Huntsman CORP
Form 4
February 17, 2017

FORM 4

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

OMB APPROVAL

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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. *See* Instruction 1(b).

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *
Wright Randy W.

(Last) (First) (Middle)

500 HUNTSMAN WAY

(Street)

SALT LAKE CITY, UT US 84108

(City) (State) (Zip)

2. Issuer Name **and** Ticker or Trading Symbol
Huntsman CORP [HUN]

3. Date of Earliest Transaction (Month/Day/Year)
02/15/2017

4. If Amendment, Date Original Filed(Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

_____ Director _____ 10% Owner
_____ Officer (give title below) _____ Other (specify below)
VP and Controller

6. Individual or Joint/Group Filing(Check Applicable Line)
_X_ Form filed by One Reporting Person
___ Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1.Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)		4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)			5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price			
Common Stock	02/15/2017		M		16,599	A	$ 20.66	82,314	D	
Common Stock	02/15/2017		S (1)		16,599	D	$ 22	65,715	D	

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

SEC 1474 (9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned
(*e.g.*, puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)		5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Underlying Securities (Instr. 3 and 4)		8 D S (I
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares	
Option (Right to Buy)	$ 20.66	02/15/2017		M			16,599	(2)	02/20/2017	Common Stock	16,599	

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
Wright Randy W. 500 HUNTSMAN WAY SALT LAKE CITY, UT US 84108			VP and Controller	

Signatures

Sean H. Pettey, by Power of Attorney	02/17/2017
**Signature of Reporting Person	Date

Explanation of Responses:

* If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

(1) The sales reported in this Form 4 were effected pursuant to a Rule 10b5-1 trading plan adopted by the reporting person on December 7, 2016.

(2) These options were scheduled to expire on February 20, 2017 and vested in three equal annual installments beginning February 20, 2008.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.
Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number. NED REVENUES AND DIRECT OPERATING EXPENSES
OF THE OIL AND GAS PROPERTIES PURCHASED FROM
MURPHY EXPLORATION & PRODUCTION COMPANY USA
(In thousands)

	Three Months Ended March 31,		For The Year Ended December 31,
	2005	2004	2004

	(unaudited)		
Revenues	$ 16,396	$ 16,130	$ 66,946
Direct operating expenses	5,484	5,372	21,770
Excess of revenues over direct operating expenses	$ 10,912	$ 10,758	$ 45,176

The accompanying notes are an integral part of this financial statement.

Explanation of Responses:

Table of Contents

CAL DIVE INTERNATIONAL, INC. AND SUBSIDIARIES
NOTES TO STATEMENT OF COMBINED REVENUES AND DIRECT OPERATING EXPENSES OF THE OIL AND GAS PROPERTIES PURCHASED FROM MURPHY EXPLORATION & PRODUCTION COMPANY USA

(1) THE PROPERTIES

On June 10, 2005, Energy Resource Technology, Inc. (ERT), a wholly owned subsidiary of Cal Dive International, Inc. (Cal Dive) acquired, effective as of February 1, 2005, (the Acquisition) certain offshore Gulf of Mexico properties (Properties) of Murphy Exploration & Production Company USA (Murphy), a wholly owned subsidiary of Murphy Oil Corporation. ERT paid $163.5 million in cash and assumed Murphy s pro-rata share of the related decommissioning liability. The Properties acquired were in the following Gulf of Mexico blocks:

East Cameron Block 351

High Island Block A-369 and A-370

Matagorda Island Block 565 and 604

Mobile Block 863

South Pelto Block 12 (E/2), 12 (W/2), 18, 19 (W/2) and 20

Ship Shoal Block 59, 223, 224, 239, 246, 247 (SE/4), 248 (NE/4) and 249 (NW/4)

South Timbalier Block 63, 86 (N/2) and 203

Viosca Knoll Block 203 and 204

Vermilion Block 161

West Cameron Block 551, 560, 561 and 575

(2) BASIS FOR PRESENTATION

The statement of combined revenues and direct operating expenses has been derived from Murphy s historical financial records and is prepared on the accrual basis of accounting. Revenues and direct operating expenses as set forth in the accompanying statement include revenues from oil and gas production, net of royalties, and associated direct operating expenses related to the net revenue interest and net working interest, respectively. These revenues and expenses in the Properties represent ERT s acquired interest.

During the periods presented, the Properties were not accounted for or operated as a separate division by Murphy Oil Corporation. Accordingly, full separate financial statements prepared in accordance with generally accepted accounting principles do not exist and are not practicable to obtain in these circumstances.

This statement varies from an income statement in that it does not show certain expenses, which were incurred in connection with the ownership of the Properties, such as general and administrative expenses, and income taxes. These costs were not separately allocated to the Properties in the Murphy Oil Corporation historical financial records and any pro forma allocation would be both time consuming and expensive and would not be a reliable estimate of what these costs would actually have been had the Properties been operated historically as a stand alone entity. In addition, these allocations, if made using historical Murphy Oil Corporation general and administrative structures and tax burdens, would not produce allocations that would be indicative of the historical performance of the Properties had they been assets of ERT, due to the greatly varying size, structure, and operations between ERT and Murphy Oil Corporation. This statement also does not include provisions for depreciation, depletion and amortization as such amounts would not be indicative of future costs and those costs which would be incurred by ERT upon allocation of the purchase price. Accordingly, the financial statement and other information presented are not indicative of the financial condition

6

Table of Contents

or results of operations of the Properties going forward due to the changes in the business and the omission of various operating expenses.

For the same reason, primarily the lack of segregated or easily obtainable reliable data on asset values and related liabilities, a balance sheet is not presented for the Properties.

At the end of the economic life of these fields, certain restoration and abandonment costs will be incurred by the respective owners of these fields. No accrual for these costs is included in the direct operating expenses.

(3) RELATED PARTY TRANSACTIONS

Affiliates of Murphy acquired some of the crude oil and natural gas from the Properties for certain periods presented in the financial statement. Such sales, based on Murphy s net revenue interest in the Properties, amounted to $16,108,000 and $15,771,000 for the three month periods ended March 31, 2005 and 2004, respectively, and $64,983,000 for the year ended December 31, 2004.

(4) COMMITMENTS AND CONTINGENCIES

Pursuant to the terms of the Agreement, Murphy is obligated for any claims, litigation or disputes pending as of the effective date of February 1, 2005 or any matters arising in connection with ownership of the Properties prior to the effective date.

(5) OIL AND GAS RESERVE INFORMATION (Unaudited)

There are numerous uncertainties inherent in estimating quantities of proved reserves and projecting future rates of production. The following reserve data related to the Properties represent estimates only and should not be construed as being exact. The reliability of these estimates at any point in time depends on both the quality and quantity of the technical and economic data, the performance of the reservoirs, as well as extensive engineering judgment. Consequently, reserve estimates are subject to revision as additional data becomes available during the producing life of a reservoir. The evolution of technology may also result in the application of improved recovery techniques, such as supplemental or enhanced recovery projects, which have the potential to increase reserves beyond those currently envisioned.

Estimates of proved reserves are derived from quantities of crude oil and natural gas that geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing operating and economic conditions and rely upon a production plan and strategy.

Statement of Financial Accounting Standards No. 69, Disclosures About Oil and Gas Producing Activities (FAS 69), requires calculation of future net cash flows using a 10% annual discount factor and year-end prices, costs and statutory tax rates, except for known future changes such as contracted prices and legislated tax rates.

	Gas (MMcf)	Oil (MBbls)
Total Proved Reserves:		
Balance, December 31, 2003	39,448	2,045
Revisions of previous estimates	3,178	(113)
Production	(8,036)	(404)
Extensions and discoveries	1,211	1
Balance, December 31, 2004	35,801	1,529
Proved developed reserves	30,392	1,387

Table of Contents

(6) STANDARDIZED MEASURE OF DISCOUNTED FUTURE NET CASH FLOWS RELATING TO PROVED OIL AND GAS RESERVES

The following disclosures concerning the standardized measure of future cash flows from proved oil and gas reserves are presented in accordance with FAS 69. As prescribed by FAS 69, the amounts shown are based on prices and costs at the end of each period and a 10 percent annual discount factor.

Future cash flows are computed by applying fiscal year-end prices of natural gas and oil to year-end quantities of proved natural gas and oil reserves. Future operating expenses and development costs are computed primarily by the Company s internal petroleum engineers by estimating the expenditures to be incurred in developing and producing the Acquisition s proved natural gas and oil reserves at the end of the year, based on year end costs and assuming continuation of existing economic conditions. Future income taxes are based on currently enacted statutory rates.

The standardized measure of discounted future net cash flows is not intended to represent the replacement costs or fair value of the Acquisition s natural gas and oil properties. An estimate of fair value would take into account, among other things, anticipated future changes in prices and costs, and a discount factor more representative of the time value of money and the risks inherent in reserve estimates of natural gas and oil producing operations.

The Standardized Measure of Discounted Future Net Cash Flows relating to Proved Oil and Gas Reserves Attributed to the Acquisition is as follows (in thousands):

	As of December 31, 2004	
Future cash in flows	$	298,352
Future costs		
Production		(72,450)
Development and abandonment		(63,592)
Future net cash flows before income taxes		162,310
Future income taxes		(51,701)
Future net cash flows		110,609
Discount at 10% annual rate		(15,552)
Standardized measure of discounted future net Cash flows	$	95,057

Changes in the standardized measure of future net cash flows relating to proved natural gas and oil reserves are summarized below (in thousands):

	For the Year Ended December 31, 2004	
Standardized measure, beginning of year	$	103,942
Sales, net of production costs		(45,176)
Net change in price, net of production costs		(7,331)
Development costs incurred		6,584
Accretion of discount		15,736
Net change in income taxes		8,927
Extensions and discoveries		4,229
Net change due to revision in quantity estimates		8,146
Standardized measure, end of year	$	95,057

Table of Contents

SCHEDULE B
CAL DIVE INTERNATIONAL, INC. AND SUBSIDIARIES
UNAUDITED PRO FORMA CONDENSED CONSOLIDATED
FINANCIAL STATEMENTS

The following unaudited pro forma condensed consolidated financial statements and related notes are presented to show effects of the acquisition of the Properties purchased by Cal Dive International, Inc. (Cal Dive) from Murphy Exploration & Production Company USA (Murphy).

The pro forma condensed consolidated statements of operations are presented to show net income attributable to common stock as if the Acquisition occurred effective January 1, 2004. The pro forma condensed consolidated balance sheet is based on the assumption that the Acquisition occurred effective March 31, 2005.

Pro forma data are based on assumptions and include adjustments as explained in the notes to the unaudited pro forma condensed consolidated financial statements. The pro forma data are not necessarily indicative of the financial results that would have been attained had the Acquisition occurred on the dates referenced above and should not be viewed as indicative of operations in future periods. The unaudited pro forma condensed consolidated financial statements should be read in conjunction with the notes thereto, Cal Dive s Annual Report on Form 10-K for the year ended December 31, 2004, its Quarterly Report on Form 10-Q for the quarter ended March 31, 2005 and the Statement of Combined Revenues and Direct Operating Expenses of the Oil and Gas Properties Purchased from Murphy Exploration & Production Company USA included herein as Schedule A.

Table of Contents

CAL DIVE INTERNATIONAL, INC. AND SUBSIDIARIES
UNAUDITED PRO FORMA CONDENSED
CONSOLIDATED STATEMENT OF OPERATIONS
FOR THE YEAR ENDED DECEMBER 31, 2004 (in thousands)

	Cal Dive Historical	Acquisition Historical	Pro Forma Adjustments	Pro Forma
REVENUES:				
Marine contracting	$ 300,082	$	$	$ 300,082
Oil and gas production	243,310	66,946		310,256
Total Revenues	543,392	66,946		610,338
EXPENSES:				
Operating expenses	267,075	21,770		288,845
Depreciation and amortization.	104,405		29,491(a)	133,896
Selling and administrative expenses	48,881		877(b)	49,758
Total Expenses	420,361	21,770	30,368	472,499
INCOME (LOSS) FROM OPERATIONS	123,031	45,176	(30,368)	137,839
Equity in earnings of production facilities investments	7,927			7,927
Net interest expense and other	5,265		4,721(c)	9,986
INCOME (LOSS) BEFORE INCOME TAXES	125,693	45,176	(35,089)	135,780
Provision for income taxes	43,034		3,530(d)	46,564
NET INCOME (LOSS)	$ 82,659	$ 45,176	$ (38,619)	$ 89,216
Preferred stock dividends and accretion	2,743			2,743
NET INCOME (LOSS) APPLICABLE TO COMMON SHAREHOLDERS	$ 79,916	$ 45,176	$ (38,619)	$ 86,473
EARNINGS PER COMMON SHARE:				
Basic	$ 2.09	$	$	$ 2.26
Diluted	$ 2.06	$	$	$ 2.22

WEIGHTED AVERAGE COMMON SHARES OUTSTANDING:		
Basic	38,204	38,204
Diluted	39,531	39,531

The accompanying notes to unaudited pro forma condensed financial statements
are an integral part of these statements.

10

Table of Contents

CAL DIVE INTERNATIONAL, INC. AND SUBSIDIARIES
UNAUDITED PRO FORMA CONDENSED
CONSOLIDATED STATEMENT OF OPERATIONS
For the Three Months Ended March 31, 2005 (in thousands)

	Cal Dive Historical	Acquisition Historical	Pro Forma Adjustments	Pro Forma
REVENUES:				
Marine contracting	$ 96,189	$	$	$ 96,189
Oil and gas production	63,386	16,396		79,782
Total Revenues	159,575	16,396		175,971
EXPENSES:				
Operating expenses	80,979	5,484		86,463
Depreciation and amortization	26,723		6,772(a)	33,495
Selling and administrative expenses	12,837		224(b)	13,061
Total Expenses	120,539	5,484	6,996	133,019
INCOME (LOSS) FROM OPERATIONS	39,036	10,912	(6,996)	42,952
Equity in earnings of production facilities investments	1,729			1,729
Net interest expense and other	264		1,341(c)	1,605
INCOME (LOSS) BEFORE INCOME TAXES	40,501	10,912	(8,337)	43,076
Provision for income taxes	14,540		901(d)	15,441
NET INCOME (LOSS)	$ 25,961	$ 10,912	$ (9,238)	$ 27,635
Preferred stock dividends and accretion	550			550
NET INCOME (LOSS) APPLICABLE TO COMMON SHAREHOLDERS	$ 25,411	$ 10,912	$ (9,238)	$ 27,085
EARNINGS PER COMMON SHARE:				
Basic	$ 0.66	$	$	$ 0.70
Diluted	$ 0.64	$	$	$ 0.68

WEIGHTED AVERAGE COMMON SHARES OUTSTANDING:		
Basic	38,571	38,571
Diluted	40,869	40,869

The accompanying notes to unaudited pro forma condensed financial statements
are an integral part of these statements.

11

Table of Contents

CAL DIVE INTERNATIONAL, INC. AND SUBSIDIARIES
UNAUDITED PRO FORMA
CONDENSED CONSOLIDATED BALANCE SHEET
AS OF MARCH 31, 2005
(in thousands)

	Cal Dive Historical	Pro Forma Adjustments	Pro Forma
ASSETS			
Cash and cash equivalents	$ 362,267	$ (163,526)	$ 198,741
Other current assets	147,463		147,463
Net property and equipment	578,688	196,189	774,877
Other assets	279,751		279,751
TOTAL ASSETS	$ 1,368,169	$ 32,663	$ 1,400,832
LIABILITIES AND SHAREHOLDERS EQUITY			
Current liabilities	$ 138,525	$ 827	$ 139,352
Long-term debt	436,036		436,036
Deferred income taxes	135,999		135,999
Other long term liabilities	87,889	31,836	119,725
TOTAL LIABILITIES	798,449	32,663	831,112
Convertible preferred stock	55,000		55,000
Shareholders equity	514,720		514,720
TOTAL LIABILITIES AND SHAREHOLDERS EQUITY	$ 1,368,169	$ 32,663	$ 1,400,832

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

Table of Contents

CAL DIVE INTERNATIONAL, INC. AND SUBSIDIARIES
NOTES TO UNAUDITED PRO FORMA
CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

BASIS OF PRESENTATION

The unaudited pro forma statement of operations for the year ended December 31, 2004, is based on the audited financial statements of Cal Dive for the year ended December 31, 2004, the audited Statement of Revenues and Direct Operating Expenses of the Oil and Gas Properties Purchased from Murphy Exploration & Production Company USA for the year ended December 31, 2004, and the adjustments and assumptions described below.

The unaudited pro forma statement of operations for the three months ended March 31, 2005 and the unaudited pro forma balance sheet as of March 31, 2005 are based on the unaudited financial statements of Cal Dive as of and for the three months ended March 31, 2005, the unaudited Statement of Combined Revenues and Direct Operating Expenses of the Oil and Gas Properties Purchased from Murphy Exploration & Production Company USA for the three months ended March 31, 2005, and the adjustments and assumptions described below.

PRO FORMA ADJUSTMENTS

The unaudited pro forma statements of operations reflect the following adjustments:

a. Record incremental depreciation and amortization expense using the units-of-production method, resulting from the purchase of Properties from Murphy.

b. Record incremental Selling and Administrative Expenses resulting from ERT s bonus plan.

c. Period incremental interest expense assuming cash borrowed under Cal Dive s $150 million revolving credit facility. Applicable interest rates averaged approximately 3.3% and 4.6%, respectively, for the year ended December 31, 2004 and for the three months ended March 31, 2005.

d. Record a pro forma income tax provision, assuming a 35 percent rate, based on the pro forma change in income before income taxes for the Acquisition.

The unaudited pro forma balance sheet reflects the following adjustments:

1. Record the purchase price of the Properties from Murphy, totaling approximately $196.1 million funded with:

   Available cash on hand ($163.5 million).

   Assumption of decommissioning liability of $32.0 million ($158,000 in Current Liabilities and $31.8 million in Other Long Term Liabilities).

   Record certain estimated oil and gas imbalances included in current liabilities ($462,000).

2. Record capitalized transaction costs, primarily legal and auditing fees, relating to the purchase of Properties from Murphy of approximately $207,000 included in Current Liabilities.

13

Table of Contents

CAL DIVE INTERNATIONAL, INC. AND SUBSIDIARIES
PRO FORMA SUPPLEMENTAL OIL AND GAS DISCLOSURES
(unaudited)

The following table sets forth certain unaudited pro forma information concerning Cal Dive s proved oil and gas reserves as of December 31, 2004, giving effect to the purchase of the Properties from Murphy as if it had occurred on January 1, 2004. There are numerous unf all or substantially all of the Corporation's assets or a merger or consolidation of the Corporation with another corporation in accordance with clause (i) of this Section 11, such receipt of unrestricted Shares, such payment, or exercise of any Option or Options shall be subject to the consummation of such sale, merger or consolidation. If such sale, merger or consolidation is not consummated, any otherwise unearned Restricted Shares shall be deemed not to have been distributed to the Participant, any payment made to satisfy Performance Units shall be returned to the Corporation, and any otherwise unexpired Option or Options shall be deemed to have not been exercised, and the Participant and the Corporation shall take all steps necessary to achieve this effect including, without limitation, the Participant delivering to the Corporation the stock certificate representing the Shares issued with respect to Restricted Shares, the return to the Corporation of any payments made to the Participant, or upon the exercise of the Option, endorsed in favor of the Corporation, and the Corporation returning to the Participant the consideration representing the Purchase Price paid by the Participant upon the exercise of the Option. To the extent that the foregoing adjustments relate to securities of the Corporation, such adjustments shall be made by the Administrator, whose determination shall be conclusive and binding on all persons. Except as expressly provided in this Section 11, the Participant shall have no rights by reason of any subdivision or consolidation of shares of stock of any class, the payment of any stock dividend or any other increase or decrease in the number of shares of stock of any class or by reason of any dissolution, liquidation, merger or consolidation or spin-off of assets or stock of another corporation, and any issue by the Corporation of shares of stock of any class, or securities convertible into shares of stock of any class, shall not affect, and no adjustment by reason thereof shall be made with respect to, the number or Exercise Price of Shares subject to an Option or the number or type of Shares subject to an Award of Restricted Shares. The grant of an Award pursuant to the Plan shall not affect in any way the right or power of the Corporation to make adjustments, reclassifications, reorganizations or changes of its capital or business structure, to merge or consolidate or to dissolve, liquidate, sell or transfer all or any part of its business or assets. (b) Acceleration under Certain Circumstances Following a Change of Control. Notwithstanding any other provision of the Plan to the contrary and except as otherwise expressly provided in the applicable Award Agreement, the restrictions relating to any Restricted Shares, the vesting of any Performance Units, the vesting or similar installment provisions relating to the exercisability of any Option, and the restrictions, vesting or installment provisions relating to any replacement award tendered to a Participant pursuant to or as a result of, or relating to, a transaction described in the second paragraph of Section 11(a) hereof shall be waived or accelerated, as the case may be, and the Participant shall receive unrestricted Shares with respect to any Restricted Shares, a payment with respect to the value of any Performance Units, or a similar replacement award, and shall have the right, for a period of at least thirty days, to exercise such an Option or replacement option in the event the Participant's employment with or services for the Corporation should terminate within two years following a Change of Control, unless such employment or services are terminated by the Corporation for Cause or by the Participant voluntarily without Good Reason, or such employment or services are terminated due to the death or Disability of the Participant. Notwithstanding the foregoing, no Incentive Stock Option shall become exercisable pursuant to the foregoing without the Participant's consent, if the result would be to cause such option not to be treated as an Incentive Stock Option. 12. RIGHTS AS A STOCKHOLDER; NONTRANSFERABILITY. (a) A Participant or a transferee of an Award shall have no rights as a stockholder with respect to any Shares covered by such Award until the date of the issuance of a stock certificate to such Participant or transferee for such Shares. No adjustments shall be made for dividends (ordinary or extraordinary, whether in cash, securities or other property) or distributions or other rights for which the record date is prior to the date such stock certificate is issued, except as provided in Section 8(c) or Section 11 hereof. (b) Awards are nontransferable except as provided in this paragraph and as the Administrator may otherwise provide. Awards may be transferred by will or by the laws of descent and distribution. Unless otherwise provided in an Award Agreement, a Participant may give an Award that is not an Incentive Stock Option to an immediate family member, to a partnership or trust solely benefiting the Participant or immediate family members, or to an inter vivos trust or testamentary trust from which the Award (or the Award proceeds) will be transferred after the Participant's death. An immediate family member is a Participant's natural or adopted child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law. A transfer shall not relieve a Participant from his or her obligations under this Plan or the applicable Award Agreement with respect to the transferred Award or Award proceeds. 13. AGREEMENT BY PARTICIPANT REGARDING WITHHOLDING TAXES (a) No later than the date of exercise of any Option, the distribution of Shares to a Participant pursuant to a Restricted Share Award, or the payment of any Performance Units, the Participant shall pay to the Corporation or make arrangements satisfactory to the Administrator regarding payment of any federal, state or local taxes of any kind required by law to be withheld, and may satisfy minimum withholding consequences through the surrender of shares subject to the Award; provided that an Award Agreement may provide, or the Administrator may in its discretion permit, a Participant to surrender Shares (including any Shares subject that the Participant has the present right to receive pursuan to the Award) having a Fair Market Value equal to the minimum statutory tax withholding associated with the Award giving rise to the taxable income. (b) The Corporation shall, to the extent permitted or required by law, have the right to deduct from any payment of any kind otherwise due to the Participant any federal, state or local taxes of any kind required by law to be withheld with respect to an Award. 14. SECURITIES LAW REQUIREMENTS. (a) Legality of Issuance. No Shares shall be issued pursuant to any Award unless and until the Corporation has determined that: 1. it and the Participant have taken all actions required to register the offer and sale of the Shares under the Act, or to perfect an exemption from the registration requirements thereof; 2. any applicable listing requirement of any stock exchange on which the Common Stock is listed has been satisfied; and 3. any other applicable provision of state or Federal law has been satisfied. (b) Restrictions on Transfer; Representations of Participant; Legends. Regardless of whether the offering and sale of Shares under the Plan has been registered under the Act or has been registered or qualified under the securities laws of any state, the Corporation may impose restrictions upon the sale, pledge or other transfer of such Shares (including the placement of appropriate legends on stock certificates) if, in the judgment of the Corporation and its counsel, such restrictions are necessary or desirable in order to achieve compliance with the provisions of the Act, the securities laws of any state or any other law. In the event that the sale of Shares under the Plan is not registered under the Act but an exemption is available which requires an investment representation or other representation, each Participant shall be required to represent that any Shares being acquired by the Participant are being acquired for investment, and not with a view to the sale or distribution thereof, and to make such other representations as are deemed necessary or appropriate by the Corporation and its counsel. Stock certificates evidencing Shares acquired under the Plan pursuant to an unregistered transaction shall bear the following restrictive legend (or similar legend in the discretion of the Administrator) and such other restrictive legends as are required or deemed advisable under the provisions of any applicable law: "THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. THESE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO DISTRIBUTION AND MAY NOT BE OFFERED FOR SALE, SOLD, PLEDGED OR OTHERWISE TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR SUCH SECURITIES UNDER THE SECURITIES ACT OF 1933 OR AN OPINION OF COUNSEL REASONABLY SATISFACTORY IN FORM AND CONTENT TO THE ISSUER THAT SUCH REGISTRATION IS NOT REQUIRED UNDER SUCH ACT." Any determination by the Corporation and its counsel in connection with any of the matters set forth in this Section 13 shall be conclusive and binding on all persons. (c) Registration or Qualification of Securities. The Corporation may, but shall not be obligated to, register or qualify the sale of Shares under the Act or any other applicable law. The Corporation shall not be obligated to take any affirmative action in order to cause the sale of Shares under the Plan to comply with any law. (d) Exchange of Certificates. If, in the opinion of the Corporation and its counsel, any legend placed on a stock certificate representing Shares sold under the Plan is no longer required, the holder of such certificate shall be entitled to exchange such certificate for a certificate representing the same number of Shares but without such legend. 15. AMENDMENT OF THE PLAN; MODIFICATION OF AWARDS. The Board may from time to time, with respect to any Shares at the time not subject to Awards, suspend or discontinue the Plan or revise or amend it in any respect whatsoever. Within the limitations of the Plan, the Administrator may modify any Award, accelerate the vesting of any Restricted Share Award or the rate at which an Option may be exercised, or extend or renew outstanding Options. The foregoing notwithstanding, no modification of an Award shall, without the consent of the Participant, adversely alter or impair any rights or obligations under any Award previously granted to the Participant. 16. APPLICATION OF FUNDS. The proceeds received by the Corporation from the sale of Common Stock pursuant to the exercise of an Option will be used for general corporate purposes. 17. APPROVAL OF STOCKHOLDERS. The adoption of this restated Plan is subject to approval by the stockholders of the Corporation. 18. EXECUTION. To record the adoption of the amended and restated Plan by the Board on November 17, 2003 the Corporation has caused its authorized officers to affix the corporate name and seal hereto. BIOENVISION, INC. By: __________________________________ Name: Title: By: __________________________________ Name: Title: ANNEX C BIOENVISION, INC. Audit Committee Charter I. Organization This charter governs the operations of the Audit Committee of the Board of Directors of Bioenvision Inc. (the "Company"). The Committee shall review and reassess this Charter at least annually and obtain the approval of the Board of Directors of the Company (the "Board"). The Committee shall comprise at least three Directors appointed by the Board of Directors. Each member of the Committee shall be independent of management and the Company, in accordance with the Nasdaq Marketplace Rules. Generally, members of the Committee shall be considered independent if they have no relationship that may interfere with the exercise of their independence from management and the Company. All Committee members must be able to read and understand fundamental financial statements, including the Company's consolidated balance sheet, statement of earnings, statements of stockholders' equity and comprehensive income and statements of cash flows. At least one member shall have past employment experience in finance or accounting, requisite professional certification in accounting, or other comparable experience or background, including a current or past position as a chief executive or financial officer or other senior officer with financial oversight responsibilities. II. Statement of Policy The Audit Committee shall provide assistance to the Board of Directors in fulfilling their oversight responsibility to the stockholders, potential stockholders and the investment community relating to corporate accounting, reporting practices of the Company and the quality and integrity of the financial reports of the Company. In so doing, the Committee is responsible for maintaining free and open communication between the Committee, independent auditors, the internal auditors and management of the Company. In discharging its oversight role, the Committee is empowered to investigate any matter brought to its attention with full access to all books, records, facilities, and personnel of the Company and the power to retain outside counsel or other experts for this purpose. III. Meetings The Committee shall meet at least [4] times a year and as many additional times as the Committee deems necessary. The Committee will meet in separate executive sessions with the chief financial officer, independent auditors and internal auditors at least once each year and at other times when considered appropriate. The Committee shall maintain minutes or other records of its meetings and other activities. IV. Responsibilities and Processes A. General The primary responsibility of the Audit Committee is to oversee the Company's financial reporting process on behalf of the Board and report the results of their activities to the Board. Management is responsible for preparing the Company's financial statements and the independent auditors are responsible for auditing those financial statements. The Committee in carrying out its responsibilities believes its policies and procedures should remain flexible, in order to best react to changing conditions and circumstances. The Committee should take the appropriate actions to set the overall corporate "tone" for quality financial reporting, sound business, risk practices, and ethical behavior. Additionally, the Committee shall investigate any matter brought to its attention within the scope of its duties, with the power to retain outside counsel for this purpose if, in its judgment, that is appropriate. B. Independence of Auditors The Committee shall have a clear understanding with management and the independent auditors that the independent auditors are ultimately accountable to the Board and the Audit Committee, as representatives of the Company's stockholders, The Committee shall have the ultimate authority and responsibility to evaluate and, where appropriate, replace the independent auditors. The Committee shall discuss with the auditors their independence from management and the Company and receive from the auditors, at least annually, a formal written statement delineating all relationships between the auditors and the Company consistent with the Independence Standards Board Standard 1. Annually, the Committee shall review and recommend to the Board the selection of the Company's independent auditors. C. Financial Reporting Process The Committee shall meet with the independent auditors and the Company's management responsible for the financial statements to review the scope of the proposed audit and timely quarterly reviews for the current year and the procedures to be utilized, the adequacy of the independent auditor's compensation, and at the conclusion thereof, review such audit or review, including any comments or recommendations of the independent auditors. The Committee shall provide sufficient opportunity for the independent auditors and the internal auditor, if any, to meet with the members of the Audit Committee without members of management present. Among the items to be discussed in these meetings are the independent auditors' evaluation of the Company's financial, accounting, and internal auditing personnel, if any, and the cooperation that the independent auditors received during the course of audit. Also, the Committee shall discuss with management, the internal auditors, and the independent auditors the adequacy and effectiveness of the accounting and financial controls, and elicit any recommendations for the improvement of such internal controls or particular areas where new or more detailed controls or procedures are desirable. The Committee shall inquire of management and the independent auditors about significant risks or exposures faced by the Company and assess the steps management has taken to minimize such risks or exposures. Further, the Committee shall meet separately with the internal auditors and the independent auditors, with and without management present, to discuss the results of their examinations. The Committee shall report the results of the annual audit to the Board of Directors. If requested by the Board, invite the independent auditors to attend the full Board of Directors meeting to assist in reporting the results of the annual audit or to answer other Directors' questions (alternatively, the other Directors, particularly the other independent Directors, may be invited to attend the Audit Committee meeting during which the results of the annual audit are reviewed). The Audit Committee's responsibilities also include reviewing reports received from regulators and other legal regulatory matters that may have a material effect on the financial statements or related company compliance policies. D. Reports Review 1. The Committee shall review the quarterly financial statements with the Company's management responsible for the financial statements and the independent auditors prior to the filing of the Form 10-Q(SB) (or prior to the press release of results, if possible) to ensure that the independent auditors do not take exception to the disclosure and content of the financial statements, and discuss any other matters required to be communicated to the Committee by the auditors. The chair of the Committee may represent the entire Committee for purposes of this review. 2. The Committee shall review the financial statements to be contained in the annual report of Form 10-K(SB) to stockholders with management and the independent auditors to determine that the independent auditors are satisfied with the disclosure and content of the financial statements to be presented to the stockholders. Review with the Company's management responsible for the financial statements and the independent auditors the results of their timely analysis of significant financial reporting issues and practices, including changes in, or adoptions of, accounting principles and disclosure practices, and discuss any other matters required to be communicated to the Committee by the auditors. Also review with the Company's management responsible for the financial statements and the independent auditors their judgments about the quality, not just acceptability, of accounting principles and the clarity of the financial disclosure practices used or proposed to be used, and particularly, the degree of aggressiveness or conservatism of the Company's accounting principles and underlying estimates, and other significant decisions made in preparing the financial statements. 3. If deemed appropriate after review and discussion, the Committee will recommend to the Board that the financial statements be included in the Company's Annual Report on Form 10-K(SB). E. Proxy Statement Report After preparation by management, the Committee shall approve the Committee report required by the rules of the Securities and Exchange Commission to be included in the Company's annual proxy statement. The Committee report shall disclose whether (1) the Committee had reviewed and discussed with management and the independent auditors, as well as discussed within the Committee (without management or the independent auditors present), the financial statements and the quality of accounting principles and significant judgments affecting the financial statements; (2) the Committee discussed with the auditors the independence of the auditors; and (3) based upon the Committee's review and discussions with management and the independent auditors, the Committee had recommended to the Board of Directors that the audited financials be included in the Company's annual report on Form 10-K(SB). This charter will be included as an appendix to the proxy statement at least once every three years.