In every instance where an attorney or other agent is the person who seeks the right to inspection, the demand under oath shall be accompanied by a power of attorney or such other writing that authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under oath shall be directed to the Corporation at its registered office in Delaware or at its principal place of business.

**Section 2. Inspection by Directors.** Any director shall have the right to examine the Corporation's stock ledger, a list of its stockholders, and its other books and records for a purpose reasonably related to his or her position as a director. The Court of Chancery is hereby vested with the exclusive jurisdiction to determine whether a director is entitled to the inspection sought. The Court may summarily order the Corporation to permit the director to inspect any and all books and records, the stock ledger, and the stock list and to make copies or extracts therefrom. The Court may, in its discretion, prescribe any limitations or conditions with reference to the inspection, or award such other and further relief as the Court may deem just and proper.

**Section 3. Annual Statement to Stockholders.** The Board shall present at each annual meeting, and at any special meeting of the stockholders when called for by vote of the stockholders, a full and clear statement of the business and condition of the Corporation.

## ARTICLE VIII

### GENERAL MATTERS

**Section 1. Checks.** From time to time, the Board shall determine by resolution which person or persons may sign or endorse all checks, drafts, other orders for payment of money, notes or other evidences of indebtedness that are issued in the name of or payable to the Corporation, and only the persons so authorized shall sign or endorse those instruments.

**Section 2. Execution of Corporate Contracts and Instruments.** The Board, except as otherwise provided in these Bylaws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the Board or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

**Section 3. Stock Certificates; Partly Paid Shares.** The shares of the Corporation shall be represented by certificates, provided that the Board of the Corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Notwithstanding the adoption of such a resolution by the Board, every holder of stock represented by certificates and upon request every holder of uncertificated shares shall be entitled to have a certificate signed by, or in the name of the Corporation by the chairperson or a vice-chairperson of the Board, or the president or a vice-president, and by the treasurer or an assistant treasurer, or the secretary or an assistant secretary certifying the number of shares owned by such stockholder. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer, transfer agent or registrar at the date of issue.

The Corporation may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly paid shares, upon the books and records of the Corporation in the case of uncertificated partly paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully paid shares, the Corporation shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

**Section 4. Special Designation on Certificates.** If the Corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock; provided, however, that, except as otherwise provided in Section 202 of the DGCL, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

**Section 5. Lost Certificates.** Except as provided in this Section 5, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the Corporation and canceled at the same time. The Corporation may issue a new certificate of stock or uncertificated shares in the place of any certificate previously issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or the owner's legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

**Section 6. Construction; Definitions.** Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the DGCL shall govern the construction of these Bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a corporation and a natural person.

**Section 7. Dividends.** The directors of the Corporation, subject to any restrictions contained in (a) the DGCL or (b) the Certificate of Incorporation, may declare and pay dividends upon the shares of its capital stock. Dividends may be paid in cash, in property, or in shares of the Corporation's capital stock. The directors of the Corporation may set apart out of any of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve. Such purposes shall include but not be limited to equalizing dividends, repairing or maintaining any property of the Corporation, and meeting contingencies.

**Section 8. Fiscal Year.** The fiscal year of the Corporation shall be fixed by resolution of the Board and may be changed by the Board.

**Section 9. Seal.** The Corporation may adopt a corporate seal, which may be altered at pleasure, and may use the same by causing it or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

**Section 10. Transfer of Stock.** Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate, and record the transaction in its books.

**Section 11. Stock Transfer Agreements.** The Corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the Corporation to restrict the transfer of shares of stock of the Corporation of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

**Section 12. Registered Stockholders.** The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner, shall be entitled to hold liable for calls and assessments the person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the DGCL.

## **ARTICLE IX FORUM FOR ADJUDICATION OF DISPUTES**

Unless the Corporation consents in writing to the selection of an alternative forum, the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Corporation, (b) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (c) any action asserting a claim arising pursuant to any provision of the DGCL, or (d) any action asserting a claim governed by the internal affairs doctrine, shall be a state or federal court located within the state of Delaware, in all cases subject to the court's having personal jurisdiction over the indispensable parties named as defendants. Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article IX.

## **ARTICLE X AMENDMENTS**



These Bylaws may be altered, amended, or repealed or new bylaws may be adopted by the affirmative vote of at least sixty-six and two-thirds percent (66 2/3%) of the voting power of all of the then-outstanding shares of the voting stock of the Corporation entitled to vote or by the Board, when such power is conferred upon the Board by the Certificate of Incorporation. If the power to adopt, amend, or repeal bylaws is conferred upon the Board by the Certificate of Incorporation it shall not divest or limit the power of the stockholders to adopt, amend, or repeal bylaws.

**CERTIFICATE OF SECRETARY**

The undersigned hereby certifies that he is the duly elected, qualified, and acting Secretary of Novatel Wireless, Inc., a Delaware corporation (the “**Corporation**”), and that the foregoing Second Amended and Restated Bylaws were adopted as the Bylaws of the Corporation by the Board of Directors of the Corporation on February 12, 2015.

Executed on February 12, 2015 at San Diego, California

/s/ Michael A. Newman

Michael A. Newman  
*Executive Vice President, Chief*

*Financial Officer*

*and Secretary*



## Novatel Wireless Reports Fourth Quarter 2014 Financial Results

*Revenues Increase 25% from Third Quarter of 2014*

*Company Exceeds Profitability Targets; Establishes Foundation for Growth in 2015*

SAN DIEGO-February 19, 2015 -- Novatel Wireless (NASDAQ: MIFI), a leading provider of solutions for the Internet of Things (IoT) and inventors of MiFi® technology, announced financial results for the fourth quarter ended December 31, 2014.

The Company announced the following GAAP results for the fourth quarter of 2014:

- Revenue increased by 24.9% to \$55.4 million in the fourth quarter, compared to \$44.3 million in the third quarter of 2014. Revenue from mobile computing products was \$47.0 million in the fourth quarter, compared with \$34.8 million in the third quarter of 2014. Revenue from M2M products was \$8.4 million in the fourth quarter compared to \$9.5 million in the third quarter of 2014.
- Net loss was (\$4.4 million), or (\$0.10) basic net loss per share, in the fourth quarter compared to a net loss of (\$8.8 million), or (\$0.23) basic net loss per share, in the third quarter of 2014. The net loss for the fourth quarter of 2014 included charges of \$0.3 million for restructuring activities, \$0.8 million for the final payment by the Company in its shareholder litigation, \$0.4 million for recognition of a beneficial conversion feature on convertible preferred stock that converted to common stock in the quarter, and \$5.5 million related to an all-employee retention bonus plan adopted in 2014 as part of the Company's turnaround efforts. The net loss for the fourth quarter also included a \$1.5 million gain associated with the change in fair value of a Company-issued warrant to purchase common stock, and a \$1.6 million gain from an escrow account refund related to a historic acquisition (net of claims against the escrow account).

"We successfully executed our strategy in the fourth quarter to leverage our MiFi® business into a return to profitability, with enhanced product sales and rationalized expenses," said Alex Mashinsky, CEO of Novatel Wireless. "We anticipate continued growth in 2015, as we expect to increase our MiFi revenues by more than 20% compared to 2014. Also, as we commence 2015, we are focused squarely on enhancing our leadership in the expanding IoT ecosystem. Demand continues to build for our innovative IoT solutions, and we are excited about our prospects to drive sales growth throughout 2015 with our robust IoT technology. We expect to achieve double-digit organic growth in IoT revenue in 2015, with acquisition activity also anticipated to increase our IoT business into volumes more closely aligned with our MiFi business volumes by year-end."

The Company also announced the following non-GAAP results for the fourth quarter of 2014. A reconciliation of GAAP to non-GAAP measures is included in the tables accompanying this news release:

- Non-GAAP gross profit increased by 24.5% to \$13.2 million in the fourth quarter, from \$10.6 million in the third quarter of 2014, with relatively flat non-GAAP gross margin of 23.8% in the fourth quarter compared to 23.9% in the third quarter of 2014. Non-GAAP gross margin on mobile computing products was 23.4% in the fourth quarter, compared to 23.1% in the third quarter of 2014, and non-GAAP gross margin on M2M products was 26.0% in the fourth quarter, compared to 26.6% in the third quarter of 2014.

- Non-GAAP operating expenses remained relatively flat at \$12.7 million in the fourth quarter, compared to \$12.8 million in the third quarter of 2014.

- Adjusted EBITDA was \$1.8 million in the fourth quarter compared to \$(0.6 million) in the third quarter of 2014. This improvement was driven by increased revenue in the fourth quarter combined with ongoing expense discipline. Adjusted EBITDA excludes restructuring charges, the final payment by the Company in its shareholder litigation, the recognition of a beneficial conversion feature on convertible preferred stock that converted to common stock in the quarter, accruals related to an all-employee retention bonus plan adopted in 2014 as part of the Company's turnaround efforts, a gain associated with a change in fair value of a Company-issued warrant to purchase common stock, a refund from an escrow account related to a historic acquisition (net of claims against the escrow account), share-based compensation expense, interest, taxes, depreciation and amortization.
- Non-GAAP net income for the fourth quarter was \$0.3 million, or \$0.01 per fully-diluted share, compared to a net loss of (\$2.4 million), or (\$0.06) per share, in the third quarter of 2014. As with adjusted EBITDA, non-GAAP net income improved during the fourth quarter due primarily to the Company's revenue growth combined with ongoing expense discipline. Non-GAAP net income excludes the same items as adjusted EBITDA, except it includes interest, taxes, depreciation and amortization (unrelated to acquisitions).

## Quarterly Highlights

The Company's business and organizational highlights since the beginning of the fourth quarter include:

- On January 7, 2015, the Company introduced the MT 1200, a competitively-priced mobile tracking telematics solution for fleet management, usage-based insurance and other connected vehicle applications. Designed to simplify integration and use, the compact MT 1200 offers "tried and true" vehicle tracking and driver behavior monitoring features combined with an open platform option and a best-in-class user experience designed for swift integration and efficient management. The MT 1200 supports GPRS, CDMA2000® 1xRTT, and HSDPA technologies.
- The Company's award-winning line of MiFi-powered SA 2100 LTE IoT gateways for telemetry and telematics was certified by Verizon Wireless for AWS/Band 4 LTE and support for Private Network. This was the third Novatel Wireless AWS/Band 4 solution certified through Verizon Wireless since the network enabled AWS/Band 4 earlier in 2014.
- In November, the Company was named a 2015 CES Innovation Awards Honoree for the Verizon 4G LTE Mobile Hotspot MiFi® 6620L, the most powerful hotspot ever. Products entered in this prestigious program were judged by a preeminent panel of independent industrial designers, independent engineers and members of the trade media to honor outstanding design and engineering in cutting-edge consumer electronics products across 28 product categories. The global-ready MiFi 6620L mobile hotspot is the first Verizon Wireless Jetpack® that connects up to 15 devices to the Verizon XLTE network supporting up to 20 hours of use on a single charge, and has received accolades and awards from a number of industry outlets.
- The Company strengthened its global distribution network and customer base, supplying IoT solutions internationally. In the fourth quarter, the Company announced distribution agreements in the Middle East with Server Corner GlobalTech and NOMD Telecom, and in February, the Company announced an extended agreement with GPS Chile, offering telematics solutions throughout the region.

- In December, the Company's MT 3060 OBD II telematics solution for Chipin's "Fairzekering" usage-based insurance offering was awarded Most Innovative Solution by two separate prestigious programs in the Netherlands: The Accenture Innovation Awards and the Generali AM Innovation Awards.

- On October 31, 2014, the Company obtained a \$25.0 million revolving credit facility with Wells Fargo Bank. The credit facility provides the Company with enhanced capital flexibility for its growth initiatives and general corporate purposes.
- The Company strengthened its leadership team in the fourth quarter. In October, the Company announced the appointment to the Company's Board of Directors of Philip Falcone, Chairman and CEO of Harbinger Group Inc., and Robert Pons, Executive Vice President of Business Development of HC2. In November, Alex Mashinsky was appointed permanent CEO of the Company, after having served as interim CEO since June 13, 2014.

### First Quarter Business Outlook

The following statements are forward-looking and actual results may differ materially. Please see the section titled, "Cautionary Note Regarding Forward-Looking Statements" at the end of this news release. A more detailed description of risks related to our business is included in the reports filed by the Company with the Securities and Exchange Commission.

Our guidance for the first quarter of 2015 reflects current business indicators and expectations as of the date of this release. All figures are approximations based on management's beliefs and assumptions as of the date of this release.

#### First Quarter 2015 Outlook

Revenue	\$50 - \$55 million
Non-GAAP Gross Margin	23.5% - 25.5%
Non-GAAP Operating Expenses	\$13 - \$14 million
Adjusted EBITDA	\$0.0 - \$1.0 million
Non-GAAP Earnings Per Share	\$(0.03) - \$0.00
Weighted Average Shares Outstanding	approximately 46 million

### Conference Call Information

Novatel Wireless will host a conference call and live webcast for analysts and investors today at 5:00 p.m. ET. To access the conference call:

- In the United States, call 1-877-317-6789
- International parties can access the call at 1-412-317-6789

Novatel Wireless will offer a live webcast of the conference call, which will be accessible from the "Investors" section of the Company's website at [www.novatelwireless.com](http://www.novatelwireless.com). A telephonic replay of the conference call will also be available one hour after the call and will be available until February 27, 2015. To hear the replay, parties in the United States may call 1-877-344-7529 and enter conference code 10059616#. International parties may call 1-412-317-0088 and enter the same code.

## ABOUT NOVATEL WIRELESS

Novatel Wireless, Inc. (Nasdaq: MIFI) is a leader in the design and development of M2M wireless solutions based on 3G and 4G technologies. The Company delivers Internet of Things (IoT) and Cloud SaaS services to carriers, distributors, retailers, OEMs and vertical markets worldwide. Product lines include MiFi® Mobile Hotspots, USB modems, Expedite® and Enabler embedded modules, Mobile Tracking Solutions and Asset Tracking Solutions. These innovative products provide anywhere, anytime communications solutions for consumers and enterprises. Novatel Wireless is headquartered in San Diego, California. For more information please visit [www.novatelwireless.com](http://www.novatelwireless.com). @MIFI

### Cautionary Note Regarding Forward-Looking Statements

Some of the information presented in this release may constitute forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. In this context, forward-looking statements often address expected future business and financial performance and often contain words such as "may," "estimate," "anticipate," "believe," "expect," "intend," "plan," "project," "will" and similar words and phrases indicating future results. The information presented in this release related to our outlook for the Company's first quarter ending March 31, 2015, future demand for our products and the expected impact of acquisition activity, the quotation of Alex Mashinsky, as well as other statements that are not purely statements of historical fact, are forward-looking in nature. These forward-looking statements are made on the basis of management's current expectations, assumptions, estimates and projections and are subject to significant risks and uncertainties that could cause actual results to differ materially from those anticipated in such forward-looking statements. The Company therefore cannot guarantee future results, performance or achievements. Actual results could differ materially from the Company's expectations.

Factors that could cause actual results to differ materially from Novatel Wireless' expectations are set forth as risk factors in the Company's SEC reports and filings and include (1) the future demand for wireless broadband access to data, (2) the growth of wireless wide-area networking, (3) changes in commercially adopted wireless transmission standards and technologies including 3G and 4G standards, (4) continued customer and end user acceptance of the Company's current products and market demand for the Company's anticipated new product offerings, (5) increased competition and pricing pressure from current or future wireless market participants, (6) dependence on third party manufacturers in Asia and key component suppliers worldwide, (7) unexpected liabilities or expenses, (8) the Company's ability to introduce new products in a timely manner, (9) litigation, regulatory and IP developments related to our products or component parts of our products, (10) dependence on a small number of customers, (11) the effect of changes in accounting standards and in aspects of our critical accounting policies and (12) the Company's plans and expectations relating to acquisitions, strategic relationships, international expansion, software and hardware developments, personnel matters and cost containment initiatives.

These factors, as well as other factors described in the reports filed by the Company with the SEC (available at [www.sec.gov](http://www.sec.gov)), could cause actual results to differ materially from those expressed in the Company's forward-looking statements. Novatel Wireless assumes no obligation to update publicly any forward-looking statements for any reason, even if new information becomes available or other events occur in the future, except as otherwise required pursuant to applicable law and our on-going reporting obligations under the Securities Exchange Act of 1934, as amended.

### Non-GAAP Financial Measures

Novatel Wireless has provided in this release financial information that has not been prepared in accordance with GAAP. Non-GAAP gross profit, gross margin, operating expenses, adjusted EBITDA, net

income (loss) and net income (loss) per share exclude restructuring charges, the final payment by the Company in its shareholder litigation, the recognition of a beneficial conversion feature on convertible preferred stock that converted to common stock in the quarter, accruals related to an all-employee retention bonus plan adopted in 2014 as part of the Company's turnaround efforts, a gain associated with a change in fair value of a Company-issued warrant to purchase common stock, a refund from an escrow account related to a historic acquisition (net of claims against the escrow account), share-based compensation expenses, and amortization of intangibles associated with a historic acquisition. Adjusted EBITDA also excludes interest, taxes, depreciation and amortization.

Non-GAAP gross profit, gross margin, operating expenses, adjusted EBITDA, net income (loss) and net income (loss) per share are supplemental measures of our performance that are not required by, or presented in accordance with, GAAP. These non-GAAP financial measures are not intended to be used in isolation and, moreover, they should not be considered as a substitute for net income, diluted earnings per share, operating expenses, gross margin or any other performance measure determined in accordance with GAAP. We present non-GAAP gross profit, gross margin, operating expenses, adjusted EBITDA, net income (loss) and net income (loss) per share because we consider each to be an important supplemental measure of our performance.

Management uses these non-GAAP financial measures to make operational decisions, evaluate the Company's performance, prepare forecasts and determine compensation. Further, management believes that both management and investors benefit from referring to these non-GAAP financial measures in assessing the Company's performance when planning, forecasting and analyzing future periods. The stock-based compensation expenses are expected to vary depending on the number of new grants issued to both current and new employees, and changes in the Company's stock price, stock market volatility, expected option life and risk-free interest rates, all of which are difficult to estimate. In calculating non-GAAP gross profit, gross margin, operating expenses, adjusted EBITDA, net income (loss) and net income (loss) per share, management excludes restructuring charges and other non-cash and one-time items in order to facilitate comparability of the Company's operating performance on a period-to-period basis because such expenses are not, in management's review, related to the Company's ongoing operating performance. Management uses this view of its operating performance for purposes of comparison with its business plan and individual operating budgets and allocation of resources.

We further believe that these non-GAAP financial measures are useful to investors in providing greater transparency to the information used by management in its operational decision-making. We believe that the use of non-GAAP gross profit, gross margin, operating expenses, adjusted EBITDA, net income (loss) and net income (loss) per share also facilitates a comparison of Novatel Wireless' underlying operating performance with that of other companies in our industry, which use similar non-GAAP financial measures to supplement their GAAP results.

Calculating non-GAAP gross profit, gross margin, operating expenses, adjusted EBITDA, net income (loss) and net income (loss) per share have limitations as an analytical tool, and you should not consider these measures in isolation or as substitutes for GAAP metrics. In the future, we expect to continue to incur expenses similar to the non-GAAP adjustments described above, and exclusion of these items in the presentation of our non-GAAP financial measures should not be construed as an inference that these costs are unusual, infrequent or non-recurring. Investors and potential investors are cautioned that there are material limitations associated with the use of non-GAAP financial measures as an analytical tool. Limitations in relying on non-GAAP financial measures include, but are not limited to, the fact that other companies, including other companies in our industry, may calculate non-GAAP financial measures differently than we do, limiting their usefulness as a comparative tool.

Investors and potential investors are encouraged to review the reconciliation of non-GAAP financial measures contained within this press release with our GAAP financial results.

###

**Investor Relations Contact:**

Michael Sklansky  
(858) 431-0792  
[msklansky@nvtl.com](mailto:msklansky@nvtl.com)

Source: Novatel Wireless, Inc.



**NOVATEL WIRELESS, INC.**  
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS  
(In thousands, except per share data)

	<u>Three Months Ended</u>		<u>Twelve Months Ended</u>	
	<u>December 31,</u>		<u>December 31,</u>	
	2014	2013	2014	2013
	(Unaudited)	(Unaudited)	(Unaudited)	
Net revenues	\$ 55,361	\$ 65,335	\$ 185,245	\$ 335,053
Cost of net revenues	42,855	53,296	148,198	266,759
Gross profit	12,506	12,039	37,047	68,294
Operating costs and expenses:				
Research and development	10,150	8,979	34,314	48,246
Sales and marketing	3,976	4,159	13,792	20,898
General and administrative	2,522	4,970	15,402	24,179
Amortization of purchased intangible assets	140	140	562	562
Shareholder litigation loss	790	14,326	790	14,326
Restructuring charges	280	893	7,760	3,304
Total operating costs and expenses	17,858	33,467	72,620	111,515
Operating loss	(5,352)	(21,428)	(35,573)	(43,221)
Other income (expense):				
Change in fair value of warrant liability	1,508	—	(3,280)	—
Interest income (expense), net	(57)	4	(85)	113
Other expense, net	(494)	(139)	(612)	(222)
Loss before income taxes	(4,395)	(21,563)	(39,550)	(43,330)
Income tax provision (benefit)	51	(257)	124	83
Net loss	\$ (4,446)	\$ (21,306)	\$ (39,674)	\$ (43,413)
Per share data:				
Net loss per share:				
Basic	\$ (0.10)	\$ (0.63)	\$ (1.05)	\$ (1.28)
Weighted average shares used in computation of net loss per share:				
Basic	45,054	34,084	37,959	33,948

**NOVATEL WIRELESS, INC.**  
CONDENSED CONSOLIDATED BALANCE SHEET  
(In thousands)

	December 31, 2014 (Unaudited)	December 31, 2013
<b>ASSETS</b>		
<b>Current assets:</b>		
Cash and cash equivalents	\$ 15,739	\$ 2,911
Marketable securities	2,114	16,612
Restricted marketable securities	—	2,566
Accounts receivable, net	24,213	39,985
Inventories	37,803	27,793
Deferred tax assets, net	34	100
Prepaid expenses and other	7,878	5,662
Total current assets	87,781	95,629
Property and equipment, net	5,279	9,901
Marketable securities	—	3,443
Intangible assets, net	1,493	2,131
Deferred tax assets, net	—	81
Other assets	467	280
Total assets	\$ 95,020	\$ 111,465
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>Current liabilities:</b>		
Accounts payable	\$ 34,540	\$ 24,538
Accrued expenses	23,844	23,271
Current portion of litigation settlement	—	4,326
Short-term margin loan facility	—	2,566
Total current liabilities	58,384	54,701
Revolving credit facility	5,158	—
Other long-term liabilities	932	1,848
Non-current portion of litigation settlement	—	10,000
Total liabilities	64,474	66,549
Commitments and Contingencies		
<b>Stockholders' equity:</b>		
Common stock	46	34
Additional paid-in capital	466,665	441,368
Accumulated other comprehensive income	—	5
Accumulated deficit	(411,165)	(371,491)
	55,546	69,916
Treasury stock at cost	(25,000)	(25,000)
Total stockholders' equity	30,546	44,916
Total liabilities and stockholders' equity	\$ 95,020	\$ 111,465

**NOVATEL WIRELESS, INC.**  
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS  
(In thousands)

	Three Months Ended		Twelve Months Ended	
	December 31,		December 31,	
	2014	2013	2014	2013
	(Unaudited)	(Unaudited)	(Unaudited)	
Cash flows from operating activities:				
Net loss	\$ (4,446)	\$ (21,306)	\$ (39,674)	\$ (43,413)
Adjustments to reconcile net loss to net cash used in operating activities:				
Depreciation and amortization	1,519	2,175	7,408	8,949
Impairment loss on equipment, leasehold improvements and software license intangible assets	—	400	—	418
Provision for bad debts, net of recoveries	(101)	931	86	1,936
Provision for excess and obsolete inventory	349	1,275	3,382	4,344
Share-based compensation expense	674	595	2,290	3,443
Change in fair value of warrant liability	(1,508)	—	3,280	—
Shareholder litigation loss	—	14,326	—	14,326
Non-cash income tax expense (benefit)	87	(46)	87	220
Changes in assets and liabilities:				—
Accounts receivable	3,146	6,625	15,688	730
Inventories	(10,013)	(2,043)	(13,392)	6,879
Prepaid expenses and other assets	(3,703)	1,680	(2,403)	(489)
Accounts payable	4,536	(21,926)	10,036	(19,237)
Accrued expenses, income taxes, and other	2,923	(4,988)	(2,809)	(4,733)
Net cash used in operating activities	(6,537)	(22,302)	(16,021)	(26,627)
Cash flows from investing activities:				
Purchases of property and equipment	(240)	(106)	(1,753)	(5,011)
Purchases of intangible assets	(288)	—	(431)	—
Purchases of marketable securities	(104)	(2,024)	(1,359)	(24,262)
Marketable securities maturities/sales	3,348	9,166	21,861	40,897
Net cash provided by investing activities	2,716	7,036	18,318	11,624
Cash flows from financing activities:				
Proceeds from the issuances of Series C preferred and common stock, net of issuance costs	—	—	14,163	—
Proceeds from the issuance of short-term debt, net of issuance costs	—	6,900	—	20,300
Principal repayments of short-term debt	—	(6,765)	(2,566)	(17,734)
Repayment of shareholder note payable, including interest	(5,026)	—	(5,026)	—
Borrowings on revolving credit facility	5,158	—	5,158	—
Taxes paid on vested restricted stock units, net of proceeds from stock option exercises	(692)	(37)	(1,067)	(552)
Net cash provided by financing activities	(560)	98	10,662	2,014
Effect of exchange rates on cash and cash equivalents	(43)	(59)	(131)	(144)
Net increase (decrease) in cash and cash equivalents	(4,424)	(15,227)	12,828	(13,133)
Cash and cash equivalents, beginning of period	20,163	18,138	2,911	16,044
Cash and cash equivalents, end of period	\$ 15,739	\$ 2,911	\$ 15,739	\$ 2,911

## NOVATEL WIRELESS, INC.

Reconciliation of GAAP Net Loss to Non-GAAP Net Income (Loss)

Three and Twelve Months Ended December 31, 2014

(In thousands)

(Unaudited)

	<b>Three Months Ended</b>		<b>Twelve Months Ended</b>	
	<b>December 31, 2014</b>		<b>December 31, 2014</b>	
	<b>Net Income</b>	<b>Income (Loss)</b>	<b>Net Income</b>	<b>Income (Loss)</b>
	<b>(Loss)</b>	<b>Per Share</b>	<b>(Loss)</b>	<b>Per Share</b>
GAAP net loss	\$ (4,446)	\$ (0.10)	\$ (39,674)	\$ (1.05)
Adjustments:				
Share-based compensation expense (a)	674	0.01	2,290	0.06
Acquisition related charges (b)	223	0.00	895	0.02
Shareholder litigation loss (c)	790	0.02	790	0.02
Retention bonus (d)	5,500	0.12	5,500	0.14
Restructuring charges (e)	280	0.01	7,760	0.20
Change in fair value of warrant liability (f)	(1,508)	(0.03)	3,280	0.09
Fair value of beneficial conversion feature (g)	445	0.01	445	0.01
Gain on acquisition-related escrow refund, net of related claims (h)	(1,613)	(0.04)	(1,613)	(0.04)
Non-GAAP net income (loss)	<u>\$ 345</u>	<u>\$ 0.01</u>	<u>\$ (20,327)</u>	<u>\$ (0.54)</u>

(a) Adjustments reflect share-based compensation expense recorded under ASC Topic 718

(b) Adjustments reflect amortization of purchased intangibles

(c) Adjustments reflect shareholder litigation loss

(d) Adjustments reflect accruals for an all-employee retention bonus

(e) Adjustments reflect restructuring charges

(f) Adjustments reflect change in fair value of warrant liability

(g) Adjustments reflect fair value of the beneficial conversion feature of preferred shares

(h) Adjustments reflect gain on acquisition-related escrow refund, net of related claims

See "Non-GAAP Financial Measures" for information regarding our use of Non-GAAP financial measures.

# NOVATEL WIRELESS, INC.

## Reconciliation of GAAP Operating Costs and Expenses to Non-GAAP Operating Costs and Expenses (In thousands) (Unaudited)

Three Months Ended December 31, 2014

	GAAP	Share-based compensation expense (a)	Purchased intangibles amortization (b)	Restructuring charges (c)	Shareholder litigation (d)	Retention bonus (e)	Other (f)	Non- GAAP
Cost of net revenues	\$ 42,855	\$ 11	\$ 83	\$ —	\$ —	\$ 570	\$ —	\$ 42,191
Operating costs and expenses:								
Research and development	10,150	207	—	—	—	3,070	—	6,873
Sales and marketing	3,976	47	—	—	—	930	—	2,999
General and administrative	2,522	409	—	—	—	930	(1,613)	2,796
Amortization of purchased intangibles assets	140	—	140	—	—	—	—	—
Shareholder litigation loss	790	—	—	—	790	—	—	—
Restructuring charges	280	—	—	280	—	—	—	—
Total operating costs and expenses	<u>\$ 17,858</u>	<u>663</u>	<u>140</u>	<u>280</u>	<u>790</u>	<u>4,930</u>	<u>(1,613)</u>	<u>\$ 12,668</u>
Total		<u>\$ 674</u>	<u>\$ 223</u>	<u>\$ 280</u>	<u>\$ 790</u>	<u>\$ 5,500</u>	<u>\$ (1,613)</u>	

(a) Adjustments reflect share-based compensation expense recorded under ASC Topic 718

(b) Adjustments reflect amortization of purchased intangibles

(c) Adjustments reflect restructuring charges

(d) Adjustments reflect shareholder litigation loss

(e) Adjustments reflect accruals for an all-employee retention bonus

(f) Adjustments reflect gain on acquisition-related escrow refund, net of related claims

See "Non-GAAP Financial Measures" for information regarding our use of Non-GAAP financial measures.

## NOVATEL WIRELESS, INC.

Reconciliation of GAAP Operating Costs and Expenses to Non-GAAP Operating Costs and Expenses  
(In thousands)  
(Unaudited)

Twelve Months Ended December 31, 2014

	GAAP	Share-based compensation expense (a)	Purchased intangibles amortization (b)	Restructuring charges (c)	Shareholder litigation (d)	Retention bonus (e)	Other (f)	Non-GAAP
Cost of net revenues	\$ 148,198	\$ 5	\$ 333	\$ —	\$ —	\$ 570	\$ —	\$ 147,290
Operating costs and expenses:								
Research and development	34,314	654	—	—	—	3,070	—	30,590
Sales and marketing	13,792	247	—	—	—	930	—	12,615
General and administrative	15,402	1,384	—	—	—	930	(1,613)	14,701
Amortization of purchased intangibles assets	562	—	562	—	—	—	—	—
Shareholder litigation loss	790	—	—	—	790	—	—	—
Restructuring charges	7,760	—	—	7,760	—	—	—	—
Total operating costs and expenses	<u>\$ 72,620</u>	<u>2,285</u>	<u>562</u>	<u>7,760</u>	<u>790</u>	<u>4,930</u>	<u>(1,613)</u>	<u>\$ 57,906</u>
Total		<u>\$ 2,290</u>	<u>\$ 895</u>	<u>\$ 7,760</u>	<u>\$ 790</u>	<u>\$ 5,500</u>	<u>\$ (1,613)</u>	

(a) Adjustments reflect share-based compensation expense recorded under ASC Topic 718

(b) Adjustments reflect amortization of purchased intangibles

(c) Adjustments reflect restructuring charges

(d) Adjustments reflect shareholder litigation loss

(e) Adjustments reflect accruals for an all-employee retention bonus

(f) Adjustments reflect gain on acquisition-related escrow refund, net of related claims

See "Non-GAAP Financial Measures" for information regarding our use of Non-GAAP financial measures.

**NOVATEL WIRELESS, INC.**

Reconciliation of GAAP Loss before Income Taxes to Adjusted EBITDA

Three and Twelve Months Ended December 31, 2014

(In thousands)

(Unaudited)

	<u>Three Months Ended</u> <u>December 31,</u> <u>2014</u>	<u>Twelve Months</u> <u>Ended</u> <u>December 31,</u> <u>2014</u>
Loss before income taxes	\$ (4,395)	\$ (39,550)
Depreciation and amortization	1,519	7,408
Share-based compensation expense	674	2,290
Shareholder litigation loss	790	790
Restructuring charges	280	7,760
Retention bonus plan	5,500	5,500
Change in fair value of warrant liability	(1,508)	3,280
Gain on acquisition-related escrow refund, net of related claims	(1,613)	(1,613)
Fair value of beneficial conversion feature	445	445
Other expense, net	106	252
Adjusted EBITDA	<u>\$ 1,798</u>	<u>\$ (13,438)</u>

See "Non-GAAP Financial Measures" for information regarding our use of Non-GAAP financial measures.

**NOVATEL WIRELESS, INC.**  
Segment Reporting  
Three and Twelve Months Ended December 31, 2014 and 2013  
(In thousands)

	<u>Three Months Ended</u>		<u>Twelve Months Ended</u>	
	<u>December 31,</u>		<u>December 31,</u>	
	2014	2013	2014	2013
	(Unaudited)	(Unaudited)	(Unaudited)	
<b><u>Net revenues by reportable segment:</u></b>				
Mobile Computing Products	\$ 47,017	\$ 56,989	\$ 145,500	\$ 297,499
M2M Products and Solutions	8,344	8,346	39,745	37,554
Total	<u>\$ 55,361</u>	<u>\$ 65,335</u>	<u>\$ 185,245</u>	<u>\$ 335,053</u>
<b><u>Operating loss by reportable segment:</u></b>				
Mobile Computing Products	\$ (3,263)	\$ (18,138)	\$ (23,339)	\$ (27,939)
M2M Products and Solutions	(2,089)	(3,290)	(12,234)	(15,282)
Total	<u>\$ (5,352)</u>	<u>\$ (21,428)</u>	<u>\$ (35,573)</u>	<u>\$ (43,221)</u>
			<u>December 31,</u>	<u>December 31,</u>
			2014	2013
<b><u>Identifiable assets by reportable segment:</u></b>				
Mobile Computing Products			\$ 79,368	\$ 96,516
M2M Products and Solutions			15,652	14,949
Total			<u>\$ 95,020</u>	<u>\$ 111,465</u>