

July 3, 2014

*By Registered U.S. Mail*

Re: *Maritime Asset Management, LLC v. NeurogesX, Inc. et al.*

Dear Shareholder:

I write to provide notice of the proposed settlement of a class action involving NeurogesX and alleged misrepresentations made in relation to the private placement of NeurogesX securities that occurred on July 21, 2011. As a member of the proposed settlement class of shareholders, you may recover money as part of the settlement. We estimate that, if you and all other eligible class members choose to participate in the settlement, your recovery will be approximately \$\_\_\_\_\_ (as explained in more detail below). If you choose to participate in the settlement, you will be required to waive and release all rights and claims against NeurogesX and related parties arising from your investment in NeurogesX securities. To participate in the settlement you must submit a completed claim form.

A copy of the settlement agreement is enclosed for your review, along with the proposed form of judgment and the court's order preliminarily approving the settlement. Also enclosed is a claim form, which you must submit no later than August 5, 2014, if you wish to be eligible to receive a payment in the settlement.

### **The Proposed Settlement**

Members of the settlement class will share a settlement fund of \$1,250,000. The settlement fund will be reduced by certain attorneys' fees and litigation expenses payable to class counsel. The net settlement fund will be distributed to class members who submit valid claim forms on a pro rata basis based on the ratio of the purchase price paid by each participating class member to the total purchase price paid by all participating class members.

**Request for Attorneys' Fees and Litigation Expenses:** Lead counsel will apply to the court for an award of attorneys' fees in an amount of no more than \$312,500. In addition, lead counsel will apply to the court for reimbursement of certain litigation expenses in an amount of no more than \$25,000. These amounts, if approved by the court, will be deducted from the \$1,250,000 settlement payment.

**Your Estimated Recovery:** Class counsel estimates that, if you and all other eligible shareholders choose to participate in the settlement, your net recovery will be approximately \$\_\_\_\_\_ (\$1,250,000 minus maximum attorneys' fees of \$312,500 and litigation expenses of \$25,000 yields a net settlement fund of \$912,500, multiplied by the total purchase price you paid to acquire NeurogesX securities in the private placement (\$\_\_\_\_\_), divided by the total purchase price paid by all participating class members (\$19,986,033.64)). This represents approximately 4.6 percent of the purchase price you paid for your shares. However, your actual recovery could be higher (if, for example, fewer than all eligible class members submit valid claim forms).

**Release of Claims Against NeurogesX and the Individual Defendants:** In order to participate in the settlement, you will be required to stipulate to a judgment of dismissal of all claims with prejudice. You will also be required to release all claims belonging to you (and persons related to or affiliated with you) against NeurogesX, the individual defendants, and their respective related persons and entities, that were asserted or could have been asserted in the action or that relate in any way to your purchase of NeurogesX securities.

### **Background of the Action and the Proposed Settlement**

The action arises from a private placement of NeurogesX securities completed on July 21, 2011. Lead class representative Maritime Asset Management, LLC was one of the investors in the private placement. Maritime was appointed as lead class representative by court order entered on September 13, 2012.

The action names as defendants NeurogesX and three of its former executives – Anthony A. DiTonno, Stephen F. Ghiglieri, and Jeffrey K. Tobias, M.D. The complaint asserts claims against NeurogesX and Dr. Tobias under section 10(b) of the Securities Exchange Act and Rule 10b-5, and against the individual defendants under section 20(a) of the Exchange Act.

The complaint also asserts two individual claims on behalf of Maritime only. These claims are for breach of contract against NeurogesX and fraud in the inducement against Dr. Tobias. These claims arise out of alleged conversations directly between Maritime and Dr. Tobias. Other members of the class did not participate in those alleged conversations. These claims are the subject of a separate settlement between Maritime, NeurogesX, and Dr. Tobias, as explained below.

Defendants have moved to dismiss all the claims asserted in the action and Maritime opposed that motion. Prior to oral argument on Defendants' motions to dismiss, the parties participated in a mediation with an experienced mediator, the Honorable Edward I. Infante of JAMS.

With the assistance of the mediator, the parties reached an agreement-in-principle concerning this proposed settlement after arm's-length negotiations. The mediator determined that the proposed settlement is a fair and reasonable compromise that is in the best interests of all investors in the private placement and all parties in the action.

The principal reason for Maritime's agreement to the settlement is to provide a benefit to the settlement class. This benefit must be compared to the risk that no recovery might be achieved after contested motions, a contested trial, and likely appeals, possibly years into the future. While Maritime believes that the claims would survive a motion to dismiss and a motion for summary judgment and ultimately result in a verdict for the class, Defendants believe otherwise and have repeatedly denied the allegations in the litigation and asserted that they engaged in no wrongdoing whatsoever and have complete defenses to the allegations. Defendants also maintain that any damages recoverable by the class at trial would be no more than \$3 million or 25.9 cents per NeurogesX unit. Maritime and its counsel recognize the risk of proceeding to a jury trial on claims that are complex and likely to involve expert testimony presenting competing views. Thus, Maritime recognizes that a jury could find completely in Defendants' favor or, even if Maritime was successful, the jury could award damages that are less than the size of the settlement payment. The settlement therefore enables the class to recover a substantial amount without incurring any additional risk or costs.

### **The Proposed Settlement Class**

The Court has preliminarily certified a settlement class of all persons and entities that purchased or otherwise acquired NeurogesX common stock and/or warrants to purchase NeurogesX's common stock in the private placement completed on July 21, 2011. The settlement class does not include the individual defendants, the officers and directors of NeurogesX, members of their immediate families, or any entity in which a defendant has a controlling interest.

### **Separate Settlement of Maritime's Individual Claims**

Maritime's complaint asserted two individual claims on behalf of Maritime only. These claims are for breach of contract against NeurogesX and fraud in the inducement against Dr. Tobias. These claims arise out of alleged telephone conversations directly between Maritime and Dr. Tobias.

Maritime has entered into a separate settlement with NeurogesX and the individual defendants with regard to these claims. The settlement provides for a payment of \$250,000 to Maritime. Out of this individual settlement, Maritime will pay attorneys' fees of \$82,500 to its counsel. Under the individual settlement, Maritime (and persons related to or affiliated with it) will generally release NeurogesX, the individual defendants, and their respective related persons and entities, from every claim, including unknown claims, of every type and with respect to any subject arising on or before the date of the settlement.

### **Exclusion Request and Binding Release**

UNLESS YOU SUBMIT A VALID REQUEST FOR EXCLUSION FROM THE CLASS SETTLEMENT BY AUGUST 5, 2014, YOU WILL BE BOUND BY THE JUDGMENT OF DISMISSAL WITH PREJUDICE OF ALL CLAIMS BELONGING TO YOU (and persons

related to or affiliated with you) against NeurogesX, the individual defendants, and their respective related persons and entities, arising out of your purchase of NeurogesX securities.

THIS INCLUDES A RELEASE OF ALL INDIVIDUAL CLAIMS similar to those asserted (and being settled) by Maritime individually.

UNLESS YOU SUBMIT A VALID REQUEST FOR EXCLUSION FROM THE CLASS SETTLEMENT BY AUGUST 5, 2014, YOU WILL NOT HAVE ANY ABILITY TO ASSERT ANY INDIVIDUAL CLAIMS against NeurogesX, the individual defendants, or their respective related parties arising from your investment in NeurogesX securities.

### **Court Hearing on Approval of the Settlement**

A hearing will be held on **September 2, 2014, at 2:00 p.m.**, before the Honorable Yvonne Gonzalez Rogers, at the United States District Court for the Northern District of California, Oakland Division, 1301 Clay Street, Courtroom 1, 4th Floor, Oakland, California, to determine whether the class settlement described in this notice should be approved and whether to award attorneys' fees and litigation expenses to lead counsel.

You are not required to attend the hearing. If you wish to object to the settlement or to lead counsel's application for an award of attorneys' fees and litigation expenses, you may appear in person at the hearing. You may also object without attending the hearing by submitting your objections in writing.

If you wish to object, you should file your objections with the clerk of the court at the address set forth below. You must also send a copy of your objections to class counsel, Nicholas Porritt, at the address set forth below.

The deadline for filing and serving your objections is **August 5, 2014**. You will not be entitled to be heard at the September 2 hearing unless you have filed and delivered valid and timely written notices of objection, unless the Court otherwise orders.

Office of the Clerk of the Court  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF  
CALIFORNIA, OAKLAND DIVISION  
1301 Clay Street  
Oakland, CA 94612

LEVI & KORSINSKY  
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John C. Dwyer  
Five Palo Alto Square  
3000 El Camino Real  
Palo Alto, CA 94306

### **Claim Form for Participation In the Settlement**

You will be a member of the settlement class unless you submit a valid request for exclusion as set forth below. To be eligible to receive a payment from the settlement fund, you must complete, sign, and submit the attached claim form no later than **August 5, 2014**.

As a member of the settlement class, you will be bound by the settlement if the court approves it, and the court's judgment of dismissal will be binding on you. You will be permanently barred and enjoined from bringing any action against NeurogesX, the individual defendants, and their respective related persons and entities, arising out of your purchase of NeurogesX securities in the private placement completed on July 21, 2011. Unless you submit a timely and valid request for exclusion, the settlement will be binding on you whether or not you submit a claim form.

### **Request for Exclusion from the Settlement**

You may request exclusion from participation in the settlement. To request exclusion from the settlement class, you must deliver a written request for exclusion no later than **August 5, 2014**. The exclusion request should be delivered to the clerk of the court and class counsel at the addresses set out above.

If you validly request exclusion from the class, you will not receive any payment or other benefit in the settlement, you will not be required to waive or release any claims against NeurogesX or the individual defendants, and you will not be bound by the terms of the settlement or any order that may be entered by the court in the action.

### **Request for Additional Information**

This notice is meant merely to provide you with a summary of the settlement. The complete terms of the proposed settlement are set forth in the enclosed documents, including the Stipulation of Settlement and the preliminary order of approval.

# LEVI&KORSINSKY LLP

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Washington, DC 20007  
(202) 524-4290

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If you would like further information, you may contact lead counsel at the following address:

LEVI & KORSINSKY  
Nicholas I. Porritt  
1101 30<sup>th</sup> Street NW, Suite 115  
Washington, DC 20007

Sincerely,

Levi & Korsinsky LLP