

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 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): May 31, 2023**

**TELESIS BIO INC.**  
(Exact name of registrant as specified in its charter)

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

**001-40497**  
(Commission  
File Number)

**45-1216839**  
(I.R.S. Employer  
Identification Number)

**10431 Wateridge Circle, Suite 150, San Diego, CA  
92121**  
(Address of principal executive offices, including Zip Code)

**Registrant's telephone number, including area code: (858) 228-4115**

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 (See General Instruction A.2 below):

- 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))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.0001 par value per share	TBIO	Nasdaq Global Select Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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**Item 1.01 Entry into a Material Definitive Agreement.**

On May 31, 2023, Telesis Bio Inc. (the “Company”) entered into a redeemable convertible preferred stock and warrant purchase agreement (the “Preferred Stock and Warrant Purchase Agreement”) with Novalis LifeSciences Investments II, L.P. (the “Lead Investor”) and certain other investors, including current investors Northpond Ventures, LP (“NPV”), BroadOak Fund IV LLC (“BroadOak”) and M-185 Corporation (“M-185”), an affiliate of the Company’s Chief Executive Officer, Todd Nelson (collectively, the “Investors”), pursuant to which the Company agreed to issue and sell to the Investors in a private placement (the “Private Placement”) (i) an aggregate of 280,000 shares of its newly designated redeemable convertible preferred stock, par value \$0.0001 per share (the “Redeemable Convertible Preferred”), (ii) warrants with a term of two years (such warrants, the “Short-Term Warrants”) to purchase an aggregate of 5,923,921 shares of the Company’s common stock (the “Common Stock”), and (iii) warrants with a term of seven years (such warrants, the “Long-Term Warrants” and, together with the Short-Term Warrants, the “Warrants”) to purchase an aggregate of 11,847,840 shares of Common Stock. The Redeemable Convertible Preferred will be sold in fixed combinations with the Warrants, which each Investor receiving (a) a Short-Term Warrant to purchase one-half of a share of Common Stock per each share of Common Stock initially underlying the Redeemable Convertible Preferred purchased by such Investor and (b) a Long-Term Warrant to purchase one share of Common Stock per each share of Common Stock initially underlying the Redeemable Convertible Preferred purchased by such Investor. The purchase price per share of Redeemable Convertible Preferred and accompanying Short-Term Warrant and Long-Term Warrant shall be \$100.00. Each Warrant has a strike price equal to \$2.5996. Excluding any exercise of the Warrants, gross proceeds from the financing are expected to be approximately \$28.0 million.

The Warrants provide that a holder of Warrants will not, subject to certain limited exceptions, have the right to exercise any portion of its Warrants if such holder, together with its attribution parties, would beneficially own (i) in excess of 19.99% of the number of shares of Common Stock outstanding immediately after giving effect to such exercise to comply with Nasdaq Listing Rule, or, if so elected by an investor, (ii) in excess of 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to such exercise (the “Beneficial Ownership Limitation”). Each Investor may elect to receive a pre-funded warrant in lieu of shares of Common Stock upon exercise of a Warrant if such exercise would result in such Investor exceeding the Beneficial Ownership Limitation. The form of pre-funded warrant is attached here to as Exhibit 4.3. The shares of Common Stock which are issuable upon the exercise of the Warrants are sometimes referred to herein as the “Warrant Shares.”

The above descriptions of the terms of the Redeemable Convertible Preferred and Warrants are qualified in their entirety by the terms of the securities. The terms of the Redeemable Convertible Preferred are described in Item 3.03 below, which is incorporated herein by reference, and the Certificate of Designation of Redeemable Convertible Preferred Stock specifying the rights, privileges and preferences of the Redeemable Convertible Preferred (the “Certificate of Designation”) is attached hereto as Exhibit 3.1. A copy of the form of the Short-Term Warrant is attached hereto as Exhibit 4.1 and a copy of the form of the Long-Term Warrant is attached hereto as Exhibit 4.2. The Private Placement is expected to close on or before June 2, 2023, subject to the satisfaction of customary closing conditions.

The Company expects to enter into a registration rights agreement, by and among the Company and the Investors (the “Registration Rights Agreement”). Pursuant to the Registration Rights Agreement, the Investors will be entitled to certain shelf registration rights with respect to the shares of Common Stock issuable upon conversion of the Redeemable Convertible Preferred and exercise of the Warrants, subject to the limitations set forth in the Registration Rights Agreement. The foregoing description of the Registration Rights Agreement is qualified in its entirety by reference to the form of Registration Rights Agreement, which is attached hereto as Exhibit 10.2.

On May 31, 2023, the Company entered into Amendment No. 1 to the Company's Amended and Restated Investors' Rights Agreement, dated as of August 27, 2019 and amended and restated as of December 19, 2019 (the "Amended Investors' Rights Agreement"), by and among the Company and certain investors in the Company, including NPV, BroadOak and M-185, listed in Schedule A thereto (the "Amended IRA Investors"), pursuant to which Amended Investors' Rights Agreement the Amended IRA Investors extended the term of their existing registration rights until all Registrable Securities (as defined in the Amended Investors' Rights Agreement) held by the Amended IRA Investors are sold or can be sold pursuant to Rule 144 under the Securities Act. The foregoing description of the Amended Investors' Rights Agreement is qualified in its entirety by reference to the form of Amended Investors' Rights Agreement, which is attached hereto as Exhibit 10.3.

**Item 3.02 Unregistered Sale of Equity Securities.**

The information contained above in Item 1.01 is hereby incorporated by reference into this Item 3.02. The shares of Redeemable Convertible Preferred, the Warrants, the shares of Common Stock issuable upon conversion of the Redeemable Convertible Preferred and the Warrant Shares are expected to be offered and sold by the Company pursuant to an exemption from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"), provided by Section 4(a)(2) thereunder. Each of the Investors provided a written representation to the Company that they qualify as an "accredited investor" as that term is defined in Rule 501 under the Securities Act.

**Item 3.03 Material Modifications of Rights of Security Holders.**

The Company expects to file the Certificate of Designation with the Secretary of State of the State of Delaware. Upon the effectiveness of the Certificate of Designation, each holder of Redeemable Convertible Preferred will be entitled to receive cumulative dividends on the Accrued Value (as defined below) of each share of Redeemable Convertible Preferred at an initial rate of 8% per annum, compounded quarterly. Dividends on the Redeemable Convertible Preferred are payable in kind and will accrue on the Accrued Value of each share of Redeemable Convertible Preferred until the earlier of conversion, redemption, consummation of a change of control, a liquidation event, or upon failure to mandatorily convert due to the Conversion Blockers (as defined below) or applicable regulatory restrictions. "Accrued Value" means, with respect to each share of Redeemable Convertible Preferred, the sum of (i) \$100.00 plus (ii) on each quarterly dividend date, an additional amount equal to the dollar value of any dividends on a share of Redeemable Convertible Preferred which have accrued on any dividend payment date and have not previously been added to such Accrued Value.

Upon the consummation of (i) a reorganization, merger or consolidation of the Company, (ii) the sale lease, transfer, or exclusive license or other disposition by the Company or any of its subsidiaries of all or substantially all of the assets of the Company, (iii) the issuance or transfer of shares of capital stock of the Company representing at least 50% of the voting power of the voting securities of the Company, or (iv) the completion of any tender offer or exchange offer pursuant to which the holders of Common Stock are permitted to sell their shares equaling 50% or more of the outstanding Common Stock for other securities, cash or property (each a "Deemed Liquidation Event") that occurs prior to the second anniversary of the closing of the Private Placement, the holders of each share of Redeemable Convertible Preferred will be entitled to receive, in preference to the holders of the Common Stock and any junior preferred stock, an amount per share equal to the greater of (a) 200% multiplied by the sum of the Accrued Value plus an amount equal to all accrued or declared and unpaid dividends on the Redeemable Convertible Preferred that have not previously been added to the Accrued Value, or (b) the amount that such shares would have been entitled to receive if they had converted into Common Stock immediately prior to such Deemed Liquidation Event. Upon the consummation of a Deemed Liquidation Event that occurs on or after the second anniversary of the closing of the Private Placement, or any voluntary or involuntary liquidation, dissolution, winding up of the Company that is not a Deemed Liquidation Event (each a "Liquidation Event"), the holders of each share of Redeemable Convertible Preferred will be entitled to receive, in preference to the holders of the Common Stock and any junior preferred stock, an amount per share equal to the greater of (1) the sum of the Accrued Value plus an amount equal to all accrued or declared and unpaid dividends on the Redeemable Convertible Preferred that have not previously been added to the Accrued Value, or (2) the amount that such shares would have been entitled to receive if they had converted into Common Stock immediately prior to such Deemed Liquidation Event or Liquidation Event.

The Company shall have the right to require the Investors to convert the Redeemable Convertible Preferred into Common Stock (the "Mandatory Conversion") if, at any time following the third anniversary of the closing of the Private Placement, the trading price of the Common Stock exceeds 250% of the Conversion Price (as defined below) for 30 consecutive trading days. The Company's ability to require conversion shall be subject to (i) a 19.99% blocker provision to comply with Nasdaq Listing Rules ("19.99% Conversion Blocker"), (ii) if so elected by an investor, a 9.99% blocker provision ("9.99% Conversion Blocker") that will prohibit beneficial ownership of more than 9.99% of the outstanding shares of the Common Stock or voting power at any time, and (iii) applicable regulatory restrictions. The 19.99% Conversion Blocker is subject to certain limited exceptions. The 19.99% Conversion Blocker and the 9.99% Conversion Blocker are hereinafter referred to as the "Conversion Blockers". "Conversion Price" shall mean an initial price of \$2.3633 per share, subject to proportionate adjustment for any stock split, stock dividend or distribution, reclassification, exchange or substitution, merger or reorganization or other similar recapitalization event.

Following the date of a Mandatory Conversion, any shares of Redeemable Convertible Preferred that are not converted as a result of the Conversion Blockers or applicable regulatory restrictions shall continue to be entitled to all of the rights of the holders of Redeemable Convertible Preferred except that they will no longer be entitled to cumulative dividends, priority distribution of assets upon the consummation of a Liquidation Event and certain protective voting provisions.

On or at any time following the seventh anniversary of the closing of the Private Placement, (i) the Company shall also have the right to redeem the Redeemable Convertible Preferred for a cash consideration equal to the sum of the Accrued Value, as of the date of redemption, plus an amount equal to all accrued or declared and unpaid dividends on the Redeemable Convertible Preferred that have not previously been added to the Accrued Value, and (ii) each holder of a share of Redeemable Convertible Preferred shall also have the right to cause the Company to redeem the Redeemable Convertible Preferred held by such holder at the same price.

At any time and from time to time at their election, the holders of Redeemable Convertible Preferred will have the option to convert the Redeemable Convertible Preferred into shares of Common Stock by dividing (i) the sum of the Accrued Value plus an amount equal to all accrued or declared and unpaid dividends on the Redeemable Convertible Preferred that have not previously been added to the Accrued Value by (ii) the Conversion Price in effect at the time of such conversion. The conversion of shares of Redeemable Convertible Preferred into shares of Common Stock is subject to the Conversion Blockers.

In addition, for so long as any shares of Redeemable Convertible Preferred remain outstanding, without the approval of holders of a majority of the Redeemable Convertible Preferred, the Company may not, among other things, (i) amend, modify or fail to give effect to any right of holders of the Redeemable Convertible Preferred, (ii) change the authorized number of Redeemable Convertible Preferred, (iii) create or issue a new class or series of equity securities or securities convertible into equity securities with equal or superior rights, preferences or privileges to those of the Redeemable Convertible Preferred in terms of liquidation preference or dividend, (iv) issue shares of Common Stock or securities convertible into Common Stock while the Company has insufficient shares to effect the conversion of the Redeemable Convertible Preferred into Common Stock, (v) declare or pay dividends or redeem or repurchase any capital stock (other than certain repurchases from employees, directors, advisors or consultants upon termination of service) or (vi) create any subsidiary that is not majority-owned, either directly or indirectly, by the Company, subject to certain exceptions. Except as set forth above or as otherwise required by law, holders of shares of Redeemable Convertible Preferred are entitled to vote together with shares of Common Stock (based on one vote per share of Common Stock into which the shares of Redeemable Convertible Preferred are convertible on the applicable record date) on any matter on which the holders of Common Stock are entitled to vote.

A copy of the Certificate of Designation is attached hereto as Exhibit 3.1 and incorporated herein by reference. The foregoing description of the Certificate of Designation is qualified in its entirety by reference to Exhibit 3.1 attached hereto.

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**Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

The Board of Directors of the Company (the “Board”) voted to increase the size of the Board from seven directors to eight directors and, in accordance with the Preferred Stock and Warrant Purchase Agreement, appointed Paul Meister, a partner at Novalis LifeSciences LLC, as a director of the Company, effective immediately following and contingent upon, the closing of the Private Placement, to fill the resulting vacancy.

To the extent such director is not reelected at any time and, so long as the Lead Investor beneficially owns at least 5% of the Company’s outstanding common stock (calculated after giving effect to the full conversion of any shares of Redeemable Convertible Preferred then held by the Lead Investor and full exercise of any Warrants then held by the Lead Investor, in each case, without giving effect to the Conversion Blockers or Beneficial Ownership Limitation, as applicable), the Company has agreed to take all necessary action to appoint a director designated by the Lead Investor, including placing the Lead Investor’s designee in the Company’s proxy statement for its annual meeting of stockholders and recommending that the Company’s stockholders vote in favor of the election of the Lead Investor’s nominee.

In connection with his appointment, Mr. Meister will enter into an indemnification agreement with the Company substantially in the form of the indemnification agreement previously approved by the Board. The form of indemnification agreement is filed as Exhibit 10.1 to the Company’s Registration Statement on Form S-1, filed on May 28, 2021.

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

The Company expects to file with the Secretary of State of the State of Delaware the Certificate of Designation attached hereto as Exhibit 3.1 and incorporated herein by reference. The Certificate of Designation will establish and designate the Redeemable Convertible Preferred and the rights, preferences and privileges thereof.

**Item 8.01 Other Events.**

On May 31, 2023, the Company issued a press release entitled “Telesis Bio Secures Financing of \$28.0 Million—Up to an Additional \$46.2 Million Available Through Warrant Exercise”. A copy of the press release is attached hereto as Exhibit 99.1 and incorporated herein by reference.

**Cautionary Note on Forward-Looking Statements**

This Current Report on Form 8-K includes forward-looking statements that are made pursuant to the safe harbor provisions of the U.S. Private Securities Litigation Reform Act of 1995. Such forward-looking statements include statements concerning the completion, timing and size of the Private Placement, the anticipated use of proceeds from the Private Placement and other statements that are other than statements of historical facts. These forward-looking statements involve significant risks and uncertainties. These statements reflect the Company’s current expectations concerning future events, actual events could differ materially from those anticipated as a result of many factors, including, but not limited to, the risks that the Private Placement may be delayed or may not occur due to market or other conditions and the satisfaction of customary closing conditions related to the Private Placement. Additional information concerning these and other factors that may cause actual events to differ materially from those anticipated is contained in the “Risk Factors” section of the Company’s most recent Form 10-Q filing and its other periodic reports and filings with the SEC. Investors should not place undue reliance on forward-looking statements contained in this Current Report or elsewhere. All forward-looking statements are based on information currently available to the Company, and the Company undertakes no obligation to revise or update them to reflect events or circumstances after the date of this Current Report.

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**Item 9.01 Financial Statements and Exhibits****(d) Exhibits**

Exhibit No.	Description
3.1	<a href="#"><u>Form of Certificate of Designation of Redeemable Convertible Preferred Stock.</u></a>
4.1	<a href="#"><u>Form of Short-Term Warrant.</u></a>
4.2	<a href="#"><u>Form of Long-Term Warrant.</u></a>
4.3	<a href="#"><u>Form of Pre-Funded Common Stock Purchase Warrant.</u></a>
10.1	<a href="#"><u>Redeemable Convertible Preferred Stock and Warrant Purchase Agreement dated May 31, 2023.</u></a>
10.2	<a href="#"><u>Form of Registration Rights Agreement.</u></a>
10.3	<a href="#"><u>Amendment to Investors' Rights Agreement dated May 31, 2023.</u></a>
99.1	<a href="#"><u>Press Release titled "Telesis Bio Secures Financing of \$28.0 Million - Up to an Additional \$46.2 Million Available Through Warrant Exercise" issued by Telesis Bio Inc. on May 31, 2023.</u></a>
104	Cover Page Interactive Data File (formatted as Inline XBRL)

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SIGNATURES

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

Date: May 31, 2023

TELESIS BIO INC.

By: /s/ Todd R. Nelson  
Todd R. Nelson Chief  
Executive Officer

CERTIFICATE OF DESIGNATION  
OF  
REDEEMABLE CONVERTIBLE PREFERRED STOCK  
OF  
TELESIS BIO INC.

Pursuant to Section 151  
of the General Corporation Law of  
the State of Delaware

The undersigned, Todd R. Nelson, hereby certifies that:

- I. He is the duly elected and acting Chief Executive Officer of Telesis Bio Inc., a Delaware corporation (the “**Company**”).
- II. The Amended and Restated Certificate of Incorporation of the Company (the “**Certificate of Incorporation**”) authorizes Five Million (5,000,000) shares of preferred stock, par value \$0.0001 per share.
- III. The following is a true and correct copy of the resolutions duly adopted by the Board of Directors of the Company (the “**Board of Directors**”) at a meeting on May 24, 2023, which constituted all requisite actions on the part of the Company with respect to the authorization of the filing of this Certificate of Designation (this “**Certificate of Designation**”).

RESOLUTIONS

WHEREAS, the Board of Directors is authorized to provide for the issuance of the shares of preferred stock in one or more series and, by filing a certificate pursuant to the applicable law of the State of Delaware, to establish from time to time the number of shares to be included in each such series, and to fix the designations, powers, preferences and the relative, participating, optional or other special rights, if any, and the qualifications, limitations or restrictions thereof, of the shares of each such series; and

WHEREAS, the Board of Directors desires, pursuant to its authority as aforesaid, to designate a new series of preferred stock, set the number of shares constituting such series and fix the rights, preferences, privileges and restrictions of such series.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby designates a new series of preferred stock and the number of shares constituting such series and fixes the rights, preferences, powers and restrictions relating to such series as follows:

1. Designation and Number. The shares of such series shall be designated as the Redeemable Convertible Preferred Stock with par value \$0.0001 per share (the “**Convertible Preferred Stock**”). The number of shares initially constituting the Convertible Preferred Stock shall be two hundred and eighty thousand (280,000).

2. Dividends.

(a) From and after the Issue Date, cumulative dividends shall accrue on the Accrued Value of each share of Convertible Preferred Stock at the Annual Rate. Dividends on each share of Convertible Preferred Stock shall be cumulative and shall accrue daily from and after the Issue Date, but shall compound on a quarterly basis on each Quarterly Dividend Date whether or not earned or declared, and whether or not there are earnings or profits, surplus or other funds or assets of the Company legally available for the payment of dividends. All such dividends shall



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compound and be added to the Accrued Value on each Quarterly Dividend Date, as provided in the definition of “Accrued Value” in Section 10 hereof. None of such dividends shall be paid in cash unless such dividends are paid pursuant to Section 3 or Section 8, and for the avoidance of doubt, such dividends shall remain accrued when compounded and added to the Accrued Value until paid in cash pursuant to such Sections.

(b) In the event that the Board of Directors shall declare a dividend payable upon the then outstanding shares of Common Stock (other than a stock dividend on the Common Stock payable solely in the form of additional shares of Common Stock), the holders of the Convertible Preferred Stock shall be entitled, in addition to any cumulative dividends to which the Convertible Preferred Stock may be entitled under Section 2(a) above, to receive (concurrent with the payment of the dividend to the holders of Common Stock) the amount of dividends per share of Convertible Preferred Stock that would be payable on the number of whole shares of the Common Stock into which each share of such Convertible Preferred Stock held by each holder could be converted pursuant to the provisions of Section 5 below, such number to be determined as of the record date for the determination of holders of Common Stock entitled to receive such dividend.

(c) The Board of Directors may fix a record date for the determination of holders of shares of Common Stock or the Convertible Preferred Stock entitled to receive payment of a dividend declared thereon, which record date shall be no more than 60 days and no less than 10 days prior to the date fixed for the payment thereof.

### 3. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

(a) *Payments to Holders of Convertible Preferred Stock.* In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company (each, a “**Liquidation Event**”) or Deemed Liquidation Event, the holders of shares of Convertible Preferred Stock shall be entitled to be paid, with respect to each share of Convertible Preferred Stock then outstanding held by the holder, out of the assets of the Company available for distribution to its stockholders, on a preferred basis prior and in preference to any distribution to the holders of any Common Stock or any other Junior Stock of the Company, an amount in cash per share of Convertible Preferred Stock equal to (i) in the event of a Deemed Liquidation Event occurring prior to the 24-month anniversary of the Issue Date, the greater of (x) 200% multiplied by the sum of the Accrued Value plus an amount equal to all accrued or declared and unpaid dividends on the Convertible Preferred Stock that have not previously been added to the Accrued Value or (y) such amount per share as would have been payable in respect of the shares of Common Stock into which such share of Convertible Preferred Stock is then convertible, assuming all outstanding shares of Convertible Preferred Stock were converted into Common Stock immediately prior to such Deemed Liquidation Event in accordance with Section 5 below (without regard as to whether sufficient shares of Common Stock are available out of the Company’s authorized but unissued stock for the purpose of effecting the conversion of the Convertible Preferred Stock and without regard to any limitation on conversion in accordance with Section 5(j) below) or (ii) in the event of (A) a Liquidation Event that is not a Deemed Liquidation Event or (B) a Deemed Liquidation Event occurring on or after the 24-month anniversary of the Issue Date, the greater of (x) the sum of the Accrued Value plus an amount equal to all accrued or declared and unpaid dividends on the Convertible Preferred Stock that have not previously been added to the Accrued Value or (y) such amount per share as would have been payable in respect of the shares of Common Stock into which such share of Convertible Preferred Stock is then convertible, assuming all outstanding shares of Convertible Preferred Stock were converted into Common Stock immediately prior to such Liquidation Event or Deemed Liquidation Event, as applicable, in accordance with Section 5 below (without regard as to whether sufficient shares of Common Stock are available out of the Company’s authorized but unissued stock for the purpose of effecting the conversion of the Convertible Preferred Stock and without regard to any limitation on conversion in accordance with Section 5(j) below) (the amount payable pursuant to this sentence is hereinafter referred to as the “**Liquidation Amount**”). If upon any such Liquidation Event or Deemed Liquidation Event, the assets of the Company available for distribution to the Company’s stockholders shall be insufficient to pay the holders of shares of the Convertible Preferred Stock the full amount to which they shall be entitled pursuant to the preceding sentence of this Section 3(a), the holders of shares of Convertible Preferred Stock shall share ratably in any distribution of the assets available for distribution and funds of the Company in proportion to the respective amounts which would otherwise be payable in respect of such shares of Convertible Preferred Stock held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

(b) *Payments to Holders of Common Stock.* In the event of any Liquidation Event or Deemed Liquidation Event, after the payment of all preferential amounts required to be paid to the holders of shares of Convertible Preferred Stock, the remaining assets and funds of the Company available for distribution to its stockholders shall be distributed among the holders of shares of Common Stock, pro rata based on the number of shares held by each such holder.

(c) *Deemed Liquidation Events.*

(i) *Definition.* Each of the following events shall be considered a “**Deemed Liquidation Event**” unless the Supermajority Required Holders elect otherwise by written notice sent to the Company at least five (5) days prior to the effective date of any such event:

(1) a reorganization, merger or consolidation in which:

- (A) the Company is a constituent party or
- (B) a subsidiary of the Company is a constituent party and the Company issues shares of its capital stock pursuant to such reorganization, merger or consolidation, except any such reorganization, merger or consolidation involving the Company or a subsidiary in which the shares of capital stock of the Company outstanding immediately prior to such reorganization, merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such reorganization, merger or consolidation, a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation or (2) if the surviving or resulting corporation is a wholly-owned subsidiary of another corporation immediately following such reorganization, merger or consolidation, the parent corporation of such surviving or resulting corporation;

(2) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Company or any subsidiary of the Company of all or substantially all of the assets of the Company and its subsidiaries taken as a whole or the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the Company if substantially all of the assets of the Company and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly-owned subsidiary of the Company;

(3) issuance or transfer of shares of capital stock of the Company, in a single transaction or series of related transactions, representing at least fifty percent (50%) of the voting power of the voting securities of the Company (but excluding issuances of equity securities (or securities convertible into equity securities) by the Company in a bona fide financing that is primarily for its capital-raising purposes and in which all consideration from such issuances, net of expenses, is received by the Company); or

(4) any tender offer or exchange offer (whether by the Company or another person or entity) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of fifty percent (50%) or more of the outstanding Common Stock.

(ii) *Effecting a Deemed Liquidation Event.*

(1) The Company shall not have the power to effect a Deemed Liquidation Event unless the agreement or plan of merger or consolidation or other agreement for such transaction (the “**Merger Agreement**”) provides that the consideration payable to the stockholders of the Company shall be allocated among the holders of capital stock of the Company in accordance with Sections 3(a) and (b) as if the consideration payable to stockholders were all assets of the Company available for distribution to stockholders.

(2) In the event of a Deemed Liquidation Event referred to in Section 3(c)(i)(1)(B), 3(c)(i)(2) or 3(c)(i)(3), if the Company does not effect a dissolution of the Company under the General Corporation Law upon the consummation of such Deemed Liquidation Event, then the Company shall send a written notice to each holder of Convertible Preferred Stock no later than the fifth (5th) day after the Deemed Liquidation Event advising such holders of their right (and the requirements to be met to secure such right) pursuant to the terms of Sections 3(c)(i)(2), (3), (4) and (5) to require the redemption of such shares of Convertible Preferred Stock, and unless the Supermajority Required Holders agree otherwise in a written instrument delivered to the Company, the Company shall use the consideration received by the Company for such Deemed Liquidation Event (net of any retained liabilities associated with the assets sold or technology licensed, as determined in good faith by the Board of Directors), together with any other assets of the Company available for distribution to its stockholders (the “**Available Proceeds**”), to the extent legally available therefor, on or prior to the twentieth (20th) day after such Deemed Liquidation Event, to redeem all outstanding shares of Convertible Preferred Stock at a price per share equal to the Liquidation Amount.

Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Available Proceeds are not sufficient to redeem all outstanding shares of Convertible Preferred Stock, the Company shall redeem a pro rata portion of each holder's shares of Convertible Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares as soon as practicable after the Company has funds legally available therefor. Prior to the distribution or redemption provided for in this Section 3(c)(ii)(2), the Company shall not expend or dissipate the consideration received for such Deemed Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event. If the Company is required by the provisions of this Section 3(c)(ii)(2) to redeem shares, the redemption shall occur in accordance with the provisions of Sections 3(c)(ii)(2), (3), (4) and (5). The date upon which any such redemption is required to be effected pursuant to this Section 3(c)(ii)(2), shall be the "**Redemption Date**".

(3) The Company shall send written notice of any redemption pursuant to this Section 3(c)(ii) (the "**Redemption Notice**") to each holder of record of Convertible Preferred Stock as required by Section 3(c)(ii)(2). Each Redemption Notice shall state:

- (A) the number of shares held by the holder that the Company shall redeem on the Redemption Date specified in the Redemption Notice (which number shall not be less than the number of shares the Company is then required to redeem);
- (B) the Redemption Date and the redemption price; and
- (C) that the holder is to surrender to the Company, in the manner and at the place designated, his, her or its certificate or certificates representing the shares of Convertible Preferred Stock to be redeemed.

(4) On or before the applicable Redemption Date, each holder of shares to be redeemed on such Redemption Date shall surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Company to indemnify the Company against any claim that may be made against the Company on account of the alleged loss, theft or destruction of such certificate) to the Company, in the manner and at the place designated in the Redemption Notice, and thereupon the redemption price for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof. In the event less than all of the shares represented by a certificate are redeemed, a new certificate representing the unredeemed shares shall promptly be issued to such holder.

(5) If the Redemption Notice shall have been duly given, and if on the applicable Redemption Date the redemption price payable upon redemption of the shares to be redeemed on such Redemption Date is paid or tendered for payment or deposited with an independent payment agent so as to be available therefor in a timely manner, then notwithstanding that the certificates evidencing any of the shares so called for redemption shall not have been surrendered, dividends with respect to such shares shall cease to accrue after such Redemption Date and all rights with respect to such shares shall forthwith after the Redemption Date terminate, except only the right of the holders to receive the redemption price without interest upon surrender of their certificate or certificates therefor. Any shares of Convertible Preferred Stock that are redeemed or otherwise acquired by the Company or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred.

(iii) *Amount Deemed Paid or Distributed.* The consideration paid by the Company upon a Liquidation Event or Deemed Liquidation Event shall be the cash or the value of the property, rights or securities paid or distributed to the holders of the capital stock of the Company by the Company or the acquiring person, firm or other entity, with the value of such property, rights or securities determined in good faith by the Board of Directors.

(iv) *Liquidation Amount Payment Subject to Credit Agreement, Indenture Commitments.* Notwithstanding anything to the contrary contained herein, in the event of a Liquidation Event or a Deemed Liquidation Event, the Company shall pay the Liquidation Amount in cash only after paying in full in cash all obligations of the Company and its subsidiaries under any credit agreement, indenture or similar agreement evidencing indebtedness for borrowed money (including for the termination of all commitments to lend, to the extent required by such credit agreement, indenture or similar agreement) that requires prior payment of the obligations thereunder (and termination of commitments thereunder, if applicable) as a condition to the payment of the Liquidation Amount to the holders of outstanding shares of Convertible Preferred Stock.

4. **Voting.** On any matter presented to the stockholders of the Company for their action or consideration at any meeting of stockholders of the Company (or by written consent in lieu of meeting), each holder of Convertible Preferred Stock shall be entitled to the number of votes equal to the number of whole shares of Common Stock into which the shares of Convertible Preferred Stock held by such holder are convertible, in accordance with Section 5 below, on the record date for determining stockholders entitled to vote on such matter (as adjusted from time to time pursuant to Section 5 hereof and subject to the limitations set forth in Section 5(j) below, but without regard as to whether sufficient shares of Common Stock are available out of the Company's authorized but unissued stock, for the purpose of effecting the conversion of the Convertible Preferred Stock). Holders of Convertible Preferred Stock shall be entitled to notice of any meeting of stockholders and, except as otherwise provided herein or otherwise required by law, to vote together with the holders of Common Stock as a single class.

5. **Conversion.** The holders of the Convertible Preferred Stock shall have conversion rights as follows (the "**Conversion Rights**"):

(a) **Right to Convert.** Each share of Convertible Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing (i) the sum of the Accrued Value plus an amount equal to all accrued or declared and unpaid dividends on the Convertible Preferred Stock that have not previously been added to the Accrued Value by (ii) the Conversion Price (as defined below) in effect at the time of conversion. The "**Conversion Price**" shall initially be equal to \$2.3633 per share. The rate at which shares of Convertible Preferred Stock may be converted into shares of Common Stock shall be subject to adjustment as provided in Section 5(d), (e), (f) and (g) below.

In the event of a notice of redemption of any shares of Convertible Preferred Stock pursuant to Section 8 hereof, the Conversion Rights of the shares designated for redemption shall terminate at the close of business on the date fixed for redemption, unless the redemption price is not paid on such redemption date, in which case the Conversion Rights for such shares shall continue until such price is paid in full.

(b) **Fractional Shares.** No fractional shares of Common Stock shall be issued upon conversion of the Convertible Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Company shall pay cash equal to such fraction multiplied by the fair market value of a share of Common Stock, which shall be the last reported closing sale price of a share of Common Stock on the Conversion Date if the Common Stock is then listed and trading on a Trading Market or, if the Common Stock is not then so listed and trading, as determined in good faith by the Board of Directors. Whether or not fractional shares would be issuable upon such conversion shall be determined on the basis of the total number of shares of Convertible Preferred Stock the holder is at the time converting into Common Stock and the aggregate number of shares of Common Stock issuable upon such conversion.

(c) **Mechanics of Conversion.**

(i) Holders of Convertible Preferred Stock shall effect conversions by providing the Company with a written notice of conversion in the form annexed hereto (a "**Notice of Conversion**") on the Trading Day on which such holder wishes to effect such conversion (the "**Conversion Date**"). Each Notice of Conversion shall specify the number of shares of Convertible Preferred Stock to be converted, the applicable Conversion Price, the number of shares of Common Stock to be issued, and the number of shares of Convertible Preferred Stock owned subsequent to the conversion at issue. The shares of Common Stock shall be deemed to have been issued, and the holder or any other person so designated to be deemed to have become a holder of record of such shares for all purposes, as of the date of delivery to the Company of the Notice of Conversion. To effect conversions of shares of Convertible Preferred Stock, a holder shall not be required to surrender the certificate(s) representing the shares of Convertible Preferred Stock to the Company unless all of the shares of Convertible Preferred Stock represented thereby are so converted, in which case such holder shall deliver the certificate representing such shares of Convertible Preferred Stock promptly following the Conversion Date at issue. Conversions of less than the total amount of shares of Convertible Preferred Stock represented by a certificate held by the holder will have the effect of lowering the outstanding number of Convertible Preferred Stock held by such holder by an amount equal to the number so converted, as if the original stock certificate(s) were cancelled and one or more new stock certificates evidencing the new number of shares of Convertible Preferred Stock were issued; provided, however, that in such cases the holder may request that the Company deliver to the holder a certificate representing such non-converted shares of Convertible Preferred

Stock; provided, further, that the failure of the Company to deliver such new certificate shall not affect the rights of the holder to submit a further Notice of Conversion with respect to such Convertible Preferred Stock and, in any such case, the holder shall be deemed to have submitted the original of such new certificate at the time that it submits such further Notice of Conversion. In the case of a dispute between the Company and a holder as to the calculation of the Conversion Price, the total number of shares of Convertible Preferred Stock outstanding or the number of shares of Common Stock issuable upon a conversion, the Company shall issue to such holder the number of shares of Common Stock that are not disputed within the time periods specified below and shall submit the disputed calculations to a certified public accounting firm of national reputation (other than the Company's regularly retained accountants) within two (2) Trading Days following the Company's receipt of such holder's Notice of Conversion. The Company shall cause such accountant to calculate the Conversion Price, the total number of shares of Convertible Preferred Stock outstanding or the number of shares of Common Stock issuable upon conversion as provided herein and to notify the Company and such holder of the results in writing no later than two (2) Trading Days following the day on which such accountant received the disputed calculations (the "**Dispute Procedure**"). Such accountant's calculation shall be deemed conclusive absent manifest error. The fees of any such accountant shall be borne by the party whose calculations were most at variance with those of such accountant.

(ii) Not later than the number of Trading Days comprising the Settlement Period after each Conversion Date (the "**Share Delivery Date**"), the Company shall deliver, or cause to be delivered, to the converting holder the number of shares of Common Stock being acquired upon the conversion of the Convertible Preferred Stock. If, in the case of any Notice of Conversion, such shares of Common Stock are not delivered to or as directed by the applicable holder by the Share Delivery Date, the holder shall be entitled to elect by written notice to the Company at any time on or before its receipt of such shares of Common Stock, to rescind such conversion, in which event the Company shall promptly return to the holder any original Convertible Preferred Stock certificate delivered to the Company and the holder shall promptly return to the Company the shares of Common Stock issued to such holder pursuant to the rescinded Conversion Notice.

(iii) The Company shall at all times when the Convertible Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Convertible Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Convertible Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of Convertible Preferred Stock, the Company shall take such corporate action as may be required to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to the Certificate of Incorporation. Before taking any action which would cause an adjustment reducing the Conversion Price below the then par value of the shares of Common Stock issuable upon conversion of the Convertible Preferred Stock, the Company shall take commercially reasonable efforts to effect any corporate action which may, in the opinion of its counsel, be necessary in order that the Company may validly and legally issue fully paid and nonassessable shares of Common Stock at such adjusted Conversion Price, as applicable.

(iv) The Company understands that a delay in the delivery of the shares of Common Stock after the Share Delivery Date could result in economic loss to the holder. As compensation to the holder for such loss, if (i) the Company fails to deliver the number of shares of Common Stock to which the holder is entitled upon the holder's exercise of the Convertible Preferred Stock within the time periods specified above (or, to the extent shares of Common Stock are subject to a Dispute Procedure, within one (1) Business Day of the Company's receipt of the accountant's calculation) and (ii) the holder has not exercised its Buy-In rights as provided below with respect to such shares, the Company agrees to pay (as liquidated damages and not as a penalty) to the holder for late issuance of the shares of Common Stock upon exercise of the Convertible Preferred Stock the proportionate amount of \$10 per Trading Day (increasing to \$20 per Trading Day after the third (3rd) Trading Day) after the Share Delivery Date for each \$1,000 of shares of Common Stock for which the Convertible Preferred Stock is exercised which are not timely delivered. For purposes of clarification, if the Company is obligated to make payments of liquidated damages pursuant to this Section for late issuance of shares of Common Stock, then it shall not also be obligated to make Buy-In payments as described below with respect to those same shares of Common Stock. The Company shall pay any payments incurred under this Section in immediately available funds upon demand.

(v) In addition to any other rights available to the Holder, if the Company fails for any reason to effect delivery of the shares of Common Stock to the holder by the Share Delivery Date (or, to the extent shares of Common Stock are subject to a Dispute Procedure, within one (1) Business Day of the Company's receipt of the accountant's calculation) and if after such date the holder is required by its broker to purchase (in an open market transaction or otherwise) or the holder or its brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the holder of the Common Stock which the holder anticipated receiving upon such exercise (a "**Buy-In**"), then the Company shall (A) pay in cash to the holder the amount, if any, by which (x) the holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased, minus any amounts paid to the holder by the Company as liquidated damages as described in Section 5(b)(iv) above, exceeds (y) the amount obtained by multiplying (1) the number of shares of Common Stock that the Company was required to deliver to the holder in connection with the conversion at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the holder, either reinstate the portion of the Convertible Preferred Stock and equivalent number of shares of Common Stock for which such conversion was not honored (in which case such conversion shall be deemed rescinded) or deliver to the holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted conversion of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the holder \$1,000, assuming no liquidated damages. The holder shall provide the Company written notice indicating the amounts payable to the holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock upon exercise of Convertible Preferred Stock as required pursuant to the terms hereof.

(vi) All shares of Convertible Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares, including the rights, if any, to receive notices and to vote, shall immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor, to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion and payment of any dividends declared but unpaid on the Convertible Preferred Stock. Any shares of Convertible Preferred Stock so converted shall be retired and canceled and shall not be reissued, and the Company (without the need for stockholder action) may from time to time take such appropriate action as may be necessary to reduce the authorized number of shares of Convertible Preferred Stock accordingly.

(vii) The Company shall pay any and all issue and other similar taxes that may be payable in respect of any issuance or delivery of shares of Common Stock upon conversion of shares of Convertible Preferred Stock pursuant to this Section 5. The Company shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Common Stock in a name other than that in which the shares of Convertible Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the Person requesting such issuance has paid to the Company the amount of any such tax or has established, to the satisfaction of the Company, that such tax has been paid.

(d) Adjustment for Stock Splits and Combinations. If the Company shall at any time or from time to time after the Issue Date effect a subdivision of the outstanding shares of Common Stock, the Conversion Price in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Common stock issuable on conversion of each share shall be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding. If the Company shall at any time or from time to time after the Issue Date combine the outstanding shares of Common Stock, the Conversion Price in effect immediately before the combination shall be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this paragraph shall become effective at the close of business on the date the subdivision or combination becomes effective.

(e) Adjustment for Certain Dividends and Distributions. In the event the Company at any time or from time to time after the Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in additional shares of Common Stock, then and in each such event the Conversion Price in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Conversion Price then in effect by a fraction:

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(1) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and

(2) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution;

provided, however, that if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the Conversion Price shall be adjusted pursuant to this paragraph as of the time of actual payment of such dividends or distributions; and provided further, however, that no such adjustment shall be made if the holders of Convertible Preferred Stock simultaneously receive (i) a dividend or other distribution of shares of Common Stock in a number equal to the number of shares of Common Stock as they would have received if all outstanding shares of Convertible Preferred Stock had been converted into Common Stock on the date of such event or (ii) a dividend or other distribution of shares of Convertible Preferred Stock which are convertible, as of the date of such event, into such number of shares of Common Stock as is equal to the number of additional shares of Common Stock being issued with respect to each share of Common Stock in such dividend or distribution.

(f) Adjustment for Reclassification, Exchange, or Substitution. If the Common Stock issuable upon the conversion of the Convertible Preferred Stock shall be changed into the same or a different number of shares of any class or classes of stock, whether by capital reorganization, reclassification, or otherwise (other than a subdivision or combination of shares or stock dividend provided for above, or a reorganization, merger, consolidation, or sale of assets provided for below), then and in each such event the holder of each such share of Convertible Preferred Stock shall have the right thereafter to convert such share into the kind and amount of shares of stock and other securities and property receivable, upon such reorganization, reclassification, or other change, by holders of the number of shares of Common Stock into which such shares of Convertible Preferred Stock might have been converted immediately prior to such reorganization, reclassification, or change, all subject to further adjustment as provided herein.

(g) Adjustment for Merger or Reorganization, etc. If there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Company in which the Common Stock (but not the Convertible Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by paragraphs (d), (e) or (f) of this Section 5), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of Convertible Preferred Stock shall be convertible into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Company issuable upon conversion of one share of Convertible Preferred Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction (without regard to any limitation in Section 5(j) on the conversion of the Convertible Preferred Stock); and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors) shall be made in the application of the provisions in this Section 5 with respect to the rights and interests thereafter of the holders of the Convertible Preferred Stock to the end that the provisions set forth in this Section 5 (including provisions with respect to changes in and other adjustments of the Conversion Price, as applicable) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Convertible Preferred Stock.

(h) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this Section 5, the Company at its expense shall, as promptly as reasonably practicable but in any event not later than 10 days thereafter, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Convertible Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which the Convertible Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Company shall, as promptly as reasonably practicable after the written request at any time of any holder of Convertible Preferred Stock (but in any event not later than 10 days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (i) the Conversion Price then in effect, and (ii) the number of shares of Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of Convertible Preferred Stock.

(i) Notice of Record Date. In the event:

- (i) that the Company declares a dividend (or any other distribution) on its Common Stock payable in Common Stock or other securities of the Company;
- (ii) that the Company subdivides or combines its outstanding shares of Common Stock;
- (iii) of any reclassification of the Common Stock of the Company (other than a subdivision or combination of its outstanding shares of Common Stock or a stock dividend or stock distribution on the Common Stock), or of any consolidation or merger of the Company into or with another Person, or a Deemed Liquidation Event; or
- (iv) of a Liquidation Event;

then the Company shall cause to be filed at its principal office or at the office of the transfer agent of the Convertible Preferred Stock, and shall cause to be mailed to the holders of the Convertible Preferred Stock at their last addresses as shown on the records of the Company or such transfer agent, at least ten days prior to the date specified in (A) below or twenty days before the date specified in (B) below, a notice stating:

- (A) the record date of such dividend, distribution, subdivision or combination, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution, subdivision or combination are to be determined, or
- (B) the date on which such reclassification, consolidation, merger, sale, dissolution, liquidation winding up or Deemed Liquidation Event is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, sale, dissolution winding up or Deemed Liquidation Event.

(j) Beneficial Ownership Limitation.

(i) The Company may not issue to a holder, or group of affiliated holders, of shares of Convertible Preferred Stock, upon conversion of such Convertible Preferred Stock, a number of shares of Common Stock that would cause such holder, or group of affiliated holders (collectively, the “**Converting Holder**”), to beneficially own, in the aggregate, a number of shares of the Company’s capital stock that represents in excess of 19.99% of the Company’s voting power, *unless* (x) the Company obtains the approval of its stockholders as required by the applicable rules of the relevant Trading Market for issuances of shares of Common Stock in excess of such amount, (y) the Company is not subject to rules of the relevant Trading Market limiting issuances of shares of Common Stock in excess of such amount or (z) a holder, or group of affiliated holders, of the Company’s capital stock beneficially own, in the aggregate, a number of shares of the Company’s capital stock that represents a percentage of the Company’s voting power in excess of the percentage voting power held by the Converting Holder immediately following such conversion.

(ii) Notwithstanding anything to the contrary herein, upon the written election of a holder of shares of Convertible Preferred Stock, no such holder of Convertible Preferred Stock shall be entitled to effect a conversion of any portion of its shares of Convertible Preferred Stock, to vote in its capacity as a holder of shares of Convertible Preferred Stock with respect to matters submitted to holders of the Common Stock or take delivery of shares of Common Stock upon conversion of such shares of Convertible Preferred Stock, in each case, to the extent that, after giving effect to such conversion, action or delivery, as applicable, such holder, together with all other Attribution Parties (as defined below), collectively would beneficially own in excess of 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to such conversion (such percentage, subject to such modifications in accordance with, and subject to the limitations set forth in, this Section 5(j)(ii), the “**Maximum Percentage**”). For purposes of the foregoing sentence, the aggregate number of shares of Common Stock beneficially owned by such holder and the other Attribution Parties shall include the number of shares of Common Stock held by the holder and all other Attribution Parties plus the number of shares of Common Stock issuable upon conversion of such shares of



Convertible Preferred Stock with respect to which the determination of such sentence is being made, but shall exclude shares of Common Stock which would be issuable upon (i) exercise of the remaining, unconverted portion of such shares of Convertible Preferred Stock beneficially owned by such holder or any other Attribution Party and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company beneficially owned by such holder or any other Attribution Party subject to a limitation on conversion or exercise analogous to the limitation contained in this Section 5(j)(ii). For purposes of determining the number of shares of Common Stock the holder may acquire upon the conversion of shares of its Convertible Preferred Stock without exceeding the Maximum Percentage, such holder may rely on the number of outstanding shares of Common Stock as reflected in (1) the Company's most recent Annual Report on Form 10-K, Quarterly Report on Form 10-Q, Current Report on Form 8-K or other public filing with the Securities and Exchange Commission, as the case may be, (2) a more recent public announcement by the Company or (3) any other written notice by the Company or the transfer agent setting forth the number of shares of Common Stock outstanding (the "**Reported Outstanding Share Number**"). If the Company receives a Conversion Notice from a holder of Convertible Preferred Stock at a time when the actual number of outstanding shares of Common Stock is less than the Reported Outstanding Share Number, the Company shall notify such holder in writing of the number of shares of Common Stock then outstanding and, to the extent that such Conversion Notice would otherwise cause such holder's beneficial ownership, as determined pursuant to this Section 5(j)(ii), to exceed the Maximum Percentage, such holder must notify the Company of a reduced number of shares of Convertible Preferred Stock to be converted pursuant to such Conversion Notice. For any reason at any time, upon the written or oral request of a holder of Convertible Preferred Stock, where such request indicates that it is being made pursuant to this Certificate of Designation, the Company shall within two (2) business days confirm orally and in writing or by electronic mail to such holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company by such holder and any other Attribution Party since the date as of which the Reported Outstanding Share Number was reported. In the event that the issuance of shares of Common Stock to the Holder upon the conversion of any of such holder's shares of Convertible Preferred Stock results in the Holder and the other Attribution Parties being deemed to beneficially own, in the aggregate, more than the Maximum Percentage of the number of outstanding shares of Common Stock, the number of shares so issued by which such holder's and the other Attribution Parties' aggregate beneficial ownership exceeds the Maximum Percentage (the "**Excess Shares**") shall be deemed null and void and shall be cancelled *ab initio*, and such holder shall not have the power to vote or to transfer the Excess Shares. As soon as reasonably practicable after the issuance of the Excess Shares has been deemed null and void and/or any other shares of Convertible Preferred Stock have been purported to be converted or mandatorily converted in excess of the limitations set forth in this Section 5(j)(ii), the Company shall return to the Holder the number of shares of Convertible Preferred Stock corresponding to such excess.

Upon delivery of a written notice to the Company, a holder of Convertible Preferred Stock may from time to time increase (with such increase not effective until the sixty-first (61st) day after delivery of such notice) or decrease the Maximum Percentage to any other percentage that is not in excess of 19.99% (except that such increased percentage may exceed 19.99% in the event that (x) the Company obtains the approval of its stockholders as required by the applicable rules of the relevant Trading Market for issuances of shares of Common Stock in excess of such amount or (y) the Company is not subject to rules of the relevant Trading Market limiting issuances of shares of Common Stock in excess of such amount) as specified in such notice; provided that (i) any such increase in the Maximum Percentage will not be effective until the sixty-first (61st) day after such notice is delivered to the Company, and (ii) any such increase or decrease will apply only to such holder of shares of Convertible Preferred Stock and the other Attribution Parties and not to any other holder of Convertible Preferred Stock. For purposes of clarity, the shares of Common Stock underlying such holder's shares of Convertible Preferred Stock in excess of the Maximum Percentage shall not be deemed to be beneficially owned by such holder for any purpose including for purposes of Section 13(d) or Rule 16a-1(a)(1) of the Exchange Act. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 5(j)(ii) to the extent necessary to correct this paragraph or any portion of this paragraph which may be defective or inconsistent with the intended beneficial ownership limitation contained in this Section 5(j)(ii) or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitation as contained in this paragraph may not be waived and shall apply to a successor holder of the Convertible Preferred Stock.

As used in this Certificate of Designation with respect to any holder of Convertible Preferred Stock, “**Attribution Parties**” means, collectively, the following persons and entities: such holder, any of its Affiliates or principals, any person acting or who could be deemed to be acting as a group together with such holder or any of the foregoing for purposes of Section 13(d) of the Exchange Act, and any other persons whose beneficial ownership of the Common Stock would or could be aggregated with such holder’s and the other Attribution Parties’ for purposes of Section 13(d) of the Exchange Act.

The limitation contained in this Section 5(j)(ii) shall apply to a holder from and after the delivery of such written election to the Company and shall cease to apply thereafter only upon sixty-one (61) days’ written notice from such holder to the Company of an election to increase or decrease or remove such limitation; provided, that such election to be subject to such limitation shall be irrevocable if the holder so electing specifies in writing to the Company that such election is irrevocable. For the avoidance of doubt, the limitation contained in this Section 5(j)(ii) shall not apply to any holder that has not elected in writing to be subject to such limitation.

Notwithstanding anything to the contrary herein, this Section 5(j) and the limitations herein shall not apply to any holder, or group of affiliated holders, that beneficially own, in the aggregate, a number of shares of the Company’s capital stock that represents in excess of 19.99% of the Company’s voting power at the time of issuance of the Convertible Preferred Stock for so long as such holder, or group of affiliated holders, beneficially own, in the aggregate, a number of shares of the Company’s capital stock that represents in excess of 19.99% of the Company’s voting power.

#### 6. Mandatory Conversion.

(a) Trigger Event. If at any time following the third anniversary of the Issue Date, the closing sale price of the Common Stock on the principal Trading Market exceeds two-hundred fifty percent (250%) of the Conversion Price for thirty (30) consecutive Trading Days, then the Company shall have the right to require conversion of the Convertible Preferred Stock, in whole or in part, on a pro rata basis by all holders thereof based on the number of shares of Convertible Preferred Stock then held, at the then effective conversion rate in accordance with Section 5(a)(i), subject to the limitations set forth in this Section 6.

#### (b) Limitations on Mandatory Conversion.

(i) Certain Equity Conditions. The Company shall be prohibited from exercising its right to require conversion pursuant to Section 6(a), and any such exercise shall be void *ab initio*, at any time at which there exists an Equity Conditions Failure.

(ii) Effect of Blocker Provisions. To the extent any conversion in accordance with this Section 6, would (x) cause a holder to beneficially own a number of shares of Common Stock that exceeds the amount that could be issued to such holder pursuant to Section 5(j) or (y) in the reasonable judgment of the applicable holder, result in a violation by such holder of the Hart Scott Rodino Antitrust Improvements Act of 1976, as amended from time to time (an “**HSR Violation**”), then, at the Mandatory Conversion Time (as defined below) (i) only such portion of such holder’s shares of Convertible Preferred Stock that may be converted without exceeding the limitations in Section 5(j) and without resulting in an HSR Violation shall be converted to Common Stock and (ii) the remaining shares of Convertible Preferred Stock that would otherwise have been converted into Common Stock, from the Mandatory Conversion Time forward, shall, in respect of payment of dividends and distribution of assets of the Company upon a Liquidation Event or Deemed Liquidation Event, have only such rights as are applicable to shares of Common Stock and the provisions of Section 7 (other than Section 7(a)) shall no longer apply; provided, that, for the avoidance of doubt, the other rights applicable to such shares of Convertible Preferred Stock, including the Conversion Rights, shall not be modified.

(c) Procedural Requirements. All holders of record of shares of Convertible Preferred Stock shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Convertible Preferred Stock pursuant to this Section 6. Such notice must include a certification that there does not then exist an Equity Conditions Failure. The Company shall send such notice at least thirty (30) days in advance of the occurrence of the conversion requested pursuant to Section 6(a) (the time of such occurrence, the “**Mandatory Conversion Time**”). Prior to the Mandatory Conversion Time specified in the notice, each holder of shares of Convertible Preferred Stock shall surrender his or its certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit) to the Company at the place designated in such notice. If so required by the Company, certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form reasonably satisfactory to the Company,

duly executed by the registered holder or by his or its attorney duly authorized in writing. All rights with respect to the Convertible Preferred Stock converted pursuant to Section 6(a), including the rights to receive notices and vote (other than as a holder of Common Stock), will terminate at the Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender the certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of their certificate or certificates (or lost certificate affidavit) therefor, to receive the items provided for in the next sentence of this Section 6(c). As soon as practicable after the Mandatory Conversion Time (but in any event within three Trading Days), the Company shall issue and deliver to such holder, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof, together with cash in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends on the shares of Convertible Preferred Stock converted. Such converted Convertible Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Company may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Convertible Preferred Stock accordingly.

7. Protective Covenants. At any time when shares of Convertible Preferred Stock are outstanding, the Company shall not, either directly or indirectly (including through any subsidiary of the Company) by amendment, merger, consolidation, reclassification, reorganization or otherwise, do any of the following without (in addition to any other vote required by law or the Certificate of Incorporation) the written consent or affirmative vote of the Required Holders (or, solely with respect to Section 7(a), the Supermajority Required Holders), given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act taken or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

- (a) amend, modify or fail to give effect to the rights of the holders of Convertible Preferred Stock;
- (b) increase or decrease the number of authorized shares of Convertible Preferred Stock (except as permitted under Section 8(i) hereunder);
- (c) create or issue any equity securities or securities convertible into equity securities with equal or superior rights, preferences or privileges to those of the Convertible Preferred Stock in respect of (i) payment of dividends, or (ii) distribution of assets of the Company upon a Liquidation Event or Deemed Liquidation Event;
- (d) other than the issuance of shares of Common Stock on exercise or conversion of securities outstanding on the Issue Date, issue any shares of Common Stock or securities convertible into or exercisable (directly or indirectly) for Common Stock if at such time (or after giving effect to such issuance) the Company does not have sufficient shares of Common Stock available out of its authorized but unissued stock, for the purpose of effecting the conversion of the Convertible Preferred Stock into Common Stock (assuming that accrued and unpaid dividends at such time include all dividends that would have accrued on the Convertible Preferred Stock for a period of five years from the date thereof) and the exercise and conversion of all other securities convertible or exercisable (directly or indirectly) for Common Stock;
- (e) declare or pay any dividends or distributions on or make redemptions or repurchases of equity securities, except for repurchases from employees, directors, advisors or consultants upon termination pursuant to contractual call rights; or
- (f) create any subsidiary that is not majority-owned, either directly or indirectly, by the Company; provided, however, that this restriction shall not apply, in the case of (i) any subsidiary created outside of the United States, solely to the extent that, due to local law or regulatory requirements, the Company is not permitted to legally own such subsidiary or (ii) the creation of any joint venture created in the ordinary course of business for a bona fide business purpose.

#### 8. Redemptions.

(a) Seven-Year Redemption. On or at any time after the seventh anniversary of the Issue Date,

- (i) each holder of Convertible Preferred Stock shall have the right to require the Company to redeem all of such holder's Convertible Preferred Stock, for cash, at a redemption price per share of Convertible Preferred Stock equal to the sum of the Accrued Value plus an amount equal to all accrued or declared and unpaid dividends on the Convertible Preferred Stock that have not previously been added to the Accrued Value.

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(ii) the Company shall have the right to redeem, in whole or in part, on a pro rata basis from all holders thereof based on the number of shares of Convertible Preferred Stock then held, the outstanding Convertible Preferred Stock, for cash, at a redemption price per share of the sum of the Accrued Value plus an amount equal to all accrued or declared and unpaid dividends on the Convertible Preferred Stock that have not previously been added to the Accrued Value.

(b) Limitations on Redemption Right. The Company shall be prohibited from exercising its right to redeem Convertible Preferred Stock pursuant to Section 8(a)(ii), and any such exercise shall be void *ab initio*, at any time at which there exists an Equity Conditions Failure.

(c) Exercise of Redemption Right.

(i) Any holder of Convertible Preferred Stock may exercise the holder's redemption right under Section 8(a)(i) by delivering to the Company at its principal office a written notice stating the holder's intention to exercise the holder's redemption right and the number of the holder's shares of Convertible Preferred Stock to be redeemed. The Company shall be obligated to redeem the total number of shares of Convertible Preferred Stock specified in the holder's redemption notice on or before the earlier of the sixtieth (60th) business day following its receipt of the initial redemption request triggering the notice described in Section 8(d) below pursuant to Section 8(a).

(ii) The Company may exercise its redemption right under Section 8(a)(ii) by delivering to each holder at the address for such holder last shown on the records of the transfer agent therefor (or the records of the Company, if it serves as its own transfer agent) a written notice stating the Company's intention to exercise its redemption right, the number of the holder's shares of Convertible Preferred Stock to be redeemed and the time of such redemption, which shall not be sooner than thirty (30) days after the delivery of such notice.

(d) Notice of Redemption. The Company shall provide notice of any redemption requested by the Company under Section 8(a)(ii), specifying the time and place of redemption and the redemption price, by first class or registered mail, postage prepaid, return receipt requested, to each holder of record of Convertible Preferred Stock at the address for such holder last shown on the records of the transfer agent therefor (or the records of the Company, if it serves as its own transfer agent), not less than fifteen (15) days prior to each redemption date. In the case of redemptions requested by the Company pursuant to Section 8(a)(ii), such notice must include a certification that there does not then exist an Equity Conditions Failure. In the case of redemptions requested by a holder under Section 8(a)(i), the Company shall use its commercially reasonable efforts, and shall take all reasonable action necessary, to pay the redemption price as provided in this Section 8.

(e) Insufficient Funds. If the funds of the Company legally available for redemption by a holder pursuant to Section 8(a)(i) of the Convertible Preferred Stock on any redemption date are insufficient to redeem all shares of the Convertible Preferred Stock being redeemed by the Company on such date, those funds which are legally available will be used first to redeem, on a pro rata basis based on the number of shares of Convertible Preferred Stock then held by each holder being redeemed on such date, the maximum possible number of shares of the Convertible Preferred Stock being redeemed in accordance with the aggregate redemption proceeds payable with respect to the shares of Convertible Preferred Stock to be redeemed on such date. At any time thereafter when additional funds of the Company become legally available for the redemption of the Convertible Preferred Stock, such funds will be used to redeem the balance of the shares of Convertible Preferred Stock which the Company was theretofore obligated to redeem as provided in the immediately preceding sentence. Any shares of Convertible Preferred Stock which are not redeemed as a result of the circumstances described in this Section 8(e) shall remain outstanding until such shares shall have been redeemed and the redemption price therefor, as applicable, shall have been paid or set aside for payment in full.

(f) Rights Terminated. Upon (i) presentation and surrender of the certificate or certificates representing the shares of Convertible Preferred Stock being redeemed pursuant to this Section 8 and receipt of the redemption price therefor or (ii) irrevocable deposit in trust by the Company for holders of the Convertible Preferred Stock being redeemed pursuant to this Section 8 of an amount in cash equal to the redemption price for the shares of Convertible Preferred Stock being redeemed on any redemption date, each holder of Convertible Preferred Stock will cease to have any rights as a stockholder of the Company by reason of the ownership of such redeemed shares of Convertible Preferred Stock (except for the right to receive the redemption price therefor upon the surrender of the certificate or certificates representing the redeemed shares if such certificate or certificates have not been surrendered), and such redeemed shares of Convertible Preferred Stock will not from and after the date of payment in full of the redemption price therefor be deemed to be outstanding.

(g) **Restrictions on Other Payments.** After the receipt by the Company of a redemption request pursuant to Section 8(a)(i), unless and until the full redemption price for the shares of Convertible Preferred Stock to be redeemed on any redemption date has been paid to the holders requesting such redemption, (i) no dividends shall be paid or declared or set aside for payment or other distribution upon any capital stock of the Company and (ii) no shares of capital stock of the Company shall be redeemed, retired, purchased or otherwise acquired for any consideration (or any payment made to or available for a sinking fund for the redemption of any such shares) by the Company or any subsidiary (except by conversion into or exchange for shares of Common Stock for which adjustment may be made pursuant to Section 5 above).

(h) **Conversion Prior to Redemption.** At any time after delivering a request for redemption pursuant to Section 8(a)(i) or the receipt by a holder of a notice of redemption from the Company pursuant to Section 8(a)(ii) and prior to receipt of the full redemption price therefor (or, if later, the time of redemption specified in the notice delivered pursuant to Section 8(d)), such holder shall be permitted to convert any or all of its Convertible Preferred Stock, including any shares subject to a redemption notice, in the manner contemplated by Section 5.

(i) **Reacquired Shares.** Any shares of Convertible Preferred Stock converted, redeemed, purchased, or otherwise acquired by the Company in any manner whatsoever shall be retired and canceled promptly after the acquisition thereof, and shall not be reissued and the Company from time to time shall take such action as may be necessary to reduce the authorized Convertible Preferred Stock accordingly.

9. **Definitions.** The following terms shall have the following respective meanings:

**“Accrued Value”** means, with respect to each share of Convertible Preferred Stock, the sum, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Convertible Preferred Stock, of (i) the Original Purchase Price plus (ii) on each Quarterly Dividend Date, an additional amount equal to the dollar value of any dividends on a share of Convertible Preferred Stock which have accrued on any dividend payment date and have not been previously added to such Accrued Value.

**“affiliate”** means, with respect to any Person (as defined herein), any (x) spouse, parent, sibling or descendant of such Person (or a spouse, parent, sibling or descendant of a director, officer, or partner of such Person) and (y) other Persons that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, another Person. The term **“control”** includes, without limitation, the possession, directly or indirectly, of the power to direct the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

**“Annual Rate”** means 8.0% per annum.

**“beneficial ownership”** shall be calculated in accordance with Section 13(d) of the Exchange Act.

**“Common Stock”** means the common stock, par value \$0.0001 per share, of the Company.

**“Equity Conditions”** means: (i) the Company shall not be in breach of any of its obligations in any material respect under this Certificate of Designation, the Redeemable Convertible Preferred Stock Purchase Agreement dated as of May 31, 2023 (the **“Purchase Agreement”**) or the Registration Rights Agreement dated as of June 2, 2023; and (ii) all shares of Common Stock into which the Convertible Preferred Stock is convertible shall, upon issuance, be freely tradable by the holder under an effective registration statement filed by the Company pursuant to the Securities Act of 1933, amended, or Rule 144 promulgated thereunder without any volume or manner of sale limitations applicable to “affiliates,” as defined therein. For purposes of part (i) of this definition, the Company shall be deemed to be in breach of its obligations if the Common Stock issuable on conversion of the Convertible Preferred Stock is not then listed for trading on a Trading Market or if the Company has received a final notice of de-listing from a Trading Market.

**“Equity Conditions Failure”** means that on any applicable date of determination, any of the Equity Conditions have not been satisfied or any of the Equity Conditions would not reasonably be expected to be satisfied in the foreseeable future.

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“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

“**Issue Date**” means, with respect to each share of the Convertible Preferred Stock, the date on which such share of Convertible Preferred Stock was issued.

“**Junior Stock**” means each class or series of capital stock of the Company created after the Issue Date that does not expressly rank *pari passu* with or senior to the shares of Convertible Preferred Stock as to payment of dividends and to distribution of assets of the Company upon a Liquidation Event or Deemed Liquidation Event.

“**Original Purchase Price**” means \$100.00 per share of Convertible Preferred Stock.

“**Person**” means, without limitation, an individual, a partnership, a corporation, an association, a joint stock corporation, a limited liability company, a trust, a joint venture, an unincorporated organization and a governmental authority.

“**Quarterly Dividend Date**” shall mean March 31, June 30, September 30 and December 31 of each year.

“**Required Holders**” means holders of a majority of the then outstanding shares of Convertible Preferred Stock.

“**Settlement Period**” means the standard settlement period, expressed in a number of Trading Days, for the Company’s primary trading market or quotation system with respect to the Common Stock that is in effect on the date of delivery of an applicable Notice of Conversion, which as of the Issue Date was “T+2”.

“**Supermajority Required Holders**” means holders of seventy-five percent (75%) of the then outstanding shares of Convertible Preferred Stock.

“**Trading Day**” means (a) any day on which the Common Stock is listed or quoted and traded on its primary Trading Market or (b) if the Common Stock is not then listed or quoted and traded on any Trading Market, then a day on which trading occurs on the Nasdaq Global Market (or any successor thereto).

“**Trading Market**” means the following market(s) or exchange(s) on which the Common Stock is listed or quoted for trading on the date in question (as applicable): the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange or the NYSE MKT or any successor markets thereto.

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IN WITNESS WHEREOF, this Certificate of Designation has been signed on behalf of the Company by its Chief Executive Officer as of June [ ], 2023.

TELESIS BIO INC.

By: \_\_\_\_\_  
Name: Todd R. Nelson  
Title: Chief Executive Officer

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**NOTICE OF CONVERSION**

TO: **TELESIS BIO INC.**

(1) The undersigned hereby elects to convert \_\_\_\_\_ shares of Convertible Preferred Stock into shares of Common Stock pursuant to the terms of the Certificate of Designation.

(2) Please issue said shares of Common Stock in the name of the undersigned or in such other name as is specified below:

\_\_\_\_\_

The shares of Common Stock shall be delivered to the following DWAC Account Number:

\_\_\_\_\_

\_\_\_\_\_

[SIGNATURE OF HOLDER]

Name of Investing Entity:

*Signature of Authorized Signatory of Investing Entity:*

Name of Authorized Signatory:

Title of Authorized Signatory:

Date:



NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.

## COMMON STOCK PURCHASE WARRANT

### TELESIS BIO INC.

Warrant Shares: \_\_\_\_\_

Issue Date: \_\_\_\_\_, 2023

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, \_\_\_\_\_ or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the Issue Date and on or prior to 5:00 p.m. (New York City time) on \_\_\_\_\_<sup>1</sup> (the "Termination Date") but not thereafter, to subscribe for and purchase from Telesis Bio Inc., a Delaware corporation (the "Company"), up to \_\_\_\_\_ shares (as subject to adjustment hereunder, the "Warrant Shares") of common stock, par value \$0.0001 per share, of the Company (the "Common Stock"). The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Redeemable Convertible Preferred Stock and Warrant Purchase Agreement (the "Purchase Agreement"), dated May 31, 2023, among the Company and the purchasers signatory thereto, as such Purchase Agreement is in effect as of May 31, 2023.

#### Section 2. Exercise.

a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Issue Date and on or before the Termination Date by delivery to the Company of a duly executed PDF

<sup>1</sup> Insert the date that is the two-year anniversary of the Issuance Date, provided that, if such date is not a Trading Day, insert the immediately following Trading Day.

copy submitted by e-mail (or e-mail attachment) of the Notice of Exercise in the form annexed hereto as Exhibit A-1 (the “Notice of Exercise”). Within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(d)(i) herein) following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the Warrant Shares specified in the applicable Notice of Exercise by wire transfer or cashier’s check drawn on a United States bank unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. No ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise be required. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation as soon as reasonably practicable following the date on which the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Trading Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

If at any time after the Issue Date through the Termination Date, the Holder is unable to exercise this Warrant due to the restriction set forth in Section 2(e) restricting exercise in the event that after giving effect to such issuance after exercise the Holder, together with its Attribution Parties (as defined below), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below), or otherwise at the Holder’s election, the Holder may elect to purchase a pre-funded warrant in lieu of this Warrant covering the amount of such Warrant Shares unable to be so purchased pursuant to this Warrant in the form annexed hereto (the “Pre-Funded Warrant”), at a purchase price equal to the Exercise Price (as adjusted from time to time pursuant to Section 3 hereof) (the “Pre-Funded Warrant Price”) for each share of Common Stock under the Pre-Funded Warrant (the “Pre-Funded Warrant Shares”), in which case the Warrant Shares available for purchase under this Warrant shall be reduced by the amount of the Pre-Funded Warrant Shares. Exercise of the election to purchase the Pre-Funded Warrant represented by this Warrant shall be made by delivery to the Company of a duly executed PDF copy submitted by e-mail (or e-mail attachment) of the Pre-Funded Warrant Notice in the form annexed as Exhibit A-2 hereto (the “Pre-Funded Warrant Notice”). Within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period following the date of exercise as aforesaid, the Holder shall deliver the aggregate Pre-Funded Warrant Price for the Pre-Funded Warrant Shares specified in the applicable Pre-Funded Warrant Notice by wire transfer or cashier’s check drawn on a United States bank. The Company shall deliver the Pre-Funded Warrant registered in the name of the

Holder to purchase the Pre-Funded Warrant Shares with an exercise price equal to \$0.0001 per share of Common Stock, subject to adjustment therein, to the address specified by the Holder in the Pre-Funded Warrant Notice by the date that is the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company by the Holder of the Pre-Funded Warrant Notice.

b) Exercise Price. The exercise price per share of Common Stock under this Warrant shall be \$2.5996, subject to adjustment hereunder (the "Exercise Price").

c) Cashless Exercise. If at the time of exercise hereof there is no effective registration statement registering, or the prospectus contained therein is not available for the resale of the Warrant Shares by the Holder, then this Warrant may also be exercised, in whole or in part, at such time by means of a "cashless exercise" in which the Holder shall be entitled to receive a number of Warrant Shares equal to the quotient obtained by dividing  $[(A-B)*(X)]$  by (A), where:

(A) = as applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise if such Notice of Exercise is (1) both executed and delivered pursuant to Section 2(a) hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 2(a) hereof on a Trading Day prior to the opening of "regular trading hours" (as defined in Rule 600(b) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) at the option of the Holder, either (y) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise or (z) the Bid Price of the Common Stock on the principal Trading Market as reported by Bloomberg L.P. ("Bloomberg") as of the time of the Holder's execution of the applicable Notice of Exercise if such Notice of Exercise is executed during "regular trading hours" on a Trading Day and is delivered within two (2) hours thereafter (including until two (2) hours after the close of "regular trading hours" on a Trading Day) pursuant to Section 2(a) hereof or (iii) the VWAP on the date of the applicable Notice of Exercise if the date of such Notice of Exercise is a Trading Day and such Notice of Exercise is both executed and delivered pursuant to Section 2(a) hereof after the close of "regular trading hours" on such Trading Day;

(B) = the Exercise Price of this Warrant, as adjusted hereunder; and

(X) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

"Bid Price" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the bid price of the Common Stock for the time in question (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m.

(New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on The Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holder and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

“VWAP” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if the OTCQB Venture Market (“OTCQB”) or the OTCQX Best Market (“OTCQX”) is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on the Pink Open Market (“Pink Market”) operated by the OTC Markets, Inc. (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holder and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the holding period of the Warrant Shares being issued may be tacked on to the holding period of this Warrant. The Company agrees not to take any position contrary to this Section 2(c).

d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder’s or its designee’s balance account with The Depository Trust Company through its Deposit or Withdrawal at Custodian system (“DWAC”) if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) the Warrant Shares are eligible for resale by the Holder without volume or manner-of-sale limitations pursuant to Rule 144, and otherwise by physical delivery of a certificate, registered in the Company’s share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the

Holder in the Notice of Exercise by the date that is the earliest of (i) two (2) Trading Days after the delivery to the Company of the Notice of Exercise, (ii) one (1) Trading Day after delivery of the aggregate Exercise Price to the Company and (iii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company of the Notice of Exercise (such date, the “Warrant Share Delivery Date”). Upon delivery of the Notice of Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received by the Warrant Share Delivery Date. If the Company fails for any reason to deliver to the Holder the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Warrant Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), \$10 per Trading Day (increasing to \$20 per Trading Day on the third (3<sup>rd</sup>) Trading Day after the Warrant Share Delivery Date) for each Trading Day after such Warrant Share Delivery Date until such Warrant Shares are delivered or the Holder rescinds such exercise. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as this Warrant remains outstanding and exercisable. As used herein, “Standard Settlement Period” means the standard settlement period, expressed in a number of Trading Days, on the Company’s primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Exercise.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, or if the Holder shall have elected to purchase a Pre-Funded Warrant, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares in accordance with the provisions of Section 2(d)(i) above pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to

purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event that Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto as Exhibit B duly executed by the Holder

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and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder, together with its Attribution Parties (as defined below), beneficially owns or would beneficially own as determined in accordance with Section 13(d) of the Exchange Act, in excess of the Beneficial Ownership Limitation (as defined below); provided, that such Beneficial Ownership Limitation shall not apply to any Holder that beneficially owns (together with its Attribution Parties), a number of shares of the Company's capital stock that represents in excess of 19.99% of the Company's voting power at the time of exercise as set forth on the applicable Notice of Exercise for so long as such Holder (together with its Attribution Parties), beneficially owns, in the aggregate, a number of shares of the Company's capital stock that represents in excess of 19.99% of the Company's voting power. For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder, together with its Attribution Parties, shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder, together with its Attribution Parties, and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company beneficially owned by the Holder, together with its Attribution Parties (including, without limitation, any other Common Stock Equivalents), that are subject to a limitation on conversion or exercise analogous to the limitation contained herein. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities beneficially owned by the Holder, together with its Attribution Parties) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities beneficially owned by the Holder, together with its Attribution Parties) and of which portion of this Warrant is exercisable, in each case

subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one (1) Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 19.99% of the issued and outstanding shares of Common Stock. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(e), provided that the Beneficial Ownership Limitation in no event exceeds 19.99% (except that such increased percentage may exceed 19.99% in the event that (x) the Company obtains the approval of its stockholders as required by the applicable rules of the relevant Trading Market for issuances of shares of Common Stock in excess of such amount, (y) a holder, or group of affiliated holders, of the Company's capital stock beneficially own, in the aggregate, a number of shares of the Company's capital stock that would represent a percentage of the Company's voting power in excess of the percentage voting power held by the Holder and its Attribution Parties immediately following conversion or exercise, or (z) the Company is not subject to rules of the relevant Trading Market limiting issuances of shares of Common Stock in excess of such amount) of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61<sup>st</sup> day after such notice is delivered to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant. As used herein, "Attribution Parties" means, collectively, (i) any direct or indirect Affiliates of the Holder, (ii) any person acting or who could be deemed to be acting as a Group together with the Holder or any of the foregoing and (iii) any other persons whose beneficial ownership of the Common Stock would or could be aggregated with the Holder's and the other Attribution Parties for purposes of Section 13(d) or Section 16 of the Exchange Act (for clarity, the purpose of the foregoing is to subject collectively the Holder and all other Attribution Parties to the Beneficial Ownership Limitation).

### Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend on its Common Stock or otherwise makes a



distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder, together with its Attribution Parties, exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (and shall not be entitled to beneficial ownership of such shares of Common Stock as a result of such Purchase Right (and beneficial ownership) to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder, together with its Attribution Parties, exceeding the Beneficial Ownership Limitation).

c) Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have

participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, that to the extent that the Holder's right to participate in any such Distribution would result in the Holder, together with its Attribution Parties, exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (and shall not be entitled to beneficial ownership of any shares of Common Stock as a result of such Distribution (and beneficial ownership) to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder, together with its Attribution Parties, exceeding the Beneficial Ownership Limitation).

d) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, in which the Company is not the surviving entity and in which the stockholders of the Company immediately prior to such merger or consolidation do not own, directly or indirectly, at least 50% of the voting power of the surviving entity immediately after such merger or consolidation, (ii) the Company (or any Subsidiary), directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets, other than to a wholly owned Subsidiary, in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock or 50% or more of the voting power of the common equity of the Company, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires 50% or more of the outstanding shares of Common Stock or 50% or more of the voting power of the common equity of the Company (each a "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, upon exercise of this Warrant, the same amount and kind of securities, cash or property as it would have been entitled to receive upon the occurrence of such Fundamental Transaction if it had been, immediately prior to such Fundamental Transaction, the holder of the number of Warrant Shares then issuable upon exercise in full of this Warrant without regard to any limitations on exercise contained herein (the "Alternate Consideration"). The Company shall not effect any Fundamental Transaction in which the Company is not the surviving entity or the Alternate Consideration includes securities of another Person unless (i) the Alternate Consideration

is solely cash and the Company provides for the simultaneous “cashless exercise” of this Warrant pursuant to Section 2 above or (ii) prior to or simultaneously with the consummation thereof, any successor to the Company, surviving entity or other person (including any purchaser of assets of the Company) shall assume the obligation to deliver to the Holder such Alternate Consideration as, in accordance with the foregoing provisions, the Holder may be entitled to receive, and the other obligations under this Warrant. The provisions of this paragraph (d) shall similarly apply to subsequent transactions analogous of a Fundamental Transaction type.

e) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

f) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly deliver to the Holder by email a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company (or any of its Subsidiaries) is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, or a Fundamental Transaction, then, in each case, the Company shall cause to be delivered by email to the Holder at its last email address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale,

transfer or share exchange, or a Fundamental Transaction is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, or a Fundamental Transaction; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided in this Warrant constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

#### Section 4. Transfer of Warrant.

a) Transferability. Subject to compliance with any applicable United States federal and state securities laws and the conditions set forth in Section 4(d) hereof, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date on which the Holder delivers an assignment form to the Company assigning this Warrant in full. This Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the Issue Date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the “Warrant Register”), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

d) Transfer Restrictions. If, at the time of the surrender of this Warrant in connection with any transfer of this Warrant, the transfer of this Warrant shall not be either (i) registered pursuant to an effective registration statement under the Securities Act and under applicable state securities or blue sky laws or (ii) eligible for resale without volume or manner-of-sale restrictions or current public information requirements pursuant to Rule 144, the Company may require, as a condition of allowing such transfer, that the Holder or transferee of this Warrant, as the case may be, provide to the Company an opinion of counsel selected by the Holder and reasonably acceptable to the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Warrant under the Securities Act of 1933, as amended. Upon such surrender and, if required, such payment, the Company shall execute and deliver or cause to be executed and delivered a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued. The Company shall register or cause to be registered this Warrant, upon records to be maintained by the Company or Warrant Agent for that purpose, in the name of the record Holder hereof from time to time. The Company or Warrant Agent may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

e) Representation by the Holder. The Holder, by the acceptance hereof, represents and warrants that it is acquiring this Warrant and, upon any exercise hereof, will acquire the Warrant Shares issuable upon such exercise, for its own account and not with a view to or for distributing or reselling such Warrant Shares or any part thereof in violation of the Securities Act or any applicable state securities law, except pursuant to sales registered or exempted under the Securities Act.

#### Section 5. Miscellaneous.

a) No Rights as Stockholder Until Exercise; No Settlement in Cash. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i), except as expressly set forth in Section 3. Without limiting any rights of a Holder to receive Warrant Shares on a “cashless exercise” pursuant to Section 2(c) or to receive cash payments pursuant to Section 2(d)(i) and Section 2(d)(iv) herein, in no event shall the Company be required to net cash settle an exercise of this Warrant.

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b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then, such action may be taken or such right may be exercised on the next succeeding Trading Day.

d) Authorized Shares.

The Company covenants that, during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the necessary Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and

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(iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Governing Law and Jurisdiction. This Warrant shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of law principles. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Warrant shall be brought in any federal or state court located in the State of New York, and each of the parties hereby consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 5(h) shall be deemed effective service of process on such party.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, and the Holder does not utilize cashless exercise, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies, notwithstanding the fact that the right to exercise this Warrant terminates on the Termination Date. Without limiting any other provision of this Warrant, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any out-of-pocket costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. All notices, requests, consents, and other communications under this Agreement shall be in writing. Any notices, requests, demands and other communications required or permitted under this Warrant shall be effective if in writing and (i) delivered personally, (ii) sent by facsimile or e-mail or (iii) delivered by overnight courier, in each case, addressed as follows:

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If to the Company to:

Telesis Bio Inc.  
10431 Wateridge Circle, Suite 150  
San Diego, CA 92121  
Attention: Chief Legal Officer  
E-mail: rob.cutler@telesisbio.com

and

with a copy (which shall not constitute notice) to:

Wilson Sonsini Goodrich & Rosati, P.C.  
650 Page Mill Road  
Palo Alto, CA 94304  
Attention: Philip Oettinger  
E-mail: poettinger@wsgr.com

If to any Holder:

To the address or other contact information delivered by the Holder to the Company or as is on the books and records of the Company.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company, on the one hand, and the Holder of this Warrant, on the other hand.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any



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provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

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*(Signature Page Follows)*

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IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**TELESIS BIO INC.**

By: \_\_\_\_\_  
Name: Todd R. Nelson  
Title: President and Chief Executive Officer

NOTICE OF EXERCISE

TO: **TELESIS BIO INC.**

(1) The undersigned hereby elects to purchase \_\_\_\_\_ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full.

(2) Payment shall take the form of (check applicable box):

in lawful money of the United States; or

if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

\_\_\_\_\_

The Warrant Shares shall be delivered to the following DWAC Account Number:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[SIGNATURE OF HOLDER]

Name of Investing Entity: \_\_\_\_\_

Signature of Authorized Signatory of Investing Entity: \_\_\_\_\_

Name of Authorized Signatory: \_\_\_\_\_

Title of Authorized Signatory: \_\_\_\_\_

Date: \_\_\_\_\_

NOTICE OF PRE-FUNDED WARRANT

TO: **TELESIS BIO INC.**

(1) The undersigned hereby elects to purchase a Pre-Funded Warrant to purchase \_\_\_\_\_ Pre-Funded Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full.

(2) The Pre-Funded Warrant shall be delivered to the Holder at:

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[SIGNATURE OF HOLDER]

Name of Investing Entity: \_\_\_\_\_

*Signature of Authorized Signatory of Investing Entity:* \_\_\_\_\_

Name of Authorized Signatory: \_\_\_\_\_

Title of Authorized Signatory: \_\_\_\_\_

Date: \_\_\_\_\_

**ASSIGNMENT FORM**

*(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to exercise the Warrant to purchase shares.)*

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: \_\_\_\_\_  
(Please Print)

Address: \_\_\_\_\_  
(Please Print)

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Dated: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

Holder's Signature: \_\_\_\_\_

Holder's Address: \_\_\_\_\_

Number of Warrant Shares underlying assigned portion of Warrant (for partial Warrant transfers, if applicable): \_\_\_\_\_

NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.

## COMMON STOCK PURCHASE WARRANT

### TELESIS BIO INC.

Warrant Shares: \_\_\_\_\_

Issue Date: \_\_\_\_\_, 2023

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, \_\_\_\_\_ or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the Issue Date and on or prior to 5:00 p.m. (New York City time) on \_\_\_\_\_<sup>1</sup> (the "Termination Date") but not thereafter, to subscribe for and purchase from Telesis Bio Inc., a Delaware corporation (the "Company"), up to \_\_\_\_\_ shares (as subject to adjustment hereunder, the "Warrant Shares") of common stock, par value \$0.0001 per share, of the Company (the "Common Stock"). The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Redeemable Convertible Preferred Stock and Warrant Purchase Agreement (the "Purchase Agreement"), dated May 31, 2023, among the Company and the purchasers signatory thereto, as such Purchase Agreement is in effect as of May 31, 2023.

#### Section 2. Exercise.

a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Issue Date and on or before the Termination Date by delivery to the Company of a duly executed PDF

<sup>1</sup> Insert the date that is the seven-year anniversary of the Issuance Date, provided that, if such date is not a Trading Day, insert the immediately following Trading Day.

copy submitted by e-mail (or e-mail attachment) of the Notice of Exercise in the form annexed hereto as Exhibit A-1 (the “Notice of Exercise”). Within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(d)(i) herein) following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the Warrant Shares specified in the applicable Notice of Exercise by wire transfer or cashier’s check drawn on a United States bank unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. No ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise be required. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation as soon as reasonably practicable following the date on which the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Trading Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

If at any time after the Issue Date through the Termination Date, the Holder is unable to exercise this Warrant due to the restriction set forth in Section 2(e) restricting exercise in the event that after giving effect to such issuance after exercise the Holder, together with its Attribution Parties (as defined below), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below), or otherwise at the Holder’s election, the Holder may elect to purchase a pre-funded warrant in lieu of this Warrant covering the amount of such Warrant Shares unable to be so purchased pursuant to this Warrant in the form annexed hereto (the “Pre-Funded Warrant”), at a purchase price equal to the Exercise Price (as adjusted from time to time pursuant to Section 3 hereof) (the “Pre-Funded Warrant Price”) for each share of Common Stock under the Pre-Funded Warrant (the “Pre-Funded Warrant Shares”), in which case the Warrant Shares available for purchase under this Warrant shall be reduced by the amount of the Pre-Funded Warrant Shares. Exercise of the election to purchase the Pre-Funded Warrant represented by this Warrant shall be made by delivery to the Company of a duly executed PDF copy submitted by e-mail (or e-mail attachment) of the Pre-Funded Warrant Notice in the form annexed as Exhibit A-2 hereto (the “Pre-Funded Warrant Notice”). Within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period following the date of exercise as aforesaid, the Holder shall deliver the aggregate Pre-Funded Warrant Price for the Pre-Funded Warrant Shares specified in the applicable Pre-Funded Warrant Notice by wire transfer or cashier’s check drawn on a United States bank. The Company shall deliver the Pre-Funded Warrant registered in the name of the

Holder to purchase the Pre-Funded Warrant Shares with an exercise price equal to \$0.0001 per share of Common Stock, subject to adjustment therein, to the address specified by the Holder in the Pre-Funded Warrant Notice by the date that is the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company by the Holder of the Pre-Funded Warrant Notice.

b) Exercise Price. The exercise price per share of Common Stock under this Warrant shall be \$2.5996, subject to adjustment hereunder (the "Exercise Price").

c) Cashless Exercise. If at the time of exercise hereof there is no effective registration statement registering, or the prospectus contained therein is not available for the resale of the Warrant Shares by the Holder, then this Warrant may also be exercised, in whole or in part, at such time by means of a "cashless exercise" in which the Holder shall be entitled to receive a number of Warrant Shares equal to the quotient obtained by dividing  $[(A-B)*(X)]$  by (A), where:

(A) = as applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise if such Notice of Exercise is (1) both executed and delivered pursuant to Section 2(a) hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 2(a) hereof on a Trading Day prior to the opening of "regular trading hours" (as defined in Rule 600(b) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) at the option of the Holder, either (y) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise or (z) the Bid Price of the Common Stock on the principal Trading Market as reported by Bloomberg L.P. ("Bloomberg") as of the time of the Holder's execution of the applicable Notice of Exercise if such Notice of Exercise is executed during "regular trading hours" on a Trading Day and is delivered within two (2) hours thereafter (including until two (2) hours after the close of "regular trading hours" on a Trading Day) pursuant to Section 2(a) hereof or (iii) the VWAP on the date of the applicable Notice of Exercise if the date of such Notice of Exercise is a Trading Day and such Notice of Exercise is both executed and delivered pursuant to Section 2(a) hereof after the close of "regular trading hours" on such Trading Day;

(B) = the Exercise Price of this Warrant, as adjusted hereunder; and

(X) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

"Bid Price" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the bid price of the Common Stock for the time in question (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m.



(New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on The Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holder and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

“VWAP” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if the OTCQB Venture Market (“OTCQB”) or the OTCQX Best Market (“OTCQX”) is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on the Pink Open Market (“Pink Market”) operated by the OTC Markets, Inc. (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holder and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the holding period of the Warrant Shares being issued may be tacked on to the holding period of this Warrant. The Company agrees not to take any position contrary to this Section 2(c).

d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder’s or its designee’s balance account with The Depository Trust Company through its Deposit or Withdrawal at Custodian system (“DWAC”) if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) the Warrant Shares are eligible for resale by the Holder without volume or manner-of-sale limitations pursuant to Rule 144, and otherwise by physical delivery of a certificate, registered in the Company’s share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the

Holder in the Notice of Exercise by the date that is the earliest of (i) two (2) Trading Days after the delivery to the Company of the Notice of Exercise, (ii) one (1) Trading Day after delivery of the aggregate Exercise Price to the Company and (iii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company of the Notice of Exercise (such date, the “Warrant Share Delivery Date”). Upon delivery of the Notice of Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received by the Warrant Share Delivery Date. If the Company fails for any reason to deliver to the Holder the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Warrant Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), \$10 per Trading Day (increasing to \$20 per Trading Day on the third (3<sup>rd</sup>) Trading Day after the Warrant Share Delivery Date) for each Trading Day after such Warrant Share Delivery Date until such Warrant Shares are delivered or the Holder rescinds such exercise. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as this Warrant remains outstanding and exercisable. As used herein, “Standard Settlement Period” means the standard settlement period, expressed in a number of Trading Days, on the Company’s primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Exercise.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, or if the Holder shall have elected to purchase a Pre-Funded Warrant, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares in accordance with the provisions of Section 2(d)(i) above pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to

purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event that Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto as Exhibit B duly executed by the Holder

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and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder, together with its Attribution Parties (as defined below), beneficially owns or would beneficially own as determined in accordance with Section 13(d) of the Exchange Act, in excess of the Beneficial Ownership Limitation (as defined below); provided, that such Beneficial Ownership Limitation shall not apply to any Holder that beneficially owns (together with its Attribution Parties), a number of shares of the Company's capital stock that represents in excess of 19.99% of the Company's voting power at the time of exercise as set forth on the applicable Notice of Exercise for so long as such Holder (together with its Attribution Parties), beneficially owns, in the aggregate, a number of shares of the Company's capital stock that represents in excess of 19.99% of the Company's voting power. For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder, together with its Attribution Parties, shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder, together with its Attribution Parties, and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company beneficially owned by the Holder, together with its Attribution Parties (including, without limitation, any other Common Stock Equivalents), that are subject to a limitation on conversion or exercise analogous to the limitation contained herein. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities beneficially owned by the Holder, together with its Attribution Parties) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities beneficially owned by the Holder, together with its Attribution Parties) and of which portion of this Warrant is exercisable, in each case

subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one (1) Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 19.99% of the issued and outstanding shares of Common Stock. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(e), provided that the Beneficial Ownership Limitation in no event exceeds 19.99% (except that such increased percentage may exceed 19.99% in the event that (x) the Company obtains the approval of its stockholders as required by the applicable rules of the relevant Trading Market for issuances of shares of Common Stock in excess of such amount, (y) a holder, or group of affiliated holders, of the Company's capital stock beneficially own, in the aggregate, a number of shares of the Company's capital stock that would represent a percentage of the Company's voting power in excess of the percentage voting power held by the Holder and its Attribution Parties immediately following conversion or exercise, or (z) the Company is not subject to rules of the relevant Trading Market limiting issuances of shares of Common Stock in excess of such amount) of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61<sup>st</sup> day after such notice is delivered to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant. As used herein, "Attribution Parties" means, collectively, (i) any direct or indirect Affiliates of the Holder, (ii) any person acting or who could be deemed to be acting as a Group together with the Holder or any of the foregoing and (iii) any other persons whose beneficial ownership of the Common Stock would or could be aggregated with the Holder's and the other Attribution Parties for purposes of Section 13(d) or Section 16 of the Exchange Act (for clarity, the purpose of the foregoing is to subject collectively the Holder and all other Attribution Parties to the Beneficial Ownership Limitation).

### Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend on its Common Stock or otherwise makes a

distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder, together with its Attribution Parties, exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (and shall not be entitled to beneficial ownership of such shares of Common Stock as a result of such Purchase Right (and beneficial ownership) to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder, together with its Attribution Parties, exceeding the Beneficial Ownership Limitation).

c) Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have

participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, that to the extent that the Holder's right to participate in any such Distribution would result in the Holder, together with its Attribution Parties, exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (and shall not be entitled to beneficial ownership of any shares of Common Stock as a result of such Distribution (and beneficial ownership) to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder, together with its Attribution Parties, exceeding the Beneficial Ownership Limitation).

d) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, in which the Company is not the surviving entity and in which the stockholders of the Company immediately prior to such merger or consolidation do not own, directly or indirectly, at least 50% of the voting power of the surviving entity immediately after such merger or consolidation, (ii) the Company (or any Subsidiary), directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets, other than to a wholly owned Subsidiary, in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock or 50% or more of the voting power of the common equity of the Company, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires 50% or more of the outstanding shares of Common Stock or 50% or more of the voting power of the common equity of the Company (each a "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, upon exercise of this Warrant, the same amount and kind of securities, cash or property as it would have been entitled to receive upon the occurrence of such Fundamental Transaction if it had been, immediately prior to such Fundamental Transaction, the holder of the number of Warrant Shares then issuable upon exercise in full of this Warrant without regard to any limitations on exercise contained herein (the "Alternate Consideration"). The Company shall not effect any Fundamental Transaction in which the Company is not the surviving entity or the Alternate Consideration includes securities of another Person unless (i) the Alternate Consideration

is solely cash and the Company provides for the simultaneous “cashless exercise” of this Warrant pursuant to Section 2 above or (ii) prior to or simultaneously with the consummation thereof, any successor to the Company, surviving entity or other person (including any purchaser of assets of the Company) shall assume the obligation to deliver to the Holder such Alternate Consideration as, in accordance with the foregoing provisions, the Holder may be entitled to receive, and the other obligations under this Warrant. The provisions of this paragraph (d) shall similarly apply to subsequent transactions analogous of a Fundamental Transaction type.

e) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

f) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly deliver to the Holder by email a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company (or any of its Subsidiaries) is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, or a Fundamental Transaction, then, in each case, the Company shall cause to be delivered by email to the Holder at its last email address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale,



transfer or share exchange, or a Fundamental Transaction is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, or a Fundamental Transaction; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided in this Warrant constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

#### Section 4. Transfer of Warrant.

a) Transferability. Subject to compliance with any applicable United States federal and state securities laws and the conditions set forth in Section 4(d) hereof, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date on which the Holder delivers an assignment form to the Company assigning this Warrant in full. This Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the Issue Date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the “Warrant Register”), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

d) Transfer Restrictions. If, at the time of the surrender of this Warrant in connection with any transfer of this Warrant, the transfer of this Warrant shall not be either (i) registered pursuant to an effective registration statement under the Securities Act and under applicable state securities or blue sky laws or (ii) eligible for resale without volume or manner-of-sale restrictions or current public information requirements pursuant to Rule 144, the Company may require, as a condition of allowing such transfer, that the Holder or transferee of this Warrant, as the case may be, provide to the Company an opinion of counsel selected by the Holder and reasonably acceptable to the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Warrant under the Securities Act of 1933, as amended. Upon such surrender and, if required, such payment, the Company shall execute and deliver or cause to be executed and delivered a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued. The Company shall register or cause to be registered this Warrant, upon records to be maintained by the Company or Warrant Agent for that purpose, in the name of the record Holder hereof from time to time. The Company or Warrant Agent may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

e) Representation by the Holder. The Holder, by the acceptance hereof, represents and warrants that it is acquiring this Warrant and, upon any exercise hereof, will acquire the Warrant Shares issuable upon such exercise, for its own account and not with a view to or for distributing or reselling such Warrant Shares or any part thereof in violation of the Securities Act or any applicable state securities law, except pursuant to sales registered or exempted under the Securities Act.

#### Section 5. Miscellaneous.

a) No Rights as Stockholder Until Exercise; No Settlement in Cash. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i), except as expressly set forth in Section 3. Without limiting any rights of a Holder to receive Warrant Shares on a “cashless exercise” pursuant to Section 2(c) or to receive cash payments pursuant to Section 2(d)(i) and Section 2(d)(iv) herein, in no event shall the Company be required to net cash settle an exercise of this Warrant.

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b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then, such action may be taken or such right may be exercised on the next succeeding Trading Day.

d) Authorized Shares.

The Company covenants that, during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the necessary Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and

(iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Governing Law and Jurisdiction. This Warrant shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of law principles. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Warrant shall be brought in any federal or state court located in the State of New York, and each of the parties hereby consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 5(h) shall be deemed effective service of process on such party.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, and the Holder does not utilize cashless exercise, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies, notwithstanding the fact that the right to exercise this Warrant terminates on the Termination Date. Without limiting any other provision of this Warrant, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any out-of-pocket costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. All notices, requests, consents, and other communications under this Agreement shall be in writing. Any notices, requests, demands and other communications required or permitted under this Warrant shall be effective if in writing and (i) delivered personally, (ii) sent by facsimile or e-mail or (iii) delivered by overnight courier, in each case, addressed as follows:

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If to the Company to:

Telesis Bio Inc.  
10431 Wateridge Circle, Suite 150  
San Diego, CA 92121  
Attention: Chief Legal Officer  
E-mail: rob.cutler@telesisbio.com

and

with a copy (which shall not constitute notice) to:

Wilson Sonsini Goodrich & Rosati, P.C.  
650 Page Mill Road  
Palo Alto, CA 94304  
Attention: Philip Oettinger  
E-mail: poettinger@wsgr.com

If to any Holder:

To the address or other contact information delivered by the Holder to the Company or as is on the books and records of the Company.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company, on the one hand, and the Holder of this Warrant, on the other hand.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any

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provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

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*(Signature Page Follows)*

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IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**TELESIS BIO INC.**

By: \_\_\_\_\_  
Name: Todd R. Nelson  
Title: President and Chief Executive Officer

NOTICE OF EXERCISE

TO: **TELESIS BIO INC.**

(1) The undersigned hereby elects to purchase \_\_\_\_\_ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full.

(2) Payment shall take the form of (check applicable box):

in lawful money of the United States; or

if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

\_\_\_\_\_

The Warrant Shares shall be delivered to the following DWAC Account Number:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[SIGNATURE OF HOLDER]

Name of Investing Entity: \_\_\_\_\_

*Signature of Authorized Signatory of Investing Entity:* \_\_\_\_\_

Name of Authorized Signatory: \_\_\_\_\_

Title of Authorized Signatory: \_\_\_\_\_

Date: \_\_\_\_\_



NOTICE OF PRE-FUNDED WARRANT

TO: **TELESIS BIO INC.**

(1) The undersigned hereby elects to purchase a Pre-Funded Warrant to purchase \_\_\_\_\_ Pre-Funded Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full.

(2) The Pre-Funded Warrant shall be delivered to the Holder at:

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[SIGNATURE OF HOLDER]

Name of Investing Entity: \_\_\_\_\_

*Signature of Authorized Signatory of Investing Entity:* \_\_\_\_\_

Name of Authorized Signatory: \_\_\_\_\_

Title of Authorized Signatory: \_\_\_\_\_

Date: \_\_\_\_\_

**ASSIGNMENT FORM**

*(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to exercise the Warrant to purchase shares.)*

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: \_\_\_\_\_  
(Please Print)

Address: \_\_\_\_\_  
(Please Print)

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Dated: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

Holder's Signature: \_\_\_\_\_

Holder's Address: \_\_\_\_\_

Number of Warrant Shares underlying assigned  
portion of Warrant (for partial Warrant transfers,  
if applicable): \_\_\_\_\_

NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.

**PRE-FUNDED COMMON STOCK PURCHASE WARRANT**

**TELESIS BIO INC.**

Warrant Shares: \_\_\_\_\_

Issue Date: \_\_\_\_\_, \_\_\_\_\_

THIS PRE-FUNDED COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, \_\_\_\_\_ or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the Issue Date and until this Warrant is exercised in full, to subscribe for and purchase from Telesis Bio Inc., a Delaware corporation (the "Company"), up to \_\_\_\_\_ shares (as subject to adjustment hereunder, the "Warrant Shares") of common stock, par value \$0.0001 per share, of the Company (the "Common Stock"). The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Redeemable Convertible Preferred Stock and Warrant Purchase Agreement (the "Purchase Agreement"), dated May 31, 2023, among the Company and the purchasers signatory thereto, as such Purchase Agreement is in effect as of May 31, 2023.

Section 2. Exercise.

a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Issue Date by delivery to the Company of a duly executed PDF copy submitted by e-mail (or e-mail attachment) of the Notice of Exercise in the form annexed hereto as Exhibit A (the "Notice of Exercise"). Within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(d)(i) herein) following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise

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Price for the Warrant Shares specified in the applicable Notice of Exercise by wire transfer or cashier's check drawn on a United States bank unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. No ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise be required. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation as soon as reasonably practicable following the date on which the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Trading Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

b) Exercise Price. The aggregate exercise price of this Warrant, except for a nominal exercise price of \$0.0001 per Warrant Share, was pre-funded to the Company on or prior to the Issue Date and, consequently, no additional consideration (other than the nominal exercise price of \$0.0001 per Warrant Share) shall be required to be paid by the Holder to any Person to effect any exercise of this Warrant. The Holder shall not be entitled to the return or refund of all, or any portion, of such pre-paid aggregate exercise price under any circumstance or for any reason whatsoever. The remaining unpaid exercise price per share of Common Stock under this Warrant shall be \$0.0001, subject to adjustment hereunder (the "Exercise Price").

c) Cashless Exercise. Notwithstanding anything contained herein to the contrary, the Holder may, in its sole discretion, satisfy its obligation to pay the Exercise Price through a "cashless exercise," in which event the Company shall issue the Holder a number of Warrant Shares equal to the quotient obtained by dividing [(A-B)\*(X)] by (A), where:

(A) = as applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise if such Notice of Exercise is (1) both executed and delivered pursuant to Section 2(a) hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 2(a) hereof on a Trading Day prior to the opening of "regular trading hours" (as defined in Rule 600(b) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) at the option of the Holder, either (y) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise or (z) the Bid Price of the Common Stock on

the principal Trading Market as reported by Bloomberg L.P. ("Bloomberg") as of the time of the Holder's execution of the applicable Notice of Exercise if such Notice of Exercise is executed during "regular trading hours" on a Trading Day and is delivered within two (2) hours thereafter (including until two (2) hours after the close of "regular trading hours" on a Trading Day) pursuant to Section 2(a) hereof or (iii) the VWAP on the date of the applicable Notice of Exercise if the date of such Notice of Exercise is a Trading Day and such Notice of Exercise is both executed and delivered pursuant to Section 2(a) hereof after the close of "regular trading hours" on such Trading Day;

(B) = the Exercise Price of this Warrant, as adjusted hereunder; and

(X) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

"Bid Price" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the bid price of the Common Stock for the time in question (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on The Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holder and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if the OTCQB Venture Market ("OTCQB") or the OTCQX Best Market ("OTCQX") is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on the Pink Open Market ("Pink Market") operated by the OTC Markets, Inc. (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in

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good faith by the Holder and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the holding period of the Warrant Shares being issued may be tacked on to the holding period of this Warrant. The Company agrees not to take any position contrary to this Section 2(c).

d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's or its designee's balance account with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) the Warrant Shares are eligible for resale by the Holder without volume or manner-of-sale limitations pursuant to Rule 144, and otherwise by physical delivery of a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the Holder in the Notice of Exercise by the date that is the earliest of (i) two (2) Trading Days after the delivery to the Company of the Notice of Exercise, (ii) one (1) Trading Day after delivery of the aggregate Exercise Price to the Company and (iii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company of the Notice of Exercise (such date, the "Warrant Share Delivery Date"). Upon delivery of the Notice of Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received by the Warrant Share Delivery Date. If the Company fails for any reason to deliver to the Holder the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Warrant Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), \$10 per Trading Day (increasing to \$20 per Trading Day on the third (3<sup>rd</sup>) Trading Day after the Warrant Share Delivery Date) for each Trading Day after such Warrant Share Delivery Date until such Warrant Shares are delivered or the Holder rescinds such exercise. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as this Warrant remains outstanding and exercisable. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading

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Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Exercise.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares in accordance with the provisions of Section 2(d)(i) above pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder,

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at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event that Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto as Exhibit B duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder, together with its Attribution Parties (as defined below), beneficially owns or would beneficially own as determined in accordance with Section 13(d) of the Exchange Act, in excess of the Beneficial Ownership Limitation (as defined below); provided, that such Beneficial Ownership Limitation shall not apply to any Holder that beneficially owns (together with its Attribution Parties), a number of shares of the Company's capital stock that represents in excess of 19.99% of the Company's voting power at the time of exercise as set forth on the applicable Notice of Exercise for so long as such Holder (together with its Attribution Parties), beneficially owns, in the aggregate, a number of shares of the Company's capital stock that represents in excess of 19.99% of the Company's voting power. For purposes of the foregoing sentence, the number of shares of Common Stock



beneficially owned by the Holder, together with its Attribution Parties, shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder, together with its Attribution Parties, and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company beneficially owned by the Holder, together with its Attribution Parties (including, without limitation, any other Common Stock Equivalents), that are subject to a limitation on conversion or exercise analogous to the limitation contained herein. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities beneficially owned by the Holder, together with its Attribution Parties) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities beneficially owned by the Holder, together with its Attribution Parties) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one (1) Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 19.99% of the issued and outstanding shares of Common Stock. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(e), provided that the Beneficial Ownership Limitation in no event exceeds 19.99% (except that such increased percentage may exceed 19.99% in the event that (x) the Company obtains the approval of its stockholders as required by the applicable rules of the relevant Trading Market for issuances of shares of Common Stock in excess of such amount, (y) a holder, or group of affiliated holders, of the Company's capital stock beneficially own, in the aggregate, a number of shares of the Company's capital stock that would represent a percentage of the Company's voting power in excess of the percentage voting power held by the Holder and its Attribution Parties immediately following conversion or exercise, or (z) the Company is not subject to rules of the

relevant Trading Market limiting issuances of shares of Common Stock in excess of such amount) of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61<sup>st</sup> day after such notice is delivered to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant. As used herein, "Attribution Parties" means, collectively, (i) any direct or indirect Affiliates of the Holder, (ii) any person acting or who could be deemed to be acting as a Group together with the Holder or any of the foregoing and (iii) any other persons whose beneficial ownership of the Common Stock would or could be aggregated with the Holder's and the other Attribution Parties for purposes of Section 13(d) or Section 16 of the Exchange Act (for clarity, the purpose of the foregoing is to subject collectively the Holder and all other Attribution Parties to the Beneficial Ownership Limitation).

f) Tax Treatment. The Company shall treat (i) this Warrant as Common Stock (and for the avoidance of doubt, not as "preferred stock" within the meaning of U.S. Treasury regulations Section 1.305-5(a)) and (ii) the exercise of all or a portion of this Warrant as disregarded, in each case, for U.S. federal, state and/or local tax purposes, as applicable, such that no gain or loss shall be recognized by the Holder upon exercise, unless an alternative treatment is required as a result of a "final determination" within the meaning of Section 1313(a) of the U.S. Internal Revenue Code of 1986, as amended.

### Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend on its Common Stock or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective

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immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder, together with its Attribution Parties, exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (and shall not be entitled to beneficial ownership of such shares of Common Stock as a result of such Purchase Right (and beneficial ownership) to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder, together with its Attribution Parties, exceeding the Beneficial Ownership Limitation).

c) Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, that to the extent that the Holder's right to participate in any such Distribution would result in the Holder, together with its Attribution Parties, exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (and shall not be entitled to beneficial ownership of any shares of Common Stock as a result of such Distribution (and beneficial ownership) to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder, together with its Attribution Parties, exceeding the Beneficial Ownership Limitation).

d) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, in which the Company is not the surviving entity and in which the stockholders of the Company immediately prior to such merger or consolidation do not own, directly or indirectly, at least 50% of the voting power of the surviving entity immediately after such merger or consolidation, (ii) the Company (or any Subsidiary), directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets, other than to a wholly owned Subsidiary, in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock or 50% or more of the voting power of the common equity of the Company, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires 50% or more of the outstanding shares of Common Stock or 50% or more of the voting power of the common equity of the Company (each a "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, upon exercise of this Warrant, the same amount and kind of securities, cash or property as it would have been entitled to receive upon the occurrence of such Fundamental Transaction if it had been, immediately prior to such Fundamental Transaction, the holder of the number of Warrant Shares then issuable upon exercise in full of this Warrant without regard to any limitations on exercise contained herein (the "Alternate Consideration"). The Company shall not effect any Fundamental Transaction in which the Company is not the surviving entity or the Alternate Consideration includes securities of another Person unless (i) the Alternate Consideration is solely cash and the Company provides for the simultaneous "cashless exercise" of this Warrant pursuant to Section 2 above or (ii) prior to or simultaneously with the consummation thereof, any successor to the Company, surviving entity or other person (including any purchaser of assets of the Company) shall assume the obligation to deliver to the Holder such Alternate Consideration as, in accordance with the foregoing provisions, the Holder may be entitled to receive, and the other obligations under this Warrant. The provisions of this paragraph (d) shall similarly apply to subsequent transactions analogous of a Fundamental Transaction type.

e) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as

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of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

f) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly deliver to the Holder by email a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company (or any of its Subsidiaries) is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, or a Fundamental Transaction, then, in each case, the Company shall cause to be delivered by email to the Holder at its last email address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange, or a Fundamental Transaction is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, or a Fundamental Transaction; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided in this Warrant constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder

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shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

a) Transferability. Subject to compliance with any applicable United States federal and state securities laws and the conditions set forth in Section 4(d) hereof, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date on which the Holder delivers an assignment form to the Company assigning this Warrant in full. This Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the Issue Date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "Warrant Register"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

d) Transfer Restrictions. If, at the time of the surrender of this Warrant in connection with any transfer of this Warrant, the transfer of this Warrant shall not be either (i) registered pursuant to an effective registration statement under the Securities Act and under applicable state securities or blue sky laws or (ii) eligible for resale without volume

or manner-of-sale restrictions or current public information requirements pursuant to Rule 144, the Company may require, as a condition of allowing such transfer, that the Holder or transferee of this Warrant, as the case may be, provide to the Company an opinion of counsel selected by the Holder and reasonably acceptable to the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Warrant under the Securities Act of 1933, as amended. Upon such surrender and, if required, such payment, the Company shall execute and deliver or cause to be executed and delivered a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued. The Company shall register or cause to be registered this Warrant, upon records to be maintained by the Company or Warrant Agent for that purpose, in the name of the record Holder hereof from time to time. The Company or Warrant Agent may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

e) Representation by the Holder. The Holder, by the acceptance hereof, represents and warrants that it is acquiring this Warrant and, upon any exercise hereof, will acquire the Warrant Shares issuable upon such exercise, for its own account and not with a view to or for distributing or reselling such Warrant Shares or any part thereof in violation of the Securities Act or any applicable state securities law, except pursuant to sales registered or exempted under the Securities Act.

#### Section 6. Miscellaneous.

a) No Rights as Stockholder Until Exercise; No Settlement in Cash. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i), except as expressly set forth in Section 3. Without limiting any rights of a Holder to receive Warrant Shares on a “cashless exercise” pursuant to Section 2(c) or to receive cash payments pursuant to Section 2(d)(i) and Section 2(d)(iv) herein, in no event shall the Company be required to net cash settle an exercise of this Warrant.

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

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c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then, such action may be taken or such right may be exercised on the next succeeding Trading Day.

d) Authorized Shares.

The Company covenants that, during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the necessary Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents



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thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Governing Law and Jurisdiction. This Warrant shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of law principles. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Warrant shall be brought in any federal or state court located in the State of New York, and each of the parties hereby consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 5(h) shall be deemed effective service of process on such party.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, and the Holder does not utilize cashless exercise, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any out-of-pocket costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. All notices, requests, consents, and other communications under this Agreement shall be in writing. Any notices, requests, demands and other communications required or permitted under this Warrant shall be effective if in writing and (i) delivered personally, (ii) sent by facsimile or e-mail or (iii) delivered by overnight courier, in each case, addressed as follows:

If to the Company to:

Telesis Bio Inc.  
10431 Wateridge Circle, Suite 150  
San Diego, CA 92121  
Attention: Chief Legal Officer  
E-mail: rob.cutler@telesisbio.com

and

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with a copy (which shall not constitute notice) to:

Wilson Sonsini Goodrich & Rosati, P.C.  
650 Page Mill Road  
Palo Alto, CA 94304  
Attention: Philip Oettinger  
E-mail: poettinger@wsgr.com

If to any Holder:

To the address or other contact information delivered by the Holder to the Company or as is on the books and records of the Company.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company, on the one hand, and the Holder of this Warrant, on the other hand.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

*(Signature Page Follows)*

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IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**TELESIS BIO INC.**

By: \_\_\_\_\_  
Name: Todd R. Nelson  
Title: President and Chief Executive Officer

NOTICE OF EXERCISE

TO: **TELESIS BIO INC.**

(1) The undersigned hereby elects to purchase \_\_\_\_\_ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full.

(2) Payment shall take the form of (check applicable box):

in lawful money of the United States; or

the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

\_\_\_\_\_

The Warrant Shares shall be delivered to the following DWAC Account Number:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[SIGNATURE OF HOLDER]

Name of Investing Entity: \_\_\_\_\_

Signature of Authorized Signatory of Investing Entity: \_\_\_\_\_

Name of Authorized Signatory: \_\_\_\_\_

Title of Authorized Signatory: \_\_\_\_\_

Date: \_\_\_\_\_

**ASSIGNMENT FORM**

*(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to exercise the Warrant to purchase shares.)*

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: \_\_\_\_\_  
(Please Print)

Address: \_\_\_\_\_  
(Please Print)

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Dated: \_\_\_\_\_, \_\_\_\_\_

Holder's Signature:

Holder's Address:

Number of Warrant Shares underlying assigned portion of Warrant (for partial Warrant transfers, if applicable): \_\_\_\_\_

REDEEMABLE CONVERTIBLE PREFERRED STOCK AND WARRANT PURCHASE  
AGREEMENT

BY AND AMONG

TELESIS BIO INC.

AND

THE INVESTORS NAMED HEREIN

DATED AS OF MAY 31, 2023

This REDEEMABLE CONVERTIBLE PREFERRED STOCK AND WARRANT PURCHASE AGREEMENT (this “**Agreement**”) is made and entered into this 31st day of May, 2023 by and among Telesis Bio Inc., a Delaware corporation (the “**Company**”), and the Persons named on the signature pages hereto under the heading “Investors” (the “**Investors**”). Certain terms used and not otherwise defined in the text of this Agreement are defined in Section 9 hereof.

**BACKGROUND**

A. The Company has authorized the issuance and sale of (i) 280,000 shares of its Redeemable Convertible Preferred Stock, par value \$0.0001 per share (“**Redeemable Convertible Preferred Stock**”), each of which will be convertible into shares of the Company’s common stock, par value \$0.0001 per share (the “**Common Stock**”), and which will have the rights, preferences and privileges set forth in the form of Certificate of Designation attached hereto as Exhibit A (the “**Certificate of Designation**”), (ii) warrants to purchase an aggregate of 5,923,921 shares of Common Stock, in the form attached hereto as Exhibit B-1 (the “**Short-Term Warrants**”) and (iii) warrants to purchase an aggregate of 11,847,840 shares of Common Stock, in the form attached hereto as Exhibit B-2 (the “**Long-Term Warrants**”) and together with the Short-Term Warrants and the Pre-Funded Warrants (as defined below), the “**Warrants**”). Any Investor may elect to receive a pre-funded warrant, in the form attached hereto as Exhibit B-3 (the “Pre-Funded Warrants”) in lieu of shares of Common Stock upon exercise of a Short-Term Warrant or a Long-Term Warrant. Each Investor shall purchase the number of shares of Redeemable Convertible Preferred Stock set forth opposite the name of such Investor under the heading “Shares Purchased” on Schedule I attached hereto. In connection with such purchase, the Company will also issue to each Investor (i) a Short-Term Warrant to purchase a number of shares of Common Stock equal to fifty percent (50%) of the aggregate number of shares of Common Stock into which the Redeemable Convertible Preferred Stock purchased by such Investor is initially convertible and (ii) a Long-Term Warrant to purchase a number of shares of Common Stock equal to the aggregate number of shares of Common Stock into which the Redeemable Convertible Preferred Stock purchased by such Investor is initially convertible. The shares of Common Stock into which the Redeemable Convertible Preferred Stock is convertible are sometimes referred to herein as the “**Conversion Shares**”, the shares of Common Stock which are issuable upon the exercise of the Warrants are sometimes referred to herein as the “**Warrant Shares**”, and the shares of Redeemable Convertible Preferred Stock, the Warrants, the Conversion Shares and the Warrant Shares are sometimes referred to herein collectively as the “**Securities**.”

B. The Company desires to issue and to sell to the Investors, and the Investors desire to purchase from the Company, the shares of Redeemable Convertible Preferred Stock, Short-Term and Long-Term Warrants set forth on Schedule I attached hereto in the columns “Shares Purchased”, “Short-Term Warrants

Purchased” and “Long-Term Warrants Purchased”, respectively, all in accordance with the terms and provisions of this Agreement.

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties and covenants herein contained, the parties hereto, intending to be bound, hereby agree as follows:

1. Sale and Purchase of the Redeemable Convertible Preferred Stock and Warrants. Upon the terms and subject to the conditions herein contained, the Company agrees to sell to the Investors, and each Investor severally and not jointly agrees to purchase from the Company, at the Closing, (A) the number of shares of Redeemable Convertible Preferred Stock set forth opposite the name of such Investor under the heading “Shares Purchased” on Schedule I attached hereto, (B) a Short-Term Warrant to purchase the number of Warrant Shares set forth opposite the name of such Investor under the heading “Short-Term Warrants Purchased” on Schedule I attached hereto, and (C) a Long-Term Warrant to purchase the number of Warrant Shares set forth opposite the name of such Investor under the heading “Long-Term Warrants Purchased” on Schedule I attached hereto. The Redeemable Convertible Preferred Stock will be sold in fixed combinations with the Warrants, with each Investor receiving (i) a Short-Term Warrant to purchase one-half of a share of Common Stock per each Conversion Share initially underlying the Redeemable Convertible Preferred Stock purchased by such Investor and (ii) a Long-Term Warrant to purchase one share of Common Stock per each Conversion Share initially underlying the Redeemable Convertible Preferred Stock purchased by such Investor. The purchase price per share of Redeemable Convertible Preferred Stock and accompanying Short-Term Warrant and Long-Term Warrant shall be \$100.00 (the “**Purchase Price**”), which shall be paid in cash, as set forth in the column “Consideration” opposite such Investor’s name on Schedule I attached hereto.

2. Closing; Payment of Purchase Price; Use of Proceeds.

2.1. Closing. The closing (the “**Closing**”) with respect to the transaction contemplated in Section 1 hereof shall take place electronically by exchange of signatures and other deliverables at 10:00 a.m. Pacific Time on June 2, 2023, or at such other time and place as the Company and all of the Investors may agree (the “**Closing Date**”). At the Closing, the Company shall deliver to each Investor certificates representing the Redeemable Convertible Preferred Stock and Warrants which such Investor is purchasing at the Closing as set forth on Schedule I attached hereto, registered in the name of such Investor, against delivery to the Company by such Investor of a wire transfer in the amount of the Purchase Price therefor.

2.2. Use of Proceeds. The Company shall use the proceeds from the sale of Redeemable Convertible Preferred Stock and Warrants hereunder for general corporate purposes.

3. Representations and Warranties of the Investors. Each Investor, severally and not jointly, hereby represents and warrants to the Company as follows:

3.1. Organization. Such Investor is duly formed or organized, validly existing and in good standing under the laws of its jurisdiction of organization or formation, and has all requisite corporate, limited liability company, partnership or trust (as the case may be) power and authority to enter into the Transaction Documents to which it is a party and perform its obligations thereunder.

3.2. Authorization; Enforceability. Such Investor has full right, power, authority and capacity to enter into each of the Transaction Documents to which it is a party and to consummate the transactions contemplated by each such Transaction Document. The execution, delivery and performance of each of the Transaction Documents to which it is a party has been duly authorized by all necessary action on the part of such Investor. This Agreement has been duly executed and delivered by such Investor, and the other Transaction Documents and instruments referred to herein to which it is a party will be duly executed and delivered by such Investor, and each such agreement constitutes or will constitute a valid and binding obligation of such Investor enforceable against it in accordance with its terms, subject to

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bankruptcy, insolvency, fraudulent conveyance or other similar laws affecting creditors' rights generally and to general equitable principles.

3.3. Brokers. There is no investment banker, broker, finder, financial advisor or other person that has been retained by or is authorized to act on behalf of such Investor and who is entitled to any fee or commission for which the Company will be liable in connection with the transactions contemplated by this Agreement.

3.4. Investment Representations and Warranties. Such Investor understands that neither the offer and sale of Redeemable Convertible Preferred Stock or Warrants by the Company to the Investors as contemplated hereby nor the conversion of the Redeemable Convertible Preferred Stock into Conversion Shares or the issuance of the Warrant Shares has been, nor will be, registered under the Securities Act and each are being made in reliance upon federal and state exemptions for transactions not involving a public offering which depend upon, among other things, the bona fide nature of the investment intent and the accuracy of such Investor's representations as expressed herein.

3.5. Acquisition for Own Account. Such Investor is acquiring the Securities for its own account for investment and not with a view toward distribution in a manner which would violate the Securities Act.

3.6. Ability to Protect Its Own Interests and Bear Economic Risks. Such Investor acknowledges that it can bear the economic risk and complete loss of its investment in the Securities and has such knowledge and experience in financial or business matters that it is capable of evaluating the merits and risks of the investment contemplated hereby.

3.7. Purchaser Status. Such Investor is an "accredited investor" as that term is defined in Regulation D promulgated under the Securities Act. Such Investor is not party to any voting agreements or similar arrangements with respect to the Securities. Such Investor is not a member of a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, voting or disposing of the Securities.

3.8. Access to Information. Such Investor has been given access to all Company documents, records and other information, and has had adequate opportunity to ask questions of, and receive answers from, the Company's officers, employees, agents, accountants, and representatives concerning the Company's business, operations, financial condition, assets, liabilities and all other matters relevant to its investment in the Securities. The representations of such Investor contained in this Section 3.8 shall not affect the ability of such Investor to rely on the representations and warranties made by the Company pursuant to Section 4 of this Agreement.

3.9. Restricted Securities. Such Investor understands that the Securities will be characterized as "restricted securities" under the federal securities laws inasmuch as they are being acquired from the Company in a transaction not involving a public offering and that under such laws and applicable regulations such Securities may be resold without registration under the Securities Act only in certain limited circumstances.

3.10. General Solicitation. Such Investor is not purchasing the Securities as a result of any advertisement, article, notice or other communication regarding the Securities published in any newspaper, magazine or similar media or broadcast over television or radio or presented at any seminar or any other general solicitation or general advertisement.

3.11. Interested Stockholder. Other than NPV, such Investor is not an "interested stockholder" (as defined in Section 203(c)(5) of the General Corporation Law of the State of Delaware) of the Company.



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4. Representations and Warranties by the Company. The Company represents and warrants to the Investors that the statements contained in this Section 4 are complete and accurate as of the date of this Agreement.

4.1. Capitalization.

(a) As of the date hereof, and after giving effect to the filing of the Certificate of Designation, the authorized capital stock of the Company consists of (i) 100,000,000 shares of Common Stock and (ii) 5,000,000 shares of preferred stock, par value \$0.0001 per share ("**Preferred Stock**"), of which 280,000 shares are designated Redeemable Convertible Preferred Stock. As of the date hereof, (A) 29,731,920 shares of Common Stock are issued and outstanding; (B) no shares of Common Stock are held in the treasury of the Company; (C) no shares of Preferred Stock are issued or outstanding; (D) an aggregate of 2,611,784 shares of Common Stock are reserved for future issuance under the Company's 2019 Stock Plan, 2021 Equity Incentive Plan, 2021 Stock Incentive Plan and 2021 Employee Stock Purchase Plan; (E) 4,450,184 shares of Common Stock are subject to outstanding options to acquire shares of Common Stock (which outstanding options have a weighted average exercise price of \$2.11 per share); (F) 238,576 shares of unvested restricted Common Stock are outstanding; and (G) no shares of Common Stock underlie outstanding warrants to purchase shares of Common Stock. As of the date hereof, and after giving effect to the filing of the Certificate of Designation, the Company has no other shares of capital stock, authorized, issued or outstanding. A capitalization table presenting the capitalization of the Company after giving effect to the filing of the Certificate of Designation and the Closing (but prior to giving effect to the conversion of the Redeemable Convertible Preferred Stock into Conversion Shares or the exercise of any Warrants for Warrant Shares) is delivered to the Investors on even date herewith.

(b) All of the issued and outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and non-assessable and have been issued in compliance with all federal and state securities laws.

(c) No Person is entitled to preemptive rights with respect to any securities of the Company. Except as set forth in Section 4.1(a), there are no outstanding warrants, options, convertible securities or other rights, agreements or arrangements of any character under which the Company or any Subsidiary is or may be obligated to issue any amounts of equity securities of any kind.

(d) The Company has no obligation (contingent or otherwise) to purchase, redeem or otherwise acquire any of its equity securities or any interests therein or to pay any dividend or make any distribution in respect thereof.

(e) Except as may be provided in the Transaction Documents, there are no voting agreements, buy-sell agreements or right of first purchase agreements among the Company and any of the stockholders of the Company relating to the securities of the Company held by them.

(f) The issuance and sale of the Securities hereunder will not obligate the Company to issue shares of Common Stock or other securities to any other Person (other than the Investors).

(g) The Company does not have outstanding any stockholder rights plans or "poison pill" or any similar arrangement in effect giving any Person the right to purchase any equity interest in the Company upon the occurrence of certain events.

(h) The respective rights, preferences, privileges and restrictions of the Redeemable Convertible Preferred Stock and the Common Stock are as stated in the Certificate of Incorporation and Certificate of Designation.

4.2. Issuance of Securities. The Redeemable Convertible Preferred Stock being purchased by the Investors hereunder has been duly authorized for issuance and sale pursuant to this Agreement and, when issued and delivered by the Company against payment therefor pursuant to this Agreement, will be

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validly issued, fully paid and nonassessable and will be free and clear of any Encumbrances or restrictions on transfer other than restrictions under the Transaction Documents and the Certificate of Incorporation and under applicable state and federal securities laws. Upon issuance in accordance with the terms of this Agreement and the Certificate of Designation, the Conversion Shares issuable upon conversion of the Redeemable Convertible Preferred Stock will be duly and validly issued, fully paid and nonassessable and will be free and clear of any Encumbrances or restrictions on transfer other than restrictions under the Transaction Documents and the Certificate of Incorporation and under applicable state and federal securities laws. The Warrants being purchased by the Investors hereunder have been duly authorized for issuance and sale pursuant to this Agreement and, once the Warrants have been exercised in accordance with the terms thereof, the Warrant Shares issued and delivered by the Company against payment therefor pursuant to this Agreement and the Warrants, will be validly issued, fully paid and nonassessable and will be free and clear of any Encumbrances or restrictions on transfer other than restrictions under the Transaction Documents and the Certificate of Incorporation and under applicable state and federal securities laws. The Company has reserved a sufficient number of shares of Common Stock for issuance upon full conversion of the Redeemable Convertible Preferred Stock and full cash exercise of the Warrants. The sale of the Redeemable Convertible Preferred Stock hereunder is not, and the subsequent conversion of the Redeemable Convertible Preferred Stock into Conversion Shares will not be subject to any preemptive rights, rights of first refusal or other similar rights or any anti-dilution provisions contained in the Certificate of Incorporation, Bylaws or any agreement. The sale of the Warrants hereunder is not, and any subsequent exercise of the Warrants for Warrant Shares will not be, subject to any preemptive rights, rights of first refusal or other similar rights or any anti-dilution provisions contained in the Certificate of Incorporation, Bylaws or any agreement. Assuming the accuracy of the representations and warranties of each Investor in [Section 3](#) hereof, the Conversion Shares and Warrant Shares will be issued in compliance with all applicable federal and state securities laws.

4.3. Incorporation and Good Standing of the Company. The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the jurisdiction of its incorporation and has the corporate power and authority to own, lease and operate its properties and to conduct its business as currently conducted and as described in the SEC Reports and to enter into and perform its obligations under this Agreement. The Company is duly qualified as a foreign corporation to transact business and is in good standing in the State of California and each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except whether the failure to so qualify or be in good standing would not have a Material Adverse Effect.

4.4. Subsidiaries. The SEC Reports set forth a list of each direct and indirect Subsidiary of the Company, including its name and jurisdiction of incorporation or formation. Each Subsidiary has been duly incorporated or organized, as the case may be, and is validly existing as a corporation, partnership or limited liability company, as applicable, in good standing under the laws of the jurisdiction of its incorporation or organization and has the power and authority (corporate or other) to own, lease and operate its properties and to conduct its business as presently conducted. Each Subsidiary is duly qualified as a foreign corporation, partnership or limited liability company, as applicable, to transact business and is in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to so qualify or be in good standing would not have a Material Adverse Effect. All of the issued and outstanding capital stock or other equity or ownership interests of each Subsidiary have been duly authorized and validly issued, are fully paid and nonassessable and are owned by the Company, directly or through subsidiaries, free and clear of any Encumbrances or preemptive and similar rights to subscribe for or purchase securities.

4.5. Consents. The execution, delivery and performance by the Company of the Transaction Documents and the offer, issuance and sale of the Securities require no consent of, authorization by, exemption from,

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filing with or notice to any Governmental Entity or any other Person, other than (a) the filing of the Certificate of Designation with the Secretary of State of the State of Delaware, (b) notification to any Trading Market on which any of the securities of the Company are listed or designated in connection with the issuance and sale of the Redeemable Convertible Preferred Stock and Warrants hereunder and the Conversion Shares issuable upon conversion of the Redeemable Convertible Preferred Stock and Warrant Shares issuable upon the exercise of the Warrants, (c) the filings required to comply with the Company's registration obligations under the Registration Rights Agreement and (d) compliance with applicable U.S. federal and state securities laws, which compliance will have occurred within the appropriate time periods.

#### 4.6. Authorization; Enforcement.

(a) The Company has all requisite corporate power and has taken all necessary corporate action required for (a) the due authorization, execution, delivery and performance by the Company of each of the Transaction Documents, (b) the authorization of the performance of all obligations of the Company under each of the Transaction Documents, (c) the authorization, issuance (or reservation for issuance) and delivery of the Securities and (d) the adoption and filing of the Certificate of Designation and performance of its obligations thereunder. No action on the part of the stockholders of the Company is required in connection with the transactions contemplated by the Transaction Documents. This Agreement has been duly executed and delivered by the Company, and the other Transaction Documents and instruments referred to herein to which it is a party will be duly executed and delivered by the Company, and each such agreement constitutes or will constitute a valid and binding obligation of the Company enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, fraudulent conveyance or other similar laws affecting creditors' rights generally and to general equitable principles.

(b) On or prior to the date of this Agreement, the Board of Directors of the Company (the "**Board**") has duly adopted resolutions, among other things, (i) authorizing and approving each of the Transaction Documents and the transactions contemplated thereby and (ii) adopting the Certificate of Designation.

4.7. No Conflicts. The Company is not in violation of its Certificate of Incorporation or Bylaws and the execution, delivery and performance of and compliance with each of the Transaction Documents, the filing of the Certificate of Designation and the consummation of the transactions contemplated by each of the Transaction Documents (including, without limitation, the issuance and sale of the Redeemable Convertible Preferred Stock and Warrants, the conversion of the Redeemable Convertible Preferred Stock into Conversion Shares and the exercise of the Warrants for Warrant Shares) will not (a) result in a violation of the Certificate of Incorporation or Bylaws or the certificates of formation, operating agreements, certificates of incorporation or bylaws of any Subsidiary, (b) conflict with or result in the breach of the terms, conditions or provisions of or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give rise to any right of termination, acceleration or cancellation under, any material agreement, lease, mortgage, license, indenture, instrument or other contract to which the Company or any Subsidiary is a party, (c) result in a material violation of any law, rule, regulation, order, judgment or decree (including, without limitation, U.S. federal and state securities laws and regulations) applicable to the Company or any Subsidiary or by which any property or asset of the Company or any Subsidiary is bound or affected, (d) result in a material violation of any rule or regulation of FINRA or any Trading Markets or (e) result in the creation of any Encumbrance upon any of the Company's or any Subsidiary's assets.

4.8. Material Contracts. Each Material Contract of the Company is in the SEC Reports. Each Material Contract is the legal, valid and binding obligation of the Company enforceable against the Company and, to the knowledge of the Company, any other party thereto, in accordance with its terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or other

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similar laws affecting creditors' rights generally and by general equitable principles. There has not occurred any breach, violation or default or any event that, with the lapse of time, the giving of notice or the election of any Person, or any combination thereof, would constitute a breach, violation or default by the Company under any such Material Contract or, to the knowledge of the Company, by any other Person to any such Material Contract, except for such violations or defaults that would not have a Material Adverse Effect. The Company has not been notified that any party to any Material Contract intends to cancel, terminate, not renew or exercise an option under any Material Contract, whether in connection with the transactions contemplated hereby or otherwise.

4.9. Voting Rights. Other than as provided by the Transaction Documents, there are no provisions in the Certificate of Incorporation, Bylaws or any instrument or contract to which the Company or any Subsidiary is a party which (a) may affect or restrict the voting rights of the Investors with respect to the Securities in their capacity as stockholders of the Company, (b) may adversely affect the Company's or the Investors' right or ability to consummate the transactions contemplated by, or comply with the terms of, the Transaction Documents, (c) require the vote of more than a majority of the Company's issued and outstanding Common Stock to take or prevent any corporate action, other than those matters requiring a different vote under Delaware law or (d) entitle any party to nominate or elect any director of the Company or require any of the Company's stockholders to vote for any such nominee or other person as a director of the Company.

4.10. No Integrated Offering. Neither the Company, nor any of its Affiliates or any other Person acting on the Company's behalf, has directly or indirectly engaged in any form of general solicitation or general advertising with respect to the Securities nor have any of such Persons made any offers or sales of any security of the Company or its Affiliates or solicited any offers to buy any security of the Company or its Affiliates under circumstances that would require registration of the Securities under the Securities Act or cause this offering of Securities to be integrated with any prior offering of securities of the Company for purposes of the Securities Act or any applicable shareholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated, nor will the Company take any action or steps that would cause the offering or issuance of the Securities to be integrated with other offerings.

4.11. Offering; Exemption. Assuming the accuracy of the Investors' representations and warranties set forth in Section 3 of this Agreement, no registration under the Securities Act or any applicable state securities law is required for the offer and sale of Redeemable Convertible Preferred Stock or Warrants by the Company to the Investors as contemplated hereby or for the conversion of the Redeemable Convertible Preferred Stock into Conversion Shares or for the exercise of the Warrants for Warrant Shares.

4.12. SEC Reports; Consolidated Financial Statements.

(a) The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, since June 17, 2021 (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, being collectively referred to herein as the "**SEC Reports**") on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective dates, the SEC Reports complied as to form in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and none of the SEC Reports, in each case when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. All Material Contracts to which the Company or any Subsidiary is a party or to which the

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property or assets of the Company or any Subsidiary are subject that are required to be included as part of or specifically identified in the SEC Reports are so included or specifically identified.

(b) The consolidated financial statements of the Company included in the SEC Reports present fairly, in all material respects, the financial position of the Company as of the dates indicated and the results of operations, changes in stockholders' equity and cash flows for the periods specified. Such consolidated financial statements have been prepared in conformity with GAAP applied on a consistent basis throughout the periods involved, except as may be expressly stated in the related notes thereto and except in the case of unaudited consolidated financial statements, which are subject to normal recurring year-end adjustments and may not contain certain footnotes as permitted by applicable rules of the Commission.

(c) The Company has established and maintains disclosure controls and procedures (as defined in Rules 13a-15 and 15d-15 under the Exchange Act) which (i) are designed to ensure that material information relating to the Company, including each consolidated Subsidiary, is made known to the Company's principal executive officer and its principal financial officer by others within those entities, particularly during the periods in which the periodic reports required under the Exchange Act are being prepared; (ii) have been evaluated by management of the Company for effectiveness as of the end of the Company's most recent fiscal quarter; and (iii) are effective in all material respects to perform the functions for which they were established. Since the end of the Company's most recent audited fiscal year, there have been no significant deficiencies or material weaknesses in the Company's internal control over financial reporting (whether or not remediated) and no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

4.13. No Undisclosed Material Liabilities. As of the date of this Agreement, there are no liabilities of the Company, of any kind whatsoever, whether interest-bearing indebtedness or liabilities accrued, contingent, absolute, determined, determinable or otherwise, other than liabilities:

(a) reflected in the consolidated financial statements included in the SEC Reports;

(b) incurred in the ordinary course of business;

(c) created under, or incurred in connection with, the Transaction Documents; or

(d) which would not in the aggregate be material to the Company.

4.14. Litigation. Except as set forth in the SEC Reports, (a) there is no action, suit, proceeding, inquiry or investigation brought by or before any Governmental Entity now pending or, to the knowledge of the Company, threatened against or affecting the Company or any Subsidiary, which would reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect or materially and adversely affect the consummation of the transactions contemplated by the Transaction Documents or the performance by the Company of its obligations thereunder, (b) the aggregate of all pending legal or governmental proceedings to which the Company or any Subsidiary is a party or of which any of their respective properties or assets is the subject, including ordinary routine litigation incidental to the Company's business, if determined adversely to the Company, would not reasonably be expected to have a Material Adverse Effect and (c) neither the Company nor any Subsidiary is in default with respect to any judgment, order or decree of any Governmental Entity.

4.15. Taxes. The Company and each Subsidiary have filed all necessary federal, foreign, state, local and other tax returns that are required to be filed or have properly requested extensions thereof and have paid all material taxes required to be paid by any of them and, if due and payable, any related or similar assessment, fine or penalty levied against any of them, except as may be being contested in good faith and by appropriate proceedings. The Company has made adequate charges, accruals and reserves in the

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applicable consolidated financial statements referred to in Section 4.12 hereof in respect of all taxes for all periods as to which the tax liability of the Company or any Subsidiary has not been finally determined.

#### 4.16. Employee Matters.

(a) The Company has listed any “employee benefit plan” (except for personal benefit plans) subject to the Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”), that it maintains for employees as an exhibit to an SEC Report.

(b) (i) No director or officer or other employee of the Company will become entitled to any retirement, severance or similar benefit or enhanced or accelerated benefit (including any acceleration of vesting) or lapse of repurchase rights or obligations with respect to any employee benefit plan subject to ERISA or other benefit under any compensation plan or arrangement of the Company (each, an “**Employee Benefit Plan**”) solely as a result of the transactions contemplated by this Agreement; and (ii) no payment made or to be made to any current or former employee or director of the Company, or any of its Affiliates by reason of the transactions contemplated hereby (whether alone or in connection with any other event, including, but not limited to, a termination of employment) will constitute an “excess parachute payment” within the meaning of Section 280G of the Code.

(c) No officer or employee of the Company, to the knowledge of the Company, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant, and, to the knowledge of the Company, the continued employment of each such officer or employee does not subject the Company or any Subsidiary to any material liability with respect to any of the foregoing matters.

(d) The Company and each Subsidiary are in compliance in all material respects with all applicable federal, state, local and foreign statutes, laws (including, without limitation, common law), judicial decisions, regulations, ordinances, rules, judgments, orders and codes respecting employment, employment practices, labor, terms and conditions of employment and wages and hours, and no work stoppage or labor strike against the Company or any Subsidiary is pending or, to the knowledge of the Company, threatened, nor is the Company or any Subsidiary involved in or, to the knowledge of the Company, threatened with any labor dispute, grievance or litigation relating to labor matters involving any employees of the Company or any Subsidiary, except for any of the foregoing which would not have a Material Adverse Effect. To the Company’s knowledge, there are no suits, actions, disputes, claims (other than routine claims for benefits), investigations or audits pending or, to the knowledge of the Company, threatened in connection with any Employee Benefit Plan.

4.17. Compliance with Laws. Neither the Company nor any Subsidiary (i) is in violation in any material respect of any applicable federal, state, local, foreign or other law, statute, regulation, rule, ordinance, code convention, directive, order, judgment or other legal requirement (collectively, “**Laws**”) of any Governmental Entity or (ii) to the knowledge of the Company, is being investigated with respect to, or has been threatened in writing to be charged with or given notice of any violation in any material respect of, any applicable Law.

4.18. Brokers. Other than H.C. Wainwright & Co. (all fees and expenses of which will be borne entirely by the Company), there is no investment banker, broker, finder, financial advisor or other person that has been retained by or is authorized to act on behalf of the Company and who is entitled to any fee or commission in connection with the transactions contemplated by this Agreement.

4.19. Environmental Matters. The Company and its Subsidiaries (A) are in compliance with any and all applicable federal, state, local and foreign laws, rules, regulations, decisions and orders relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes,

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pollutants or contaminants (collectively, “**Environmental Laws**”); (B) have received and are in compliance with all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their business; and (C) have not received notice of any actual or potential liability for the investigation or remediation of any disposal or release of hazardous or toxic substances or wastes, pollutants or contaminants, except in any such case for any such failure to comply, or failure to receive required permits, licenses or approvals, or liability as would not, individually or in the aggregate, have a Material Adverse Effect.

4.20. Intellectual Property Matters. Except as set forth in the SEC Reports, (a) the Company is the sole and exclusive owner of, or has obtained valid and enforceable licenses for, the inventions, patent applications, patents, trademarks, trade names, service names, copyrights, trade secrets, know-how and other intellectual property that is used in connection with, and is material to, the business of the Company and its Subsidiaries as currently conducted or as currently proposed to be conducted (collectively, “**Intellectual Property**”); (b) to the knowledge of the Company, there are no third parties who have rights to any Intellectual Property, except for customary reversionary rights of third-party licensors with respect to Intellectual Property that is exclusively licensed to the Company; (c) to the knowledge of the Company, there is no infringement by third parties of any Intellectual Property; (d) there is no pending or, to the knowledge of the Company, threatened material action, suit, proceeding or claim by others: (i) challenging the Company’s rights in or to any Intellectual Property, and the Company is unaware of any facts that would form a reasonable basis for any such action, suit, proceeding or claim; (ii) challenging the validity, enforceability, ownership, inventorship or scope of any Intellectual Property, and the Company is unaware of any facts that would form a reasonable basis for any such action, suit, proceeding or claim; or (iii) asserting that the Company infringes or otherwise violates, or would, upon the commercialization of any product or service infringe or violate any patent, trademark, trade name, service name, copyright, trade secret or other proprietary rights of others, and the Company is unaware of any facts that would form a reasonable basis for any such action, suit, proceeding or claim; (e) the Company has complied in all material respects with the terms of each material agreement pursuant to which Intellectual Property has been licensed to the Company, and all such agreements are in full force and effect; (f) the products currently under development by the Company fall within the scope of the claims of one or more patents or patent applications owned by, or exclusively licensed to, the Company; (g) all Intellectual Property is in full force and effect, valid, subsisting and enforceable in all material respects; (h) inventorship of the patents within the Intellectual Property is properly identified on such patents in all material respects. The Company has taken reasonable and customary measures to maintain and protect, as applicable, the confidentiality of Intellectual Property, including but not limited to, the trade secrets and know-how within the Intellectual Property; (i) the Company has obtained and possesses valid licenses to use all of the software programs present on the computers and other software-enabled electronic devices that it owns or leases or that it has otherwise provided to its employees for their use in connection with the Company’s business; (j) the Company has not embedded, used or distributed any open source, copyleft or community source code (including but not limited to any libraries or code, software, technologies or other materials that are licensed or distributed under any General Public License, Lesser General Public License or similar license arrangement or other distribution model described by the Open Source Initiative at [www.opensource.org](http://www.opensource.org), collectively “Open Source Software”) in connection with any of its products or services that are generally available or in development in any manner that would materially restrict the ability of the Company to protect its proprietary interests in any such product or service or in any manner that requires, or purports to require (1) any Intellectual Property (other than the Open Source Software itself) be disclosed or distributed in source code form or be licensed for the purpose of making derivative works; (2) any restriction on the consideration to be charged for the distribution of any Intellectual Property; (3) the creation of any obligation for the Company with respect to Intellectual Property owned by the Company, or the grant to any third party of any rights or immunities under Intellectual Property owned by the Company; or (4) any other limitation, restriction or condition on the right of the Company with respect to its use or distribution of any Intellectual Property; and (k) no government funding,

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facilities of a university, college, other educational institution or research center, or funding from third parties was used in the development of any Intellectual Property. No Person who was involved in, or who contributed to, the creation or development of any Intellectual Property, has performed services for the government, university, college, or other educational institution or research center in a manner that would affect Company's rights in the Intellectual Property. The Company has written agreements with its employees and contractors involved in the creation of Intellectual Property that oblige each employee or contractor, as applicable, to: (i) assign to the Company all Intellectual Property created or provided in the course of their employment or engagement; and (ii) keep Intellectual Property, as applicable, confidential and to safeguard it from unauthorized access, use, copying and disclosure.

4.21. Related-Party Transactions. Except for the transaction contemplated hereby and as set forth in the SEC Reports, there are no business relationships or related-party transactions involving the Company or any Subsidiary or any other person of the type required to be disclosed in the SEC Reports pursuant to Item 404 of Regulation S-K promulgated by the Commission.

4.22. Title to Property and Tangible Assets. Except as set forth in the SEC Reports, the Company and each Subsidiary have good and marketable title to all of the real and tangible personal property and other tangible assets owned by the Company or any such Subsidiary, in each case free and clear of any security interests, mortgages, liens, encumbrances, equities, adverse claims and other defects ("**Liens**"), except for (i) Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries and (ii) Liens for the payment of federal, state or other taxes, for which appropriate reserves have been made therefor in accordance with GAAP and, the payment of which is neither delinquent nor subject to penalties. Except as set forth in the SEC Reports, the real property, improvements on real property, equipment and tangible personal property held under lease by the Company or any Subsidiary are held under valid and enforceable leases.

4.23. Absence of Changes. Since December 31, 2022, except as set forth in a SEC Report filed prior to the date hereof or as contemplated by the Transaction Documents, or in connection with the filing of the Certificate of Designation, there has not been:

- (1) any amendment of any term of any outstanding security of the Company;
- (2) any declaration, setting aside or payment of any dividend or other distribution with respect to any shares of capital stock of the Company or any repurchase, redemption or other acquisition by the Company of any outstanding shares of its capital stock;
- (3) any transaction or commitment made, or any contract, agreement or settlement entered into, by (or judgment, order or decree affecting) the Company relating to its assets or business (including the acquisition or disposition of any material amount of assets) or any relinquishment by the Company or any Subsidiary of any contract or other right, other than transactions, commitments, contracts, agreements or settlements (excluding settlements of litigation and tax proceedings) in the ordinary course of business, in each case, only if material to the Company and its Subsidiaries taken together as a whole;
- (4) any (A) grant of any severance or termination pay to (or amendment to any such existing arrangement with) any director or officer of the Company or any Subsidiary, (B) entering into of any employment, deferred compensation, supplemental retirement or other similar agreement (or any amendment to any such existing agreement) with any director or officer of the Company or any Subsidiary, (C) increase in, or accelerated vesting and/or payment of, benefits under any existing severance or termination pay policies or employment agreements with any officer or director or (D) increase in or enhancement of any rights or features related to compensation, bonus or other benefits payable to directors, officers of the Company or any Subsidiary, in each case, other than in the ordinary course of business consistent with past practice, in each case only if required to be set forth in an SEC Report;



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- (5) any material tax election made or changed, any audit settled or any amended tax returns filed;
  - (6) any damage, destruction or loss (whether or not covered by insurance) materially and adversely affecting the Company's or its Subsidiaries' properties or assets when taken together as a whole;
  - (7) any sale, assignment or transfer, or any agreement to sell, assign or transfer, any material asset, liability, property, obligation or right of the Company or any Subsidiary to any Person, including, without limitation, the Investors and their Affiliates, in each case, other than in the ordinary course of business;
  - (8) any material obligation or liability incurred, or any loans or advances made, by the Company or any Subsidiary to any of its or their Affiliates, other than expenses allowable in the ordinary course of business of the Company;
  - (9) any purchase or acquisition of, or agreement, plan or arrangement to purchase or acquire, any material property, rights or assets other than in the ordinary course of business of the Company;
  - (10) any material waiver of any rights or claims of the Company or any Subsidiary;
  - (11) any material lien upon, or adversely affecting, any property or other assets of the Company or any Subsidiary;
  - (12) any material change or amendment to a contract filed as an exhibit to an SEC Report that is material to the Company and each Subsidiary taken together as a whole;
  - (13) any agreement or commitment by the Company or any Subsidiary to do any of the foregoing; or
  - (14) any other change, development, occurrence or event that has had or would reasonably be expected to have a Material Adverse Effect.

4.24. Foreign Corrupt Practices Act. Neither the Company nor any of its Subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or other person acting on behalf of the Company or any of its Subsidiaries has, in the course of its actions for, or on behalf of, the Company or any of its Subsidiaries (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (ii) made any direct or indirect unlawful payment to any domestic government official, "foreign official" (as defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (collectively, the "**FCPA**")) or employee from corporate funds; (iii) violated or is in violation of any provision of the FCPA or, to the knowledge of the Company, any applicable non-U.S. anti-bribery statute or regulation; or (iv) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any domestic government official, such foreign official or employee; and the Company and its Subsidiaries have conducted their respective businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

4.25. Money Laundering Laws. The operations of the Company and its Subsidiaries are, and have been conducted at all times, in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, and to the knowledge of the Company, the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar applicable rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "**Money Laundering Laws**") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its Subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

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4.26. OFAC. Neither the Company nor any of its Subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or person acting on behalf of the Company or any of its Subsidiaries is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department (“**OFAC**”); and the Company will not directly or indirectly use the proceeds therefrom, or lend, contribute or otherwise make available such proceeds to any Subsidiary or any joint venture partner or other person or entity, for the purpose of financing the activities of or business with any person, or in any country or territory, that currently is subject to any U.S. sanctions administered by OFAC or in any other manner that will result in a violation by any person (including any person participating in the transaction whether as underwriter, advisor, investor or otherwise) of U.S. sanctions administered by OFAC.

4.27. Regulatory Permits. Except as set forth in the SEC Reports, (a) the Company and each Subsidiary have such permits, licenses, certificates, approvals, clearances, authorizations or amendments thereto (the “**Regulatory Permits**”) issued by the appropriate federal, state, local or foreign regulatory agencies or bodies necessary to conduct the business of the Company as currently conducted and as described in the SEC Reports, including, without limitation, any Investigational New Drug Application (“**IND**”) as required by the United States Food and Drug Administration (“**FDA**”) or authorizations issued by federal, state, local or foreign agencies or bodies engaged in the regulation of products such as those being developed or sold by the Company (collectively, “**Regulatory Authorities**”); (b) the Company and each Subsidiary are in compliance in all material respects with the requirements of the Regulatory Permits, and all of the Regulatory Permits are valid and in full force and effect, in each case in all material respects; (c) the Company has not received any notice of proceedings relating to the revocation, termination, modification or impairment of any of the Regulatory Permits; (d) neither the Company nor any Subsidiary has failed to file with the FDA or any other Regulatory Authority any required application, submission, report, document, notice, supplement or amendment, and all such filings were in material compliance with applicable laws when filed and have been supplemented as necessary to remain in material compliance with applicable laws and no material deficiencies have been asserted by the FDA or any other Regulatory Authority with respect to any such filings.

4.28. Compliance with Health Care Laws. The Company and its Subsidiaries are, and at all times have been, in compliance with all Health Care Laws in all material respects and to the extent applicable to the Company’s current business and research use only products. For purposes of this Agreement, “**Health Care Laws**” means: (i) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.), the Public Health Service Act (42 U.S.C. Section 201 et seq.), and the regulations promulgated thereunder; (ii) all applicable federal, state, local and foreign health care fraud and abuse laws, including, without limitation, the Anti-Kickback Statute (42 U.S.C. Section 1320a-7b(b)); (iii) HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act; (iv) the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010; (v) licensure, quality, safety and accreditation requirements under applicable federal, state, local or foreign laws or regulatory bodies; (vi) all other local, state, federal, national, supranational and foreign laws, relating to the regulation of the Company or its Subsidiaries, and (vii) the regulations promulgated pursuant to such statutes and any state or non-U.S. counterpart thereof. Neither the Company nor any of its Subsidiaries has received written notice of any claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action from any court or arbitrator or governmental or regulatory authority or third party alleging that any product operation or activity is in violation of any Health Care Laws nor, to the Company’s knowledge, is any such claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action threatened. The Company and its Subsidiaries have filed, maintained or submitted all material reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments as required by any Health Care Laws, and all such reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments were complete and accurate on the date filed in all material respects (or were corrected or supplemented

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by a subsequent submission). Neither the Company nor any of its Subsidiaries is a party to any corporate integrity agreements, monitoring agreements, consent decrees, settlement orders, or similar agreements with or imposed by any governmental or regulatory authority. Additionally, neither the Company, any of its Subsidiaries nor any of their respective employees, officers, directors, or, to the Company's knowledge, agents, has been excluded, suspended or debarred from participation in any U.S. federal health care program or human clinical research or, to the knowledge of the Company, is subject to a governmental inquiry, investigation, proceeding, or other similar action that could reasonably be expected to result in debarment, suspension, or exclusion.

4.29. Cybersecurity. The Company and its Subsidiaries' information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, "**IT Systems**") are adequate for, and operate and perform in all material respects as required in connection with the operation of the business of the Company and its Subsidiaries as currently conducted, free and clear of all material bugs, errors, defects, Trojan horses, time bombs, malware, other malicious code, and corruptants. Except as disclosed in the SEC Reports, the Company and its Subsidiaries have implemented and maintain commercially reasonable physical, technical and administrative controls, policies, procedures, and safeguards to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and sensitive, confidential or regulated data ("**Confidential Data**"), including all "Personal Data" (defined below), used in connection with their businesses or within their possession or otherwise subject to their operational control. "**Personal Data**" means (i) a natural person's name, street address, telephone number, e-mail address, photograph, social security number or tax identification number, driver's license number, passport number, credit card number, bank information, or customer or account number; (ii) any information which would qualify as "personally identifying information" under the Federal Trade Commission Act, as amended; (iii) "personal data" as defined by the European Union General Data Protection Regulation ("**GDPR**") (EU 2016/679); (iv) any information which would qualify as "protected health information" under the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act (collectively, "**HIPAA**"); (v) any "personal information" as defined by the California Consumer Privacy Act ("**CCPA**"); or (vi) any other piece of information that allows the identification of such natural person, or his or her family, or permits the collection or analysis of any data related to an identified person's health or sexual orientation. There have been no material breaches, outages or unauthorized uses of or accesses to the Company's IT Systems, no material violations of Company policies and procedures, and no material unauthorized uses or accesses to Confidential Data (collectively, "**Incidents**") nor any Incidents under internal review or investigations relating to the same. The Company and its Subsidiaries are, and at all prior times were, in material compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Confidential Data and to the protection of such IT Systems and Confidential Data from unauthorized use, access, misappropriation or modification.

4.30. Compliance with Data Privacy Laws. The Company and its Subsidiaries are, and at all prior times were, in material compliance with all applicable data privacy, data security, and consumer protection laws, regulations, and other regulatory rules or requirements, including without limitation GDPR, HIPAA, and CCPA, as applicable (collectively, the "**Privacy Laws**"). The Company and its Subsidiaries have in place, except as disclosed in the SEC Reports, materially comply with, and take appropriate steps reasonably designed to ensure compliance in all material respects with their policies and procedures relating to data privacy and security and the collection, storage, use, disclosure, handling, and analysis of Personal Data. The Company and its Subsidiaries have, at all times made all disclosures to users or customers required for material compliance with applicable Privacy Laws, and none of such disclosures made or contained in any privacy policy of the Company or its Subsidiaries have, to the knowledge of the

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Company, been inaccurate or in violation of any Privacy Laws in any material respect. The Company and its subsidiaries: (i) have not received notice of any actual or potential material liability under, or actual or potential material violation of, any of the Privacy Laws, and have no knowledge of any event or condition that is reasonably likely to result in such notice, (ii) are not currently conducting or paying for, in whole or in part, any investigation, remediation, or other corrective action pursuant to any regulatory request, demand under or pursuant to any Privacy Law, or potential dispute related to or arising in connection with any Incident; or (iii) are not party to any order, decree, or agreement with a governmental authority that imposes any obligation or liability under any Privacy Law.

4.31. Insurance. The Company and each Subsidiary are insured by reputable institutions with policies in such amounts and with such deductibles and covering such risks as the Company reasonably believes are generally deemed adequate and customary for its business including, but not limited to, policies covering real and personal property owned or leased by the Company and each Subsidiary against theft, damage, destruction and acts of vandalism and policies covering the Company and each Subsidiary for product liability claims. The Company has no reason to believe that it or any Subsidiary will not be able (a) to renew its existing insurance coverage as and when such policies expire or (b) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not have a Material Adverse Effect. To the knowledge of the Company, neither the Company nor any Subsidiary has been denied any insurance coverage which it has sought or for which it has applied, except as would not have a Material Adverse Effect. Without limiting the generality of the foregoing, the Company carries director and officer insurance with customary coverage limits for a Company of its size.

4.32. Investment Company. The Company is not, and will not be, immediately following receipt of payment for the shares of Redeemable Convertible Preferred Stock and Warrants being purchased pursuant to this Agreement, required to register as an “investment company” within the meaning of the Investment Company Act of 1940, as amended.

4.33. Listing and Maintenance Requirements. The Common Stock is registered pursuant to Section 12(b) or 12(g) of the Exchange Act, and the Company has taken no action designed to, or which to its knowledge is likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act nor has the Company received any notification that the Commission is contemplating terminating such registration. The Company has not, in the twelve (12) months preceding the date hereof, received notice from any Trading Market on which the Common Stock is or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such Trading Market. The Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in compliance with all such listing and maintenance requirements.

4.34. Accountants. WithumSmith+Brown, PC is (a) an independent registered public accounting firm as required by the Securities Act, the Exchange Act and the rules of the Public Company Accounting Oversight Board (“**PCAOB**”), (b) in compliance with the applicable requirements relating to the qualification of accountants under Rule 2-01 of Regulation S-X under the Securities Act and (c) a registered public accounting firm as defined by the PCAOB whose registration has not been suspended or revoked and who has not requested such registration to be withdrawn.

4.35. Application of Takeover Protections. The Company and the Board have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Certificate of Incorporation, the Bylaws or the laws of its state of incorporation (including Section 203 of the Delaware General Corporation Law) that is or could become applicable to the Investors as a result of the Investors and the Company fulfilling their obligations or exercising their rights under the Transaction

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Documents, including without limitation as a result of the Company's issuance of the Redeemable Convertible Preferred Stock and the Warrants and the conversion of the Redeemable Convertible Preferred Stock into Conversion Shares and the exercise of the Warrants for Warrant Shares.

4.36. No Registration Rights. Except as set forth in the SEC Reports, no Person has the right to (i) prohibit the Company from filing a Registration Statement or (ii) require the Company to register any securities for sale under the Securities Act by reason of the filing of a Registration Statement except in the case of clause (ii) for rights which have been properly satisfied or waived. The granting and performance of the registration rights under the Transaction Documents will not violate or conflict with, or result in a breach of any provision of, or constitute a default under, any agreement, indenture, or instrument to which the Company is a party.

4.37. No Additional Agreements. Except as set forth in the Transaction Documents, the Company has no other agreements or understandings (including, without limitation, side letters) with any Investor or any other party to purchase Securities or any other equity-linked securities of the Company.

4.38. Disclosure. The representations and warranties contained in this Agreement and the other Transaction Documents and in the certificates and exhibits and schedules delivered to the Investors by the Company pursuant to this Agreement and the other Transaction Documents do not contain any untrue statement of a material fact, and do not omit to state a material fact required to be stated therein or necessary in order to make such representations, warranties or statements not misleading in light of the circumstances under which they were made.

## 5. Conditions of Parties' Obligations.

5.1. Conditions of the Investors' Obligations. The obligations of the Investors to purchase the shares of Redeemable Convertible Preferred Stock and Warrants set forth on Schedule I attached hereto at the Closing are subject to the fulfillment prior to the Closing Date of all of the following conditions, any of which may be waived in whole or in part by an Investor (solely with respect to such Investor) in its sole discretion.

(a) Representations and Warranties. The representations and warranties of the Company contained in this Agreement and in any certificate, if any, or other writing, if any, delivered by the Company pursuant hereto shall be true and correct in all material respects on and as of the Closing Date except those representations and warranties qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects, with the same effect as though such representations and warranties had been made on and as of the Closing Date. For the avoidance of doubt, if a representation or warranty expressly speaks as of an earlier date, such representation or warranty shall be true and correct in all material respects as of such earlier date and as of the Closing Date.

(b) Performance. The Company shall have performed and complied in all material respects with all agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with it on or before the Closing.

(c) Certificate of Designation. Prior to the Closing, (i) the Certificate of Designation shall have been filed with the Secretary of State of the State of Delaware, and (ii) the Investors shall have received confirmation from the Secretary of State of the State of Delaware reasonably satisfactory to the Investors that such filing has occurred.

(d) Qualification Under State Securities Laws. All registrations, qualifications, permits and approvals, if any, required to be obtained prior to the Closing under applicable state securities laws shall have been obtained for the lawful execution, delivery and performance of this Agreement or the other Transaction Documents, including, without limitation, the offer and sale of the Securities

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(e) Registration Rights Agreement. The Registration Rights Agreement shall have been executed and delivered by (i) the Company and (ii) the Investors.

(f) No Stockholder Approval Required. No approval on the part of the stockholders of the Company shall be required in connection with the execution and delivery by the Company of the Certificate of Designation, this Agreement and the other Transaction Documents and the consummation of the transactions to be performed by the Company contemplated by the Transaction Documents.

(g) Supporting Documents. The Investors at the Closing shall have received the following:

(1) A good standing certificate of the Company and each Subsidiary if good standing certificates are issuable in its jurisdiction;

(2) An opinion from Wilson Sonsini Goodrich & Rosati, P.C., counsel to the Company, dated as of the Closing Date, in a form satisfactory to the Investors;

(3) Copies of resolutions of the Board, certified by the Secretary of the Company, authorizing and approving the filing of the Certificate of Designation, the execution, delivery and performance of the Transaction Documents and all other documents and instruments to be delivered pursuant hereto and thereto;

(4) A copy of the Certificate of Incorporation and Bylaws, certified by the Secretary of the Company; and

(5) A certificate of incumbency executed by the Secretary of the Company (A) certifying the names, titles and signatures of the officers authorized to execute the documents referred to in subparagraphs (3) and (4) above and (B) further certifying that the Certificate of Designation delivered to the Investors at the time of the execution of this Agreement has been validly adopted and has not been amended or modified.

(h) No Effect on Nasdaq Listing. The Nasdaq Stock Market shall not have raised objections to the terms of the Transaction Documents.

(i) No Material Adverse Effect. There shall have been no Material Adverse Effect with respect to the Company since the date hereof.

(j) Adoption and Approval of Certain Board Votes. The Board shall adopt and approve the terms of Sections 6.7 and 6.10 of this Agreement.

(k) Compliance Certificate. The Company shall have delivered to the Investors a Compliance Certificate, executed by the Chief Executive Officer of the Company, dated as of the Closing Date to the effect that the conditions specified in subsections (a), (b), (c), (d), (e), (f), (h), (i) and (j) of this Section 5.1 have been satisfied.

(l) Simultaneous Funding. Each of the Investors shall have delivered a duly executed counterpart to this Agreement and shall have confirmed that it will deliver its respective Purchase Price substantially concurrently with the Closing.

(m) IRA Amendment. The IRA Amendment shall have been executed and delivered by (i) the Company and (ii) each of NPV, BroadOak Fund IV, LLC, Todd Nelson and Gattaca Mining LLC.

5.2. Conditions of the Company's Obligations. The obligations of the Company under Section 1 hereof are subject to the fulfillment prior to or on the Closing Date of all of the following conditions, any of which may be waived in whole or in part by the Company.

(a) Covenants; Representations and Warranties. (i) The Investors at the Closing Date shall have performed in all material respects all of their respective obligations and conditions hereunder required to be performed or complied by them at or prior to the Closing Date and (ii) the representations and warranties of the Investors at the Closing Date contained in this Agreement shall be true and correct in all

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material respects at and as of the Closing Date as if made at and as of the Closing Date (except to the extent expressly made as of an earlier date, in which case as of such earlier date).

(b) Registration Rights Agreement. The Investors shall have executed and delivered the Registration Rights Agreement.

5.3. Conditions of Each Party's Obligations. The respective obligations of each party to consummate the transactions at the Closing contemplated hereunder are subject to the parties being reasonably satisfied as to the absence of (a) litigation challenging or seeking damages in connection with the transactions contemplated by this Agreement or any of the other Transaction Documents, in which there has been issued any order or injunction delaying or preventing the consummation of the transactions contemplated hereby, and (b) any statute, rule, regulation, injunction, order or decree, enacted, enforced, promulgated, entered, issued or deemed applicable to this Agreement or the transactions contemplated hereby by any court, government or governmental authority or agency or legislative body, domestic, foreign or supranational prohibiting or enjoining the transactions contemplated by this Agreement.

5.4 Termination of Obligations to Effect Closing; Effects.

(a) The obligations of the Company, on the one hand, and the Investors, on the other hand, to effect the Closing shall terminate as follows:

(i) Upon the mutual written consent of the Company and the Required Investors; or

(ii) By either the Company or any Investor (with respect to itself only) if the Closing has not occurred on or prior to June 7, 2023;

provided, however, that, except in the case of clause (i) above, the party seeking to terminate its obligation to effect the Closing shall not then be in breach of any of its representations, warranties, covenants or agreements contained in this Agreement if such breach has resulted in the circumstances giving rise to such party's seeking to terminate its obligation to effect the Closing.

(b) In the event of termination by the Company or any Investor of its obligations to effect the Closing pursuant to Section 5.4(a)(ii), written notice thereof shall be given to the other Investors by the Company and the other Investors shall have the right to terminate their obligations to effect the Closing upon written notice to the Company and the other Investors. Nothing in this Section 5.4 shall be deemed to release any party from any liability for any breach by such party of the terms and provisions of this Agreement or to impair the right of any party to compel specific performance by any other party to its obligations under this Agreement.

6. Covenants.

6.1. Reporting Requirements. As long as an Investor holds Redeemable Convertible Preferred Stock or Warrants (or underlying Conversion Shares or Warrant Shares, respectively), the Company covenants to timely file (or obtain or avail itself of extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company from and after the date hereof pursuant to the Exchange Act.

6.2. Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the Securities Act) that would be integrated with the offer or sale of the Securities in a manner that would require the registration under the Securities Act of the sale of the Securities to the Investors or that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require shareholder

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approval prior to the closing of such other transaction unless shareholder approval is obtained before the closing of such subsequent transaction.

6.3. Securities Laws Disclosure; Publicity. The Company shall, by 5:30 p.m. (New York City time) on the fourth business day immediately following the date hereof, file with the Commission a Current Report on Form 8-K, disclosing the material terms of the transactions contemplated hereby and filing the Transaction Documents as exhibits thereto. The Company, Novalis LifeSciences Investments LLC (“**Novalis**”) and Northpond Ventures, LP (“**NPV**”) shall consult with each other in issuing any other press releases with respect to the transactions contemplated hereby, and neither the Company nor the Investors shall issue any such press release or otherwise make any such public statement without the prior consent of the Company, with respect to any press release of an Investor, or without the prior consent of each of Novalis and NPV, with respect to any press release of the Company, except if such disclosure is required by law, in which case the disclosing party shall promptly provide the other party with prior notice of such public statement or communication. Notwithstanding the foregoing, the Company shall not include the name of any Investor in any filing with the Commission or any regulatory agency or Trading Market, without the prior written consent of such Investor, except (i) as required by federal securities law in connection with (A) any registration statement contemplated by the Registration Rights Agreement, (B) the Current Report on Form 8-K required by this Section, (C) any filing required by the Commission and (D) the filing of final Transaction Documents (including signature pages thereto) with the Commission and (ii) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Investor with prior notice of such disclosure permitted under this clause (ii) and reasonable opportunity to comment.

6.4. Reservation of Common Stock. As of the date hereof, the Company has reserved and the Company shall continue to reserve and keep available at all times, free of preemptive rights, a sufficient number of shares of Common Stock for the purpose of enabling the Company to issue all of the shares of Common Stock issuable upon conversion of the Redeemable Convertible Preferred Stock and Warrant Shares issuable upon exercise of the Warrants.

6.5. Listing of Common Stock. The Company hereby agrees to use commercially reasonable efforts to maintain the listing of the Common Stock on a Trading Market. The Company will take all action reasonably necessary to continue the listing and trading of its Common Stock on a Trading Market and to comply in all material respects with the Company’s reporting, filing and other obligations under the rules and listing standards of the Trading Market.

6.6. Filings. The Company shall make all filings with the Commission and its Trading Markets as required by the transactions contemplated hereby. With respect to any conversion from Redeemable Convertible Preferred Stock into Common Stock or exercise of the Warrants for Warrant Shares, the Company and each Investor (i) shall use their respective commercially reasonable efforts to promptly file or cause to be filed, (x) within 10 business days from the date that either the Company or any Investor provides any notice of conversion required pursuant to Section 5 or 6 of the Certificate of Designation (for which within five business days the Investor determines that a filing under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the “**HSR Act**”) is necessary or appropriate, and so notifies the Company) or the date any Investor provides notice of exercise of a Warrant (for which within five business days the Investor determines that a filing under the HSR Act is necessary or appropriate, and so notifies the Company), as applicable, all required filings under the HSR Act and, (y) as promptly as reasonably practicable, all required filings under other applicable antitrust laws that the Company or any Investor reasonably determines in good faith to be necessary or appropriate to effect the transactions contemplated by this Agreement including but not limited to, the conversion of Redeemable Preferred Stock into Common Stock or the exercise of Warrants for Warrant Shares, (ii) shall consult and cooperate with each other in the preparation of such filings, and (iii) shall promptly inform the other parties of any



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material communication received by such party from any Governmental Entity regarding the transactions contemplated by this Agreement and shall enable the other party to participate in any communications and meetings with any Governmental Entity regarding the transactions contemplated by this Agreement unless prohibited by the Governmental Entity. Each of the Company and any Investor that files such notice pursuant to the HSR Act or any other applicable antitrust law in accordance with the preceding sentence acknowledges that no conversion of Redeemable Preferred Common Stock into Common Stock or exercise of Warrants for Warrant Shares will be consummated until any waiting period prescribed under the HSR Act or any other applicable antitrust law has elapsed.

6.7. Rule 16b-3 Exemption. The Company shall use commercially reasonable efforts in the form of resolutions adopted by the Board in its discretion as may be required to cause the receipt at the Closing of (i) the shares of Redeemable Convertible Preferred Stock, any subsequent conversion thereof and the receipt of any Conversion Shares deliverable upon such conversion, and (ii) the Warrants, any subsequent exercise thereof and the receipt of any Warrants Shares deliverable upon such exercise, in each case, by each Investor that may from time to time be subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to the Company, to be exempt under Rule 16b-3 promulgated under the Exchange Act.

6.8. Board Representation. Immediately following the Closing, the Company covenants and agrees that it will increase the size of its Board to eight directors and take all steps necessary to appoint Paul Meister. Concurrently with such appointment, the Company and such director shall enter into the Company's standard form of indemnification agreement attached hereto as Exhibit E. In addition, such director shall be entitled to receive from the Company and its Subsidiaries, if applicable, the same insurance coverage in connection with his service as a member of the Board or any committee thereof as is provided for each of the other members of the Board or committee, as applicable. Such insurance coverage shall be provided through customary director and officer indemnity insurance on commercially reasonable terms. The Company agrees that it will reimburse such director for reasonable costs and expenses in attending Board meetings in accordance with the Company's policies.

6.9. Replacement Designee. The Company covenants and agrees that, in the event that the director referred to in Section 6.8 is not re-elected or otherwise ceases to serve as a director at any time that Novalis owns at least 5% of the Company's outstanding common stock (calculated after giving effect to the full conversion of any shares of Redeemable Convertible Preferred Stock then held by Novalis and full exercise of any Warrants then held by Novalis, in each case, without giving effect to any limitations on conversion and/or exercise contained therein), the Company shall take all necessary action to appoint a director designated by Novalis (such individual, the "**Novalis Designee**") and shall include the Novalis Designee in the Company's proxy statement for each annual stockholder meeting at which such Novalis Designee is up for election and shall recommend that the Company's stockholders vote in favor of the Novalis Designee.

6.10. Waiver of Corporate Opportunity.

(a) To the fullest extent permitted by applicable law, the Company hereby agrees that the Exempted Persons shall not have any fiduciary duty to refrain from engaging directly or indirectly in the same or similar business activities or lines of business as the Company or any of its subsidiaries. To the fullest extent permitted by applicable law, the Company, on behalf of itself and its subsidiaries, renounces any interest or expectancy of the Company and its subsidiaries in, or in being offered an opportunity to participate in, business opportunities that are from time to time available to the Exempted Persons, even if the opportunity is one that the Company or its subsidiaries might reasonably be deemed to have pursued or had the ability or desire to pursue if granted the opportunity to do so. The Company hereby further agrees that each Exempted Person shall have no duty to communicate or offer such business opportunity

to the Company (and that there shall be no restriction on the Exempted Persons using the general knowledge and understanding of the Company and the industry in which it operates that it has gained as an Exempted Person in considering and pursuing such opportunities or in making investment, voting, monitoring, governance or other decisions relating to other entities or securities) and, to the fullest extent permitted by applicable law, shall not be liable to the Company or any of its subsidiaries or stockholders for breach of any fiduciary or other duty, as a director or officer or otherwise, by reason of the fact that such Exempted Person pursues or acquires such business opportunity, directs such business opportunity to another person or fails to present such business opportunity, or information regarding such business opportunity, to the Company or its subsidiaries, or uses such knowledge and understanding in the manner described herein. The parties specifically agree that each Exempted Person is an intended third-party beneficiary of this Section 6.10 and is entitled to rely upon and enforce the rights and obligations granted herein. “**Exempted Person**” shall mean Novalis and all of its partners, principals, directors, officers, members, managers, managing directors, operating partners and/or employees, including any of the foregoing who serve as officers or directors of the Company, including the director named in Section 6.8 or designated pursuant to Section 6.9. In addition to and notwithstanding the foregoing, a corporate opportunity shall not be deemed to belong to the Company if it is a business opportunity that the Company is not financially able or contractually permitted or legally able to undertake, or that is, from its nature, not in the line of the Company’s business or is of no practical advantage to it or that is one in which the Company has no interest or reasonable expectancy.

(b) The Company hereby covenants and agrees that it shall not take any action, or adopt any resolution, inconsistent with the provisions of this Section 6.10.

6.11. Certain Tax Matters. Unless otherwise required pursuant to a “determination” within the meaning of Section 1313(a) of the Internal Revenue Code, the parties covenant and agree that they shall each treat the Redeemable Convertible Preferred Stock as “common stock” under Section 305 of the Code and shall not treat the Redeemable Convertible Preferred Stock as giving rise to any deemed dividends or distributions to the holders of Redeemable Convertible Preferred Stock under Section 305 of the Code.

## 7. Transfer Restrictions; Restrictive Legend.

7.1. Transfer Restrictions. Each Investor understands that the Company may, as a condition to the transfer of any of the Securities, require that the request for transfer be accompanied by an opinion of counsel reasonably satisfactory to the Company, to the effect that the proposed transfer does not result in a violation of the Securities Act, unless such transfer is covered by an effective registration statement or by Rule 144 under the Securities Act; provided, however, that an opinion of counsel shall not be required for a transfer by any Investor that is (A) a partnership transferring, for no additional consideration, assets owned by it to its partners or former partners pro rata in accordance with partnership interests, (B) a corporation transferring, for no additional consideration, to a wholly owned subsidiary or a parent corporation that owns all of the capital stock of the Investor, (C) a limited liability company transferring, for no additional consideration, assets owned by it to its members or former members pro rata in accordance with their interest in the limited liability company, (D) an individual transferring, for no additional consideration, to a family member or trust for the benefit of such individual, or (E) transferring its Securities to any Affiliate of the Investor, in the case of an institutional investor, or other Person under common management with the Investor; and provided, further, that the transferee in each case agrees to be subject to the restrictions in this Section 7. It is understood that the certificates evidencing the Securities may bear substantially the following legends:

“THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF A REGISTRATION STATEMENT IN EFFECT WITH RESPECT TO THE SECURITIES UNDER SUCH ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE

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COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED OR UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A OF SUCH ACT.”

7.2. Unlegended Certificates. The Company shall be obligated to promptly reissue unlegended certificates upon the request of any holder thereof (x) at such time as the holding period under Rule 144 or another applicable exemption from the registration requirements of the Securities Act has been satisfied or (y) at such time as a registration statement is available for the transfer of the Securities. The Company is entitled to request from any holder requesting unlegended certificates under clause (x) of the foregoing sentence an opinion of counsel reasonably acceptable to the Company to the effect that the securities proposed to be disposed of may lawfully be so disposed of without registration, qualification or legend.

8. Registration, Transfer and Substitution of Certificates for Redeemable Convertible Preferred Stock and Warrants.

8.1. Stock Register; Ownership of Redeemable Convertible Preferred Stock and Warrants. The Company will keep at its principal office a register in which the Company will provide for the registration of transfers of the Redeemable Convertible Preferred Stock and Warrants. The Company may treat the Person in whose name any of the Redeemable Convertible Preferred Stock or Warrants are registered on such register as the owner thereof and the Company shall not be affected by any notice to the contrary. All references in this Agreement to a “holder” of any Redeemable Convertible Preferred Stock or Warrants shall mean the Person in whose name such Redeemable Convertible Preferred Stock or Warrants are at the time registered on such register.

8.2. Replacement of Certificates; Warrants. Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of any certificate representing Redeemable Convertible Preferred Stock or any Warrant, and, in the case of any such loss, theft or destruction, upon delivery of an indemnity agreement reasonably satisfactory to the Company or, in the case of any such mutilation, upon surrender of such certificate or Warrant for cancellation at the office of the Company maintained pursuant to Section 8.1 hereof, the Company at its expense will execute and deliver, in lieu thereof, a new certificate representing Redeemable Convertible Preferred Stock or Warrant of like tenor.

9. Definitions. Unless the context otherwise requires, the terms defined in this Section 9 shall have the meanings specified for all purposes of this Agreement.

Except as otherwise expressly provided, all accounting terms used in this Agreement, whether or not defined in this Section 9, shall be construed in accordance with GAAP. If and so long as the Company has one or more Subsidiaries, such accounting terms shall be determined on a consolidated basis for the Company and each of its Subsidiaries, and the consolidated financial statements and other financial information to be furnished by the Company pursuant to this Agreement shall be consolidated and presented with consolidating financial statements of the Company and each of its Subsidiaries.

“**Affiliate**” shall have the meaning ascribed to such term in Rule 12b-2 promulgated under the Exchange Act.

“**Agreement**” has the meaning assigned to it in the introductory paragraph hereof.

“**Board**” has the meaning assigned to it in Section 4.6(b) hereof.

“**Bylaws**” means the Company’s Amended and Restated Bylaws as in effect as of the date hereof.

“**CCPA**” has the meaning assigned to it in Section 4.29 hereof.

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“**Certificate of Designation**” has the meaning assigned to it in the recitals hereof.

“**Certificate of Incorporation**” means the Company’s Amended and Restated Certificate of Incorporation as in effect as of the date hereof.

“**Closing**” has the meaning assigned to it in Section 2.1 hereof.

“**Closing Date**” has the meaning assigned to it in Section 2.1 hereof.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Commission**” means the Securities and Exchange Commission.

“**Common Stock**” has the meaning assigned to it in the recitals hereof.

“**Company**” has the meaning assigned to it in the introductory paragraph hereof.

“**Confidential Data**” has the meaning assigned to it in Section 4.29 hereof.

“**Conversion Shares**” has the meaning assigned to it the recitals hereof.

“**Damages**” has the meaning assigned to it in Section 10.2(a) hereof.

“**Employee Benefit Plan**” has the meaning assigned to it in Section 4.16(b) hereof.

“**Encumbrances**” means any lien, claim, judgment, charge, mortgage, security interest, pledge, escrow, equity or other encumbrance.

“**Environmental Laws**” has the meaning assigned to it in Section 4.19 hereof.

“**ERISA**” has the meaning assigned to it in Section 4.16(a) hereof.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

“**Exempted Person**” has the meaning assigned to it in Section 6.10 hereof.

“**FDA**” has the meaning assigned to it in Section 4.27 hereof.

“**GAAP**” means U.S. generally accepted accounting principles consistently applied.

“**GDPR**” has the meaning assigned to it in Section 4.29 hereof.

“**Governmental Entity**” means any national, federal, state, municipal, local, territorial, foreign or other government or any department, commission, board, bureau, agency, regulatory authority or instrumentality thereof, or any court, judicial, administrative or arbitral body or public or private tribunal.

“**Health Care Laws**” has the meaning assigned to it in Section 4.28 hereof.

“**HIPPA**” has the meaning assigned to it in Section 4.29 hereof.

“**HSR Act**” has the meaning assigned to it in Section 6.6 hereof.

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**“Incidents”** has the meaning assigned to it in Section 4.29 hereof.

**“IND”** has the meaning assigned to it in Section 4.27 hereof.

**“Intellectual Property”** has the meaning assigned to it in Section 4.20 hereof.

**“Investor Party”** has the meaning assigned to it in Section 10.2(a) hereof.

**“Investors”** has the meaning assigned to it in the introductory paragraph of this Agreement.

**“IRA Amendment”** means Amendment No. 1 to the Amended and Restated Investors’ Rights Agreement, in the form attached hereto as Exhibit D.

**“IT Systems”** has the meaning assigned to it in Section 4.29 hereof.

**“knowledge”** of the Company or any similar phrase means the actual knowledge, after due inquiry, of the following persons: Todd Nelson, Daniel Gibson, Eric Esser, Rob Cutler and Rocky McDonald.

**“Laws”** has the meaning assigned to it in Section 4.17 hereof.

**“Long-Term Warrants”** has the meaning assigned to it in the recitals hereof.

**“Material Adverse Effect”** means (i) any material adverse effect on the issuance or validity of the Securities or the transactions contemplated hereby or the enforceability or validity of the Certificate of Designation or on the ability of the Company to perform its obligations under this Agreement and the other Transaction Documents or (ii) any material adverse effect on the financial condition, properties, assets, liabilities, business or operations of the Company and its Subsidiaries, taken as a whole, except, in the case of clause (ii) to the extent such effect results directly from the announcement or the existence of this Agreement or the transactions contemplated hereby.

**“Material Contract”** means all written and oral contracts, agreements, deeds, mortgages, leases, subleases, licenses, instruments, notes, commitments, commissions, undertakings, arrangements and understandings which are required to be filed as exhibits by the Company with the Commission pursuant to Items 601(b)(4) and 601(b)(10) of Regulation S-K promulgated by the Commission.

**“Novalis Designee”** has the meaning assigned to it in Section 6.9 hereof.

**“PCAOB”** has the meaning assigned to it in Section 4.34 hereof.

**“Person”** means and includes all natural persons, corporations, business trusts, associations, companies, partnerships, joint ventures, limited liability companies and other entities and governments and agencies and political subdivisions.

**“Personal Data”** has the meaning assigned to it in Section 4.29 hereof.

**“Privacy Laws”** has the meaning assigned to it in Section 4.30 hereof.

**“Purchase Price”** has the meaning assigned to it in Section 1 hereof.

**“Redeemable Convertible Preferred Stock”** has the meaning assigned to such term in the recitals hereof.

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“**Registration Rights Agreement**” means the Registration Rights Agreement in the form attached hereto as Exhibit C.

“**Regulatory Authorities**” has the meaning assigned to it in Section 4.27 hereof.

“**Regulatory Permits**” has the meaning assigned to it in Section 4.27 hereof.

“**Required Investors**” means the Investors holding (or committed to purchase) at least a majority of the Redeemable Convertible Preferred Stock (or underlying Conversion Shares), determined on an as-converted basis without regard to limitations on conversion, then beneficially owned (or committed to be purchased) by the Investors.

“**SEC Reports**” has the meaning assigned to it in Section 4.12(a) hereof.

“**Securities**” has the meaning assigned to it in the recitals hereof.

“**Securities Act**” or “**Act**” means the Securities Act of 1933, as amended.

“**Short-Term Warrants**” has the meaning assigned to it in the recitals hereof.

“**Subsidiary**” means any corporation, association trust, limited liability company, partnership, joint venture or other business association or entity (i) at least 50% of the outstanding voting securities of which are at the time owned or controlled directly or indirectly by the Company or (ii) with respect to which the Company possesses, directly or indirectly, the power to direct or cause the direction of the affairs or management of such Person.

“**Trading Market**” means the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange or the NYSE MKT.

“**Transaction Documents**” means this Agreement, the Warrants, the Registration Rights Agreement and the Certificate of Designation.

“**Warrants**” has the meaning assigned to it the recitals hereof.

“**Warrant Shares**” has the meaning assigned to it the recitals hereof.

#### 10. Survival; Indemnification.

10.1. Survival. The representations, warranties, covenants, indemnities and agreements contained in this Agreement, in the Certificate of Designation and in the other Transaction Documents shall survive Closing of the transactions contemplated by this Agreement.

#### 10.2. Indemnification.

(a) In consideration of each Investor’s execution and delivery of this Agreement and acquiring the Securities hereunder and in addition to all of the Company’s other obligations under the Transaction Documents to which it is a party, subject to the provisions of this Section 10.2, the Company shall indemnify and hold harmless each Investor, each of its directors, officers, shareholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding the lack of such title or any other title), each Person, if any, who controls the Investor (within the meaning of Section 15 of the 1933 Act or Section 20(a) of the 1934 Act),

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and the respective directors, officers, shareholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding the lack of such title or any other title) of such controlling Persons (each, an “**Investor Party**”), from and against all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses (including all judgments, amounts paid in settlement, court costs, reasonable attorneys’ fees and costs of defense and investigation) (collectively, “**Damages**”) that any Investor Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents to which it is a party, or (b) any action, suit, claim or proceeding (including for these purposes a derivative action brought on behalf of the Company) instituted against such Investor Party arising out of or resulting from the execution, delivery, performance or enforcement of the Transaction Documents; provided, however, that (x) the foregoing indemnity shall not apply to any Damages to the extent, but only to the extent, that such Damages resulted directly from a breach of any of the Investor’s representations, warranties, covenants or agreements contained in this Agreement or the Registration Rights Agreement, and (y) the Company shall not be liable under this Section 10.2 to the extent, but only to the extent, that a court of competent jurisdiction shall have determined by a final judgment (from which no further appeals of right are available) that such Damages directly resulted from any acts or failures to act, undertaken or omitted to be taken by such Investor Party through its fraud, bad faith or willful misconduct.

10.3. Conduct of Indemnification Proceedings. Any person entitled to indemnification hereunder shall (i) give prompt notice to the indemnifying party of any claim with respect to which it seeks indemnification, and (ii) permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the indemnified party; provided that any person entitled to indemnification hereunder shall have the right to employ separate counsel and to participate in the defense of such claim, but the fees and expenses of such counsel shall be at the expense of such person, unless (a) the indemnifying party has agreed to pay such fees or expenses, or (b) the indemnifying party shall have failed to assume the defense of such claim and employ counsel reasonably satisfactory to such person, or (c) in the reasonable judgment of any such person, a conflict of interest may exist between such person and the indemnifying party with respect to such claims (in which case, if the person notifies the indemnifying party in writing that such person elects to employ separate counsel at the expense of the indemnifying party, the indemnifying party shall not have the right to assume the defense of such claim on behalf of such person), or (d) if such Claim seeks any equitable relief or alleges any legal, regulatory or ethical violations by such person; and provided, further, that the failure of any indemnified party to give notice as provided herein shall not relieve the indemnifying party of its obligations hereunder, except to the extent that such failure to give notice shall materially adversely affect the indemnifying party in the defense of any such claim or litigation. No indemnifying party will, except with the consent of the indemnified party, consent to entry of any judgment or enter into any settlement that (i) does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect of such claim or litigation, or (ii) that includes the granting of any equitable relief or the admission by the indemnified party of its officers, directors, managers, partners or Affiliates of any legal, regulatory or ethical violations.

## 11. Enforcement.

11.1. Cumulative Remedies. None of the rights, powers or remedies conferred upon the Investors on the one hand or the Company on the other hand shall be mutually exclusive, and each such right, power or remedy shall be cumulative and in addition to every other right, power or remedy, whether conferred by this Agreement, any of the other Transaction Documents or the Certificate of Designation or now or hereafter available at law, in equity, by statute or otherwise. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, the Investors and the Company will be entitled to seek specific performance under the Transaction Documents. The parties agree that

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monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any action for specific performance of any such obligation the defense that a remedy at law would be adequate.

11.2. No Implied Waiver. Except as expressly provided in this Agreement, no course of dealing between the Company and the Investors or any other holder of shares of Redeemable Convertible Preferred Stock or Warrants and no delay in exercising any such right, power or remedy conferred hereby or by the Certificate of Designation, or by any of the other Transaction Documents or now or hereafter existing at law in equity, by statute or otherwise, shall operate as a waiver of, or otherwise prejudice, any such right, power or remedy.

12. Non-Public Information. The Company covenants and agrees that, following the Closing, neither it nor any other Person acting on its behalf, will provide any Investor or its agents or counsel with any information that the Company believes constitutes material non-public information, unless (a) a representative or person employed by or otherwise affiliated or associated with such Investor or its affiliate then serves on the Board or (b) prior thereto, such Investor shall have agreed in writing to receive such information. The Company understands and confirms that each Investor shall be relying on the foregoing covenant in effecting transactions in securities of the Company.

13. Miscellaneous.

13.1. Waivers and Amendments. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only in writing executed by the Company and the Required Investors; provided, that (i) such written consent must also be executed by any Investor that is disproportionately and adversely affected and (ii) any amendment of Section 5.4(a)(ii) shall require the written consent of the Company and each Investor. Any amendment or waiver effected in accordance with this paragraph shall be binding upon each holder of any Securities purchased under this Agreement at the time outstanding, each future holder of all such Securities, and the Company. Neither this Agreement, nor any provision hereof, may be changed, waived, discharged or terminated orally or by course of dealing, but only by an instrument in writing. No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of this Agreement unless the same consideration also is offered to all of the parties to this Agreement.

13.2. Notices. All notices, requests, consents, and other communications under this Agreement shall be in writing Any notices, requests, demands and other communications required or permitted in this Agreement shall be effective if in writing and (i) delivered personally, (ii) sent by facsimile or e-mail or (iii) delivered by overnight courier, in each case, addressed as follows:

If to the Company to:

Telesis Bio Inc.  
10431 Wateridge Circle, Suite 150  
San Diego, CA 92121  
Attention: Chief Legal Officer  
E-mail: rob.cutler@telesisbio.com

and

with a copy (which shall not constitute notice) to:

Wilson Sonsini Goodrich & Rosati, P.C.



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650 Page Mill Road  
Palo Alto, CA 94304  
Attention: Philip Oettinger  
E-mail: poettinger@wsgr.com

If to any Investor:

To the address set forth on Schedule 1 hereto;

with a copy (which shall not constitute notice) to:

Ropes & Gray LLP  
Prudential Tower  
800 Boylston Street  
Boston, MA 02199  
Attention: Thomas J. Fraser  
E-mail: Thomas.fraser@ropesgray.com

and

Sidley Austin LLP  
1999 Avenue of the Stars, 17<sup>th</sup> Floor  
Los Angeles, CA 90067  
Attention: Stephen Ballas; Frank Rahmani  
Email: sballas@sidley.com; frahmani@sidley.com

or at such other address as the Company or such Investor each may specify by written notice to the other parties hereto. Any party may change the address to which notices, requests, consents or other communications hereunder are to be delivered by giving the other parties notice in the manner set forth in this Section 13.2.

13.3. No Waivers. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

13.4. Successors and Assigns. All the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective parties hereto, the successors and permitted assigns of the Investors and the successors of the Company, whether so expressed or not.

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

13.6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of law principles.

13.7. Fees and Expenses. The Company agrees to reimburse Novalis for all out-of-pocket fees and expenses incurred by it in connection with its diligence investigation of the Company, the preparation and negotiation of this Agreement and the consummation of the transactions contemplated hereby, up to \$150,000 in the aggregate. An estimate of the fees and expenses of third parties may be paid by checks delivered or wire transfers to such parties at the Closing by Novalis, the amount of such checks or wire transfers being deducted from the aggregate amount to be paid by Novalis at the Closing for the shares of Redeemable Convertible Preferred Stock and Warrants to be purchased by them hereunder.

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13.8. Jurisdiction. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in any federal or state court located in the State of New York, and each of the parties hereby consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 13.2 shall be deemed effective service of process on such party.

13.9. Waiver of Jury Trial. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW WHICH CANNOT BE WAIVED, THE INVESTORS AND THE COMPANY HEREBY WAIVE, AND COVENANT THAT NEITHER THE COMPANY NOR THE INVESTORS WILL ASSERT, ANY RIGHT TO TRIAL BY JURY ON ANY ISSUE IN ANY PROCEEDING, WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE, IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, ANY OTHER AGREEMENT OR THE SUBJECT MATTER HEREOF OR THEREOF OR IN ANY WAY CONNECTED WITH, RELATED OR INCIDENTAL TO THE DEALINGS OF THE INVESTORS AND THE COMPANY HEREUNDER OR THEREUNDER, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER IN TORT OR CONTRACT OR OTHERWISE. The Company acknowledges that it has been informed by the Investors that the provisions of this Section 13.9 constitute a material inducement upon which the Investors are relying and will rely in entering into this Agreement. Any Investor or the Company may file an original counterpart or a copy of this Section 13.9 with any court as written evidence of the consent of the Investors and the Company to the waiver of the right to trial by jury.

13.10. Counterparts; Effectiveness. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, with the same effect as if all parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument. This Agreement shall become effective when each party hereto shall have received counterparts hereof signed by all of the other parties hereto.

13.11. Entire Agreement. The Transaction Documents, including the Certificate of Designation, contain the entire agreement among the parties hereto with respect to the subject matter hereof and thereof and such agreements supersede and replace all other prior agreements, written or oral, among the parties hereto with respect to the subject matter hereof and thereof.

13.12. Severability. If any provision of this Agreement shall be found by any court of competent jurisdiction to be invalid or unenforceable, the parties hereby waive such provision to the extent that it is found to be invalid or unenforceable. Such provision shall, to the maximum extent allowable by law, be modified by such court so that it becomes enforceable, and, as modified, shall be enforced as any other provision hereof, all the other provisions hereof continuing in full force and effect.

13.13. Waiver of Conflicts. Each Investor acknowledges that it (i) has read the Transaction Documents, (ii) has been represented in the preparation, negotiation and execution of the Transaction Documents by legal counsel of its own choice or has voluntarily declined to seek such legal counsel, and (iii) understands the terms and consequences of the Transaction Documents and is fully aware of the legal and binding effect thereof. Each Investor understands that the Company has been represented in the preparation, negotiation and execution of the Transaction Documents by Wilson Sonsini Goodrich &

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Rosati, P.C. and that Wilson Sonsini Goodrich & Rosati, P.C. has not represented any Investor (or any director, employee or stockholder of the Company or any Investor) in the preparation, negotiation and execution of the Transaction Documents. Each party hereto acknowledges that Wilson Sonsini Goodrich & Rosati, P.C. may have an investment in certain of the Investors or may have in the past performed, and may continue to perform, legal services for certain of the Investors (or Affiliates thereof) in matters unrelated to the transactions contemplated hereby, including the representation of such Investors (or Affiliates thereof) in venture capital financings and other matters. Accordingly, each party hereto hereby (i) acknowledges that it has had an opportunity to ask for, and has obtained, information relevant to such representation, including disclosure of the reasonably foreseeable adverse consequences of such representation, (ii) gives its informed consent to representation by Wilson Sonsini Goodrich & Rosati, P.C. of certain of the Investors in such unrelated matters and to representation of the Company by Wilson Sonsini Goodrich & Rosati, P.C. in connection with this Agreement and the transactions contemplated hereby, and (iii) waives any conflict arising out of such representation with respect to the matters contemplated hereby.

13.14 Independent Nature of Investors' Obligations and Rights. The obligations of each Investor hereunder are several and not joint with the obligations of any other Investor hereunder, and no Investor shall be responsible in any way for the performance of the obligations of any other Investor hereunder. Nothing contained herein or in any other agreement or document delivered at the Closing, and no action taken by any Investor pursuant hereto or thereto, shall be deemed to constitute the Investors as a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption that the Investors are in any way acting in concert or as a group or entity with respect to such obligations or the transactions contemplated by this Agreement or any other matters, and the Company acknowledges that the Investors are not acting in concert or as a group, and neither the Company nor the Investors shall assert any such claim, with respect to such obligations or transactions. Each Investor shall be entitled to protect and enforce its rights, including without limitation the rights arising out of this Agreement, and it shall not be necessary for any other Investor to be joined as an additional party in any proceeding for such purpose. The use of a single agreement with respect to the obligations of the Company was solely in the control of the Company, not the action or decision of any Investor, and was done solely for the convenience of the Company and not because it was required or requested to do so by any Investor. It is expressly understood and agreed that each provision contained in this Agreement is between the Company and an Investor, solely, and not between the Company and the Investors collectively and not between and among Investors.

*[Remainder of Page Intentionally Left Blank]*

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IN WITNESS WHEREOF, the parties hereto have caused this Redeemable Convertible Preferred Stock and Warrant Purchase Agreement to be duly executed as of the day and year first above written.

**THE COMPANY**

TELESIS BIO INC.

By: /s/ Todd R. Nelson

Name: Todd R. Nelson

Title: Chief Executive Officer

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IN WITNESS WHEREOF, the parties hereto have caused this Redeemable Convertible Preferred Stock and Warrant Purchase Agreement to be duly executed as of the day and year first above written.

**INVESTOR**

**NORTH POND VENTURES, LP**

By: Northpond Ventures GP, LLC, its general partner

By: /s/ Patrick Smerkers

Name: Patrick Smerkers

Title: CFO, Partner

[Signature Page to Stock Purchase Agreement]

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IN WITNESS WHEREOF, the parties hereto have caused this Redeemable Convertible Preferred Stock and Warrant Purchase Agreement to be duly executed as of the day and year first above written.

**INVESTOR**

**BROADOAK FUND IV, LLC**

By: /s/ William Snider

Name: William Snider

Title: Manager

[Signature Page to Stock Purchase Agreement]

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IN WITNESS WHEREOF, the parties hereto have caused this Redeemable Convertible Preferred Stock and Warrant Purchase Agreement to be duly executed as of the day and year first above written.

**INVESTOR**

**M-185 CORPORATION**

By: /s/ Todd R. Nelson

Name: Todd R. Nelson

Title: Managing Partner

[Signature Page to Stock Purchase Agreement]

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IN WITNESS WHEREOF, the parties hereto have caused this Redeemable Convertible Preferred Stock and Warrant Purchase Agreement to be duly executed as of the day and year first above written.

**INVESTOR**

**NOVALIS LIFESCIENCES INVESTMENTS II, L.P.**

By: Novalis LifeSciences Investments II GP, LLC,  
its general partner

By: /s/ Paul M. Meister

Name: Paul M. Meister

Title: Authorized Signatory

[Signature Page to Stock Purchase Agreement]



SCHEDULE I

<u>Investor</u>	<u>Shares Purchased</u>	<u>Short-Term Warrants Purchased</u>	<u>Long-Term Warrants Purchased</u>	<u>Purchase Price</u>
Novalis LifeSciences Investments LLC	155,000	3,279,313	6,558,626	\$15,500,000.00
Northpond Ventures, LP	80,000	1,692,549	3,385,097	\$ 8,000,000.00
BroadOak Fund IV LLC	20,000	423,137	846,274	\$ 2,000,000.00
M-185 Corporation	25,000	528,922	1,057,843	\$ 2,500,000.00
<b>TOTAL</b>	<b>280,000</b>	<b>5,923,921</b>	<b>11,847,840</b>	<b>\$28,000,000.00</b>

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EXHIBIT A

CERTIFICATE OF DESIGNATION

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EXHIBIT B-1

FORM OF SHORT-TERM WARRANT

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EXHIBIT B-2

FORM OF LONG-TERM WARRANT

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EXHIBIT B-3

FORM OF PRE-FUNDED WARRANT

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EXHIBIT C

REGISTRATION RIGHTS AGREEMENT

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EXHIBIT D

AMENDMENT NO. 1 TO AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT

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EXHIBIT E

FORM OF DIRECTOR INDEMNIFICATION AGREEMENT



**REGISTRATION RIGHTS AGREEMENT**

This Registration Rights Agreement (this "Agreement") is made and entered into as of June 2, 2023, by and between Telesis Bio Inc., a Delaware corporation (the "Company"), and each of the several Investors signatory hereto (each such Investor, an "Investor" and, collectively, the "Investors").

This Agreement is made pursuant to the Redeemable Convertible Preferred Stock and Warrant Purchase Agreement, dated as of the date hereof, between the Company and the parties thereto, as in effect on the date hereof (the "Purchase Agreement").

The Company and each Investor hereby agree as follows:

1. Definitions.

**Capitalized terms used and not otherwise defined herein that are defined in the Purchase Agreement shall have the meanings given such terms in the Purchase Agreement.** As used in this Agreement, the following terms shall have the following meanings:

"Advice" shall have the meaning set forth in Section 6(c).

"Conversion Shares" means those shares of Common Stock issuable upon the conversion of the Redeemable Convertible Preferred Stock.

"Effectiveness Date" means, with respect to the Initial Registration Statement required to be filed hereunder, the 60<sup>th</sup> calendar day following the date hereof (or, in the event of a "full review" by the Commission, the 90<sup>th</sup> calendar day following the date hereof) and with respect to any additional Registration Statements which may be required pursuant to Section 2(c) or Section 3(c), the 60<sup>th</sup> calendar day following the date on which an additional Registration Statement is required to be filed hereunder (or, in the event of a "full review" by the Commission, the 90<sup>th</sup> calendar day following the date such additional Registration Statement is required to be filed hereunder); provided, however, that in the event the Company is notified by the Commission that one or more of the above Registration Statements will not be reviewed or is no longer subject to further review and comments, the Effectiveness Date as to such Registration Statement shall be the fifth Trading Day following the date on which the Company is so notified if such date precedes the dates otherwise required above, provided, further, if such Effectiveness Date falls on a day that is not a Trading Day, then the Effectiveness Date shall be the next succeeding Trading Day.

"Effectiveness Period" shall have the meaning set forth in Section 2(a).

"Event" shall have the meaning set forth in Section 2(d).

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“Event Date” shall have the meaning set forth in Section 2(d).

“Filing Date” means, with respect to the Initial Registration Statement required hereunder, the 30<sup>th</sup> calendar day following the date hereof and, with respect to any additional Registration Statements which may be required pursuant to Section 2(c) or Section 3(c), the earliest practicable date on which the Company is permitted by SEC Guidance to file such additional Registration Statement related to the Registrable Securities.

“Holder” or “Holders” means the holder or holders, as the case may be, from time to time of Registrable Securities.

“Indemnified Party” shall have the meaning set forth in Section 5(c).

“Indemnifying Party” shall have the meaning set forth in Section 5(c).

“Initial Registration Statement” means the initial Registration Statement filed pursuant to this Agreement.

“Losses” shall have the meaning set forth in Section 5(a).

“Majority in Interest of Holders” means the holders of greater than 50% of the Registrable Securities (for purposes of clarification, this includes any Registrable Securities issuable upon exercise or conversion of any Securities).

“Plan of Distribution” shall have the meaning set forth in Section 2(a).

“Prospectus” means the prospectus included in a Registration Statement (including, without limitation, a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated by the Commission pursuant to the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by a Registration Statement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

“Registrable Securities” means, as of any date of determination, (a) all Conversion Shares then issued or then issuable upon conversion of the Preferred Stock (assuming on such date the Preferred Stock is fully converted without regard to any exercise limitations therein), (b) all Warrant Shares then issued and issuable upon exercise of the Warrants (assuming on such date the Warrants are exercised in full without regard to any exercise limitations therein), (c) any additional shares of Common Stock issued and issuable in connection with any

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anti-dilution provisions in the Preferred Stock or Warrants (without giving effect to any limitations on exercise set forth therein) and (d) any securities issued or then issuable upon any stock split, dividend or other distribution, recapitalization or similar event with respect to the foregoing; provided, however, that any such Registrable Securities shall cease to be Registrable Securities (and the Company shall not be required to maintain the effectiveness of any, or file another, Registration Statement hereunder with respect thereto) for so long as (a) a Registration Statement with respect to the sale of such Registrable Securities is declared effective by the Commission under the Securities Act and such Registrable Securities have been disposed of by the Holder in accordance with such effective Registration Statement, (b) such Registrable Securities have been previously sold in accordance with Rule 144, or (c) such securities become eligible for resale without restriction by the Investor holding such security pursuant to Rule 144, including without any volume or manner-of-sale limitations, and without the requirement to be in compliance with Rule 144(c)(i) (or any successor thereto).

“Registration Statement” means any registration statement required to be filed hereunder pursuant to Section 2(a) and any additional registration statements contemplated by Section 2(c) or Section 3(c), including (in each case) the Prospectus, amendments and supplements to any such registration statement or Prospectus, including pre- and post-effective amendments, all exhibits thereto, and all material incorporated by reference or deemed to be incorporated by reference in any such registration statement.

“Rule 415” means Rule 415 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

“Rule 424” means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

“Selling Stockholder Questionnaire” shall have the meaning set forth in Section 3(a).

“SEC Guidance” means (i) any publicly-available written or oral guidance of the Commission staff, or any comments, requirements or requests of the Commission staff and (ii) the Securities Act.

“Warrant Shares” means those shares of Common Stock issuable upon the exercise of the Warrants.

## 2. Shelf Registration.

(a) On or prior to each Filing Date, the Company shall prepare and file with the Commission a Registration Statement covering the resale of all of the Registrable Securities that are not then registered on an effective Registration Statement for an offering to be made on a continuous basis pursuant to Rule 415. Each Registration Statement filed hereunder shall be on Form S-3 (except if the Company is not then eligible to register for resale the Registrable Securities on Form S-3, in which case such registration shall be on another appropriate form in accordance herewith, subject to the provisions of Section 2(e)) and shall contain (unless otherwise directed by a Majority in Interest of Holders) substantially the “Plan of Distribution” attached hereto as Annex A and substantially the “Selling Stockholder” section attached hereto as Annex B; provided, however, that no Holder shall be required to be named as an “underwriter” without such Holder’s express prior written consent. Subject to the terms of this Agreement, the Company shall use its commercially reasonable efforts to cause a Registration Statement filed under this Agreement (including, without limitation, under Section 3(c)) to be declared effective under the Securities Act as promptly as possible after the filing thereof, but in any event no later than the applicable Effectiveness Date, and shall use its commercially reasonable efforts to keep such Registration Statement continuously effective under the Securities Act until the date that all Registrable Securities covered by such Registration Statement cease to be Registrable Securities (the “Effectiveness Period”). The Company shall telephonically request effectiveness of a Registration Statement as of 5:00 p.m. (New York City time) on a Trading Day. The Company shall promptly notify the Holders via e-mail of the effectiveness of a Registration Statement on the same Trading Day that the Company telephonically confirms effectiveness with the Commission, which shall be the date requested for effectiveness of such Registration Statement. The Company shall, by 9:30 a.m. (New York City time) on the Trading Day after the effective date of such Registration Statement, file a final Prospectus with the Commission as required by Rule 424.

(b) Notwithstanding the registration obligations set forth in Section 2(a), if the Commission informs the Company that all of the Registrable Securities cannot, as a result of the application of Rule 415, be registered for resale as a secondary offering on a single registration statement, the Company agrees to promptly inform each of the Holders thereof and use its commercially reasonable efforts to file amendments to the Initial Registration Statement as required by the Commission, covering the maximum number of Registrable Securities permitted to be registered by the Commission, on Form S-3 or such other form available to register for resale the Registrable Securities as a secondary offering, subject to the provisions of Section 2(e) with respect to filing on Form S-3 or other appropriate form, and subject to the provisions of Section 2(d) with respect to the payment of liquidated damages; provided, however, that prior to filing such amendment, the Company shall be obligated to use diligent efforts to advocate with the Commission for the registration of all of the Registrable

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Securities in accordance with the SEC Guidance, including without limitation, Compliance and Disclosure Interpretation 612.09.

(c) Notwithstanding any other provision of this Agreement and subject to the payment of liquidated damages pursuant to Section 2(d), if the Commission or any SEC Guidance sets forth a limitation on the number of Registrable Securities permitted to be registered on a particular Registration Statement as a secondary offering (and notwithstanding that the Company used diligent efforts to advocate with the Commission for the registration of all or a greater portion of Registrable Securities), unless otherwise directed in writing by a Holder as to its Registrable Securities, the number of Registrable Securities to be registered on such Registration Statement will be reduced as follows:

- a. First, the Company shall reduce or eliminate any securities to be included other than Registrable Securities;
- b. Second, the Company shall reduce Registrable Securities represented by Warrant Shares (applied, in the case that some Warrant Shares may be registered, to the Holders on a pro rata basis based on the total number of unregistered Warrant Shares held by such Holders); and
- c. Third, the Company shall reduce Registrable Securities represented by Conversion Shares (applied, in the case that some Conversion Shares may be registered, to the Holders on a pro rata basis based on the total number of unregistered Conversion Shares held by such Holders).

In the event of a cutback hereunder, the Company shall give the Holder at least five (5) Trading Days prior written notice along with the calculations as to such Holder's allotment. In the event the Company amends the Initial Registration Statement in accordance with the foregoing, the Company will use its best efforts to file with the Commission, as promptly as allowed by the Commission or SEC Guidance provided to the Company or to registrants of securities in general, one or more registration statements on Form S-3 or such other form available to register for resale those Registrable Securities that were not registered for resale on the Initial Registration Statement, as amended.

(d) Subject to the provisions of Section 3(m), if: (i) the Initial Registration Statement is not filed on or prior to its Filing Date (if the Company files the Initial Registration Statement without affording the Holders the opportunity to review and comment on the same as required by Section 3(a) herein, the Company shall be deemed to have not satisfied this clause (i) as of the Filing Date), or (ii) the Company fails to file with the Commission a request for acceleration of a Registration Statement in accordance with Rule 461 promulgated by the Commission pursuant to the Securities Act, within five (5) Trading Days of the date that the Company is notified (orally or in writing, whichever is earlier) by the Commission that such Registration Statement will not be "reviewed" or will

not be subject to further review, or (iii) prior to the effective date of a Registration Statement, the Company fails to file a pre-effective amendment and otherwise respond in writing to comments made by the Commission in respect of such Registration Statement within ten (10) calendar days after the receipt of comments by or notice from the Commission that such amendment is required in order for such Registration Statement to be declared effective, or (iv) a Registration Statement registering for resale all of the Registrable Securities is not declared effective by the Commission by the Effectiveness Date of the Initial Registration Statement, or (v) after the effective date of a Registration Statement, such Registration Statement ceases for any reason to remain continuously effective as to all Registrable Securities included in such Registration Statement, or the Holders are otherwise not permitted to utilize the Prospectus therein to resell such Registrable Securities for more than ten (10) consecutive calendar days or more than an aggregate of fifteen (15) calendar days (which need not be consecutive calendar days) during any twelve (12)-month period (any such failure or breach being referred to as an “Event”, and for purposes of clauses (i) and (iv), the date on which such Event occurs, and for purpose of clause (ii) the date on which such five (5) Trading Day period is exceeded, and for purpose of clause (iii) the date which such ten (10) calendar day period is exceeded, and for purpose of clause (v) the date on which such ten (10) or fifteen (15) calendar day period, as applicable, is exceeded being referred to as “Event Date”), then, in addition to any other rights the Holders may have hereunder or under applicable law, on each such Event Date and on each monthly anniversary of each such Event Date (if the applicable Event shall not have been cured by such date) until the applicable Event is cured, the Company shall pay to each Holder an amount in cash, as partial liquidated damages and not as a penalty, equal to the product of 1.5% multiplied by the aggregate Purchase Price paid by such Holder pursuant to the Purchase Agreement. The parties agree that the maximum aggregate liquidated damages payable to a Holder under this Agreement shall be 6% of the aggregate Purchase Price paid by such Holder pursuant to the Purchase Agreement. If the Company fails to pay any partial liquidated damages pursuant to this Section in full within seven (7) days after the date payable, the Company will pay interest thereon at a rate of 8% per annum (or such lesser maximum amount that is permitted to be paid by applicable law) to the Holder, accruing daily from the date such partial liquidated damages are due until such amounts, plus all such interest thereon, are paid in full. The partial liquidated damages pursuant to the terms hereof shall apply on a daily pro rata basis for any portion of a month prior to the cure of an Event.

(e) If Form S-3 is not available for the registration of the resale of Registrable Securities hereunder, the Company shall (i) register the resale of the Registrable Securities on another appropriate form and (ii) undertake to register the Registrable Securities on Form S-3 as soon as such form is available, provided that the Company shall maintain the effectiveness of the Registration Statement then in effect until such time as a Registration Statement on Form S-3 covering the Registrable Securities has been declared effective by the Commission.

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### 3. Registration Procedures.

In connection with the Company's registration obligations hereunder, the Company shall:

(a) Not less than five (5) Trading Days prior to the filing of each Registration Statement and not less than one (1) Trading Day prior to the filing of any related Prospectus or any amendment or supplement thereto (including any document that would be incorporated or deemed to be incorporated therein by reference), the Company shall (i) furnish to each Holder copies of all such documents proposed to be filed, which documents (other than those incorporated or deemed to be incorporated by reference) will be subject to the review of such Holders, and (ii) cause its officers and directors, counsel and independent registered public accountants to respond to such inquiries as shall be necessary, in the reasonable opinion of respective counsel to each Holder, to conduct a reasonable investigation within the meaning of the Securities Act. The Company shall not file a Registration Statement or any such Prospectus or any amendments or supplements thereto to which the Majority in Interest of Holders shall reasonably object in good faith, provided that, the Company is notified of such objection in writing no later than five (5) Trading Days after the Holders have been so furnished copies of a Registration Statement or one (1) Trading Day after the Holders have been so furnished copies of any related Prospectus or amendments or supplements thereto. Each Holder agrees to furnish to the Company a completed questionnaire in the form attached to this Agreement as Annex C (a "Selling Stockholder Questionnaire") on a date that is not less than two (2) Trading Days prior to the Filing Date or by the end of the fourth (4<sup>th</sup>) Trading Day following the date on which such Holder receives draft materials in accordance with this Section. Each Holder shall provide any additional information as may be reasonably requested by the Company and is necessary for the purposes of complying with the requirements under applicable securities laws and regulations or rule of any applicable stock exchange.

(b) (i) Prepare and file with the Commission such amendments, including post-effective amendments, to a Registration Statement and the Prospectus used in connection therewith as may be necessary to keep a Registration Statement continuously effective as to the applicable Registrable Securities for the Effectiveness Period and prepare and file with the Commission such additional Registration Statements in order to register for resale under the Securities Act all of the Registrable Securities, (ii) cause the related Prospectus to be amended or supplemented by any required Prospectus supplement (subject to the terms of this Agreement), and, as so supplemented or amended, to be filed pursuant to Rule 424, (iii) respond as promptly as reasonably possible to any comments received from the Commission with respect to a Registration Statement or any amendment thereto and provide as promptly as reasonably possible to the Holders true and complete copies of all correspondence from and to the

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Commission relating to a Registration Statement (provided that, the Company shall excise any information contained therein which would constitute material non-public information regarding the Company or any of its Subsidiaries), and (iv) comply in all material respects with the applicable provisions of the Securities Act and the Exchange Act with respect to the disposition of all Registrable Securities covered by a Registration Statement during the applicable period in accordance (subject to the terms of this Agreement) with the intended methods of disposition by the Holders thereof set forth in such Registration Statement as so amended or in such Prospectus as so supplemented.

(c) If during the Effectiveness Period, the number of Registrable Securities at any time exceeds 100% of the number of shares of Common Stock then registered in a Registration Statement, then the Company shall file as soon as reasonably practicable, but in any case prior to the applicable Filing Date, an additional Registration Statement covering the resale by the Holders of not less than the number of such Registrable Securities.

(d) Notify the Holders of Registrable Securities to be sold (which notice shall, pursuant to clauses (iii) through (vi) hereof, be accompanied by an instruction to suspend the use of the Prospectus until the requisite changes have been made) as promptly as reasonably possible (and, in the case of (i)(A) below, not less than one (1) Trading Day prior to such filing) and (if requested by any such Person) confirm such notice in writing no later than one (1) Trading Day following the day (i)(A) when a Prospectus or any Prospectus supplement or post-effective amendment to a Registration Statement is proposed to be filed, (B) when the Commission notifies the Company whether there will be a "review" of such Registration Statement and whenever the Commission comments in writing on such Registration Statement, and (C) with respect to a Registration Statement or any post-effective amendment, when the same has become effective, (ii) of any request by the Commission or any other federal or state governmental authority for amendments or supplements to a Registration Statement or Prospectus or for additional information, (iii) of the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of a Registration Statement covering any or all of the Registrable Securities or the initiation of any Proceedings for that purpose, (iv) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction, or the initiation or threatening of any Proceeding for such purpose, (v) of the occurrence of any event or passage of time that makes the financial statements included in a Registration Statement ineligible for inclusion therein or any statement made in a Registration Statement or Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires any revisions to a Registration Statement, Prospectus or other documents so that, in the case of a Registration Statement or the Prospectus, as the case may be, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or



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necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and (vi) of the occurrence or existence of any pending corporate development with respect to the Company that the Company believes may be material and that, in the determination of the Company, makes it not in the best interest of the Company to allow continued availability of a Registration Statement or Prospectus; provided, however, that in no event shall any such notice contain any information which would constitute material, non-public information regarding the Company or any of its Subsidiaries.

(e) Use its commercially reasonable efforts to avoid the issuance of, or, if issued, obtain the withdrawal of (i) any order stopping or suspending the effectiveness of a Registration Statement, or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any jurisdiction, at the earliest practicable moment.

(f) Furnish to each Holder, without charge, at least one conformed copy of each such Registration Statement and each amendment thereto, including financial statements and schedules, all documents incorporated or deemed to be incorporated therein by reference to the extent requested by such Person, and all exhibits to the extent requested by such Person (including those previously furnished or incorporated by reference) promptly after the filing of such documents with the Commission; provided, that any such item which is available on the EDGAR system (or successor thereto) need not be furnished in physical form.

(g) Subject to the terms of this Agreement, the Company hereby consents to the use of such Prospectus and each amendment or supplement thereto by each of the selling Holders in connection with the offering and sale of the Registrable Securities covered by such Prospectus and any amendment or supplement thereto, except after the giving of any notice pursuant to Section 3(d).

(h) Prior to any resale of Registrable Securities by a Holder, use its commercially reasonable efforts to register or qualify or cooperate with the selling Holders in connection with the registration or qualification (or exemption from the registration or qualification) of such Registrable Securities for the resale by the Holder under the securities or Blue Sky laws of such jurisdictions within the United States as any Holder reasonably requests in writing, to keep each registration or qualification (or exemption therefrom) effective during the Effectiveness Period and to do any and all other acts or things reasonably necessary to enable the disposition in such jurisdictions of the Registrable Securities covered by each Registration Statement; provided, that the Company shall not be required to qualify generally to do business in any jurisdiction where it is not then so qualified, subject the Company to any material tax in any such jurisdiction where it is not then so subject or file a general consent to service of process in any such jurisdiction.

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(i) If requested by a Holder, cooperate with such Holder to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be delivered to a transferee pursuant to a Registration Statement, which certificates shall be free, to the extent permitted by the Purchase Agreement, of all restrictive legends, and to enable such Registrable Securities to be in such denominations and registered in such names as any such Holder may request.

(j) Upon the occurrence of any event contemplated by Section 3(d), as promptly as reasonably possible under the circumstances taking into account the Company's good faith assessment of any adverse consequences to the Company and its stockholders of the premature disclosure of such event, prepare a supplement or amendment, including a post-effective amendment, to a Registration Statement or a supplement to the related Prospectus or any document incorporated or deemed to be incorporated therein by reference, and file any other required document so that, as thereafter delivered, neither a Registration Statement nor such Prospectus will contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. If the Company notifies the Holders in accordance with clauses (iii) through (vi) of Section 3(d) above to suspend the use of any Prospectus until the requisite changes to such Prospectus have been made, then the Holders shall suspend use of such Prospectus. The Company will use its commercially reasonable efforts to ensure that the use of the Prospectus may be resumed as promptly as is practicable. The Company shall be entitled to exercise its right under this Section 3(j) to suspend the availability of a Registration Statement and Prospectus, subject to the payment of partial liquidated damages otherwise required pursuant to Section 2(d), for a period not to exceed 60 calendar days (which need not be consecutive days) in any 12-month period.

(k) Otherwise use commercially reasonable efforts to comply with all applicable rules and regulations of the Commission under the Securities Act and the Exchange Act, including, without limitation, Rule 172 under the Securities Act, file any final Prospectus, including any supplement or amendment thereof, with the Commission pursuant to Rule 424 under the Securities Act, promptly inform the Holders in writing if, at any time during the Effectiveness Period, the Company does not satisfy the conditions specified in Rule 172 and, as a result thereof, the Holders are required to deliver a Prospectus in connection with any disposition of Registrable Securities and take such other actions as may be reasonably necessary to facilitate the registration of the Registrable Securities hereunder.

(l) The Company shall use its commercially reasonable efforts to maintain eligibility for use of Form S-3 (or any successor form thereto) for the registration of the resale of Registrable Securities.

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(m) The Company may require each selling Holder to furnish to the Company a certified statement as to the number of shares of Common Stock beneficially owned by such Holder and, if required by the Commission, the natural persons thereof that have voting and dispositive control over the shares. During any periods that the Company is unable to meet its obligations hereunder with respect to the registration of the Registrable Securities solely because any Holder fails to furnish such information within three Trading Days of the Company's request, any liquidated damages that are accruing at such time as to such Holder only shall be tolled and any Event that may otherwise occur solely because of such delay shall be suspended as to such Holder only, until such information is delivered to the Company.

4. Registration Expenses. All fees and expenses incident to the performance of, or compliance with, this Agreement by the Company shall be borne by the Company whether or not any Registrable Securities are sold pursuant to a Registration Statement. The fees and expenses referred to in the foregoing sentence shall include, without limitation, (i) all registration and filing fees (including, without limitation, fees and expenses of the Company's counsel and independent registered public accountants) (A) with respect to filings made with the Commission, (B) with respect to filings required to be made with any Trading Market on which the Common Stock is then listed for trading, and (C) in compliance with applicable state securities or Blue Sky laws reasonably agreed to by the Company in writing (including, without limitation, fees and disbursements of counsel for the Company in connection with Blue Sky qualifications or exemptions of the Registrable Securities), (ii) printing expenses (including, without limitation, expenses of printing certificates for Registrable Securities), (iii) messenger, telephone and delivery expenses, (iv) fees and disbursements of counsel for the Company, (v) Securities Act liability insurance, if the Company so desires such insurance, and (vi) fees and expenses of all other Persons retained by the Company in connection with the consummation of the transactions contemplated by this Agreement. In addition, the Company shall be responsible for all of its internal expenses incurred in connection with the consummation of the transactions contemplated by this Agreement (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit and the fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange as required hereunder. In no event shall the Company be responsible for any broker or similar commissions of any Holder or, except to the extent provided for in the Transaction Documents, any legal fees or other costs of the Holders.

5. Indemnification.

(a) Indemnification by the Company. The Company shall, notwithstanding any termination of this Agreement, indemnify and hold harmless each Holder, the officers, directors, members, partners, agents, brokers (including brokers who offer and sell Registrable Securities as principal as a result of a pledge or any failure to perform under a margin call of Common Stock), investment advisors and employees (and any

other Persons with a functionally equivalent role of a Person holding such titles, notwithstanding a lack of such title or any other title) of each of them, each Person who controls any such Holder (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) and the officers, directors, members, stockholders, partners, agents and employees (and any other Persons with a functionally equivalent role of a Person holding such titles, notwithstanding a lack of such title or any other title) of each such controlling Person, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, liabilities, costs (including, without limitation, reasonable attorneys' fees) and expenses (collectively, "Losses"), as incurred, arising out of or relating to (1) any untrue or alleged untrue statement of a material fact contained in a Registration Statement, any Prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading or (2) any violation or alleged violation by the Company of the Securities Act, the Exchange Act or any state securities law, or any rule or regulation thereunder, in connection with the performance of its obligations under this Agreement, except to the extent, but only to the extent, that (i) such untrue statements or omissions are based solely upon information regarding such Holder furnished in writing to the Company by such Holder expressly for use therein or (ii) in the case of an occurrence of an event of the type specified in Section 3(d)(iii)-(vi), the use by such Holder of an outdated, defective or otherwise unavailable Prospectus after the Company has notified such Holder in writing that the Prospectus is outdated, defective or otherwise unavailable for use by such Holder and prior to the receipt by such Holder of the Advice contemplated in Section 6(c). The Company shall notify the Holders promptly of the institution, threat or assertion of any Proceeding arising from or in connection with the transactions contemplated by this Agreement of which the Company is aware. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such indemnified person and shall survive the transfer of any Registrable Securities by any of the Holders in accordance with Section 6(f).

(b) Indemnification by Holders. Each Holder shall, severally and not jointly, indemnify and hold harmless the Company, its directors, officers, agents and employees, each Person who controls the Company (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, agents or employees of such controlling Persons, to the fullest extent permitted by applicable law, from and against all Losses, as incurred, to the extent arising out of or based solely upon: any untrue or alleged untrue statement of a material fact contained in any Registration Statement, any Prospectus, or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading to the extent, but only to the extent, that such untrue statement or omission is contained in any information regarding such Holder so furnished in writing by such Holder to the Company expressly for inclusion in such

Registration Statement or such Prospectus. In no event shall the liability of a selling Holder be greater in amount than the dollar amount of the proceeds (net of all expenses paid by such Holder in connection with any claim relating to this Section 5 and the amount of any damages such Holder has otherwise been required to pay by reason of such untrue statement or omission) received by such Holder upon the sale of the Registrable Securities included in the Registration Statement giving rise to such indemnification obligation.

(c) Conduct of Indemnification Proceedings. If any Proceeding shall be brought or asserted against any Person entitled to indemnity hereunder (an "Indemnified Party"), such Indemnified Party shall promptly notify the Person from whom indemnity is sought (the "Indemnifying Party") in writing, and the Indemnifying Party shall have the right to assume the defense thereof, including the employment of counsel reasonably satisfactory to the Indemnified Party and the payment of all fees and expenses incurred in connection with defense thereof, provided that the failure of any Indemnified Party to give such notice shall not relieve the Indemnifying Party of its obligations or liabilities pursuant to this Agreement, except (and only) to the extent that it shall be finally determined by a court of competent jurisdiction (which determination is not subject to appeal or further review) that such failure shall have materially and adversely prejudiced the Indemnifying Party.

An Indemnified Party shall have the right to employ separate counsel in any such Proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Parties unless: (1) the Indemnifying Party has agreed in writing to pay such fees and expenses, (2) the Indemnifying Party shall have failed promptly to assume the defense of such Proceeding and to employ counsel reasonably satisfactory to such Indemnified Party in any such Proceeding, or (3) the named parties to any such Proceeding (including any impleaded parties) include both such Indemnified Party and the Indemnifying Party, and counsel to the Indemnified Party shall reasonably believe that a material conflict of interest is likely to exist if the same counsel were to represent such Indemnified Party and the Indemnifying Party (in which case, if such Indemnified Party notifies the Indemnifying Party in writing that it elects to employ separate counsel at the expense of the Indemnifying Party, the Indemnifying Party shall not have the right to assume the defense thereof and the reasonable fees and expenses of no more than one separate counsel shall be at the expense of the Indemnifying Party). The Indemnifying Party shall not be liable for any settlement of any such Proceeding effected without its written consent, which consent shall not be unreasonably withheld or delayed. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending Proceeding in respect of which any Indemnified Party is a party, unless such settlement includes an unconditional release of such Indemnified Party from all liability on claims that are the subject matter of such Proceeding.

Subject to the terms of this Agreement, all reasonable fees and expenses of the Indemnified Party (including reasonable fees and expenses to the extent incurred in connection with investigating or preparing to defend such Proceeding in a manner not

inconsistent with this Section) shall be paid to the Indemnified Party, as incurred, within ten (10) Trading Days of written notice thereof to the Indemnifying Party, provided that the Indemnified Party shall promptly reimburse the Indemnifying Party for that portion of such fees and expenses applicable to such actions for which such Indemnified Party is finally determined by a court of competent jurisdiction (which determination is not subject to appeal or further review) not to be entitled to indemnification hereunder.

(d) Contribution. If the indemnification under Section 5(a) or 5(b) is unavailable to an Indemnified Party or insufficient to hold an Indemnified Party harmless for any Losses, then each Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Party, in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and Indemnified Party in connection with the actions, statements or omissions that resulted in such Losses as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party and Indemnified Party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission of a material fact, has been taken or made by, or relates to information supplied by, such Indemnifying Party or Indemnified Party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action, statement or omission. The amount paid or payable by a party as a result of any Losses shall be deemed to include, subject to the limitations set forth in this Agreement, any reasonable attorneys' or other fees or expenses incurred by such party in connection with any Proceeding to the extent such party would have been indemnified for such fees or expenses if the indemnification provided for in this Section was available to such party in accordance with its terms.

The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 5(d) were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to in the immediately preceding paragraph. In no event shall the contribution obligation of a Holder of Registrable Securities be greater in amount than the dollar amount of the proceeds (net of all expenses paid by such Holder in connection with any claim relating to this Section 5 and the amount of any damages such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission) received by it upon the sale of the Registrable Securities giving rise to such contribution obligation.

The indemnity and contribution agreements contained in this Section are in addition to any liability that the Indemnifying Parties may have to the Indemnified Parties.

#### 6. Miscellaneous.

(a) Remedies. In the event of a breach by the Company or by a Holder of any of their respective obligations under this Agreement, each Holder or the Company, as the case may be, in addition to being entitled to exercise all rights granted by law and under

this Agreement, including recovery of damages, shall be entitled to specific performance of its rights under this Agreement. Each of the Company and each Holder agrees that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall not assert or shall waive the defense that a remedy at law would be adequate.

(b) No Piggyback on Registrations; Prohibition on Filing Other Registration Statements. Except as set forth in the Amended and Restated Investors' Rights Agreement, dated as of December 19, 2019, by and among the Company and each of the investors listed on Schedule A thereto (the "IRA") and any registration statements filed with the Commission in connection therewith, neither the Company nor any of its security holders (other than the Holders in such capacity pursuant hereto) may include securities of the Company in any Registration Statements other than the Registrable Securities. Except as set forth in the IRA and any registration statements filed with the Commission in connection therewith, the Company shall not file any other registration statements until all Registrable Securities are registered pursuant to a Registration Statement that is declared effective by the Commission, provided that this Section 6(b) shall not prohibit the Company from filing amendments to registration statements filed prior to the date of this Agreement so long as no new securities are registered on any such existing registration statements.

(c) Discontinued Disposition. By its acquisition of Registrable Securities, each Holder agrees that, upon receipt of a notice from the Company of the occurrence of any event of the kind described in Section 3(d)(iii) through (vi), such Holder will forthwith discontinue disposition of such Registrable Securities under a Registration Statement until it is advised in writing (the "Advice") by the Company that the use of the applicable Prospectus (as it may have been supplemented or amended) may be resumed. The Company will use its commercially reasonable efforts to ensure that the use of the Prospectus may be resumed as promptly as is practicable. The Company agrees and acknowledges that any periods during which the Holder is required to discontinue the disposition of the Registrable Securities hereunder shall be subject to the provisions of Section 2(d).

(d) Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given, unless the same shall be in writing and signed by the Company and the Majority in Interest of Holders, provided that, if any amendment, modification or waiver disproportionately and adversely impacts a Holder (or group of Holders), the consent of such disproportionately impacted Holder (or group of Holders) shall be required. If a Registration Statement does not register all of the Registrable Securities pursuant to a waiver or amendment done in compliance with the previous sentence, then the number of Registrable Securities to be registered for each Holder shall be reduced pro rata among all Holders and each Holder shall have the right to designate which of its Registrable Securities shall be omitted from such Registration Statement. Notwithstanding the foregoing, a waiver or consent to

depart from the provisions hereof with respect to a matter that relates exclusively to the rights of a Holder or some Holders and that does not directly or indirectly affect the rights of other Holders may be given only by such Holder or Holders of all of the Registrable Securities to which such waiver or consent relates; provided, however, that the provisions of this sentence may not be amended, modified, or supplemented except in accordance with the provisions of the first sentence of this Section 6(d). No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of this Agreement unless the same consideration also is offered to all of the parties to this Agreement.

(e) Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be delivered as set forth in the Purchase Agreement.

(f) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of each of the parties and shall inure to the benefit of each Holder. The Company may not assign (except by merger) its rights or obligations hereunder without the prior written consent of all of the Holders of the then outstanding Registrable Securities. Each Holder may assign their respective rights hereunder in the manner and to the Persons as permitted under Section 13.4 of the Purchase Agreement.

(g) No Inconsistent Agreements. Neither the Company nor any of its Subsidiaries has entered, as of the date hereof, nor shall the Company or any of its Subsidiaries, on or after the date of this Agreement, enter into any agreement with respect to its securities, that would have the effect of impairing the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof. Except for the IRA, neither the Company nor any of its Subsidiaries has previously entered into any agreement granting any registration rights with respect to any of its securities to any Person that have not been satisfied or waived in full.

(h) Execution and Counterparts. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by e-mail delivery of a “.pdf” format data file or any electronic signature complying with the U.S. federal ESIGN Act of 2000 (e.g., [www.docusign.com](http://www.docusign.com)), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such “.pdf” signature page were an original thereof.

(i) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be determined in accordance with the provisions of the Purchase Agreement.



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(j) Cumulative Remedies. The remedies provided herein are cumulative and not exclusive of any other remedies provided by law.

(k) Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

(l) Headings. The headings in this Agreement are for convenience only, do not constitute a part of the Agreement and shall not be deemed to limit or affect any of the provisions hereof.

(m) Independent Nature of Holders' Obligations and Rights. The obligations of each Holder hereunder are several and not joint with the obligations of any other Holder hereunder, and no Holder shall be responsible in any way for the performance of the obligations of any other Holder hereunder. Nothing contained herein or in any other agreement or document delivered at any closing, and no action taken by any Holder pursuant hereto or thereto, shall be deemed to constitute the Holders as a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption that the Holders are in any way acting in concert or as a group or entity with respect to such obligations or the transactions contemplated by this Agreement or any other matters, and the Company acknowledges that the Holders are not acting in concert or as a group, and neither the Company nor the Holders shall assert any such claim, with respect to such obligations or transactions. Each Holder shall be entitled to protect and enforce its rights, including without limitation the rights arising out of this Agreement, and it shall not be necessary for any other Holder to be joined as an additional party in any proceeding for such purpose. The use of a single agreement with respect to the obligations of the Company was solely in the control of the Company, not the action or decision of any Holder, and was done solely for the convenience of the Company and not because it was required or requested to do so by any Holder. It is expressly understood and agreed that each provision contained in this Agreement is between the Company and a Holder, solely, and not between the Company and the Holders collectively and not between and among Holders.

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*(Signature Pages Follow)*

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IN WITNESS WHEREOF, the parties have executed this Registration Rights Agreement as of the date first written above.

**TELESIS BIO INC.**

By: \_\_\_\_\_  
Name: Todd R. Nelson  
Title: Chief Executive Officer

[SIGNATURE PAGE OF HOLDERS FOLLOWS]

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[SIGNATURE PAGE OF HOLDERS TO TBIO RRA]

Name of Holder: \_\_\_\_\_

*Signature of Authorized Signatory of Holder:* \_\_\_\_\_

Name of Authorized Signatory: \_\_\_\_\_

Title of Authorized Signatory: \_\_\_\_\_

[SIGNATURE PAGES CONTINUE]

Plan of Distribution

Each Selling Stockholder (the “Selling Stockholders”) of the securities and any of their pledgees, assignees and successors-in-interest may, from time to time, sell any or all of their securities covered hereby on the principal Trading Market or any other stock exchange, market or trading facility on which the securities are traded or in private transactions. These sales may be at fixed or negotiated prices. A Selling Stockholder may use any one or more of the following methods when selling securities:

- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the securities as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- settlement of short sales;
- in transactions through broker-dealers that agree with the Selling Stockholders to sell a specified number of such securities at a stipulated price per security;
- through the writing or settlement of options or other hedging transactions, whether through an options exchange or otherwise;
- a combination of any such methods of sale; or
- any other method permitted pursuant to applicable law.

The Selling Stockholders may also sell securities under Rule 144 or any other exemption from registration under the Securities Act of 1933, as amended (the “Securities Act”), if available, rather than under this prospectus.

Broker-dealers engaged by the Selling Stockholders may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the Selling Stockholders (or, if any broker-dealer acts as agent for the purchaser of securities, from the purchaser) in amounts to be negotiated, but, except as

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set forth in a supplement to this Prospectus, in the case of an agency transaction not in excess of a customary brokerage commission in compliance with FINRA Rule 2121; and in the case of a principal transaction a markup or markdown in compliance with FINRA Rule 2121.

In connection with the sale of the securities or interests therein, the Selling Stockholders may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the securities in the course of hedging the positions they assume. The Selling Stockholders may also sell securities short and deliver these securities to close out their short positions, or loan or pledge the securities to broker-dealers that in turn may sell these securities. The Selling Stockholders may also enter into option or other transactions with broker-dealers or other financial institutions or create one or more derivative securities which require the delivery to such broker-dealer or other financial institution of securities offered by this prospectus, which securities such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The Selling Stockholders and any broker-dealers or agents that are involved in selling the securities may be deemed to be “underwriters” within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the securities purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act. Each Selling Stockholder has informed the Company that it does not have any written or oral agreement or understanding, directly or indirectly, with any person to distribute the securities.

The Company is required to pay certain fees and expenses incurred by the Company incident to the registration of the securities. The Company has agreed to indemnify the Selling Stockholders against certain losses, claims, damages and liabilities, including liabilities under the Securities Act.

We agreed to keep this prospectus effective until the earlier of (i) the date on which the securities may be resold by the Selling Stockholders without registration and without regard to any volume or manner-of-sale limitations by reason of Rule 144, without the requirement for the Company to be in compliance with the current public information requirement under Rule 144 under the Securities Act or any other rule of similar effect or (ii) all of the securities have been sold pursuant to this prospectus or Rule 144 under the Securities Act or any other rule of similar effect. The resale securities will be sold only through registered or licensed brokers or dealers if required under applicable state securities laws. In addition, in certain states, the resale securities covered hereby may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

Under applicable rules and regulations under the Exchange Act, any person engaged in the distribution of the resale securities may not simultaneously engage in market making activities with respect to the common stock for the applicable restricted

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period, as defined in Regulation M, prior to the commencement of the distribution. In addition, the Selling Stockholders will be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, including Regulation M, which may limit the timing of purchases and sales of the common stock by the Selling Stockholders or any other person. We will make copies of this prospectus available to the Selling Stockholders and have informed them of the need to deliver a copy of this prospectus to each purchaser at or prior to the time of the sale (including by compliance with Rule 172 under the Securities Act).

**SELLING STOCKHOLDERS**

The Common Stock being offered by the selling stockholders are those previously issued to the selling stockholders, and those issuable to the selling stockholders, upon conversion of the Company's Redeemable Convertible Preferred Stock and/or upon exercise of the warrants to purchase Common Stock. For additional information regarding the issuances of the Redeemable Convertible Preferred Stock and warrants, see "Private Placement of Shares of Redeemable Convertible Preferred Stock and Warrants" above. We are registering the shares of Common Stock in order to permit the selling stockholders to offer the shares for resale from time to time.

The table below lists the selling stockholders, describes their relationship to the Company and provides other information regarding the beneficial ownership of the shares of common stock by each of the selling stockholders. The second column lists the number of shares of Common Stock beneficially owned by each selling stockholder, based on its ownership of the Company's Redeemable Convertible Preferred Stock, Common Stock and Warrants, as of \_\_\_\_\_, 2023, assuming conversion of the Redeemable Convertible Preferred Stock and exercise of the Warrants held by the selling stockholders on that date, without regard to any limitations on exercises contained therein.

The third column lists the shares of Common Stock being offered by this prospectus by the selling stockholders.

In accordance with the terms of a registration rights agreement with the selling stockholders, this prospectus generally covers the resale of the sum of (i) the maximum number of shares of Common Stock issuable upon the conversion of Redeemable Convertible Preferred Stock, determined as of the outstanding Redeemable Convertible Preferred Stock were exercised in full as of the trading day immediately preceding the date this registration statement was initially filed with the SEC, see "Private Placement of Shares of Redeemable Convertible Preferred Stock and Warrants" described above and (ii) the maximum number of shares of Common Stock issuable upon exercise of the related warrants, determined as if the outstanding warrants were exercised in full as of the trading day immediately preceding the date this registration statement was initially filed with the SEC, without regard to any limitations on the exercise of the Redeemable Convertible Preferred Stock or the warrants. The fourth column assumes the sale of all of the shares offered by the selling stockholders pursuant to this prospectus.

Under the terms of the Redeemable Convertible Preferred Stock and Warrants, in some cases a selling stockholder may not convert the Redeemable Convertible Preferred Stock or exercise the Warrants to the extent such exercise would cause such selling stockholder, together with its attribution parties, to beneficially own a number of shares of Common Stock which would exceed 19.99% (except that such increased percentage may exceed 19.99% in the event that (x) the Company obtains the approval of its stockholders as required by the applicable rules of Nasdaq for issuances of shares of

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Common Stock in excess of such amount or (y) the Company is not subject to rules of Nasdaq limiting issuances of shares of Common Stock in excess of such amount) of our then outstanding common stock following such conversion or exercise, excluding for purposes of such determination shares of common stock issuable upon Conversion of such Redeemable Convertible Preferred Stock or exercise of such warrants which have not been so converted or exercised. The number of shares in the second and fourth columns do not reflect this limitation. The selling stockholders may sell all, some or none of their shares in this offering. See “Plan of Distribution.”



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Name of Selling Stockholder

**Number of shares of  
Common Stock Owned  
Prior to Offering**

**Maximum Number of  
shares of Common Stock  
to be Sold Pursuant to this  
Prospectus**

**Number of shares of  
Common Stock Owned  
After Offering**

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**TELESIS BIO INC.**

**Selling Stockholder Notice and Questionnaire**

The undersigned beneficial owner of common stock (the "Registrable Securities") of Telesis Bio Inc., a Delaware corporation (the "Company"), understands that the Company has filed or intends to file with the Securities and Exchange Commission (the "Commission") a registration statement (the "Registration Statement") for the registration and resale under Rule 415 of the Securities Act of 1933, as amended (the "Securities Act"), of the Registrable Securities, in accordance with the terms of the Registration Rights Agreement (the "Registration Rights Agreement") to which this document is annexed. A copy of the Registration Rights Agreement is available from the Company upon request at the address set forth below. All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Registration Rights Agreement.

Certain legal consequences arise from being named as a selling stockholder in the Registration Statement and the related prospectus. Accordingly, holders and beneficial owners of Registrable Securities are advised to consult their own securities law counsel regarding the consequences of being named or not being named as a selling stockholder in the Registration Statement and the related prospectus.

**NOTICE**

The undersigned beneficial owner (the "Selling Stockholder") of Registrable Securities hereby elects to include the Registrable Securities owned by it in the Registration Statement.

The undersigned hereby provides the following information to the Company and represents and warrants that such information is accurate:

**QUESTIONNAIRE**

**1. Name.**

(a) Full Legal Name of Selling Stockholder

\_\_\_\_\_

(b) Full Legal Name of Registered Holder (if not the same as (a) above) through which Registrable Securities are held:

\_\_\_\_\_

(c) Full Legal Name of Natural Control Person (which means a natural person who directly or indirectly alone or with others has power to vote or dispose of the securities covered by this Questionnaire):

\_\_\_\_\_

**2. Address for Notices to Selling Stockholder:**

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Contact Person: \_\_\_\_\_

**3. Broker-Dealer Status:**

(a) Are you a broker-dealer?

Yes  No

(b) If "yes" to Section 3(a), did you receive your Registrable Securities as compensation for investment banking services to the Company?

Yes  No

Note: If "no" to Section 3(b), the Commission's staff has indicated that you should be identified as an underwriter in the Registration Statement.

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(c) Are you an affiliate of a broker-dealer?

Yes  No

(d) If you are an affiliate of a broker-dealer, do you certify that you purchased the Registrable Securities in the ordinary course of business, and at the time of the purchase of the Registrable Securities to be resold, you had no agreements or understandings, directly or indirectly, with any person to distribute the Registrable Securities?

Yes  No

Note: If “no” to Section 3(d), the Commission’s staff has indicated that you should be identified as an underwriter in the Registration Statement.

**4. Beneficial Ownership of Securities of the Company Owned by the Selling Stockholder.**

*Except as set forth below in this Item 4, the undersigned is not the beneficial or registered owner of any securities of the Company other than the securities issuable pursuant to the Purchase Agreement.*

(a) Type and Amount of other securities beneficially owned by the Selling Stockholder:

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**5. Relationships with the Company:**

*Except as set forth below, neither the undersigned nor any of its affiliates, officers, directors or principal equity holders (owners of 5% or more of the equity securities of the undersigned) has held any position or office or has had any other material relationship with the Company (or its predecessors or affiliates) during the past three years.*

State any exceptions here:

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The undersigned agrees to promptly notify the Company of any material inaccuracies or changes in the information provided herein that may occur subsequent to the date hereof at any time while the Registration Statement remains effective; provided, that the undersigned shall not be required to notify the Company of any changes to the number of securities held or owned by the undersigned or its affiliates.

By signing below, the undersigned consents to the disclosure of the information contained herein in its answers to Items 1 through 5 and the inclusion of such information in the Registration Statement and the related prospectus and any amendments or supplements thereto. The undersigned understands that such information will be relied upon by the Company in connection with the preparation or amendment of the Registration Statement and the related prospectus and any amendments or supplements thereto.

IN WITNESS WHEREOF the undersigned, by authority duly given, has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Date: \_\_\_\_\_

Beneficial Owner: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

**PLEASE EMAIL A .PDF COPY OF THE COMPLETED AND EXECUTED NOTICE AND QUESTIONNAIRE TO: Rob Cutler  
<rob.cutler@telesisbio.com>**

## TELESIS BIO INC.

AMENDMENT NO. 1 TO AMENDED AND RESTATED  
INVESTORS' RIGHTS AGREEMENT

This Amendment No. 1 to the Amended and Restated Investors' Rights Agreement (this "**Amendment**") is made and entered into as of May 31, 2023, by and among Telesis Bio Inc., a Delaware corporation (the "**Company**"), and the undersigned. This Amendment amends the Amended and Restated Investors' Rights Agreement, dated as of December 19, 2019 (the "**Investors' Rights Agreement**"). Capitalized terms used herein but not otherwise defined shall have the meaning set forth in the Investors' Rights Agreement.

## RECITALS

**WHEREAS**, Section 6.6 of the Investors' Rights Agreement provides that the Investors' Rights Agreement may only be amended, waived, discharged, or terminated by a written instrument referencing the Investors' Rights Agreement and signed by (i) the Company, and (ii) the Investors (as defined in the Investors' Rights Agreement) holding a majority of the Registrable Securities (as defined in the Investors' Rights Agreement) then outstanding and held by the Investors (voting as a single separate class and on an as-converted basis) (the "**Requisite Investors**"), and together with the Company, the "**Requisite Parties**").

**WHEREAS**, in connection with the offer, sale and issuance shares of redeemable convertible preferred stock of the Company and warrants to purchase common stock of the Company pursuant to that certain the Redeemable Convertible Preferred Stock and Warrant Purchase Agreement (the "**Purchase Agreement**") by and between the Company and the purchasers identified on Schedule I to the Purchase Agreement, the Company and the undersigned, who together constitute the Requisite Parties, desire to amend the Investors' Rights Agreement as set forth herein.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, who constitute the Requisite Parties, agree to amend the Investors' Rights Agreement as follows:

## AGREEMENT

1. Amendment to Investors' Rights Agreement. Section 2.13 of the Investors' Rights Agreement is hereby amended and restated in its entirety as follows:

"2.13 Termination of Registration Rights. The right of any Holder to request registration or inclusion of Registrable Securities in any registration pursuant to Section 2.1 or Section 2.2 shall terminate upon the earliest to occur of:

- (a) the closing of a Deemed Liquidation Event (as such term is defined in the Certificate of Incorporation);
- (b) such time after consummation of the IPO as Rule 144 or another similar exemption under the Securities Act is available for the sale of all of such Holder's shares without limitation during a three-month period without registration;
- (c) the fifth (5th) anniversary of the date of the IPO.

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provided, that, the rights to so request under Section 2.1 and Section 2.2 shall not terminate with respect to any Registrable Securities held by a Holder that is a party to the Registration Rights Agreement dated June 2, 2023 among the Company and the parties thereto (the “**2023 RRA**”) while any of such Holder’s securities subject to the 2023 RRA remain Registrable Securities under the 2023 RRA, and in that case such rights shall only terminate ten (10) days following advance notice of such termination by the Company to such Holder.”

2. Miscellaneous.

(a) Continuing Effect. Except as specifically amended hereby, all of the terms of the Investors’ Rights Agreement shall remain and continue in full force and effect and are hereby confirmed in all respects. On and after the date hereof, each reference in the Investors’ Rights Agreement to “this Agreement”, the “Agreement”, “hereunder”, “hereof”, “herein”, or words of like import, and each reference to the Investors’ Rights Agreement in any other agreements, documents, or instruments executed or delivered pursuant to, or in connection with, the Investors’ Rights Agreement, will mean and be a reference to the Investors’ Rights Agreement as amended by this Amendment.

(b) Governing Law. This Amendment shall be governed in all respects by the internal laws of Delaware as applied to agreements entered into among Delaware residents to be performed entirely within Delaware, without regard to principles of conflicts of law.

(c) Severability. If any provision of this Amendment shall be determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(d) Entire Agreement. This Amendment and the Investors’ Rights Agreement constitute the full and entire agreement between the parties with regard to the subject matter hereof.

(e) Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act or other applicable law) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

*(Signature Page Follows)*

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IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the Amended and Restated Investors' Rights Agreement of the date first written above.

**TELESIS BIO INC.**  
a Delaware corporation

By: /s/ Todd R. Nelson

Name: Todd R. Nelson

Title: Chief Executive Officer

Telesis Bio Inc. – Amendment No. 1 to the Amended and Restated Investors' Rights Agreement



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IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the Amended and Restated Investors' Rights Agreement of the date first written above.

**INVESTOR**

**NORTHPOUND VENTURES, LP**

By: Northpond Ventures GP, LLC, its general partner

By: /s/ Patrick Smerkers

Name: Patrick Smerkers

Title: CFO, Partner

[Signature Page to Amendment No. 1 to the Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the Amended and Restated Investors' Rights Agreement of the date first written above.

**INVESTOR**

**BROADOAK FUND IV, LLC**

By: /s/ William Snider

Name: William Snider

Title: Manager

[Signature Page to Amendment No. 1 to the Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the Amended and Restated Investors' Rights Agreement of the date first written above.

**INVESTOR**

**GATTACA MINING LLC**

By: /s/ Todd R. Nelson

Name: Todd R. Nelson

Title: Chief Executive Officer

[Signature Page to Amendment No. 1 to the Amended and Restated Investors' Rights Agreement]

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IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the Amended and Restated Investors' Rights Agreement of the date first written above.

**INVESTOR**

**TODD R. NELSON**

/s/ Todd R. Nelson

[Signature Page to Amendment No. 1 to the Amended and Restated Investors' Rights Agreement]

**Telesis Bio Secures Financing of \$28.0 Million****Up to an Additional \$46.2 Million Available Through Warrant Exercise****Led by Novalis LifeSciences LLC with participation from NorthPond Ventures, M-185 Corporation and BroadOak Capital Partners**

SAN DIEGO, May 31, 2023 (GLOBE NEWSWIRE) — Telesis Bio Inc. (NASDAQ: TBIO), a leader in molecular biology automation solutions for multi-omic and synthetic biology applications, today announced it has signed a securities purchase agreement with a syndicate of healthcare-focused institutional investors that have agreed to provide initial upfront funding of \$28.0 million in gross proceeds to Telesis Bio through a private placement of redeemable convertible preferred stock. The private placement also includes the issuance of warrants that, if cash exercised, would provide Telesis Bio with another \$46.2 million in gross proceeds.

The financing is led by Novalis LifeSciences LLC with participation from Northpond Ventures, BroadOak Capital Partners and M-185 Corporation, an affiliate of the Company's Chief Executive Officer and Founder, Todd R. Nelson, PhD.

Under the terms of the Redeemable Convertible Preferred Stock and Warrant Purchase Agreement, immediately following the closing of the financing, Paul Meister, a partner at Novalis LifeSciences LLC, will be appointed to the Company's board of directors, increasing the size of its board of directors from seven to eight.

"We are pleased to announce this financing led by Novalis LifeSciences LLC with strong support from existing investors," shared Todd R. Nelson, CEO and Founder of Telesis Bio. "Paul Meister's tenure in the industry as a veteran executive and board member at notable companies such as Syneos Health, Fisher Scientific and ThermoFisher Scientific, will be a valuable asset to the shareholders of Telesis Bio as we seek to increase shareholder value and approach profitability in the 2024 timeframe."

"The company's innovative BioXp automation solutions are still in the early stages of adoption within targeted discovery workflows including biologics, cell and gene therapy and genome engineering. The value proposition to researchers will only continue to increase as the demands within the multi-omics and synthetic biology markets continues," stated Paul Meister. "I am grateful for the opportunity to join this esteemed board of directors and support the Company's vision for the BioXp platform."

"While we believe strongly in our ability to grow our BioXp installed base and are confident that we can achieve our long-term revenue and profitability goals, we are adjusting expectations for the company's financial performance for the remainder of 2023, as we continue to see challenging headwinds that may impact our revenue results," Nelson shared. "We now anticipate full year revenue for the company to be approximately \$35 million and operating expenses, including non-cash and one-time charges to be approximately \$55 million. Gross margin expectations of approximately 57% remain unchanged."

The Company intends to use the proceeds from the financing for general corporate purposes. The financing is expected to close on June 2, 2023, subject to the satisfaction of customary closing conditions.

Please refer to the Company's Form 8-K to be filed with the Securities and Exchange Commission for the complete terms of the financing.

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THIS RELEASE DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY ANY SECURITY. THE SECURITIES OFFERED HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS AND MAY NOT BE OFFERED OR SOLD IN THE UNITED STATES OR ANY STATE THEREOF ABSENT REGISTRATION UNDER THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS OR AN APPLICABLE EXEMPTION FROM REGISTRATION REQUIREMENTS.

### **About Telesis Bio**

Telesis Bio is empowering scientists with the ability to create novel, synthetic biology-enabled solutions for many of humanity's greatest challenges. As inventors of the industry-standard Gibson Assembly® method and the first commercial automated benchtop DNA and mRNA synthesis system, Telesis Bio is enabling rapid, accurate and reproducible writing of DNA and mRNA for numerous downstream markets. The award-winning BioXp® system consolidates, automates, and optimizes the entire synthesis, cloning and amplification workflow. As a result, it delivers virtually error-free synthesis of DNA and RNA at scale within days and hours instead of weeks or months. Scientists around the world are using the technology in their own laboratories to accelerate the design-build-test paradigm for novel, high-value products for precision medicine, biologics drug discovery, vaccine and therapeutic development, genome editing, and cell and gene therapy. Telesis Bio is a public company based in San Diego. For more information, visit [www.telesisbio.com](http://www.telesisbio.com).

Telesis Bio, the Telesis Bio logo, Gibson Assembly, and BioXp are trademarks of Telesis Bio Inc.

### **About Novalis LifeSciences LLC**

Novalis LifeSciences LLC is a boutique investment and advisory firm that was founded in 2017 by Marijn E. Dekkers. With a team of experienced operating executives from the Life Science industry, Novalis funds and advises visionary Life Science entrepreneurs. The firm has approximately \$500M under management in two investment funds.

### **Forward-Looking Statements**

*This press release contains forward-looking statements. All statements other than statements of historical facts contained herein are forward-looking statements reflecting the current beliefs and expectations of management made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. These statements include statements and guidance regarding Telesis Bio's future financial performance, the completion, timing and size of the financing, the anticipated use of proceeds from the financing, as well as statements regarding the future release and success of new and existing products and services. Such statements are based on current assumptions that involve risks and uncertainties that could cause actual outcomes and results to differ materially. These risks and uncertainties, many of which are beyond our control, include risks described in the section entitled Risk Factors and elsewhere in our Annual Report on Form 10-K, which was filed with the Securities and Exchange Commission (SEC) on March 22, 2023, as amended on May 1, 2023 and May 17, 2023 and in our Quarterly Report on Form 10-Q, which was filed with the SEC on May 12, 2023. These forward-looking statements speak only as of the date hereof and should not be unduly relied upon. Telesis Bio disclaims any obligation to update these forward-looking statements.*

Contact:  
Jen Carroll  
Vice President of Investor Relations  
[jen.carroll@telesisbio.com](mailto:jen.carroll@telesisbio.com)