

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

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended June 30, 2024
OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from _____ to _____
Commission file number 001-40497

Telesis Bio Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

45-1216839
(I.R.S. Employer
Identification No.)

10431 Wateridge Circle, Suite 150, San Diego, CA
(Address of Principal Executive Offices)

92121
(Zip Code)

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

N/A

(Former name, former address and former fiscal year, if changed since last report)

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: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports); and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

The registrant had outstanding 1,772,946 shares of common stock as of August 6, 2024.

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SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q (Quarterly Report) contains forward-looking statements. All statements other than statements of historical facts contained in this Quarterly Report, including statements regarding our future results of operations and financial position, business strategy, research and development costs, timing and likelihood of success, as well as plans and objectives of management for future operations, are forward-looking statements. These statements involve known and unknown risks, uncertainties and other important factors that are in some cases beyond our control and may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements.

In some cases, you can identify forward-looking statements by terms such as “aim,” “anticipate,” “assume,” “believe,” “contemplate,” “continue,” “could,” “due,” “estimate,” “expect,” “goal” “intend,” “may,” “objective” “plan,” “predict,” “potential,” “project,” “seek,” “should,” “target,” “will,” “would,” and other similar expressions that are predictions of or indicate future events and future trends, or the negative of these terms or other comparable terminology. Forward-looking statements contained in this Quarterly Report include, but are not limited to, statements about:

- estimates of the synthetic biology market, market growth, and new market expansion;
- our future revenue, expenses, capital requirements and our needs for additional financing;
- our expectations regarding the rate and degree of market acceptance of our BioXp systems, BioXp kits and benchtop reagents;
- the ability of our products to facilitate the screen-design-build-test paradigm of synthetic biology;
- the size and growth of the synthetic biology market and competitive companies and technologies and our industry;
- our ability to manage and grow our business;
- our ability to develop and commercialize new products;
- our ability to establish and maintain intellectual property protection for our products or avoid or defend claims of infringement;
- the performance of third-party manufacturers and suppliers and our ability to qualify second-source suppliers;
- the potential effects of government regulation;
- our ability to hire and retain key personnel and to manage our future growth effectively;
- our ability to obtain additional financing in future offerings;
- the volatility of the trading price of our common stock;
- the impact of the 1-for-18 reverse stock split;
- our ability to remain in compliance with Nasdaq continued listing requirements;
- the impact of local, regional, and national and international economic conditions and events, including the war between Russia and Ukraine and ongoing hostilities in the Middle East;
- our expectations about market trends;
- our anticipated use of our existing resources; and
- other risks and uncertainties, including those listed in the section titled “Risk Factors.”

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We have based these forward-looking statements largely on our current expectations and projections about our business, the industry in which we operate and financial trends that we believe may affect our business, financial condition, results of operations and prospects, and these forward-looking statements are not guarantees of future performance or development. These forward-looking statements speak only as of the date of this Quarterly Report and are subject to a number of risks, uncertainties and assumptions described in the section titled "Risk Factors" and elsewhere in this Quarterly Report. Because forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified, you should not rely on these forward-looking statements as predictions of future events. The events and circumstances reflected in our forward-looking statements may not be achieved or occur and actual results could differ materially from those projected in the forward-looking statements. Except as required by applicable law, we undertake no obligation to update or revise any forward-looking statements contained herein to reflect events or circumstances after the date of this Quarterly Report, whether as a result of any new information, future events or otherwise.

In addition, statements that "we believe" and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this Quarterly Report, and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain, and you are cautioned not to unduly rely upon these statements.

Unless the context requires otherwise, references in this Quarterly Report to "Telesis," "we," "us," and "our" refer to Telesis Bio Inc.

PART I - FINANCIAL INFORMATION

Item 1. Financial Statements

Telesis Bio Inc.
Condensed Consolidated Balance Sheets
(in thousands, except share and per share data)
(Unaudited)

	June 30, 2024	December 31, 2023
Assets		(Note 2)
Current assets:		
Cash and cash equivalents	\$ 6,397	\$ 1,570
Restricted cash	100	175
Short-term investments	3,817	17,588
Accounts receivable, net of allowance for credit losses of \$1,005 and \$1,197 at June 30, 2024 and December 31, 2023, respectively	1,334	5,410
Inventory, net	1,357	3,710
Prepaid expenses and other current assets	1,178	1,008
Current assets held for sale	973	890
Total current assets	<u>15,156</u>	<u>30,351</u>
Property and equipment, net	4,398	6,298
Right-of-use assets	26,585	25,889
Other long-term assets	193	623
Goodwill	3,497	3,497
Other intangible assets, net	750	974
Noncurrent assets held for sale	2,148	2,779
Total assets	<u>\$ 52,727</u>	<u>\$ 70,411</u>
Liabilities, redeemable convertible preferred stock and stockholders' (deficit) equity		
Current liabilities:		
Accounts payable	\$ 1,536	\$ 3,165
Accrued employee expenses	2,561	1,828
Finance lease liability, current portion	118	112
Operating lease liability, current portion	1,676	1,390
Deferred revenue, current portion	380	338
Other accrued liabilities	839	440
Other current liabilities	6	43
Current liabilities held for sale	897	868
Total current liabilities	<u>8,013</u>	<u>8,184</u>
Finance lease liability, net of current portion	103	147
Operating lease liability, net of current portion	28,378	26,092
Notes payable, net of discount	5,278	5,269
Derivative liabilities	36	36
Deferred revenue, net of current portion	99	95
Noncurrent liabilities held for sale	874	1,050
Total liabilities	<u>\$ 42,781</u>	<u>\$ 40,873</u>
Commitments and contingencies (Note 14)		
Preferred stock, \$0.0001 par value; 5,000,000 shares authorized:		
Redeemable convertible preferred stock, 280,000 shares issued and outstanding at June 30, 2024 and December 31, 2023, respectively; liquidation preference of \$30,481 and \$29,300 at June 30, 2024 and December 31, 2023, respectively	30,481	29,300
Stockholders' (deficit) equity		
Common stock, \$0.0001 par value; 100,000,000 shares authorized at June 30, 2024 and December 31, 2023; 1,771,578 and 1,670,185 shares issued and outstanding at June 30, 2024 and December 31, 2023, respectively	—	—
Additional paid-in capital	162,161	161,703
Accumulated other comprehensive loss	(9)	—
Accumulated deficit	(182,687)	(161,465)
Total stockholders' (deficit) equity	<u>(20,535)</u>	<u>238</u>
Total liabilities, redeemable convertible preferred stock and stockholders' (deficit) equity	<u>\$ 52,727</u>	<u>\$ 70,411</u>

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

Telesis Bio Inc.
Condensed Consolidated Statements of Operations and Comprehensive Loss
(in thousands, except share and per share data)
(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Revenue:				
Product revenue	\$ 841	\$ 2,670	\$ 2,105	\$ 5,671
Service revenue	—	65	—	101
Collaboration revenue	—	3,462	—	4,424
Royalties and other revenue	709	807	1,634	1,486
Total revenue	1,550	7,004	3,739	11,682
Cost of revenue	2,349	2,039	3,431	3,934
Gross (loss) profit	(799)	4,965	308	7,748
Operating expenses:				
Research and development	2,470	3,921	4,829	8,414
Sales and marketing	1,698	3,192	3,260	6,867
General and administrative	5,507	5,294	10,481	10,396
Impairment of property and equipment	1,017	—	1,017	—
Total operating expenses	10,692	12,407	19,587	25,677
Loss from operations	(11,491)	(7,442)	(19,279)	(17,929)
Other (expense) income, net:				
Interest income	160	374	388	764
Interest expense	(214)	(707)	(431)	(1,346)
Change in fair value of derivative liabilities	—	19	—	159
Other expense, net	(15)	(3)	(146)	(39)
Total other expense, net	(69)	(317)	(189)	(462)
Loss before provision for income taxes	(11,560)	(7,759)	(19,468)	(18,391)
Provision for income taxes	(1)	(4)	(3)	(7)
Loss from continuing operations	(11,561)	(7,763)	(19,471)	(18,398)
Loss from discontinuing operations	(1,024)	(524)	(1,751)	(1,008)
Net loss	\$ (12,585)	\$ (8,287)	\$ (21,222)	\$ (19,406)
Less: redeemable convertible preferred stock dividends	(596)	(153)	(1,181)	(153)
Net loss attributable to common stockholders	\$ (13,181)	\$ (8,440)	\$ (22,403)	\$ (19,559)
Net loss per share from continuing operations attributable to common stockholders—basic and diluted	\$ (7.03)	\$ (4.79)	\$ (12.14)	\$ (11.24)
Net loss per share from discontinuing operations attributable to common stockholders—basic and diluted	\$ (0.59)	\$ (0.32)	\$ (1.03)	\$ (0.61)
Net loss per share attributable to common stockholders—basic and diluted	\$ (7.62)	\$ (5.10)	\$ (13.17)	\$ (11.85)
Weighted average common stock outstanding—basic and diluted	1,730,210	1,654,127	1,700,596	1,651,053
Other comprehensive loss:				
Net loss	\$ (12,585)	\$ (8,287)	\$ (21,222)	\$ (19,406)
Unrealized gain (loss) on available-for-sale short-term investments	1	(2)	(3)	3
Foreign currency translation loss	—	—	(6)	—
Total comprehensive loss	\$ (12,584)	\$ (8,289)	\$ (21,231)	\$ (19,403)

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

Telesis Bio Inc.
Condensed Consolidated Statements of Redeemable Convertible Preferred Stock and Stockholders' (Deficit) Equity
(in thousands, except share data)
(Unaudited)

	Redeemable Convertible Preferred Stock		Common Stock		Additional Paid-In	Accumulated	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' (Deficit) Equity
	Shares	Amount	Shares	Amount	Capital	Deficit		
Balances at December 31, 2023	280,000	\$ 29,300	1,670,185	\$ —	\$ 161,703	\$ (161,465)	\$ —	\$ 238
Issuance of common stock upon exercise of stock options	—	—	480	—	4	—	—	4
Vesting of restricted stock units	—	—	2,916	—	—	—	—	—
Surrender of shares for tax withholding	—	—	(1,176)	—	(12)	—	—	(12)
Stock-based compensation expense	—	—	—	—	766	—	—	766
Redeemable convertible preferred stock dividends	—	585	—	—	(585)	—	—	(585)
Unrealized loss on available-for-sale short-term investments	—	—	—	—	—	—	(4)	(4)
Foreign currency translation loss	—	—	—	—	—	—	(6)	(6)
Net loss	—	—	—	—	—	(8,637)	—	(8,637)
Balances at March 31, 2024	<u>280,000</u>	<u>\$ 29,885</u>	<u>1,672,405</u>	<u>\$ —</u>	<u>\$ 161,876</u>	<u>\$ (170,102)</u>	<u>\$ (10)</u>	<u>\$ (8,236)</u>
Impact of reverse stock split fractional share round-up	—	—	85,345	—	—	—	—	—
Vesting of restricted stock units	—	—	10,392	—	—	—	—	—
Issuance of common stock upon exercise of ESPP	—	—	3,436	—	12	—	—	12
Stock-based compensation expense	—	—	—	—	869	—	—	869
Redeemable convertible preferred stock dividends	—	596	—	—	(596)	—	—	(596)
Unrealized gain on available-for-sale short-term investments	—	—	—	—	—	—	1	1
Net loss	—	—	—	—	—	(12,585)	—	(12,585)
Balances at June 30, 2024	<u>280,000</u>	<u>\$ 30,481</u>	<u>1,771,578</u>	<u>\$ —</u>	<u>\$ 162,161</u>	<u>\$ (182,687)</u>	<u>\$ (9)</u>	<u>\$ (20,535)</u>

Telesis Bio Inc.
Condensed Consolidated Statements of Redeemable Convertible Preferred Stock and Stockholders' (Deficit) Equity (continued)
(in thousands, except share data)
(Unaudited)

	Redeemable Convertible Preferred Stock		Common Stock		Additional Paid-In	Accumulat ed	Accumulat ed Other Comprehensive Income	Total Stockholders' (Deficit) Equity
	Shares	Amount	Shares	Amount	Capital	Deficit	(Loss)	Equity
Balances at December 31, 2022	—	\$ —	1,647,061	\$ —	\$ 160,309	\$ (113,741)	\$ (3)	\$ 46,565
Issuance of common stock upon exercise of stock options	—	—	966	—	12	—	—	12
Vesting of restricted stock units	—	—	1,890	—	—	—	—	—
Stock-based compensation expense	—	—	—	—	1,156	—	—	1,156
Unrealized gain on available-for-sale short-term investments	—	—	—	—	—	—	5	5
Net loss	—	—	—	—	—	(11,119)	—	(11,119)
Balances at March 31, 2023	—	\$ —	1,649,917	\$ —	\$ 161,477	\$ (124,860)	\$ 2	\$ 36,619
Issuance of common stock upon exercise of stock options	—	—	2,877	—	46	—	—	46
Issuance of common stock upon exercise of ESPP	—	—	6,019	—	126	—	—	126
Issuance of redeemable convertible preferred stock, net of \$1.0 million issuance costs	280,000	18,410	—	—	—	—	—	—
Issuance of warrants, net of \$0.4 million issuance costs	—	—	—	—	8,122	—	—	8,122
Redeemable convertible preferred stock dividends	—	153	—	—	(153)	—	—	(153)
Accretion of preferred stock	—	9,590	—	—	(9,590)	—	—	(9,590)
Vesting of restricted stock units	—	—	3,438	—	—	—	—	—
Stock-based compensation expense	—	—	—	—	1,035	—	—	1,035
Unrealized loss on available-for-sale short-term investments	—	—	—	—	—	—	(2)	(2)
Net loss	—	—	—	—	—	(8,287)	—	(8,287)
Balances at June 30, 2023	280,000	\$ 28,153	1,662,251	\$ —	\$ 161,063	\$ (133,147)	\$ —	\$ 27,916

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

Telesis Bio Inc.
Condensed Consolidated Statements of Cash Flows
(in thousands)
(Unaudited)

	Six Months Ended June 30,	
	2024	2023
Cash Flows From Operating Activities:		
Net loss	\$ (21,222)	\$ (19,406)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation	833	557
Amortization of intangible assets	224	225
Amortization of debt discount	109	209
Provision for credit losses	205	420
Stock-based compensation	1,635	2,191
Amortization of operating lease right-of-use assets	920	779
Change in fair value of derivative liabilities	—	(159)
Loss on disposal of property and equipment	150	28
Impairment of net assets held for sale	242	—
Impairment of property and equipment	1,017	—
Change in inventory reserve	1,737	22
Accretion of discount on short-term investments	(196)	(178)
Changes in operating assets and liabilities:		
Accounts receivable	3,871	(2,623)
Inventories	616	(1,710)
Deposits, prepaid expenses and other current assets	260	1,469
Accounts payable, accrued payroll and accrued liabilities	(151)	(2,282)
Deferred revenue	46	(1,778)
Operating lease liabilities	956	573
Operating cash flows from discontinuing operations	165	196
Net cash used in operating activities	<u>(8,583)</u>	<u>(21,467)</u>
Cash Flows From Investing Activities:		
Proceeds from maturities of short-term investments	18,550	19,750
Purchase of property and equipment	(583)	(1,552)
Purchases of short-term investments	(4,586)	(7,157)
Investing cash flows from discontinuing operations	(6)	(72)
Net cash provided by investing activities	<u>13,375</u>	<u>10,969</u>
Cash Flows From Financing Activities:		
Payment of employee restricted stock tax withholdings	(12)	—
Payments on finance leases	(38)	(29)
Proceeds from the exercise of common stock options	4	58
Proceeds from the issuance of common stock related to ESPP	12	126
Proceeds from the issuance of preferred stock, net of issuance costs	—	18,410
Proceeds from the issuance of warrants, net of issuance costs	—	8,122
Net cash (used in) provided by financing activities	<u>(34)</u>	<u>26,687</u>
Effect of exchange rate fluctuations on cash held	(6)	—
Net Increase In Cash, Cash Equivalents, and Restricted Cash	4,752	16,189
Cash, cash equivalents, and restricted cash at beginning of period	1,745	30,594
Cash, cash equivalents, and restricted cash at end of period	<u>\$ 6,497</u>	<u>\$ 46,783</u>
Supplemental Disclosure Of Cash Flow Information:		
Cash paid for interest	\$ 326	\$ 1,055
Cash paid for taxes	\$ 3	\$ 7
Supplemental Non-Cash Investing and Financing Activities:		
Purchases of property and equipment included in accounts payable and accrued expenses	\$ —	\$ 28
Redeemable convertible preferred stock dividends	\$ 1,181	\$ 153
Right-of-use-assets obtained in exchange for operating lease liabilities	\$ 1,616	\$ 27,342

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

Telesis Bio Inc.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)
(In thousands, except share and per share data, unless otherwise specified)

1. ORGANIZATION, OPERATIONS, AND LIQUIDITY

Business

Telesis Bio Inc. (the Company) was incorporated in the state of Delaware in March 2011, as Synthetic Genomics Solution, Inc., a wholly owned subsidiary of Synthetic Genomics, Inc. (SGI). The Company changed its name to SGI-DNA, Inc. (SGI-DNA) in February 2013, to Codex DNA, Inc. in March 2020, and then to Telesis Bio Inc. in November 2022. The Company manufactures and sells laboratory equipment, specifically synthetic biology instruments, reagents and associated products and related services, primarily to pharmaceutical and academic laboratories worldwide.

The Company has two wholly owned subsidiaries:

- SGI-DNA Limited is a United Kingdom company focused on sales and marketing activities.
- EtonBio Inc., a California corporation (Eton), is a San Diego-based biotech company specializing in synthetic biology products and services, including DNA sequencing and oligo synthesis, for the global academic research, pharmaceutical, and biotechnology industries. Eton also markets DNA prep services and products such as antibodies, peptides, and metabolism assay kits. Eton met the definition of a discontinuing operation as of June 30, 2024 (Notes 2 and 18).

Going Concern

Since its inception, the Company has devoted substantially all of its efforts to raising capital, commercializing its current products, and developing new product offerings. The Company is subject to a number of risks similar to those of other companies conducting high-risk, early-stage research and development of products. Principal among these risks are a dependence on key individuals and intellectual property, competition from other products and companies, and the technical risks associated with the successful research, development and manufacturing of its products. The Company's success is dependent upon its ability to continue to raise additional capital in order to fund ongoing research and development, commercialize its products, generate revenue, meet its obligations, and, ultimately, become profitable.

Products currently under development will require significant additional research and development efforts. These efforts require significant amounts of additional capital, adequate personnel and infrastructure.

Since inception, the Company has incurred cumulative operating losses and negative cash flows from operations. These operating losses and negative cash flows have been financed principally from the issuance of equity securities and debt. In the future, such capital may not be available in sufficient amounts, on terms acceptable to the Company, or at all. Risks to which the Company is exposed include uncertainties related to the ability to achieve revenue-generating products; current and potential competitors with greater financial, technological, production, and marketing resources; dependence on key management personnel; and raising additional capital, as needed.

Under Accounting Standards Update (ASU) No. 2014-15, Presentation of Financial Statements—Going Concern (Subtopic 205-40), the Company has the responsibility to evaluate whether conditions and/or events raise substantial doubt about its ability to meet its future financial obligations as they become due within one year after the date that its financial statements are issued. The Company has incurred losses and negative cash flows from operations in each year since its inception. As of June 30, 2024, the Company had an accumulated deficit of \$182.7 million. In June 2021, the Company received \$112.5 million in net proceeds upon completion of its IPO, and in June 2023 received \$26.4 million in net proceeds from the sale of preferred stock and warrants. The Company has also received \$8.0 million in upfront payments and \$7.5 million in milestone payments under its collaboration with Pfizer Inc. (see Note 17). Until such time, if ever, as the Company can generate substantial product revenue and/or collaboration revenue and achieve sustained profitability, the Company expects to finance its cash needs through a combination of equity offerings, collaborations, strategic alliances, licensing arrangements and other sources of funding. On August 9, 2022, the Company entered into (i) a Credit, Security and Guaranty Agreement (the 2022 Term Loan Agreement), with the Company and MidCap Financial Trust, and (ii) a

Credit, Security and Guaranty Agreement (the 2022 Revolving Loan Agreement) (the 2022 Revolving Loan Agreement, and together with the 2022 Term Loan Agreement, the 2022 Loan Agreements, and the extensions of credit thereunder are referred to herein as the 2022 Term Loan and the 2022 Revolving Loan, respectively), with MidCap Funding IV Trust (together with MidCap Financial Trust, MidCap). On August 9, 2022, the Company borrowed \$20.0 million under the terms of the 2022 Term Loan Agreement. As of September 30, 2023, the Company was not in compliance with the minimum revenue covenants of the 2022 Term Loan Agreement. As a result of this non-compliance, MidCap required the Company to repay \$15.0 million in November 2023 under the 2022 Term Loan Agreement and the parties subsequently entered into Amendment No. 3 to Credit Security and Guaranty Agreement (Amendment No. 3) on November 24, 2023, which amended the 2022 Loan Agreements. As of June 30, 2024, the Company was in compliance with the covenants under the amended 2022 Loan Agreements. The Company intends to seek additional financing, however, the Company may not be able to raise cash on terms acceptable to the Company or at all. There can be no assurance that the Company will be successful in obtaining sufficient additional funding. Financings, if available, may be on terms that are dilutive to stockholders, and the prices at which new investors would be willing to purchase the Company's securities may be lower than the current price of its common stock. The holders of new securities may also receive rights, preferences or privileges that are senior to those of existing holders of common stock. If additional financing is not available or is not available on acceptable terms, the Company could be forced to delay, limit, reduce or terminate product development or future commercialization efforts or grant rights to develop and market products that the Company would otherwise prefer to develop and market itself. These factors raise substantial doubt about the Company's ability to continue as a going concern. Based upon the Company's current level of expenditures, management believes there currently are insufficient financial resources to fund the Company's operations for at least twelve months from the filing date of this Quarterly Report. The accompanying condensed consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and satisfaction of liabilities in the ordinary course of business. The condensed consolidated financial statements do not include any adjustments relating to the recoverability and classification of recorded asset amounts or the amounts and classification of liabilities that might result from the outcome of this uncertainty.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Reverse Stock Split

On May 2, 2024, the Company filed a Certificate of Amendment (the Reverse Stock Split Amendment) to the Company's Restated Certificate of Incorporation with the Secretary of State of Delaware to effect a 1-for-18 Reverse Stock Split of the Company's common stock (the Reverse Stock Split), which became effective on May 9, 2024. The Reverse Stock Split Amendment did not reduce the number of authorized shares of common stock, which remains at 100,000,000, and did not change the par value of the common stock, which remains at \$0.0001 per share. As a result of the Reverse Stock Split, every eighteen shares of the common stock were combined into one issued and outstanding share of common stock and no fractional shares were issued. Instead, to any holder who would have otherwise been entitled to receive a fractional share of common stock, the Company issued such holder an additional fractional share, such that, when combined with the fractional share otherwise issuable as a result of the Reverse Stock Split, equaled a whole share of common stock.

All share and per share information shown herein has been retroactively adjusted to reflect the effect of the Reverse Stock Split Amendment for all periods presented.

Basis of Presentation and Principles of Consolidation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with the rules and regulations of the Securities and Exchange Commission (SEC) and in conformity with generally accepted accounting principles in the United States of America (U.S. GAAP), and include the accounts of the Company and its wholly owned subsidiaries after the elimination of all significant intercompany accounts and transactions. Any reference in these notes to applicable guidance is meant to refer to the authoritative U.S. GAAP as found in the Accounting Standards Codification (ASC) and as amended by the ASUs of the Financial Accounting Standards Board (FASB).

The unaudited condensed consolidated financial statements have been prepared on the same basis as the audited annual consolidated financial statements as of and for the year ended December 31, 2023, and, in the opinion of management, reflect all adjustments, consisting of normal recurring adjustments, necessary for the fair presentation of the Company's condensed consolidated balance sheet as of June 30, 2024, the condensed consolidated statements of operations and comprehensive loss for the three and six months ended June 30, 2024 and 2023, condensed consolidated statements of stockholders' (deficit) equity for the three and six months ended June 30, 2024 and 2023 and the condensed consolidated statements of cash flows for the six months ended June 30, 2024 and 2023.

The accompanying unaudited condensed consolidated financial statements should be read in conjunction with the Company's audited consolidated financial statements and the accompanying notes for the year ended December 31, 2023 included in the Company's Annual Report on Form 10-K, filed with the SEC on March 29, 2024 (the Annual Report). The condensed consolidated balance sheet data as of December 31, 2023 presented for comparative purposes was derived from the Company's audited consolidated financial statements but does not include all disclosures required by U.S. GAAP and Article 8 of Regulation S-X. The results for the three and six months ended June 30, 2024 and 2023 are not necessarily indicative of results to be expected for the year ending December 31, 2024, any other interim periods, or any future year or period.

The Company's significant accounting policies are disclosed in the audited consolidated financial statements for the year ended December 31, 2023 included in the Annual Report. Since the date of the audited consolidated financial statements for the year ended December 31, 2023 included in the Annual Report, there have been no changes to its significant accounting policies except as noted below.

Use of Estimates

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenues and expenses during the reporting periods presented. Key estimates in the consolidated financial statements include the Company's ability to continue as a going concern, revenue recognition, impairment assessment for goodwill and intangible assets, allowance for credit losses, estimated useful lives of property and equipment, valuation of inventory, accrued expenses, valuation of deferred income tax assets, valuation of derivative liabilities, valuation of preferred stock and warrants, share-based compensation, and accrued warranty are subject to significant estimation. Actual results could differ from those estimates. Making estimates requires management to exercise significant judgment and it is reasonably possible that management's estimate of the effect of a condition, situation or set of circumstances that existed at the date of the condensed consolidated financial statements could change in the near term due to one of more future confirming events.

Assets Held for Sale and Discontinuing Operations

In accordance with ASC 205-20 "*Presentation of Financial Statements: Discontinued Operations*", a disposal of a component of an entity or a group of components of an entity is required to be reported as discontinuing operations if the disposal represents a strategic shift that has (or will have) a major effect on an entity's operations and financial results. In the period in which the component meets held-for-sale or discontinued operations criteria the major current assets, non-current assets, current liabilities, and non-current liabilities shall be reported as components of total assets and liabilities separate from those balances of the continuing operations. At the same time, the results of all discontinuing operations, less applicable income taxes, shall be reported as components of net loss separate from the net loss of continuing operations.

The Company's Eton subsidiary met the definition of a discontinuing operation as of June 30, 2024. Accordingly, the Company has classified the results of Eton as discontinuing operations in its unaudited condensed consolidated statements of operations and comprehensive loss for all periods presented. All assets and liabilities associated with Eton were classified as assets and liabilities of discontinuing operations in the unaudited condensed consolidated balance sheets for the periods presented. All amounts included in the notes to the unaudited condensed consolidated financial statements relate to continuing operations unless otherwise noted. For additional information, see Note 18, "Assets held for Sale and Discontinuing Operations".

Reclassifications

Certain prior year amounts have been reclassified to conform to the current presentation. The Company separately presented interest income and interest expense that had previously been combined as “Interest expense, net” on the condensed consolidated statement of operations and comprehensive loss for the three and six months ended June 30, 2023. The Company also separately presented the provision for credit losses line on the condensed consolidated statement of cash flows, which had previously been combined with the change in accounts receivable. These reclassifications had no impact on net loss for the three and six months ended June 30, 2023 or net cash used in operating activities for the six months ended June 30, 2023.

Restricted Cash

In accordance with ASU 2016-18, Statement of Cash Flows (Topic 230): Restricted Cash, the Company explains the change during the period in the total of cash, cash equivalents and restricted cash, and includes restricted cash with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the condensed consolidated statements of cash flows.

The following table provides a reconciliation of cash, cash equivalents, and restricted cash reported within the condensed consolidated balance sheet dates that comprise the total of the same such amounts shown in the condensed consolidated statements of cash flows for all periods presented herein (in thousands):

	June 30, 2024	December 31, 2023
Cash and cash equivalents	\$ 6,397	\$ 1,570
Restricted cash	100	175
Total cash, cash equivalents, and restricted cash as shown in the consolidated statements of cash flows	\$ 6,497	\$ 1,745

Accounts Receivable

Accounts receivable is comprised of amounts due from third-party payors recorded at the invoice amount and does not bear interest. The Company reports accounts receivable net of estimated contractual adjustments and any allowance for credit losses. The Company reviews accounts receivable on an ongoing basis to determine collectability. The Company maintains an allowance for credit losses based on its assessment of the collectability of the amounts owed to the Company by its customers. The Company considers the following in determining the level of allowance required: its customer’s payment history, the age of the receivable, the credit quality of its customers, the general financial condition of its customer base and other factors that may affect the customers’ ability to pay. The Company writes off accounts against the allowance for credit losses when they are deemed to be uncollectible. Net accounts receivable amounted to \$1.3 million and \$5.4 million as of June 30, 2024 and December 31, 2023, respectively. Net accounts receivable include an allowance for credit losses of \$1.0 million and \$1.2 million at June 30, 2024 and December 31, 2023, respectively, for those accounts deemed uncollectible by the Company. The allowance for credit losses consists of the following activity (in thousands):

Allowance for credit losses at December 31, 2023	\$ 1,197
Provision for credit losses	205
Write-offs	(397)
Allowance for credit losses at June 30, 2024	\$ 1,005
Allowance for credit losses at December 31, 2022	\$ 311
Provision for credit losses	420
Write-offs	—
Allowance for credit losses at June 30, 2023	\$ 731

Recent Accounting Pronouncements Not Yet Adopted

In October 2023, the FASB issued ASU 2023-06, Disclosure Improvements: Codification Amendments in Response to the SEC’s Disclosure Update and Simplification Initiative. This standard was issued in response to the SEC’s disclosure update and simplification initiative, which affects a variety of topics within the ASC. The amendments apply to all reporting entities within the scope of the affected topics unless otherwise indicated. The effective date for each amendment will be the date on which the SEC’s removal of that related disclosure from Regulation S-X or Regulation S-K becomes effective, with early adoption prohibited. The Company is currently evaluating the impact this guidance will have on its consolidated financial statement disclosures.

In November 2023, the FASB issued ASU 2023-07, Improvements to Reportable Segment Disclosures (Topic 280). This standard requires the Company to disclose significant segment expenses that are regularly provided to the Chief Operating Decision Maker (CODM) and are included within each reported measure of segment operating results. The standard also requires the Company to disclose the total amount of any other items included in segment operating results, which were not deemed to be significant expenses for separate disclosure, along with a qualitative description of the composition of these other items. In addition, the standard also requires disclosure of the CODM’s title and position, as well as detail on how the CODM uses the reported measure of segment operating results to evaluate segment performance and allocate resources. The standard also aligns interim segment reporting disclosure requirements with annual segment reporting disclosure requirements. This standard is effective for annual financial reporting in fiscal years beginning after December 15, 2023, and for interim periods within fiscal years beginning after December 15, 2024. Early adoption is permitted and the amendments in this update are required to be applied on a retrospective basis. The Company is currently evaluating the potential impact that this new standard will have on its consolidated financial statement disclosures.

In December 2023, the FASB issued ASU 2023-09, Improvements to Income Tax Disclosures (Topic 740). This standard requires the Company to provide further disaggregated income tax disclosures for specific categories on the effective tax rate reconciliation, as well as additional information about federal, state/local and foreign income taxes. The standard also requires the Company to annually disclose its income taxes paid (net of refunds received), disaggregated by jurisdiction. This guidance is effective for fiscal years beginning after December 15, 2024, with early adoption permitted. The standard is to be applied prospective basis, although optional retrospective application is permitted. The Company is currently evaluating the impact this guidance will have on its consolidated financial statement disclosures.

3. FAIR VALUE MEASUREMENT

The following tables summarize the fair values of the Company’s assets and liabilities on the condensed consolidated balance sheets which comprise money market funds, commercial paper, U.S. government securities, corporate debt securities and the contingent put option liability (in thousands):

	Fair value measurements as of June 30, 2024			
	Level 1	Level 2	Level 3	Total
Assets				
Money market funds	\$ 4,091	\$ —	\$ —	\$ 4,091
U.S. government securities	—	3,567	—	3,567
Corporate debt securities	—	250	—	250
Total	<u>\$ 4,091</u>	<u>\$ 3,817</u>	<u>\$ —</u>	<u>\$ 7,908</u>
Liabilities				
Contingent put option liability	\$ —	\$ —	\$ 36	\$ 36
Total	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 36</u>	<u>\$ 36</u>

	Fair value measurements as of December 31, 2023			
	Level 1	Level 2	Level 3	Total
Assets				
Money market funds	\$ 6	\$ —	\$ —	\$ 6
Commercial paper	—	6,407	—	6,407
U.S. government securities	—	8,943	—	8,943
Corporate debt securities	—	2,238	—	2,238
Total	\$ 6	\$ 17,588	\$ —	\$ 17,594
Liabilities				
Contingent put option liability	\$ —	\$ —	\$ 36	\$ 36
Total	\$ —	\$ —	\$ 36	\$ 36

During the six months ended June 30, 2024 and the year ended December 31, 2023, there were no transfers between Level 1, Level 2 and Level 3.

Contingent Put Option Liability

The contingent put option liability consists of the fair value of the contingent interest feature and acceleration clause (contingent put option) under the 2022 Term Loan Agreement (see Note 9). The fair value of the contingent put option liability was based on significant inputs not observable in the market, which represent a Level 3 measurement within the fair value hierarchy. The Company's valuation of the contingent put option liability utilized a risk-neutral valuation model wherein the fair value of the underlying debt facility is estimated, both with and without the presence of the default provisions, holding all other assumptions constant. The Company assesses these assumptions and estimates each reporting period as additional information impacting the assumptions are obtained. Changes in the fair value of the contingent put option liability are recognized in other (expense) income, net as part of the change in fair value of derivative liabilities in the condensed consolidated statements of operations and comprehensive loss. The significant inputs not observable in the market consist of the adjusted market rate of debt and the probability of default. As of both June 30, 2024 and December 31, 2023, the adjusted market rate of debt was 12.48%, and the probability of default was 45%. A significant change in those inputs could cause a significant change in valuation.

The following table provides a roll-forward of the aggregate fair value of the Company's derivative liabilities for which fair value is determined using Level 3 inputs (in thousands):

	Contingent Put Option Liability	
Fair value at December 31, 2023	\$	36
Change in fair value		—
Fair value at June 30, 2024	\$	36
Contingent Put Option Liability		
Fair value at December 31, 2022	\$	367
Change in fair value		(159)
Fair value at June 30, 2023	\$	208

4. INVESTMENTS

The following tables summarize the short-term investments held (in thousands):

	June 30, 2024			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
Assets				
U.S. Government securities	\$ 3,569	\$ —	\$ (2)	\$ 3,567
Corporate debt securities	251	—	(1)	250
Total	\$ 3,820	\$ —	\$ (3)	\$ 3,817

	December 31, 2023			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
Assets				
Commercial paper	\$ 6,407	\$ 1	\$ (1)	\$ 6,407
U.S. Government securities	8,938	6	(1)	8,943
Corporate debt securities	2,237	1	—	2,238
Total	\$ 17,582	\$ 8	\$ (2)	\$ 17,588

As of June 30, 2024 and December 31, 2023, all short-term investments held by the Company had remaining contractual maturities of one year or less.

As of June 30, 2024 and December 31, 2023, the Company reviewed its investment portfolio for declines in fair value below the amortized cost basis to determine whether the impairment, if any, is due to credit-related or other factors. In determining whether the decline in fair value of these securities was related to a credit loss, the Company evaluated whether it intended to sell the security and whether it was more likely than not that the Company would be required to sell the security before recovering its amortized cost basis. During the three and six months ended June 30, 2024 and 2023, the Company concluded that there were no impairments related to credit losses for its investments in securities.

5. INVENTORY

Inventories include material, labor and overhead and are stated at the lower of cost (first-in, first-out method) or net realizable value. The components of inventory are as follows at June 30, 2024 and December 31, 2023 (in thousands):

	June 30, 2024	December 31, 2023
Raw materials	\$ 381	\$ 1,711
Work in process and sub-assemblies	89	1,031
Finished goods	887	968
Total	\$ 1,357	\$ 3,710

The inventory reserve was \$2.5 million at June 30, 2024 and \$0.8 million at December 31, 2023.

6. PROPERTY AND EQUIPMENT

Property and equipment consisted of the following on June 30, 2024 and December 31, 2023 (in thousands):

	June 30, 2024	December 31, 2023
Machinery and equipment	\$ 4,934	\$ 4,597
Furniture and fixtures	308	908
Computer hardware and software	2,222	2,395
Leasehold improvements	145	332
Construction in progress	90	586
Total	7,699	8,818
Less: Accumulated depreciation and amortization	(3,301)	(2,520)
Total property and equipment, net	<u>\$ 4,398</u>	<u>\$ 6,298</u>

Depreciation expense for the three months ended June 30, 2024 and 2023 was \$0.4 million and \$0.3 million respectively, and depreciation expense for the six months ended June 30, 2024 and 2023 was \$0.8 million and \$0.6 million respectively, and is included in operating expenses. As of June 30, 2024, the Company recorded an impairment charge of \$1.0 million to write down to fair value certain property and equipment used in its corporate headquarters. The Company determined the net book value of such assets exceeded their fair value as a result of idle nature and the high likelihood the assets would be sold or abandoned significantly before the end of their previously estimated useful life. There was no impairment recorded during the three and six months ended June 30, 2023.

7. GOODWILL AND OTHER INTANGIBLE ASSETS

Goodwill

In 2019, SGI sold SGI-DNA to GATTACA Mining, LLC. As part of the transaction, the Company acquired its intangible assets with resulting goodwill. The goodwill carries a fair value of approximately \$3.5 million. In connection with the Eton acquisition in November 2021, the excess of the purchase price over the fair value of the net identifiable tangible and intangible assets acquired has been assigned to goodwill at a fair value of \$11.4 million.

The Company currently has two reporting units: Telesis Bio and Eton. Goodwill is tested quantitatively for impairment at the reporting unit level annually in the fourth quarter, or more frequently when events or changes in circumstances indicate that the asset might be impaired. During the fourth quarter of 2023, the decrease to the Company's market capitalization, measured as the price of the Company's common stock multiplied by common shares outstanding, and the early repayment of \$15.0 million under the 2022 Term Loan Agreement lead the Company to conclude it was more likely than not that the fair value of one or more reporting units was below its carrying amount. A quantitative goodwill assessment was then performed for both of the Company's reporting units using a combination of techniques, including an income approach and a market-based approach. Based on the results of the quantitative goodwill assessment for the Eton reporting unit, the Company recorded an impairment charge of \$11.4 million to reduce that reporting unit's carrying amount of goodwill to zero. Based on the results of the quantitative goodwill assessment for the Telesis Bio reporting unit, there was no impairment to that reporting unit's goodwill balance of \$3.5 million as of December 31, 2023. Should the market value of the Company's common stock decline, additional impairment charges may be recorded in the future. For the three and six months ended June 30, 2024 and 2023, the Company did not record any impairment of goodwill.

Other Intangible Assets

Other intangible assets acquired in the sale of SGI-DNA to GATTACA Mining, LLC include the rights to technology and the SGI-DNA trade name. The technology was valued at approximately \$3.2 million with a seven year useful life. The Company evaluated its other intangible assets and concluded that there was no impairment during the three and six month periods ended June 30, 2024 and 2023.

Other intangible assets, net consists of the following (in thousands):

	June 30, 2024		
	Gross Carrying Value	Accumulated Amortization	Net Carrying Value
Intellectual property	\$ 3,150	\$ (2,400)	\$ 750
Total	<u>\$ 3,150</u>	<u>\$ (2,400)</u>	<u>\$ 750</u>

	December 31, 2023		
	Gross Carrying Value	Accumulated Amortization	Net Carrying Value
Intellectual property	\$ 3,150	\$ (2,176)	\$ 974
Total	<u>\$ 3,150</u>	<u>\$ (2,176)</u>	<u>\$ 974</u>

Amortization expense for each of the three months ended June 30, 2024 and 2023 was approximately \$0.1 million, and amortization expense for each of the six months ended June 30, 2024 and 2023 was approximately \$0.2 million.

The following table summarizes the estimated future amortization expense of the intangible assets as of June 30, 2024 (in thousands):

Years ending December 31:	Amortization of Intangible Assets	
2024 (remaining six months)	\$	225
2025		450
2026		75
Total	<u>\$</u>	<u>750</u>

8. LEASES

As of June 30, 2024, the Company had three outstanding leases for office and laboratory space and scientific manufacturing equipment with remaining terms between approximately one and nine years. The Company has also entered into certain short-term leases with a term of one year or less. These leases are not included within the Company's right-of-use assets or lease liabilities due to the Company's election of the practical expedient recognition exemption for short-term leases.

Corporate Headquarters

In September 2021, the Company entered into the Wateridge Pointe lease for future office and laboratory space at 10421 and 10431 Wateridge Circle, San Diego, California (the Wateridge Pointe Lease), and concurrently signed a second amendment to the operating lease agreement for its corporate headquarters located at 9535 Waples Street, San Diego, California (the Second Amendment). Under the Second Amendment, the lease at 9535 Waples Street terminated upon the occupancy of office and laboratory space at 10431 Wateridge Circle in March 2023. The Wateridge Pointe Lease provides for a tenant improvement allowance for the renovation and build-out of the facilities up to \$185.00 per square foot, or approximately \$12.3 million, with an additional allowance of up to \$10.00 per square foot, or approximately \$0.7 million if properly requested by the Company. The lessor is solely responsible for the management and payment of the tenant improvements and these expenses will be recorded as lessor improvements under Accounting Standards Codification (ASC) 842 guidance. Combined rent for the two buildings under the Wateridge Pointe Lease is approximately \$3.9 million per year, subject to annual increases of 3%. The Wateridge Pointe Lease provides for a 10 year and 3 month term and the Company is entitled to one option to extend the lease term for an additional five years. Occupancy of 10431 Wateridge Circle and the corresponding termination of the lease at 9535 Waples Street occurred in the first quarter of 2023. Occupancy and commencement of the 10421 Wateridge Circle lease occurred in the second quarter of 2023.

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In January 2024, the Company signed a first amendment to the Wateridge Pointe Lease for its corporate headquarters located at 10421 and 10431 Wateridge Circle (the 2024 First Amendment). Under the 2024 First Amendment, the landlord shall apply the existing security deposit of \$0.4 million toward the base rent for the six-month period January 1 through June 30, 2024, with the \$1.5 million balance of the base rent during that period abated. Under the 2024 First Amendment, escalating base rent payments will be \$0.4 million to \$0.5 million per month from July 2024 through July 2033 (Note 19).

Equipment

The Company entered into finance lease agreements for equipment in November 2022 (the 2022 Equipment Lease), and in August 2023 (the 2023 Equipment Lease). The terms of the leases commenced when the equipment was delivered and placed into use which occurred in November 2022 and August 2023, respectively, and accordingly the related right-of-use assets and lease liabilities were recognized on the consolidated balance sheets at their respective commencement dates. The 2022 Equipment Lease expires in October 2025 and the 2023 Equipment Lease expires in August 2026.

Summary of Lease Cost

The components of lease cost under ASC 842 are as follows (in thousands):

	June 30,	
	2024	2023
Lease costs		
Finance lease cost:		
Amortization of finance lease right-of-use asset	\$ 66	\$ 14
Interest on finance lease liabilities	10	1
Operating lease costs	2,349	1,846
Variable lease cost	704	520
Short term lease cost	7	208
Lease costs included in discontinuing operations	461	533
Total lease cost	<u>\$ 3,597</u>	<u>\$ 3,122</u>

Supplemental disclosure of cash flow information related to leases is as follows (in thousands):

	June 30,	
	2024	2023
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flows from operating leases	\$ 473	\$ 494
Operating cash flows from finance leases	\$ 10	\$ 1
Financing cash flows from finance leases	\$ 38	\$ 29

The weighted-average remaining lease term and discount rate were as follows:

	June 30, 2024	December 31, 2023
	Weighted-average remaining lease term	
Finance leases	2 years	2.5 years
Operating leases	9 years	9.2 years
Weighted-average discount rate		
Finance leases	8.8%	8.8%
Operating leases	9.8%	9.7%

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The following table summarizes the minimum lease payments of the Company's operating and finance lease liabilities as of June 30, 2024 (in thousands) (Note 19):

Years Ending December 31,	Operating	Finance
2024 (remaining six months)	\$ 2,251	\$ 83
2025	4,570	99
2026	4,707	57
2027	4,848	—
2028	4,994	—
Thereafter	24,450	—
Total future minimum lease payments	45,820	239
Less: imputed interest	(15,766)	(18)
Present value of lease liability	30,054	221
Less: current portion of lease liability	(1,676)	(118)
Non-current portion of lease liability	\$ 28,378	\$ 103

9. NOTES PAYABLE

As of June 30, 2024 and December 31, 2023, the notes payable on the condensed consolidated balance sheets pertains to the 2022 Term Loan with MidCap Financial Trust and consists of the following (in thousands):

	June 30, 2024	December 31, 2023
Principal amount of notes payable	\$ 5,000	\$ 5,000
Less: Current portion of notes payable	—	—
Notes payable, net of current portion	5,000	5,000
Accrued interest	—	100
Final debt payment liability	750	750
Debt discount and financing costs, net of accretion	(472)	(581)
Notes payable, net of discount and current portion	\$ 5,278	\$ 5,269

Accrued interest of \$52 thousand was included in accounts payable as of June 30, 2024.

2022 Loan Agreements

On August 9, 2022, the Company entered into (i) the 2022 Term Loan Agreement with MidCap Financial Trust, and (ii) the 2022 Revolving Loan Agreement, with MidCap Funding IV Trust. On June 30, 2023, the Company entered into an Amendment No. 2 to Credit, Security and Guaranty Agreement to amend the 2022 Loan Agreements (Amendment No. 2). The impact of Amendment No. 2 was to (i) increase the interest rate on the 2022 Term Loan, (ii) increase the interest rate floor on the 2022 Term Loan and the 2022 Revolving Loan, (iii) increase the exit fee, (iv), reset the prepayment penalty, (v) require the lender's consent for activation of future incremental borrowings under the 2022 Term Loan Agreement, and (vi) reset the minimum net revenue covenant.

The 2022 Term Loan Agreement, as amended, provides for a secured term loan facility in an aggregate principal amount of up to \$30.0 million, comprised of (i) a tranche one term loan of up to \$20.0 million (Tranche One), (ii) a tranche two term loan of up to \$5.0 million (Tranche Two), and (iii) a tranche three term loan of up to \$5.0 million (Tranche Three). Tranche Two and Tranche Three require MidCap's consent in order for the Company to draw down the additional borrowings. The 2022 Revolving Loan Agreement provides for a secured revolving loan facility in an aggregate principal amount of up to \$10.0 million, subject to a borrowing base equal to percentages of eligible accounts receivable and inventory as determined in accordance with the 2022 Revolving Loan Agreement. The 2022 Term Loan and 2022 Revolving Loan mature on August 1, 2027.

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Tranche One was fully funded on August 9, 2022 to pay transaction fees incurred in connection with the 2022 Loan Agreements and to repay in full the Company's borrowings under its existing loan facility under the 2021 Loan Agreement with Silicon Valley Bank, with the remaining amount to be used be for general corporate purposes. Subject to certain terms and conditions of the 2022 Term Loan Agreement including MidCap's consent, Tranche Two was available between January 1, 2023, and September 30, 2023, following the Company's achievement of specified milestones relating to minimum net revenues and minimum net cash proceeds from equity financing, but was not exercised. Subject to certain terms and conditions of the 2022 Term Loan Agreement including MidCap's consent, Tranche Three may become available between September 30, 2024, and March 31, 2025. The proceeds of Tranche Three, if available, may be used for working capital and general corporate purposes.

As of September 30, 2023, the Company was not in compliance with certain minimum revenue covenants of the 2022 Term Loan Agreement. As a result of this non-compliance, MidCap had the ability to immediately call the balance of the loan, along with a 5.5% exit fee and 3.0% prepayment penalty, amounting to a total repayment obligation of approximately \$21.7 million for the 2022 Term Loan, plus a \$0.3 million prepayment penalty for the 2022 Revolving Loan.

On November 24, 2023, the Company entered into Amendment No. 3 to the 2022 Loan Agreements (Amendment No. 3). The impact of Amendment No. 3 was to (i) repay \$15.0 million in November 2023 under the 2022 Term Loan Agreement and (ii) grant MidCap a warrant to purchase 15,278 shares of common stock at an exercise price per share equal to the 10-day volume weighted average price of the Company's common stock immediately prior to the date of Amendment No. 3. In exchange for the Company doing the foregoing, MidCap (i) waived all existing defaults under the 2022 Loan Agreements, (ii) reset revenue covenants under the 2022 Term Loan Agreement, (iii) waived the prepayment penalty related to the \$15.0 million repayment and reduced the prepayment penalty for the remaining outstanding balance under the 2022 Term Loan Agreement to 1%, (iv) froze any future extensions of credit under the 2022 Revolving Loan Agreement and (v) reduced the exit fee payable upon complete repayment of amounts left outstanding at the end of term by \$350,000, with the remaining \$750,000 of exit fees to be payable at maturity.

The 2022 Term Loan, as amended, bears interest at a floating rate based on an adjusted term secured overnight financing rate (SOFR) plus 0.1% (subject to a floor of 3.50%) for a one-month interest period, plus a margin of 6.75%. Interest on the 2022 Term Loan is payable monthly in arrears on the first day of each month and at maturity. For the six months ended June 30, 2024, the effective interest rate on outstanding borrowings was approximately 17.01%.

Following an initial interest-only period, beginning on August 1, 2025, the outstanding principal amount of the 2022 Term Loan is repayable in twenty-four equal monthly principal payments, with all remaining outstanding principal, together with all accrued and unpaid interest, due at maturity. The 2022 Term Loan, as amended, may be voluntarily prepaid in full, but not in part, at any time and are also subject to mandatory prepayments with the net proceeds of certain dispositions and casualty events, subject to specified thresholds and reinvestment rights. Prepayments are subject to prepayment premiums of 1.00% of the amount prepaid. Once repaid, the 2022 Term Loan may not be reborrowed. The Company is also obligated to pay an exit fee equal to \$750,000 and other customary fees for a credit facility of this size and type. The exit fee is being accrued through interest expense using the effective interest method.

The Company may borrow, repay and reborrow the 2022 Revolving Loan until August 1, 2027, at which time the revolving commitments will terminate and all outstanding revolving loans, together with all accrued and unpaid interest, must be repaid. The proceeds of the 2022 Revolving Loan may be used for working capital needs and general corporate purposes. As of June 30, 2024, no amount of the 2022 Revolving Loan was outstanding under the 2022 Revolving Loan Agreement. On November 24, 2023, MidCap froze any future extensions of credit under the 2022 Revolving Loan Agreement due to the event of default discussed above.

The 2022 Revolving Loan would bear interest at a floating rate based on an adjusted term SOFR (subject to a floor of 1.50%) for a one-month interest period, plus a margin of 3.00%. Interest on the 2022 Revolving Loan would be payable monthly in arrears on the first day of each month and at maturity. Prior to November 24, 2023, the Company was obligated to pay an unused line fee equal to 0.50% per annum on the unused portion of the available revolving commitments, a fee for failure to maintain a minimum balance under the 2022 Revolving Loan Agreement, and other customary fees for a credit facility of this size and type.

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The obligations of the Company and any future guarantors under the 2022 Loan Agreements are secured by liens on substantially all of the Company's assets.

The 2022 Loan Agreements, as amended, require the Company to comply with (i) a minimum net revenue covenant and (ii) a minimum cash covenant, which requires certain unrestricted cash to be greater than or equal to \$7.0 million at all times.

The 2022 Loan Agreements, as amended, contain customary affirmative and negative covenants, including covenants limiting the ability of the Company and its subsidiaries, among other things, to incur debt, grant liens, make distributions, enter certain restrictive agreements, pay or modify subordinated debt, dispose of assets, make investments and acquisitions, enter into certain transactions with affiliates, and undergo certain fundamental changes, in each case, subject to limitations and exceptions set forth in the 2022 Loan Agreements.

The 2022 Loan Agreements, as amended, contain customary events of default that include, among other things, certain payment defaults, cross defaults to certain other contracts and indebtedness, covenant defaults, inaccuracy of representations and warranties, bankruptcy and insolvency defaults, judgment defaults, change of control defaults, defaults related to the failure to remain registered with the SEC and listed for trading on the Nasdaq Stock Market, and a material adverse change default.

Upon the occurrence and during the continuance of an event of default under the 2022 Loan Agreements, as amended, the respective administrative agent, if requested by the respective lenders, may, among other things, (i) suspend or terminate commitments, as well as obligations of the relevant administrative agent and lenders, (ii) declare all outstanding obligations under the applicable agreement (including principal and accrued and unpaid interest) immediately due and payable, and (iii) exercise the other rights and remedies provided for under the applicable agreement. The 2022 Loan Agreements provide that, under certain circumstances, a default interest rate will apply on all obligations under such agreement during the existence of an event of default, at a per annum rate equal to 2.0% above the applicable interest rate.

The Company bifurcated a derivative liability related to the acceleration clause triggered upon an event of default (contingent put option) under the 2022 Term Loan Agreement. The contingent put option liability is classified as a derivative liability on the consolidated balance sheet. As of June 30, 2024, the estimated fair value of the contingent put option liability was \$36 thousand, which was determined by using a risk-neutral valuation model wherein the fair value of the underlying debt facility is estimated, both with and without the presence of the default provisions, holding all other assumptions constant (Note 3).

As of June 30, 2024, the estimated future principal payments due were as follows (Note 19):

	June 30, 2024
Estimated future principal payments due	
2024	\$ —
2025	1,042
2026	2,500
2027	1,458
Total	<u>\$ 5,000</u>

10. STOCKHOLDERS' (DEFICIT) EQUITY

The Company's common stock began trading on the Nasdaq Global Select Market under the ticker symbol "DNAY" on June 18, 2021. The Company has since changed its ticker symbol to "TBIO" in connection with its name change to Telesis Bio Inc. The Company is authorized to issue 100,000,000 shares of common stock and 5,000,000 shares of preferred stock. The par value of common and preferred stock is \$0.0001 per share.

11. REDEEMABLE CONVERTIBLE PREFERRED STOCK

Redeemable Convertible Preferred Stock Financing

On May 31, 2023, the Company executed a Redeemable Convertible Preferred Stock and Warrant Purchase Agreement (the Agreement) for the purposes of raising capital in the aggregate amount of up to \$28.0 million by the means of issuance of Redeemable Convertible Preferred Stock and warrants.

On June 1, 2023, the Company filed a Certificate of Designation of Redeemable Convertible Preferred Stock of Telesis Bio (the Certificate of Designation), to set forth the rights, privileges and preferences of the Company's Redeemable Convertible Preferred Stock (the Redeemable Convertible Preferred Stock).

On June 5, 2023, the Company issued 280,000 shares of Redeemable Convertible Preferred Stock, which are convertible at any time into shares of the Company's common stock, and warrants to purchase an aggregate of 987,325 shares of the Company's common stock, for a total purchase price of \$28.0 million, plus an additional 19,749 warrants to purchase the Company's common stock issued as consideration for advisory services related to the transaction.

Dividends

From and after the issue date of the Redeemable Convertible Preferred Stock, cumulative dividends accrue on the Accrued Value (as defined below) of each share of Redeemable Convertible Preferred Stock at the annual rate of 8%. Dividends on each share of Redeemable Convertible Preferred Stock are cumulative and accrue daily from and after the issue date, but compound on a quarterly basis on the last day of each calendar quarter (the "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 compound and shall be added to the Accrued Value on each Quarterly Dividend Date. No dividends are to be paid in cash unless such dividends are paid pursuant to liquidation of the Company or a conversion or redemption of the Redeemable Convertible Preferred Stock.

In the event that the board of directors declares 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 Redeemable Convertible Preferred Stock shall be entitled, in addition to any cumulative dividends to which the Redeemable Convertible Preferred Stock may be entitled, to receive (concurrent with the payment of the dividend to the holders of common stock) the amount of dividends per share of Redeemable Convertible Preferred Stock that would be payable on the number of whole shares of the common stock into which each share of such Redeemable Convertible Preferred Stock held by each holder could be converted, such number to be determined as of the record date for the determination of holders of common stock entitled to receive such dividend.

"Accrued Value" means, with respect to each share of Redeemable 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 Redeemable Convertible Preferred Stock, 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 Stock which have accrued on any dividend payment date and have not been previously added to such Accrued Value.

As of June 30, 2024, no dividends have been declared or distributed to any stockholders, and the Company has accrued dividends through June 30, 2024 totaling \$2.5 million.

Liquidation Preferences

In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company (each, a Liquidation Event) or Deemed Liquidation Event (as defined below), the holders of shares of Redeemable Convertible Preferred Stock shall be entitled to be paid, with respect to each share of Redeemable 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 Redeemable 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 Redeemable 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 Redeemable Convertible Preferred Stock is then convertible, assuming all outstanding shares of Redeemable Convertible Preferred Stock were converted into common stock immediately prior to such Deemed Liquidation Event 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 Redeemable 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 Redeemable Convertible Preferred Stock is then convertible, assuming all outstanding shares of Redeemable Convertible Preferred Stock were converted into common stock immediately prior to such Liquidation Event or Deemed Liquidation Event, as applicable (the Liquidation Amount). Deemed Liquidation Event means 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.

Rights and Preferences

At any time when shares of Redeemable 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 Company's Certificate of Incorporation) the written consent or affirmative vote of the holders of a majority of the then outstanding shares of Redeemable Convertible Preferred Stock (or, solely with respect to section (a) below, the holders of 75% of the then outstanding shares of Redeemable Convertible Preferred Stock), given in writing or by vote at a meeting, consenting or voting separately as a class, and any such act taken or transaction entered into without such consent or vote shall be null and void, and of no force or effect:

(a) amend, modify or fail to give effect to the rights of the holders of Redeemable Convertible Preferred Stock;

(b) increase or decrease the number of authorized shares of Redeemable Convertible Preferred Stock;

(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 Redeemable 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 Redeemable Convertible Preferred Stock into common stock (assuming that accrued and unpaid dividends at such time include all dividends that would have accrued on the Redeemable 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.

Registration Rights

In connection with the issuance of Redeemable Convertible Preferred Stock, the Company also entered into a Registration Rights Agreement (the Registration Rights Agreement) and pursuant to its terms, filed a registration statement on Form S-3 with the SEC on July 27, 2023 (File No. 333-273491) covering the resale of shares of common stock issuable upon conversion of the Redeemable Convertible Preferred Stock (the Registration Statement). Among other requirements, the Company is required to use its commercially reasonable efforts to keep the Registration Statement continuously effective until the date that the Registrable Securities (as defined in the Registration Rights Agreement) are no longer Registrable Securities. Upon an event of default and on each monthly anniversary of the default, until cured, the Company is required to pay to each holder of Redeemable Convertible Preferred Stock an amount of liquidated damages in cash, equal to the product of 1.5% multiplied by the aggregate price paid by such holder for the purchase of Redeemable Convertible Preferred Stock. The maximum aggregate liquidated damages payable will be equal to 6% of the aggregate price paid for the purchase of Redeemable Convertible Preferred Stock. Based on the aggregate purchase price for the Company's outstanding shares of Redeemable Convertible Preferred Stock, the maximum aggregate liquidated damages, should an event of default occur in the future, is \$1.7 million (Note 19).

Voting

The holder of each share of Redeemable Convertible Preferred Stock is entitled to one vote for each share of common stock into which such Redeemable Convertible Preferred Stock is convertible on the record date for determining stockholders entitled to vote on such matter. With respect to such vote, such holder has full voting rights and powers equal to the voting rights of the holders of common stock.

Conversion

Each share of Redeemable Convertible Preferred Stock is convertible, at the option of the holder, at any time and from time to time, into such number of shares of common stock as is determined by dividing the Accrued Value by the Conversion Price (defined below) in effect at the time of conversion. The Conversion Price is initially equal to \$42.5394 per share. If at any time following the third anniversary of the issue date, the closing sale price of the Company's common stock exceeds 250% of the Conversion Price for 30 consecutive trading days, then the Company has the right to require conversion of the Redeemable Convertible Preferred Stock, in whole or in part, at the then effective conversion rate.

Redemption

On or after the seventh anniversary of the issue date, (i) each holder of Redeemable Convertible Preferred Stock may require the Company to redeem all of such holder's shares of Redeemable Convertible Preferred Stock for cash at a redemption price per share equal to the Accrued Value, and (ii) the Company may redeem, in whole or in part on a pro rata basis from all holders, shares of Redeemable Convertible Preferred Stock for cash at a redemption price per share equal to the Accrued Value.

The Company has classified the Redeemable Convertible Preferred Stock as temporary equity as the shares have certain redemption features that are not solely in the control of the Company. The Redeemable Convertible Preferred Stock is not currently redeemable because the deemed liquidation provision is considered a substantive condition that is contingent on the event and it is not currently probable that it will become redeemable. The Redeemable Convertible Preferred Stock is not currently redeemable through the optional redemption provision because it is considered a substantive condition that is contingent on the passage of time.

The Company classifies Redeemable Convertible Preferred Stock in accordance with ASC 480, Distinguishing Liabilities from Equity, which requires that contingently redeemable securities be classified outside of permanent stockholders' (deficit) equity.

Accordingly, the Company has classified all shares of Redeemable Convertible Preferred Stock as mezzanine equity in the accompanying financial statements as of June 30, 2024 and December 31, 2023.

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Redeemable Convertible Preferred Stock consisted of the following as of June 30, 2024 (in thousands, except share data):

Redeemable Convertible Preferred Stock	Shares Authorized	Shares Outstanding	Price per Share	Net Carrying Value	Liquidation Preference
Redeemable Convertible Preferred Stock	280,000	280,000	\$ 100.00	\$ 30,481	\$ 30,481
Total	280,000	280,000		\$ 30,481	\$ 30,481

Redeemable Convertible Preferred Stock consisted of the following as of December 31, 2023 (in thousands, except share data):

Redeemable Convertible Preferred Stock	Shares Authorized	Shares Outstanding	Price per Share	Net Carrying Value	Liquidation Preference
Redeemable Convertible Preferred Stock	280,000	280,000	\$ 100.00	\$ 29,300	\$ 29,300
Total	280,000	280,000		\$ 29,300	\$ 29,300

12. WARRANTS

Common Stock Warrants

On June 5, 2023, the Company issued warrants to purchase a total of 329,109 shares of common stock to investors in connection with the Agreement described in Note 11 (the Short-Term Warrants). Each Short-Term Warrant has an exercise price of \$46.7928 per share and has a two-year term from the date of issuance. Each Short-Term Warrant had a grant date fair value of \$3.60. The Short-Term Warrants meet the criteria for permanent equity classification.

On June 5, 2023, the Company issued warrants to purchase a total of 658,216 shares of common stock to investors in connection with the Agreement described in Note 11 (the Long-Term Warrants). Each Long-Term Warrant has an exercise price of \$46.7928 per share and has a seven-year term from the date of issuance. Each Long-Term Warrant had a grant date fair value of \$10.98. The Long-Term Warrants meet the criteria for permanent equity classification.

On June 5, 2023, the Company issued warrants to purchase a total of 19,749 shares of common stock as consideration for advisory services in connection with the Agreement described in Note 11 (the Additional Warrants). Each Additional Warrant has an exercise price of \$53.1738 per share and has a five-year term from the date of issuance. Each Additional Warrant had a grant date fair value of \$8.10. The Additional Warrants meet the criteria for permanent equity classification.

On November 24, 2023, in connection with the 2022 Term Loan Agreement, as amended, described in Note 9, the Company issued a warrant to purchase a total of 15,278 shares of common stock (MidCap Warrant). The MidCap Warrant has an exercise price of \$7.20 per share, and a ten-year term from the date of issuance. The MidCap Warrant had a grant date fair value of \$4.86 per share. The MidCap Warrant meets the criteria for permanent equity classification.

As of June 30, 2024 and December 31, 2023, warrants to purchase an aggregate of 1,022,352 shares of common stock were issued and outstanding.

13. STOCK-BASED COMPENSATION

For the three months ended June 30, 2024 and 2023 and the six months ended June 30, 2024 and 2023, the Company recorded stock-based compensation expense of approximately \$0.9 million, \$1.0 million, \$1.6 million and \$2.2 million, respectively. No income tax benefit was recognized in the accompanying condensed consolidated statements of operations and comprehensive loss for the Company's equity incentive plan.

The Company's board of directors approved the adoption of the SGI-DNA, Inc. 2019 Stock Plan (the 2019 Plan) in March 2019. The 2019 Plan permitted the Company to grant options and restricted stock units for up to 308,011 shares of the Company's common stock. On March 3, 2021, the Company's board of directors and stockholders approved the termination of the 2019 Plan and the

adoption of the 2021 Equity Incentive Plan (the 2021 Plan). 333,334 shares of common stock were reserved for issuance under the 2021 Plan.

In June 2021, the Company established the 2021 Stock Incentive Plan (the 2021 SIP). The 2021 SIP became effective on the effective date of the IPO, at which time the Company ceased granting awards under the 2021 Plan. The 2021 SIP allows the Company's board of directors or its compensation committee to grant equity-based awards to the Company's employees, directors and consultants. A total of 194,445 shares of common stock were initially reserved for issuance under the 2021 SIP, plus the number of shares (not to exceed 136,665 shares) consisting of (i) the shares of common stock that were available for the issuance of awards under the 2021 Plan at the time the 2021 SIP became effective, which ceased to be available for future issuance under the 2021 Plan at such time and (ii) any shares subject to outstanding options or other share awards that were granted under the 2019 Plan and the 2021 Plan that terminate or expire prior to exercise or settlement; are forfeited because of the failure to vest; or are reacquired or withheld (or not issued) to satisfy a tax withholding obligation or the purchase or exercise price. In addition, the number of shares reserved and available for issuance under the 2021 SIP automatically increases, beginning on January 1, 2022 and on each January 1 thereafter by the lesser of (i) 875,000 shares, (ii) 5% of the outstanding number of shares of common stock on the immediately preceding December 31, or (iii) such lesser number of shares as determined by the Company's board of directors or a designated committee thereof. As of June 30, 2024, the number of shares of common stock reserved for issuance under the 2021 SIP was 193,804.

Stock option activity under the 2019 Plan, the 2021 Plan and the 2021 SIP for the six months ended June 30, 2024 is as follows:

	Number of options	Weighted average exercise price	Weighted average remaining contractual term (in years)	Aggregate intrinsic value (in thousands)
Balances at December 31, 2023	314,757	\$ 34.22	8.5	\$ 1
Options granted	34,139	7.25		
Options exercised	(480)	7.02		
Options cancelled	(31,738)	23.60		
Balances at June 30, 2024	<u>316,678</u>	\$ 32.42	8.2	\$ —
Vested and expected to vest at June 30, 2024	<u>301,642</u>	\$ 32.30	8.2	\$ —
Exercisable at June 30, 2024	<u>140,004</u>	\$ 42.10	7.6	\$ —

There were 34,139 options granted during the six months ended June 30, 2024. The weighted average grant date calculated fair value of options granted during the six months ended June 30, 2024 was \$4.08 per share. The aggregate intrinsic value of options exercised during the six months ended June 30, 2024 and 2023 was \$2 thousand and \$94 thousand, respectively.

The calculated value of option grants during the six months ended June 30, 2024 was estimated using the Black-Scholes option pricing model with the following weighted average assumptions:

	Six Months Ended June 30, 2024
Risk free interest rate	4.4%
Expected dividend yield	—%
Expected term	6.0 years
Expected volatility	55.2%

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The Company has granted restricted stock units with vesting based conditions. Unvested shares of restricted common stock may not be sold or transferred by the holder. They are legally issued and outstanding. These restrictions lapse accordingly to the time-based vesting of each award.

A summary of the restricted stock unit activity during the six months ended June 30, 2024 is as follows:

	Restricted Stock Units	Weighted- Average Grant Date Fair Value
Unvested at December 31, 2023	32,741	\$ 48.26
Granted	15,984	6.56
Vested	(13,308)	44.66
Cancelled	(863)	103.35
Unvested at June 30, 2024	<u>34,554</u>	<u>\$ 28.98</u>

Effective in connection with the IPO, the Company established the 2021 Employee Stock Purchase Plan (the ESPP). The maximum number of shares of common stock that may be issued under the ESPP was initially 19,445. Additionally, the number of shares reserved and available for issuance under the ESPP automatically increases each January 1, beginning on January 1, 2022 and each January 1 thereafter, by the lesser of (i) 58,334 shares of common stock, (ii) 1% of the total number of shares of common stock outstanding on December 31 of the preceding calendar year, or (iii) such smaller number of shares of common stock as the Company's board of directors may designate. As of June 30, 2024, the number of shares of common stock that may be issued under the ESPP is 45,060.

For the six months ended June 30, 2024, 3,436 shares of common stock were issued under the ESPP.

The Company recorded stock-based compensation expense in the following award type categories included within the condensed consolidated statements of operations and comprehensive loss as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Stock options	\$ 686	\$ 751	\$ 1,253	\$ 1,751
Restricted stock units	179	266	372	392
Employee stock purchase plan	4	18	10	48
Total	<u>\$ 869</u>	<u>\$ 1,035</u>	<u>\$ 1,635</u>	<u>\$ 2,191</u>

The Company recorded stock-based compensation expense in the following expense categories of its condensed consolidated statements of operations and comprehensive loss as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Research and development	\$ 89	\$ 160	\$ 185	\$ 459
Sales and marketing	12	67	21	233
General and administrative	768	808	1,429	1,499
Total	<u>\$ 869</u>	<u>\$ 1,035</u>	<u>\$ 1,635</u>	<u>\$ 2,191</u>

As of June 30, 2024, total unrecognized stock-based compensation expense related to unvested stock-based awards was \$3.3 million, which is expected to be recognized over a weighted average period of 1.8 years.

14. COMMITMENTS AND CONTINGENCIES

Litigation

The Company may become involved in various claims, suits, and legal proceedings from time to time in the ordinary course of its business. The Company accrues a liability when it believes that it is both probable and the amount of loss can be reasonably estimated. While the outcome of such claims, lawsuits or other proceedings cannot be predicted with certainty, management expects that any liability, to the extent not provided for by insurance or otherwise, will not have a material adverse effect on the Company's condensed consolidated financial position or results of operations.

Leases

The Company's non-cancelable lease commitments are described in Note 8.

Registration Rights

In connection with the issuance of Redeemable Convertible Preferred Stock, the Company also entered into a Registration Rights Agreement (the Registration Rights Agreement) and pursuant to its terms, filed a registration statement on Form S-3 with the SEC on July 27, 2023 (File No. 333-273491) covering the resale of shares of common stock issuable upon conversion of the Redeemable Convertible Preferred Stock (the Registration Statement). Among other requirements, the Company is required to use its commercially reasonable efforts to keep the Registration Statement continuously effective until the date that the Registrable Securities (as defined in the Registration Rights Agreement) are no longer Registrable Securities. Upon an event of default and on each monthly anniversary of the default, until cured, the Company is required to pay to each holder of Redeemable Convertible Preferred Stock an amount of liquidated damages in cash, equal to the product of 1.5% multiplied by the aggregate price paid by such holder for the purchase of Redeemable Convertible Preferred Stock. The maximum aggregate liquidated damages payable will be equal to 6% of the aggregate price paid for the purchase of Redeemable Convertible Preferred Stock. Based on the aggregate purchase price for the Company's outstanding shares of Redeemable Convertible Preferred Stock, the maximum aggregate liquidated damages, should an event of default occur in the future, is \$1.7 million (Note 19).

15. NET LOSS PER SHARE

Net loss per share

Basic and diluted net loss per share attributable to common stockholders was calculated as follows (in thousands, except share and per share amounts):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Numerator:				
Net loss from continuing operations	\$ (11,561)	\$ (7,763)	\$ (19,471)	\$ (18,398)
Net loss from discontinuing operations	(1,024)	(524)	(1,751)	(1,008)
Less: Redeemable Convertible Preferred Stock Dividends	(596)	(153)	(1,181)	(153)
Net loss attributable to common stockholders	<u>\$ (13,181)</u>	<u>\$ (8,440)</u>	<u>\$ (22,403)</u>	<u>\$ (19,559)</u>
Denominator:				
Weighted average common stock outstanding - basic and diluted	<u>1,730,210</u>	<u>1,654,127</u>	<u>1,700,596</u>	<u>1,651,053</u>
Net loss per share from continuing operations attributable to common stockholders—basic and diluted	<u>\$ (7.03)</u>	<u>\$ (4.79)</u>	<u>\$ (12.14)</u>	<u>\$ (11.24)</u>
Net loss per share from discontinuing operations attributable to common stockholders—basic and diluted	<u>\$ (0.59)</u>	<u>\$ (0.32)</u>	<u>\$ (1.03)</u>	<u>\$ (0.61)</u>
Net loss per share attributable to common stockholders - basic and diluted	<u>\$ (7.62)</u>	<u>\$ (5.10)</u>	<u>\$ (13.17)</u>	<u>\$ (11.85)</u>

The Company's potential dilutive securities have been excluded from the computation of diluted net loss per share as the effect would be to reduce the net loss per share. Therefore, the weighted-average number of shares of common stock outstanding used to calculate both basic and diluted net loss per share attributable to common stockholders is the same. The Company excluded the following potential shares of common stock from the computation of diluted net loss per share attributable to common stockholders for the periods indicated because including them would have had an anti-dilutive effect:

	June 30,	
	2024	2023
Stock options to purchase common stock	316,678	319,725
Restricted stock units that vest into common stock	34,554	22,565
Shares issuable under employee stock purchase plan	—	5,942
Warrants to purchase common stock	1,022,352	1,007,067
Redeemable Convertible Preferred Stock (as converted to common stock)	716,530	661,820
Total	<u>2,090,114</u>	<u>2,017,119</u>

16. RETIREMENT PLAN

The Company has a retirement saving plan (the 401(k) Plan) that allows participating employees to defer a portion of their annual compensation on a pretax basis. The Company made no contributions to the 401(k) Plan for the six months ended June 30, 2024 and 2023.

17. COLLABORATION

In December 2021, the Company entered into a Research Collaboration and License Agreement (Pfizer Agreement) with Pfizer Inc. (Pfizer), pursuant to which the Company agreed to collaborate with Pfizer to further develop the Company's novel enzymatic DNA synthesis technology for Pfizer's use in its research and development of mRNA-based vaccines and biotherapies. The financial terms of the deal include an upfront payment from Pfizer to the Company, along with success-based technical milestone payments that could be earned in the near term. The Company is also eligible to receive additional milestone payments based on the achievement of specified development, regulatory and commercialization goals associated with any products developed from the application of the Company's technology developed and licensed under the Pfizer Agreement.

The Company granted Pfizer a non-exclusive, worldwide license to use the Company's enzymatic DNA synthesis technology for purposes of researching, developing, manufacturing and commercializing pharmaceutical and biopharmaceutical products and a limited-time option to convert such license to exclusive for specific applications.

Under the Pfizer Agreement, Pfizer made an upfront payment of \$8.0 million at the time of execution and subsequent milestone payments of \$7.5 million. If the Company meets certain additional technical milestones defined in the Pfizer Agreement, the Company will be eligible to receive an additional \$2.5 million in near-term milestone payments.

In addition to the upfront payment and technical milestone payments, Pfizer has agreed to make milestone payments to the Company upon the products meeting certain clinical milestones, with each product (other than exclusive products) being eligible for milestone payments up to \$20.0 million if it were to meet the applicable clinical milestones and the first exclusive product in each exclusive field being eligible for milestone payments up to \$55.0 million if it were to meet the applicable clinical milestones. Pfizer has also agreed to pay the Company up to \$60.0 million in sales milestones for products (other than exclusive products) if aggregate net sales of such products meet certain thresholds and up to \$180.0 million in sales milestones for exclusive products if aggregate net sales of the exclusive products meet certain thresholds. Provided the Pfizer Agreement remains in place, Pfizer will also pay escalating royalties from a low to mid-fraction of one percent of net sales of all products. Pfizer's obligations to pay royalties with respect to a product within a country will expire after specific criteria including such product no longer being covered by patent rights licensed to Pfizer by the Company in such country. Royalty payments are subject to reduction after the introduction of a biosimilar product in such country by a third party.

The Company assessed the Pfizer Agreement in accordance with ASC 606, Revenue from Contracts with Customers, and concluded that Pfizer is a customer based on the agreement's structure. The Company identified a single combined performance obligation under the arrangement for the performance under the research plan, technology transfer between the parties, participation in the Joint Research Committee, research licenses exchanged by the parties and the non-exclusive commercial license. In addition, the Company identified a material right for the option granted to Pfizer to extend the research term by an additional year. The \$8.0 million upfront payment represents the transaction price at inception.

The Company determined that the \$8.0 million upfront payment represents the entirety of the consideration to be included in the transaction price as of the outset of the arrangement. The potential milestone payments that the Company may have been eligible to receive were initially excluded from the transaction price at the outset of the arrangement because (i) all technical and development milestone payments did not meet the criteria for inclusion using the most-likely amount method and (ii) the Company recognizes as revenue sales-based milestones and royalties when the related sales occur. To date, the Company has achieved technical milestones associated with the research plan and recognized revenue associated with the milestone achievements totaling \$7.5 million. As of June 30, 2024 no other milestones or royalties have been deemed likely to be achieved or have been achieved.

In accordance with ASC 606, the Company allocated the transaction price, comprising the upfront payment of \$8.0 million, based on the stand-alone selling price of the combined performance obligation and the material right. Based on management's analysis, the material right was allocated \$0.3 million of the transaction price, while the combined performance obligation was allocated \$7.7 million of the transaction price.

The \$7.7 million of revenue allocated to the combined performance obligation was recognized using the input method based on time elapsed as compared to the research term of 24 months, and the \$0.3 million of revenue allocated to the material right was to be recognized over the third year of services performed under the research plan in the event the option to extend the research plan was exercised, or when the option expired in the event the option to extend the research plan was not exercised. During 2022, the option expired unexercised, and the \$0.3 million was recognized.

During the three and six months ended June 30, 2024, the Company did not recognize any revenue related to the Pfizer Agreement. During the three and six months ended June 30, 2023, the Company recognized \$3.5 million and \$4.4 million, respectively, of revenue related to the Pfizer Agreement. As of June 30, 2024 and December 31, 2023, there was no deferred revenue related to the Pfizer Agreement.

18. ASSETS HELD FOR SALE AND DISCONTINUING OPERATIONS

The Company has made a strategic decision to sell its subsidiary, Eton. The sale is expected to be completed during the fiscal quarter ending September 30, 2024. Upon closing of the sale, the Company will deconsolidate the assets and liabilities of Eton. As of June 30, 2024, Eton met the held for sale criteria and is reflected as a discontinued operation in the consolidated financial statements for all periods presented. Additionally, the related assets and liabilities have been reported as assets and liabilities held for sale in the Company's condensed consolidated balance sheets as of June 30, 2024 and December 31, 2023.

Because the carrying value of the net assets of Eton exceeds the estimated fair value, the Company determined that Eton's held for sale net assets had been impaired. After performing quantitative testing, in which the Company used the expected consideration of \$1.4 million as the fair value of the underlying net assets, the Company recorded a \$0.2 million impairment of the net assets. The impairment loss has been included in the loss from discontinuing operations in the accompanying condensed consolidated financial statements.

The Company's condensed consolidated balance sheets, condensed consolidated statements of operations and comprehensive loss, and condensed consolidated statements of cash flows report discontinuing operations separate from continuing operations. The Company's condensed consolidated statement of Redeemable Convertible Preferred Stock and Stockholders' (Deficit) Equity combines continuing and discontinuing operations. A summary of financial information related to the Company's discontinuing operations is as follows.

The following table presents the results of the discontinuing operations for the three and six months ended June 30, 2024 and 2023 (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
	(in thousands)		(in thousands)	
Revenue	\$ 1,133	\$ 1,648	\$ 2,384	\$ 3,286
Cost of revenue	999	920	1,911	1,830
Research and development	535	666	1,101	1,294
Sales and marketing	52	168	165	300
General and administrative	329	418	716	870
Impairment of net assets held for sale	242	—	242	—
Loss from discontinuing operations	\$ (1,024)	\$ (524)	\$ (1,751)	\$ (1,008)

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The following table summarizes the carrying amounts of major classes of assets and liabilities of discontinuing operations for each of the periods presented (in thousands):

	June 30, 2024	December 31, 2023
Carrying amounts of assets of disposal group held for sale		
Current assets:		
Accounts receivable, net of allowance for credit losses of \$159 and \$90 at June 30, 2024 and December 31, 2023, respectively	\$ 693	\$ 575
Inventory, net	269	315
Prepaid expenses and other current assets	11	—
Total current assets of disposal group held for sale	973	890
Property and equipment, net	820	1,002
Right-of-use assets	1,171	1,331
Other long-term assets	39	53
Other intangible assets, net	360	393
Less: expected loss on sale of discontinuing operations	(242)	—
Total assets of disposal group held for sale	\$ 3,121	\$ 3,669
Carrying amounts of liabilities of disposal group held for sale		
Current liabilities:		
Accounts payable	\$ 115	\$ 119
Accrued employee expenses	319	314
Operating lease liability, current portion	341	320
Other accrued liabilities	82	66
Other current liabilities	40	49
Total current liabilities of disposal group held for sale	897	868
Operating lease liability, net of current portion	874	1,050
Total liabilities of disposal group held for sale	\$ 1,771	\$ 1,918
Net assets of disposal group held for sale	\$ 1,350	\$ 1,751

The accompanying unaudited condensed consolidated statements of cash flows includes depreciation and amortization for the discontinuing operations of approximately \$0.2 million and \$0.3 million for the six months ended June 30, 2024 and 2023, as well as purchases of fixed assets of \$6 thousand and \$0.1 million for the six months ended June 30, 2024 and 2023, respectively.

19. SUBSEQUENT EVENTS

Leases

In July 2024, the Company signed a second amendment to the Wateridge Pointe Lease for its corporate headquarters located at 10421 and 10431 Wateridge Circle (the 2024 Second Amendment). Under the 2024 Second Amendment, the lease term expiration date with respect to the 10431 premises will be December 31, 2024, with the Company surrendering the property to the landlord on or before October 31, 2024. Base rent under the 2024 Second Amendment will be \$0.6 million per month from July 2024 through December 2024, followed by escalating base rent payments of \$0.1 million per month from January 1, 2025 through July 5, 2033. Additionally, the security deposit, which had previously been applied to monthly base rent in accordance with the 2024 First Amendment, was increased to \$0.3 million.

Notes Payable

In July 2024, the Company entered into promissory notes (the 2024 Shareholder Notes) with two shareholders, Novalis Lifesciences II, LP (Novalis) and Northpond Ventures III, LP (Northpond), and together with Novalis, the Lenders), pursuant to which the aggregate principal amount borrowed under the 2024 Shareholder Notes was \$5.8 million. The principal amount borrowed under the 2024 Shareholder Notes will bear interest at the rate of 12.00% per annum. Each of the Lenders, along with their affiliates, are beneficial owners of more than 10% of the Company's common stock.

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Contemporaneously with the execution and delivery of the 2024 Shareholder Notes, the Company repaid in full all outstanding indebtedness and terminated all commitments and obligations under the 2022 Term Loan and the 2022 Revolving Loan with MidCap Financial Trust (Note 9). The Company's payment under the 2022 Term Loan Agreement was approximately \$5.8 million.

Contemporaneously with the execution and delivery of the 2024 Shareholder Notes, the lenders and the Company also entered into a side letter agreement (Director Designation Side Letter), pursuant to which the Company has agreed to, among other items, (i) increase the size of its board of directors to 13 directors, (ii) appoint five individuals nominated by the Lenders (the Lender Nominees) to the Company's board of directors, and, subject to the applicable stockholder vote, ensure that the Lender Nominees otherwise remain on the board, (iii) appoint replacement directors nominated by the Lenders in the event a Lender Nominee ceases to serve as a director (subject to the Lenders, along with their affiliates, continuing to collectively beneficially own at least 10% of the Company's outstanding common stock), and (iv) ensure that at least a majority of the Nominating and Corporate Governance Committee of the board of directors consists of Lender Nominees or their replacements, subject to the aforementioned 10% ownership requirement.

In connection with the 2024 Shareholder Notes, the Company also entered into a registration rights waiver agreement, with the Lenders (the Waiver Agreement), pursuant to which the lenders waived certain rights contained in the Registration Rights Agreement. Pursuant to the Waiver Agreement, the lenders agreed, on behalf of themselves and the other holders of Redeemable Convertible Preferred Stock, to, among other items, defer payment of liquidated damages and waive accrued interest during such deferral periods due to the holders of the Redeemable Convertible Preferred Stock until the earlier of (i) the date that is 60 days following the end of the Company's first fiscal quarter in which it becomes cash flow positive, (ii) the date on which the Company consummates a merger-like transaction, or (iii) the date on which the Company consummates a debt or equity financing in which the gross proceeds to the Company is greater than or equal to \$5.0 million.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Unless the context otherwise requires, all references in this section to the "Company," "we," "us," or "our" refer to the business of Telesis Bio Inc. and its subsidiaries.

You should read the following discussion and analysis of our financial condition and results of operations together with our unaudited condensed consolidated financial statements and related notes, appearing elsewhere in this Quarterly Report on Form 10-Q (Quarterly Report) and the audited consolidated financial statements and related notes and management's discussion and analysis of financial condition and results of operations for the fiscal year ended December 31, 2023 included in our Annual Report on Form 10-K (the Annual Report) filed with the Securities and Exchange Commission (the SEC) on March 29, 2024. Some of the information contained in this discussion and analysis or set forth elsewhere in this Quarterly Report, including information with respect to our plans and strategy for our business and related financing, includes forward-looking statements that involve risks and uncertainties. As a result of many factors, including those factors set forth in the "Risk Factors" section of this Quarterly Report, our actual results could differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.

Overview

We are a leader in automated multi-omic and synthetic biology solutions focused on providing applications to enable researchers to rapidly, accurately and reproducibly build or "write" high-quality synthetic DNA and mRNA and short oligonucleotides that are ready to use in many downstream synthetic biology enabled markets. Our solutions address the bottlenecks across the multi-step process of building DNA and mRNA, as well as the significant limitations of existing solutions that prevent the rapid building of high-quality DNA and mRNA at a useable scale. A key part of our on market solution are our BioXp systems, end-to-end automated workstations that fit on the benchtop or in the lab and are broadly accessible due to their ease-of-use and hands-free automation. We believe our BioXp systems and future product offerings can democratize synthetic biology by simplifying the process of building DNA and mRNA, thereby accelerating the discovery, development and production of novel high-value products, including antibody-based biologics, mRNA-based vaccines and therapeutics and precision medicines.

We develop solutions to address the significant unmet need in the market for an approach that can automate, integrate, optimize and standardize the process for building synthetic DNA and mRNA. Our on-market and our planned solutions are comprised of the following:

- *BioXp 3250 system*: which we believe is the first commercially available push-button, walkaway, end-to-end automated workstation that empowers researchers to go from a digital DNA sequence to endpoint-ready synthetic DNA in as few as 8 hours and mRNA in less than 24 hours, exclusive of shipment time with onboard NGS library preparation;
- *BioXp 9600 system*: a walkaway, high throughput end-to-end automated workstation that empowers researchers to go from a digital DNA sequence to endpoint-ready DNA in as few as 8 hours and mRNA in less than 24 hours, exclusive of shipment time, with onboard NGS preparation;
- *BioXp portal*: a user-friendly online portal that offers an intuitive guided workflow, complexity analysis capability and sequence optimization and design tools for building new DNA sequences and assembling them into vector(s) of choice as well as mRNA constructs;
- *BioXp De Novo kits*: will contain all the necessary building blocks and reagents, including our proprietary Gibson Assembly branded reagents, for specific synthetic biology workflow applications;
- *BioXp Select kits*: offer customers the ability to use non-Telesis Bio DNA while using the BioXp to perform synthetic biology workflow applications such as cloning, mRNA generation from plasmid and cell free amplification;
- *BioXp Next Generation Sequencing kits*: will contain all the necessary reagents to go from DNA or RNA to a sequencer-ready library;

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- *Benchtop reagents*: contain all the reagents necessary to proceed with a specific synthetic biology workflow on the benchtop using products generated on the BioXp system; and
- *Custom Gibson Short Oligo Ligation Assembly (SOLA) enzymatic DNA synthesis (EDS) solutions*: is a sustainable, scalable, and cost-effective approach designed to significantly reduce timelines for constructing synthetic DNA, RNA, and proteins compared to traditional chemical synthesis, paving the way for more efficient and effective development of mRNA-based vaccines, diagnostics, therapeutics, and personalized medicines.

We were incorporated in the state of Delaware in March 2011, as Synthetic Genomics Solution, Inc., a wholly owned subsidiary of Synthetic Genomics, Inc. (SGI). We changed our name to SGI-DNA, Inc. (SGI-DNA) in February 2013. On March 8, 2019, SGI sold SGI-DNA to GATTACA Mining, LLC (GATTACA) by entering into a stock purchase agreement to sell all of our outstanding common and preferred stock in exchange for a \$10.0 million non-recourse promissory note. Subsequently, we focused our efforts on launching new synthetic biology products and expanding our distribution and marketing efforts on our existing research use only (RUO) products. We changed our name to Codex DNA, Inc. in March 2020 and then to Telesis Bio Inc. in November 2022.

We commercially launched our current synthetic biology solution in September 2019, which now includes the BioXp 3250 and BioXp 9600 systems, BioXp kits with associated cloud-based application scripts, and benchtop reagent kits. From our commercial launch through June 30, 2024, we have placed approximately 300 BioXp systems globally. We target customers in the fields of personalized medicine, biologics drug discovery, vaccine development, genome editing and cell and gene therapy. As of December 31, 2023, our customer base was composed of approximately 500 customers and included 17 of the 25 largest biopharmaceutical companies in the world ranked by 2023 revenue. Our customer base also includes leading academic research institutions, government institutions, contract research organizations and synthetic biology companies.

We estimate that our 2023 product and service sales mix statistics were as follows:

- *Sales mix*: 41% BioXp systems, 20% BioXp kits, and 39% services.
- *Geographic mix*: 77% North America, 14% Europe/Middle East/Africa and 9% Asia Pacific.
- *Distribution mix*: 90% direct sales and 10% distributors.

Since our inception as a stand-alone company on March 8, 2019, we have devoted substantially all of our efforts to raising capital, organizing, and staffing our company, commercializing existing products and developing new products. On June 18, 2021, we completed our initial public offering (IPO) of 7,666,664 shares of common stock, including the exercise in full by the underwriters of their option to purchase up to 999,999 additional shares of common stock, for aggregate gross proceeds of \$122.7 million. We received \$112.5 million in net proceeds after deducting underwriting discounts and commissions and other offering expenses payable by us. Prior to our IPO, we had funded our operations with proceeds from the issuance of convertible notes and convertible preferred stock, payments received from royalties and product sales, and proceeds from borrowings under our credit facilities. Prior to our IPO, we had received gross proceeds of \$32.8 million from sales of our convertible preferred stock, \$6.8 million from the issuance of our convertible notes and gross proceeds of \$40.0 million through borrowings under our loan and security agreements with Oxford Finance LLC (the 2019 Loan Agreement) and Silicon Valley Bank (the 2021 Loan Agreement). Subsequent to our IPO, we also received \$20.0 million through borrowing under our credit, security and guaranty agreements (the 2022 Loan Agreements) (defined below) with MidCap Financial Trust and MidCap Funding IV Trust (collectively, MidCap), \$15.0 million of which was used to repay the loans from Silicon Valley Bank. In June 2023, we received gross proceeds of \$28.0 million from the sale of Redeemable Convertible Preferred Stock and Warrants. In November 2023, we repaid \$15.0 million under the 2022 Term Loan Agreement and granted MidCap a warrant to purchase 15,278 shares of common stock in exchange for amending our 2022 Term Loan Agreement and waiving any other remedies it may have due to our revenue covenant default. We have also received approximately \$5.85 million pursuant to the 2024 Shareholder Notes.

We have incurred significant operating losses since our inception. During the six months ended June 30, 2024 and 2023, our revenue was \$3.7 million and \$11.7 million, respectively. As of June 30, 2024, we had cash, cash equivalents, restricted cash, and

short-term investments of \$10.3 million. Our ability to generate product revenue sufficient to achieve profitability will depend on the successful development and commercialization of our products. We reported net losses of \$21.2 million and \$19.4 million for the six months ended June 30, 2024 and 2023, respectively. As of June 30, 2024, we had an accumulated deficit of \$182.7 million.

We expect that our cash, cash equivalents, restricted cash and short-term investments of \$10.3 million as of June 30, 2024 will not be sufficient to fund our operating expenses for at least twelve months from the date our financial statements were issued. Refer to additional discussion related to going concern considerations in “Liquidity and Capital Resources” and “Going Concern” below.

Acquisition

On November 18, 2021, we entered into a Share Purchase Agreement, with the stockholders of EtonBio Inc. (Eton), pursuant to which we purchased all of the outstanding shares of capital stock of Eton. The total purchase price was approximately \$14.1 million, which was funded with our existing cash on hand.

Eton is a San Diego-based biotech company specializing in synthetic biology products and services, including DNA sequencing and oligo synthesis, for the global academic research, pharmaceutical, and biotechnology industries. Eton also markets DNA prep services and products such as antibodies, peptides, and metabolism assay kits.

We have made the strategic decision to divest Eton. Upon closing of any sale, we will deconsolidate the assets and liabilities of Eton. As of June 30, 2024, Eton met the held for sale criteria and is reflected as a discontinuing operation in the condensed consolidated financial statements for all periods presented. Additionally, the related assets and liabilities have been reported as assets and liabilities held for sale in the condensed consolidated balance sheets as of June 30, 2024 and December 31, 2023. See Note 18, "Assets Held for Sale and Discontinuing Operations" to the unaudited condensed consolidated financial statements to this Quarterly Report on Form 10-Q for additional information.

Components of Results of Operations

Revenue

Revenue consists of product sales, services, collaboration revenue, and royalties and other revenue. Net product sales primarily consist of sales of our BioXp systems, BioXp kits, and benchtop reagents. Service revenue primarily consists of DNA sequencing and preparation services. Royalties and other revenue consist of fees charged for the license of non-exclusive rights of our patents to third parties and grant revenue received from government entities as reimbursement of expenses related to the development and use of synthetic biology tools to develop solutions to address various areas of concern. The grants typically require the performance of specific activities and timely reporting of results.

Historically, revenue growth has come from BioXp systems and BioXp kits. Growth in BioXp systems sales has come from investments in direct and indirect distribution channels and new product introductions. Growth in BioXp kit sales has come from the growth of the installed base of BioXp systems and new application kits. As we continue to expand our revenue opportunities, we launched our collaboration research program which works with government entities to develop solutions to specific areas of concern.

Collaboration and License Agreement with Pfizer

In December 2021, we entered into a Research Collaboration and License Agreement (Pfizer Agreement) with Pfizer Inc. (Pfizer), pursuant to which we agreed to collaborate with Pfizer to further develop our novel enzymatic DNA synthesis technology for Pfizer’s use in its research and development of mRNA-based vaccines and biotherapies. The financial terms of the deal include an upfront payment from Pfizer to us, along with success-based technical milestone payments that could be earned in the near term. We are also eligible to receive additional milestone payments based on the achievement of specified development, regulatory and commercialization goals associated with any products developed from the application of our technology developed and licensed under the agreement.

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We granted Pfizer a non-exclusive, worldwide license to use our enzymatic DNA synthesis technology for purposes of researching, developing, manufacturing and commercializing pharmaceutical and biopharmaceutical products and a limited-time option to convert such license to exclusive for specific applications.

Under the Pfizer Agreement, Pfizer has made an upfront payment to us of \$8.0 million at the time of execution and a milestone payment of \$2.5 million in 2022 as a result of successful completion of our first technical milestone. During the second and fourth quarters of 2023, we achieved, and were subsequently paid for the second and third technical milestones under the same agreement. If we meet certain additional technical milestones defined in the Pfizer Agreement, we will be eligible to receive an additional near-term milestone payment of \$2.5 million.

In addition to the upfront payment and technical milestone payments, Pfizer has agreed to make milestone payments to us upon the products meeting certain clinical milestones, with each product (other than exclusive products) being eligible for milestone payments up to \$20.0 million if that product were to meet the applicable clinical milestones and the first exclusive product in each exclusive field being eligible for milestone payments up to \$55.0 million if that product were to meet the applicable clinical milestones. Pfizer has also agreed to pay us up to \$60.0 million in sales milestones for products (other than exclusive products) if aggregate net sales of such products meet certain thresholds and up to \$180.0 million in sales milestones for exclusive products if aggregate net sales of the exclusive products meet certain thresholds. Provided the Pfizer Agreement remains in place, Pfizer will also pay escalating royalties from a low to mid-fraction of one percent of net sales of all products. Pfizer's obligations to pay royalties with respect to a product within a country will expire after specific criteria including such product no longer being covered by patent rights licensed to Pfizer by us in such country. Royalty payments are subject to reduction after the introduction by a third party of a biosimilar product in such country.

Cost of Revenue

Cost of revenue primarily consists of material and labor costs, freight and indirect overhead costs associated with sales of our BioXp instruments, BioXp kits, benchtop reagents, services and collaboration research programs. Cost of revenue also includes period costs related to certain inventory adjustment charges, and unabsorbed manufacturing and overhead costs, as well as any write-offs of inventory that fail to meet specification or are otherwise no longer suitable for commercial manufacture. Cost of revenue is expected to increase as revenue increases.

Research and Development Expenses

Research and development expenses include pre-production costs related to the design, development and improvement of our products and technologies, including employee compensation, benefits and related costs of sustaining our engineering teams, project material costs, third party fees paid to consultants, prototype development expenses, legal costs related to intellectual property, patent fees, and other costs incurred in the product design and development process. We expense research and development costs as incurred. Non-refundable advance payments that we make for goods or services to be received in the future are recorded as prepaid expenses. The prepaid amounts are expensed as the related goods are delivered or the services are performed, or when it is no longer expected that the goods will be delivered or the services rendered.

We expect that our research and development expenses will decrease, both in the near term and subsequently, as we shift our focus to the sales and marketing of our developed products. At this time, we cannot accurately estimate or know the nature, timing and costs of the efforts that will be necessary to complete the development of any of our future products. The successful development and commercialization of our future products is highly uncertain. This is due to the numerous risks and uncertainties associated with product development and commercialization, including but not limited to the following:

- we can never be certain that we can solve any technical challenge;
- if such solution can be found, we can never be certain of the timing of such a solution;
- once we find a technical solution, we cannot be certain that the solution will be commercially feasible; and
- any solution may not be desired by our customers.

These uncertainties with respect to the development of any of our future products could significantly impact the costs and timing associated with the development of these products.

Sales and Marketing Expenses

Sales and marketing expenses include employee compensation and benefits for sales, marketing, customer service, corporate development personnel and related administrative expenses. In addition, sales and marketing expenses also include costs for international employees and facility overhead based on headcount. We anticipate that our sales and marketing expenses will increase in the future as we increase our headcount to support increasing sales and continued expansion of our U.S. and international operations. Sales and marketing costs are expensed as incurred.

General and Administrative Expenses

General and administrative expenses consist primarily of salaries and related costs for personnel in executive, finance, IT, and administrative functions. General and administrative expenses also include legal fees relating to corporate matters; professional fees for accounting, auditing, tax and administrative consulting services; insurance costs, administrative travel expenses, other operating costs; and facility costs not otherwise included in research and development or sales and marketing expenses.

We anticipate that our general and administrative expenses will stay constant in the near term and increase subsequently as we increase our administrative headcount to support our continued commercialization activities. We also anticipate that we will continue to incur significant accounting, audit, legal, regulatory, compliance and director and officer insurance costs as well as investor and public relations expenses associated with operating as a publicly traded company. General and administrative expenses are expensed as incurred.

Goodwill Impairment

We test goodwill for impairment at a reporting unit level on an annual basis, or more frequently if events or changes in circumstances indicate that the carrying amount of a reporting unit's goodwill might be impaired. If the fair value of the reporting unit exceeds the carrying value of its net assets, goodwill is not impaired, and no further testing is required. If the fair value of the reporting unit is less than the carrying value, we measure the amount of impairment loss, if any, as the excess of the carrying value over the fair value of the reporting unit.

Other (Expense) Income, Net

Interest Income

Interest income primarily consists of income earned on our cash equivalents and investment balances.

Interest Expense

Interest expense primarily consists of cash and non-cash interest on our notes payable facilities and our finance leases.

Change in Fair Value of Derivative Liabilities

Change in fair value of derivative liabilities consists of the change in fair value of our contingent put option liability. We classify derivative liabilities as a liability on our condensed consolidated balance sheets that we remeasure to fair value at each reporting date. We recognize changes in the fair value of the derivative liabilities as a component of other (expense) income, net in our condensed consolidated statements of operations and comprehensive loss. Upon entering into the 2022 Term Loan Agreements, we bifurcated a contingent put option derivative liability related to the acceleration clause triggered upon an event of default. At June 30, 2024, the contingent put option liability is listed as a derivative liability on our condensed consolidated balance sheet.

Other Expense, Net

Other expense, net consists primarily of change in the fair value of derivative liabilities and losses from the disposal of fixed assets.

Income Taxes

Since our inception, we have not recorded any income tax benefits for the net operating losses (NOLs) we have incurred in each year or for our earned research and development tax credits generated in each period, as we believe, based upon the weight of available evidence, that it is more likely than not that all of our NOLs and tax credit carryforwards will not be realized. As of December 31, 2023 and 2022, we had federal NOL carryforwards of \$110.2 million and \$95.9 million, respectively and state NOL carryforwards of \$87.5 million and \$70.1 million, respectively. The federal NOL carryforwards of \$1.3 million generated before January 1, 2018 will begin to expire in 2034, but can be used to offset up to 100% of taxable income.

Amounts generated after December 31, 2017 will carryforward indefinitely, but will be subject to 80% taxable income limitation beginning in tax years after December 31, 2020, as provided by the Coronavirus Aid, Relief and Economic Security Act (the CARES Act). We have recorded a full valuation allowance against our net deferred tax assets at each balance sheet date.

On March 27, 2020, the CARES Act was passed by the U.S. Congress and signed into United States law. The CARES Act, among other things, includes certain provisions for individuals and corporations; however, these benefits did not impact our income tax provisions in the years presented given the existence of the full valuation allowance.

Discontinuing Operations

Loss from discontinuing operations consists of the results of our subsidiary Eton, which met the held for sale criteria and is reflected as a discontinued operation in the condensed consolidated financial statements for all periods presented

Results of Operations

Our unaudited condensed consolidated results of operations are presented for the three and six months ended June 30, 2024 and 2023. Certain financial results (revenues and expenses) relating to the divestment of Eton are reflected in Note 18, "Assets Held for Sale and Discontinuing Operations" to the unaudited condensed consolidated financial statements in this Quarterly Report for additional information. Unless otherwise noted, the discussion below, and the revenue and expense amounts discussed below, are based on and relate to our continuing operations.

Comparison of the Three Months Ended June 30, 2024 and 2023

The following table summarizes our results of operations for the three months ended June 30, 2024 and 2023:

	Three Months Ended June 30,		
	2024	2023	Change
	(in thousands)		
Revenue			
Product revenue	\$ 841	\$ 2,670	\$ (1,829)
Service revenue	—	65	(65)
Collaboration revenue	—	3,462	(3,462)
Royalties and other revenue	709	807	(98)
Total revenue	1,550	7,004	(5,454)
Cost of revenue	2,349	2,039	310
Gross (loss) profit	(799)	4,965	(5,764)
Operating expenses:			
Research and development	2,470	3,921	(1,451)
Sales and marketing	1,698	3,192	(1,494)
General and administrative	5,507	5,294	213
Impairment of property and equipment	1,017	—	1,017
Total operating expenses	10,692	12,407	(1,715)
Loss from operations	(11,491)	(7,442)	(4,049)
Other (expense) income, net:			
Interest income	160	374	(214)
Interest expense	(214)	(707)	493
Change in fair value of derivative liabilities	—	19	(19)
Other expense, net	(15)	(3)	(12)
Total other expense, net	(69)	(317)	248
Loss before provision for income taxes	(11,560)	(7,759)	(3,801)
Provision for income taxes	(1)	(4)	3
Loss from continuing operations	(11,561)	(7,763)	(3,798)
Loss from discontinuing operations	(1,024)	(524)	(500)
Net loss	\$ (12,585)	\$ (8,287)	\$ (4,298)

Revenue

Revenue for the three months ended June 30, 2024 was \$1.6 million compared to \$7.0 million for the three months ended June 30, 2023. The decrease of \$5.5 million was attributable to a decrease in product revenue of \$1.8 million, a decrease in collaboration revenue of \$3.5 million, and a decrease in royalty and other revenue of \$0.1 million. Product revenue from 9600 BioXp instruments and 3250 BioXp instruments decreased by \$1.6 million, and revenue from BioXp kits decreased by \$0.2 million. Collaboration revenue decreases were driven by the completion of deferred revenue amortization during the fourth quarter of 2023 for the \$8.0 million up-front payment from our Pfizer contract, and \$2.5 million from a milestone that was achieved during the three months ended June 30, 2023.

Cost of Revenue

Cost of revenue for the three months ended June 30, 2024 was \$2.3 million, compared to \$2.0 million for the three months ended June 30, 2023. The \$0.3 million decrease was primarily driven by a \$1.7 million increase to our inventory reserve, partially offset by a decrease in product revenues of \$1.8 million. Our gross margin percentage was (52%) and 71% of total revenues for the three months ended June 30, 2024 and 2023, respectively. The unfavorable change in gross margin percentage was mainly due to a

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decrease in revenue from collaboration research programs, a greater number of the higher margin BioXp 9600 and 3250 systems sold during the second quarter of 2023, compared to the second quarter of 2024, and the increase to our inventory reserve.

Research and Development Expenses

Research and development expenses for the three months ended June 30, 2024 were \$2.5 million, compared to \$3.9 million for the three months ended June 30, 2023. The \$1.5 million decrease was primarily due to lower personnel expenses, lab supplies expense, and stock-based compensation. Personnel expenses decreased by \$1.1 million as we decreased our headcount during the second half of 2023. Lab supplies expense, decreased by \$0.3 million, primarily due to general cost reduction efforts during the second half of 2023. Stock-based compensation decreased by \$0.1 million as a result of the aforementioned headcount reductions.

Sales and Marketing Expenses

Sales and marketing expenses for the three months ended June 30, 2024 were \$1.7 million, compared to \$3.2 million for the three months ended June 30, 2023. The \$1.5 million decrease was primarily attributable to lower personnel expenses, provision for credit losses, travel and entertainment costs, and tradeshow costs. Personnel expenses decreased by \$0.9 million as we decreased our headcount during the second half of 2023 and accrued commissions on decreased sales. Provision for credit losses decreased by \$0.2 million due to improved collections of accounts receivable. Travel and entertainment expenses decreased by \$0.1 million as a result of the aforementioned headcount reductions. Trade show costs decreased by \$0.1 million due to general cost reduction efforts.

General and Administrative Expenses

General and administrative expenses for the three months ended June 30, 2024 were \$5.5 million, compared to \$5.3 million for the three months ended June 30, 2023. The \$0.2 million increase was primarily attributable to higher personnel expenses, facilities expense, and legal and accounting fees, offset by lower consulting expenses. Personnel expenses increased by \$0.2 million due to severance costs, offset by salary reductions from reduced headcount. Facilities expense increased by \$0.2 million as a smaller portion of our lease costs were allocated to research and development and sales and marketing due to the more significant headcount reductions in those areas. Legal and accounting expenses increased by \$0.1 million due to services related to our reverse stock split. These increases to general and administrative expenses were offset by a \$0.2 million decrease to consulting and professional services, primarily due to general cost reduction efforts during the second half of 2023.

Other Income (Expense), Net

Other income (expense), net for the three months ended June 30, 2024 was a net expense of \$0.1 million, compared to \$0.3 million for the three months ended June 30, 2023. Interest expense decreased by \$0.5 million as a result of the repayment of \$15 million of long-term debt during the fourth quarter of 2023. Interest income decreased by \$0.2 million due to lower cash and investment balances.

Discontinuing Operations

Loss from discontinuing operations for the three months ended June 30, 2024 was \$1.0 million, compared to \$0.5 million for the three months ended June 30, 2023. The \$0.5 million increase was primarily due to a \$0.5 million decrease in revenue from \$1.6 million to \$1.1 million, and a \$0.2 million impairment charge.

Comparison of the Six Months Ended June 30, 2024 and 2023

The following table summarizes our results of operations for the six months ended June 30, 2024 and 2023:

	Six Months Ended June 30,		
	2024	2023	Change
	(in thousands)		
Revenue			
Product revenue	\$ 2,105	\$ 5,671	\$ (3,566)
Service revenue	—	101	(101)
Collaboration revenue	—	4,424	(4,424)
Royalties and other revenue	1,634	1,486	148
Total revenue	3,739	11,682	(7,943)
Cost of revenue	3,431	3,934	(503)
Gross profit	308	7,748	(7,440)
Operating expenses:			
Research and development	4,829	8,414	(3,585)
Sales and marketing	3,260	6,867	(3,607)
General and administrative	10,481	10,396	85
Impairment of property and equipment	1,017	—	1,017
Total operating expenses	19,587	25,677	(6,090)
Loss from operations	(19,279)	(17,929)	(1,350)
Other (expense) income, net:			
Interest income	388	764	(376)
Interest expense	(431)	(1,346)	915
Change in fair value of derivative liabilities	—	159	(159)
Other expense, net	(146)	(39)	(107)
Total other expense, net	(189)	(462)	273
Loss before provision for income taxes	(19,468)	(18,391)	(1,077)
Provision for income taxes	(3)	(7)	4
Loss from continuing operations	(19,471)	(18,398)	(1,073)
Loss from discontinuing operations	(1,751)	(1,008)	(743)
Net loss	\$ (21,222)	\$ (19,406)	\$ (1,816)

Revenue

Revenue for the six months ended June 30, 2024 was \$3.7 million compared to \$11.7 million for the six months ended June 30, 2023. The decrease of \$7.9 million was attributable to a decrease in product revenue of \$3.6 million, and a decrease in collaboration revenue of \$4.4 million, partially offset by an increase in royalty and other revenue of \$0.1 million. Product revenue from 9600 BioXp instruments and 3250 BioXp instruments decreased by \$3.2 million, and revenue from BioXp kits decreased by \$0.4 million. Collaboration revenue decreases were driven by the completion of deferred revenue amortization during the fourth quarter of 2023 for the \$8.0 million up-front payment from the Pfizer Agreement, and \$2.5 million from a milestone that was achieved during the second quarter of 2023.

Cost of Revenue

Cost of revenue for the six months ended June 30, 2024 was \$3.4 million, compared to \$3.9 million for the six months ended June 30, 2023. The \$0.5 million decrease was primarily driven by a decrease in product revenues of \$3.6 million, partially offset by a \$1.7 million increase to our inventory reserve. Our gross margin percentage was 8% and 66% of total revenues for the six months ended June 30, 2024 and 2023, respectively. The unfavorable change in gross margin percentage was mainly due to a decrease in revenue from collaboration research programs, a greater number of the higher margin BioXp 9600 and 3250 systems sold during the first six months of 2023, compared to the first six months of 2024, and the increase to our inventory reserve.

Research and Development Expenses

Research and development expenses for the six months ended June 30, 2024 were \$4.8 million, compared to \$8.4 million for the six months ended June 30, 2023. The \$3.6 million decrease was primarily due to lower personnel expenses, lab supplies expense, consulting and professional services, and stock-based compensation. Personnel expenses decreased by \$2.4 million as we decreased our headcount during the second half of 2023. Lab supplies, as well as consulting and professional services, decreased by \$0.6 million and \$0.3 million, respectively, primarily due to general cost reduction efforts during the second half of 2023. Stock-based compensation decreased by \$0.2 million as a result of the aforementioned headcount reductions.

Sales and Marketing Expenses

Sales and marketing expenses for the six months ended June 30, 2024 were \$3.3 million, compared to \$6.9 million for the six months ended June 30, 2023. The \$3.6 million decrease was primarily attributable to lower personnel expenses, travel and entertainment costs, provision for credit losses, consulting, and stock-based compensation. Personnel expenses decreased by \$2.4 million as we decreased our headcount during the second half of 2023 and accrued commissions on decreased sales. Travel and entertainment expenses, consulting, and stock-based compensation decreased by \$0.3 million, \$0.1 million, and \$0.1 million, respectively, as a result of the aforementioned headcount reductions. Provision for credit losses decreased by \$0.2 million due to improved collections of accounts receivable.

General and Administrative Expenses

General and administrative expenses for the six months ended June 30, 2024 were \$10.5 million, compared to \$10.4 million for the six months ended June 30, 2023. The \$0.1 million increase was primarily attributable to increased facilities expenses, offset by lower consulting and professional services and stock-based compensation. Facilities expense increased by \$0.8 million as a smaller portion of our lease costs were allocated to research and development and sales and marketing due to the more significant headcount reductions in those areas. These increases to general and administrative expenses were offset by a \$0.5 million decrease to consulting and professional services, primarily due to general cost reduction efforts during the second half of 2023. Additionally, stock-based compensation decreased by \$0.2 million as a result of the aforementioned headcount reductions.

Other Income (Expense), Net

Other income (expense), net for the six months ended June 30, 2024 was a net expense of \$0.2 million, compared to \$0.5 million for the six months ended June 30, 2023. Interest expense decreased by \$0.9 million as a result of the repayment of \$15 million of long-term debt during the fourth quarter of 2023. Interest income decreased by \$0.4 million due to lower cash and investment balances. Income from the change in fair value of derivative liabilities decreased by \$0.2 million due to the aforementioned repayment of long-term debt. Other expenses increased by \$0.1 million due to a loss on disposal of fixed assets.

Discontinuing Operations

Loss from discontinuing operations for the six months ended June 30, 2024 was \$1.8 million, compared to \$1.0 million for the six months ended June 30, 2023. The \$0.7 million increase was primarily due to a \$0.9 million decrease in revenue from \$3.3 million to \$2.4 million, and a \$0.2 million impairment charge.

Liquidity and Capital Resources

Sources of Liquidity

Since our inception, we have incurred significant operating losses. On June 18, 2021, we completed our IPO of 425,926 shares of common stock, including the exercise in full by the underwriters of their option to purchase up to 55,556 additional shares of common stock, for aggregate gross proceeds of \$122.7 million. We received \$112.5 million in net proceeds after deducting underwriting discounts and commissions and other offering expenses payable by us. Prior to our IPO, we had funded our operations with proceeds from the issuance of convertible notes and convertible preferred stock, payments received from royalties and product sales, and proceeds from borrowings under our credit facilities. Prior to our IPO, we had received gross proceeds of \$32.8 million from sales of our convertible preferred stock, \$6.8 million from the issuance of our convertible notes and gross proceeds of \$40.0 million through borrowings under the 2019 Loan Agreement and the 2021 Loan Agreement. After completion of our IPO, we received \$20.0 million under the 2022 Loan Agreements, \$15.0 million of which was used to repay the debt under the 2021 Loan Agreement. In June 2023, we received gross proceeds of \$28.0 million from the sale of Redeemable Convertible Preferred Stock and Warrants. As of June 30, 2024, we had cash, cash equivalents, and restricted cash of \$6.5 million and short-term investments of \$3.8 million. In November 2023, we repaid \$15.0 million under the 2022 Term Loan Agreement and granted MidCap a warrant to purchase 15,278 shares of common stock in exchange for amending our 2022 Term Loan Agreement and waiving any other remedies it may have due to our revenue covenant default. We also received approximately \$5.85 million under the terms of the 2024 Shareholder Notes.

We will continue to incur significant expenses and expect to incur operating losses for the foreseeable future. Our expenses and capital expenditures could increase substantially if we:

- seek to develop new products and services and hire additional research, development and engineering personnel;
- expand our distribution and marketing infrastructure to further commercialize current and future products and support our growing customer base;
- add operational, financial, and administrative systems and personnel to support growing sales; and
- maintain, expand, enforce, defend and protect our intellectual property portfolio and provide reimbursement of third-party expenses related to our patent portfolio.

These matters raise substantial doubt about our ability to continue as a going concern within one year from the date of filing this Quarterly Report. The accompanying condensed consolidated financial statements have been prepared under the assumption we will continue to operate as a going concern, which contemplates the realization of assets and the settlement of liabilities in the normal course of business. The condensed consolidated financial statements do not include any adjustments to reflect the possible future effects on the recoverability and classification of assets or the amounts of liabilities that may result from uncertainty related to our ability to continue as a going concern.

Until such time as we can generate significant revenue from product sales, if ever, we expect to finance our operations through a combination of equity offerings, debt financings, or other capital sources, including collaborations with other companies, and other strategic transactions. To the extent that we raise additional capital through the sale of equity or convertible debt securities, the ownership interest of our stockholders will be or could be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect the rights of our stockholders. Debt financing and equity offerings, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends. If we raise funds through collaborations, or other similar arrangements with third parties, we may have to relinquish valuable rights to our technologies, future revenue streams, research programs, products, or grant licenses on terms that may not be favorable to us and/or may reduce the value of our stock. If we are unable to raise additional funds through equity or debt financings when needed, we may be required to delay, limit, reduce or terminate our product development or future commercialization efforts or grant rights to develop and market our products even if we would otherwise prefer to develop and market such products ourselves.

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The field of synthetic biology is rapidly developing and subject to numerous risks and uncertainties associated with new technologies and novel products. Consequently, we are unable to accurately predict the timing or amount of increased product sales or expenses or when, or if, we will be able to achieve or maintain profitability. Even if we are able to continue to generate significant product sales, we may not become profitable. If we fail to become profitable or are unable to sustain profitability on a continuing basis, then we may be unable to continue our operations at planned levels and be forced to reduce or terminate our operations.

Cash Flows

Comparison of the Six Months Ended June 30, 2024 and 2023

The following table summarizes our consolidated cash flows for the six months ended June 30, 2024 and 2023:

	Six Months Ended June 30,	
	2024	2023
	(in thousands)	
Net cash used in operating activities	\$ (8,583)	\$ (21,467)
Net cash provided by investing activities	13,375	10,969
Net cash (used in) provided by financing activities	(34)	26,687
Effect of exchange rate fluctuations on cash, cash equivalents, and restricted cash	(6)	—
Net change in cash, cash equivalents, and restricted cash	<u>\$ 4,752</u>	<u>\$ 16,189</u>

Operating Activities

During the six months ended June 30, 2024, operating activities used \$8.6 million of cash, primarily resulting from our net loss of \$21.2 million, of which \$19.5 million represents our loss from continuing operations and \$1.8 million represents our loss from discontinuing operations, partially offset by non-cash charges of \$6.9 million and changes in our operating assets and liabilities of \$5.8 million. Non-cash charges consisted primarily of an increase to our inventory reserve of \$1.7 million, \$1.6 million in stock-based compensation, an impairment of property and equipment of \$1.0 million, depreciation and amortization expense of \$1.1 million, and amortization of our right-of-use operating lease asset of \$0.9 million. Net changes in our operating assets and liabilities for the six months ended June 30, 2024 consisted primarily of a \$3.9 million decrease in accounts receivable, a \$1.0 million increase in operating lease liabilities, and a \$0.6 million decrease in inventory.

During the six months ended June 30, 2023, operating activities used \$21.5 million of cash, primarily resulting from our net loss of \$19.4 million, of which \$18.4 million represents our loss from continuing operations and \$1.0 million represents our loss from discontinuing operations, plus changes in our operating assets and liabilities of \$6.2 million, partially offset by non-cash charges of \$4.1 million. Non-cash charges consisted primarily of \$2.2 million in stock-based compensation, depreciation and amortization expense of \$0.8 million, and amortization of our right-of-use operating lease asset of \$0.8 million. Net changes in our operating assets and liabilities for the six months ended June 30, 2023 consisted primarily of a \$2.6 million increase in accounts receivable, a \$1.7 million increase in inventory, a \$2.3 million decrease in accounts payable, accrued payroll and accrued liabilities, and a \$1.8 million decrease in deferred revenue related to the Pfizer Agreement, partially offset by a \$1.5 million decrease in deposits, prepaid expenses and other current assets.

Investing Activities

During the six months ended June 30, 2024, net cash provided by investing activities was \$13.4 million, consisting primarily of \$18.6 million of maturities of short-term investments, partially offset by \$4.6 million of purchases of short-term investments, and \$0.6 million of purchases of property and equipment.

During the six months ended June 30, 2023, net cash provided by investing activities was \$11.0 million, consisting primarily of \$19.8 million of maturities of short-term investments, partially offset by \$7.2 million of purchases of short-term investments and \$1.6 million of purchases of property and equipment.

Financing Activities

During the six months ended June 30, 2024, net cash used in financing activities was less than \$0.1 million, consisting primarily of payments on finance leases.

During the six months ended June 30, 2023, net cash provided by financing activities was \$26.7 million, consisting primarily of gross proceeds of \$28.0 million from the sale of Redeemable Convertible Preferred Stock and warrants, offset by stock issuance costs of \$1.5 million, plus proceeds of \$0.2 million from the issuance of common stock pursuant to our stock option and employee stock purchase plans.

2022 Loan Agreements

On August 9, 2022, we entered into (i) a Credit, Security and Guaranty Agreement (the 2022 Term Loan Agreement) with MidCap Financial Trust, and (ii) a Credit, Security and Guaranty Agreement (the 2022 Revolving Loan Agreement, and together with the 2022 Term Loan Agreement, the 2022 Loan Agreements, and the extensions of credit thereunder are referred to herein as the 2022 Term Loan and the 2022 Revolving Loan, respectively) with MidCap Funding IV Trust (together with MidCap Financial Trust, MidCap). On June 30, 2023, we entered into an Amendment No. 2 to both 2022 Loan Agreements (Amendment No. 2). The impact of Amendment No. 2 was to (i) increase the interest rate on the 2022 Term Loan, (ii) increase the interest rate floor on the 2022 Term Loan and the 2022 Revolving Loan, (iii) increase the exit fee, (iv), reset the prepayment penalty, (v) require the lender's consent for activation of future incremental borrowings under the 2022 Term Loan, and (vi) reset the minimum net revenue covenant.

The 2022 Term Loan, as amended, provides for a secured term loan facility in an aggregate principal amount of up to \$30.0 million, comprised of (i) a tranche one term loan of up to \$20.0 million (Tranche One), (ii) a tranche two term loan of up to \$5.0 million (Tranche Two), and (iii) a tranche three term loan of up to \$5.0 million (Tranche Three). Tranche Two and Tranche Three require MidCap's consent in order for the Company to draw down those borrowings. The 2022 Revolving Loan provides for a secured revolving loan facility in an aggregate principal amount of up to \$10.0 million, subject to a borrowing base equal to percentages of eligible accounts receivable and inventory as determined in accordance with its terms. The 2022 Term Loan and 2022 Revolving Loan mature on August 1, 2027.

Tranche One was fully funded on August 9, 2022, to pay transaction fees incurred in connection with the 2022 Loan Agreements and to repay in full our borrowings under the existing loan facility under the 2021 Loan Agreement with Silicon Valley Bank, with the remaining amount to be used for general corporate purposes. Subject to certain terms and conditions of the 2022 Term Loan Agreement including lender consent, Tranche Two was available between January 1, 2023, and September 30, 2023, following our achievement of specified milestones relating to minimum net revenues and minimum net cash proceeds from equity financing, but was not exercised. Subject to certain terms and conditions of the Term Loan including lender consent, Tranche Three may become available between September 30, 2024, and March 31, 2025. The proceeds of Tranche Three, if available, may be used for working capital and general corporate purposes.

As of September 30, 2023, we were not in compliance with certain minimum revenue covenants of the 2022 Term Loan. As a result of this non-compliance, MidCap had the ability to call the balance of the loan, along with a 5.5% exit fee and 3.0% prepayment penalty, amounting to a total repayment obligation of approximately \$21.7 million for the 2022 Term Loan, plus a \$0.3 million prepayment penalty for the 2022 Revolving Loan.

On November 24, 2023, we entered into Amendment No. 3. The impact of Amendment No. 3 was to (i) repay \$15.0 million in November 2023 under the 2022 Term Loan and (ii) grant MidCap a warrant to purchase 15,278 shares of our common stock at a price equal to the 10-day volume weighted average price of our common stock immediately prior to the date of any amendment of the 2022 Term Loan. In exchange for the Company doing the foregoing, MidCap (i) waived all existing defaults under the 2022 Loan Agreements, (ii) reset revenue covenants under the 2022 Term Loan, (iii) waived the prepayment penalty related to the \$15.0 million repayment and reduced the prepayment penalty for the remaining outstanding balance under the 2022 Term Loan to 1%, (iv) froze any future extensions of credit under the 2022 Revolving Loan and (v) reduced the exit fee payable upon complete repayment of amounts left outstanding at the end of term by \$350,000, with the remaining \$750,000 of exit fees to be payable at maturity.

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The 2022 Term Loan, as amended, bears interest at a floating rate based on an adjusted term secured overnight financing rate (SOFR) plus 0.1% (subject to a floor of 3.50%) for a one-month interest period, plus a margin of 6.75%. Interest on the Term Loan is payable monthly in arrears on the first day of each month and at maturity. For the six months ended June 30, 2024, the effective interest rate on outstanding borrowings was approximately 17.01%.

Following an initial interest-only period, beginning on August 1, 2025, the outstanding principal amount of the 2022 Term Loan is repayable in twenty-four equal monthly principal payments, with all remaining outstanding principal, together with all accrued and unpaid interest, due at maturity. The 2022 Term Loan, as amended, may be voluntarily prepaid in full, but not in part, at any time and is also subject to mandatory prepayments with the net proceeds of certain dispositions and casualty events, subject to specified thresholds and reinvestment rights. Prepayments are subject to prepayment premiums of 1.00% of the amount prepaid. Once repaid, the 2022 Term Loan may not be reborrowed. We are also obligated to pay an exit fee equal to \$750,000 and other customary fees for a credit facility of this size and type. The exit fee is being accrued through interest expense using the effective interest method.

The terms of the 2022 Revolving Loan would allow us to borrow, repay and reborrow on until August 1, 2027, at which time the revolving commitments would terminate and all outstanding revolving loans, together with all accrued and unpaid interest, must be repaid. The proceeds of the 2022 Revolving Loan would be used for working capital needs and general corporate purposes. As of June 30, 2024, no amount was outstanding under the 2022 Revolving Loan. As of November 24, 2023, MidCap froze any future extensions of credit under the 2022 Revolving Loan due to the event of default discussed above.

The 2022 Revolving Loan would bear interest at a floating rate based on an adjusted term SOFR (subject to a floor of 1.50%) for a one-month interest period, plus a margin of 3.00%. Interest on the 2022 Revolving Loan would be payable monthly in arrears on the first day of each month and at maturity. Prior to November 24, 2023, we were obligated to pay an unused line fee equal to 0.50% per annum on the unused portion of the available revolving commitments, a fee for failure to maintain a minimum balance under the 2022 Revolving Loan Agreement, and other customary fees for a credit facility of this size and type.

Our obligations and any future guarantors under the 2022 Loan Agreements are secured by liens on substantially all of our assets.

The 2022 Loan Agreements, as amended, require us to comply with (i) a minimum net revenue covenant and (ii) a minimum cash covenant, which requires certain unrestricted cash to be greater than or equal to \$7.0 million at all times.

The 2022 Loan Agreements, as amended, contain customary affirmative and negative covenants, including covenants limiting the ability of us and our subsidiaries, among other things, to incur debt, grant liens, make distributions, enter certain restrictive agreements, pay or modify subordinated debt, dispose of assets, make investments and acquisitions, enter into certain transactions with affiliates, and undergo certain fundamental changes, in each case, subject to limitations and exceptions set forth in the 2022 Loan Agreements.

The 2022 Loan Agreements, as amended, contain customary events of default that include, among other things, certain payment defaults, cross defaults to certain other contracts and indebtedness, covenant defaults, inaccuracy of representations and warranties, bankruptcy and insolvency defaults, judgment defaults, change of control defaults, defaults related to the failure to remain registered with the SEC and listed for trading on the Nasdaq Stock Market (Nasdaq), and a material adverse change default.

Upon the occurrence and during the continuance of an event of default under the 2022 Loan Agreements, as amended, the respective administrative agent, if requested by the respective lenders, may, among other things, (i) suspend or terminate commitments, as well as obligations of the relevant administrative agent and lenders, (ii) declare all outstanding obligations under the applicable agreement (including principal and accrued and unpaid interest) immediately due and payable, and (iii) exercise the other rights and remedies provided for under the applicable agreement. The 2022 Loan Agreements provide that, under certain circumstances, a default interest rate will apply on all obligations under such agreement during the existence of an event of default, at a per annum rate equal to 2.0% above the applicable interest rate.

As of June 30, 2024 the 2022 Term Loan is classified within non-current liabilities on the consolidated balance sheets.

We bifurcated a derivative liability related to the acceleration clause triggered upon an event of default (contingent put option) under the 2022 Term Loan. The contingent put option liability is classified as a derivative liability on the consolidated balance sheet. The estimated fair value of the contingent put option liability was determined by using a risk-neutral valuation model wherein the fair

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value of the underlying debt facility is estimated, both with and without the presence of the default provisions, holding all other assumptions constant.

Funding Requirements

We expect our expenses to continue to be significant in connection with our ongoing activities, particularly with respect to research and development efforts related to our future products and our efforts to expand sales of current products and to commercialize future products. In addition, we expect to continue to incur costs associated with operating as a public company. The timing and amount of our operating and capital expenditures will depend largely on:

- the cost of developing new products that are commercially viable; and
- the costs of marketing and selling our products globally.

Until such time, if ever, as we can generate substantial product revenue, we expect to finance our operations through a combination of equity offerings, debt financings, collaborations, strategic alliances and marketing, distribution or licensing arrangements. If we are unable to raise additional funds through equity or debt financings or other arrangements when needed, we may be required to delay, limit, reduce or terminate our research, product development or future commercialization efforts, or grant rights to develop and market products that we would otherwise prefer to develop and market ourselves. Our ability to continue as a going concern is dependent upon the ability to raise additional capital. There can be no assurance that such capital will be available in sufficient amounts or on terms acceptable to us. These factors raise substantial doubt about our ability to continue as a going concern. Based upon our current plans, we believe there currently is insufficient financial resources to fund our operations for at least twelve months from the filing date of this Quarterly Report. See Note 1 to our consolidated financial statements included elsewhere in this Quarterly Report for additional information.

Contractual Obligations and Commitments

The following table summarizes our commitments to settle contractual obligations at June 30, 2024:

	Payments Due by Period				
	Total	Less than 1 Year	1 to 3 Years (in thousands)	4 to 5 Years	More than 5 Years
Operating lease commitments ⁽¹⁾	\$ 45,821	\$ 4,503	\$ 9,414	\$ 9,988	\$ 21,916
Finance lease commitments ⁽²⁾	240	132	108	—	—
Debt obligations ⁽³⁾	7,063	617	5,485	961	—
Total	<u>\$ 53,124</u>	<u>\$ 5,252</u>	<u>\$ 15,007</u>	<u>\$ 10,949</u>	<u>\$ 21,916</u>

- (1) Consists of payments due for our leases of office space and laboratory space in San Diego, California that expire in July 2033. Payments under signed leases that have not commenced yet are not included. Contractual lease payments related to the Eton discontinuing operation are excluded from the above table
- (2) Consists of payments due for our leases of equipment that expire in October 2025 and August 2026.
- (3) Consists of the contractually required principal and interest payable under the 2022 Term Loan Agreement. For purposes of this table, the interest due under the 2022 Term Loan Agreement was calculated using an assumed interest rate of 12.18% per annum, which was the interest rate in effect as of June 30, 2024 and assumes no borrowings under Tranche Three.

Off-Balance Sheet Arrangements

We did not have during the periods presented, and we do not currently have any, off-balance sheet arrangements, as defined in the rules and regulations of the SEC.

Going Concern

As of June 30, 2024, we had approximately \$10.3 million in cash, cash equivalents, restricted cash, and short-term investments. In accordance with ASU No. 2014-15 Presentation of Financial Statements – Going Concern (subtopic 205-40), our management evaluates whether there are conditions or events, considered in the aggregate, that raise substantial doubt about our ability to continue as a going concern within one year after the date that our condensed consolidated financial statements are issued. Based on our evaluation, substantial doubt exists regarding our ability to continue as a going concern for a period of one year from the issuance of our condensed consolidated financial statements.

Cash used in our operating activities is heavily influenced by the timing and structure of new corporate collaborations and BioXp system revenue. While one feature of our business strategy is seeking new corporate collaborations, assuming no new collaborations and no milestone payments from our existing collaborations, we anticipate that cash used in operating activities will increase in the near term. See the table of contractual obligations and commitments above.

Presently, we do not have sufficient cash resources to fund our planned operations, existing debt and contractual commitments and planned capital expenditures through at least the next twelve months from issuance of these financial statements. We may consume available resources more rapidly than currently anticipated, resulting in the need for additional funding. We expect to incur continuing losses and negative cash flows from operations for the foreseeable future.

Depending on whether we enter into additional collaborative agreements in the near term and the extent to which we earn revenues from our collaborative agreements and product sales, we may decide to raise additional capital through a variety of sources in the short-term and in the long-term, including:

- the public equity markets;
- private equity financings;
- collaborative arrangements; and/or
- public or private debt.

There can be no assurance that we will enter into additional collaborative agreements or maintain existing collaborative agreements, will earn collaborative revenues or that additional capital will be available on favorable terms, if at all. If adequate funds are not available, we may be required to significantly reduce or re-focus our operations or to obtain funds through arrangements that may require us to relinquish rights to certain of our products, technologies or potential markets, either of which could have a material adverse effect on our business, financial condition and results of operations. To the extent that additional capital is raised through the sale of equity or convertible debt securities, the issuance of such securities would result in ownership dilution to our existing stockholders (assuming convertible debt securities were converted into shares). These factors raise substantial doubt regarding our ability to continue as a going concern. Our inability to obtain required funding in the near future or our inability to obtain funding on favorable terms will have a material adverse effect on our operations and strategic development plan for future growth. If we cannot successfully raise additional capital and implement our strategic development plan, our liquidity, financial condition and business prospects will be materially and adversely affected, and we may have to cease operations.

As a result of our recurring losses from operations, negative cash flows from operating activities and need to raise additional capital, our independent registered public accounting firm included an explanatory paragraph in its report on our audited consolidated financial statements for the year ended December 31, 2023 expressing substantial doubt as to our ability to continue as a going concern.

Critical Accounting Policies and Significant Judgments and Estimates

This management's discussion and analysis is based on our unaudited condensed consolidated financial statements, which have been prepared in accordance with U.S. generally accepted accounting principles. The preparation of these unaudited condensed consolidated financial statements and related disclosures requires us to make judgments and estimates that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the unaudited condensed consolidated financial statements and the reported amounts of expenses during the reported periods. We base our estimates on historical experience, known

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trends and events, and various other factors that we believe to be reasonable under the circumstances. Actual results may differ from these estimates under different assumptions or conditions. On an ongoing basis, we evaluate our judgments and estimates in light of changes in circumstances, facts, and experience. The effects of material revisions in estimates, if any, will be reflected in the condensed consolidated financial statements prospectively from the date of change in estimates.

There have been no significant changes to our critical accounting policies from those described in “Management’s Discussion and Analysis of Financial Condition and Results of Operations” included in the Annual Report on Form 10-K for the year ended December 31, 2023 other than those disclosed below.

In accordance with ASC 205-20 “*Presentation of Financial Statements: Discontinued Operations*”, a disposal of a component of an entity or a group of components of an entity is required to be reported as discontinued operations if the disposal represents a strategic shift that has (or will have) a major effect on an entity’s operations and financial results. In the period in which the component meets held-for-sale or discontinued operations criteria the major current assets, non-current assets, current liabilities, and non-current liabilities shall be reported as components of total assets and liabilities separate from those balances of the continuing operations. At the same time, the results of all discontinuing operations, less applicable income taxes, shall be reported as components of net loss separate from the net loss of continuing operations.

Eton met the definition of a discontinuing operation as of June 30, 2024. Accordingly, we have classified the results of the Eton as discontinuing operations in our unaudited condensed consolidated statements of operations and comprehensive loss for all periods presented. All assets and liabilities associated with Eton were classified as assets and liabilities of discontinuing operations in the unaudited condensed consolidated balance sheets for the periods presented. All amounts included in the notes to the unaudited condensed consolidated financial statements relate to continuing operations unless otherwise noted. For additional information, see Note 18, “Assets Held for Sale and Discontinuing Operations” to the unaudited condensed consolidated financial statements in this Quarterly Report.

Significant estimates related to discontinuing operations included the fair value of the underlying net assets, and the expected consideration to be received upon completion of the transaction.

Recently Issued Accounting Pronouncements

See Note 2 to our annual consolidated financial statements included in the Annual Report on Form 10-K for a description of recent accounting pronouncements applicable to our consolidated financial statements.

Emerging Growth Company Status

In April 2012, the Jumpstart our Business Startups Act (the JOBS Act) was enacted. Section 107 of the JOBS Act provides that an “emerging growth company,” or an EGC, can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act for complying with new or revised accounting standards. Thus, an EGC can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected to use the extended transition period for new or revised accounting standards during the period in which we remain an EGC; however, we may adopt certain new or revised accounting standards early.

We are an EGC and will remain an EGC until the earliest to occur of: (i) the last day of the fiscal year in which we have more than \$1.235 billion in annual revenue; (ii) the date we qualify as a “large accelerated filer,” with at least \$700.0 million of equity securities held by non-affiliates; (iii) the date on which we have issued more than \$1.0 billion in non-convertible debt securities during the prior three-year period; and (iv) the last day of the fiscal year ending after the fifth anniversary of our initial public offering.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

We are a smaller reporting company as defined by Item 10 of Regulation S-K of the Securities Exchange Act of 1934, as amended (the Exchange Act), and are not required to provide the information otherwise required under this item.

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Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our Principal Executive Officer (PEO), and Principal Financial Officer (PFO), we evaluated the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Rule 13a-15(e) and 15d-15(e) under the Exchange Act, as amended (the Exchange Act) as of the end of the period covered by this report. Our disclosure controls and procedures are designed to ensure that information required to be disclosed in the reports we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including the PEO and PFO, to allow timely decisions regarding required disclosures. Any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objective and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based on that evaluation, our PEO and PFO have concluded, as of June 30, 2024, our disclosure controls and procedures were not effective due to the identified material weakness in internal control over financial reporting described in Item 9A of our Annual Report on Form 10-K.

Notwithstanding the conclusion by the principal executive officer and principal financial officer that the disclosure controls and procedures as of June 30, 2024 were not effective and the material weakness identified in internal controls over financial reporting described in Item 9A of our Annual Report on Form 10-K, management believes that the condensed consolidated financial statements and related financial information included in this Quarterly Report fairly present in all material respects the Company's financial condition, results of operations and cash flows as of the dates presented, and for the periods ended on such dates, in conformity with accounting principles generally accepted in the United States (US GAAP).

Remediation Activities

Management continues to evaluate the material weakness discussed above, has created a remediation plan that it has already begun implementing and continues to finalize that plan's implementation. For example, we hired a new Chief Financial Officer and a Corporate Controller to oversee our controls environment and a Sarbanes-Oxley compliance firm to assist it in implementing additional controls and procedures in its finance, accounting and IT departments. However, assurance as to when all remediation efforts will be complete cannot be provided and the material weakness cannot be considered remedied until the applicable controls have operated for a sufficient period of time and our management has concluded, through testing, that these controls are operating effectively. Management cannot provide assurances that the measures that have been taken to date, and are continuing to be implemented, will be sufficient to remediate the material weakness identified or to avoid potential future material weaknesses.

Inherent Limitations on Effectiveness of Controls

Our management, including our PEO and PFO, does not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent or detect all error and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. The design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Further, because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within a company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated

goals under all potential future conditions. Projections of any evaluation of controls effectiveness to future periods are subject to risks. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures.

Changes in Internal Control over Financial Reporting

Other than with respect to the ongoing remediation efforts described above, there have been no changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) under the Exchange Act) during the six months ended June 30, 2024 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II - OTHER INFORMATION

Item 1. Legal Proceedings

From time to time, we are involved in claims and legal proceedings or investigations, that arise in the ordinary course of business. Such matters could have an adverse impact on our reputation, business and financial condition and divert the attention of our management from the operation of our business. These matters are subject to many uncertainties and outcomes that are not predictable.

Item 1A. Risk Factors

Investing in our common stock involves a high degree of risk. You should carefully consider the risks described below, as well as the other information in this Quarterly Report, including our unaudited condensed consolidated financial statements and the related notes and the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in this Quarterly Report, before deciding whether to invest in our common stock. The occurrence of any of the events or developments described below could harm our business, financial condition, results of operations and prospects. In such an event, the market price of our common stock could decline, and you may lose all or part of your investment. Additional risks and uncertainties not presently known to us or that we currently deem immaterial also may impair our business operations and the market price of our common stock.

Summary Risk Factor

Our business is subject to numerous risks and uncertainties that you should consider before investing in our securities. These risks are described more fully below. These risks include, but are not limited to, the following:

- We are an early-stage multi-omic and synthetic biology technology company with a history of net losses, which we expect to continue, and we may not be able to generate meaningful revenues or achieve and sustain profitability in the future;
- we have a limited operating history, which may make it difficult to evaluate the prospects for our future viability and predict our future performance;
- our operating results may fluctuate significantly in the future, which makes our future operating results difficult to predict and could cause our operating results to fall below expectations or any guidance we may provide;
- we will need to raise additional capital to fund our continuing operations, which may be unavailable to us on acceptable terms or at all or may cause dilution or place significant restrictions on our ability to operate as a going concern;
- our management has identified a material weakness in our internal controls;
- sales of shares of our common stock underlying the Redeemable Convertible Preferred Stock and Warrants issued in our recent private placement may cause the market price of our shares to decline;
- ***Northpond and Novalis and their affiliates own a significant percentage of our common stock and have the right to designate five of the 13 members of our board of directors, and may be able to exert significant control over matters subject to stockholder approval, preventing other stockholders and new investors from influencing significant corporate decisions.***
- the holders of Redeemable Convertible Preferred Stock have rights, preferences and privileges that are not held by, and are preferential to, the rights of our common stockholders;
- our directors, officers and principal stockholders have significant voting power and may take actions that may not be in the best interests of our other stockholders;
- our independent registered public accounting firm’s report contains an explanatory paragraph that expresses substantial doubt about our ability to continue as a “going concern”;
- adverse developments affecting the financial services industry, including events or concerns involving liquidity, defaults or non-performance by financial institutions, could adversely affect our business, financial condition or results of operations;

- we may not be able to achieve or maintain satisfactory pricing and margins for our products;
- if we fail to timely introduce compelling new products, our revenues and our prospects could be harmed;
- the size of the markets for our products may be smaller than estimated, and new market opportunities may not develop as quickly as we expect, or at all, thus limiting our ability to successfully meet our anticipated revenue projections;
- we have limited experience in sales and marketing of our products. If we are unable to expand our sales, marketing distribution and customer service and support capabilities, we may not be successful in commercializing our current and future products;
- we began manufacturing our BioXp products and certain materials used in our BioXp products in-house in 2023. We have limited experience manufacturing our products and if we directly or indirectly encounter problems manufacturing our products or materials, our business and financial results could suffer;
- we currently rely on single source suppliers for certain components of our instruments and raw materials. If these suppliers should fail or not perform satisfactorily, our ability to commercialize and supply our products would be adversely affected; and
- if we are unable to obtain and maintain sufficient intellectual property protection for our products and technology, or if the scope of the intellectual property protection obtained is not sufficiently broad, our competitors could develop and commercialize products similar or identical to ours, and our ability to successfully commercialize our products and build a strong brand identity may be impaired; and
- we are not currently in compliance with the minimum stockholders' equity rules and the market capitalization rules of the Nasdaq Global Select Market and if we cannot regain compliance, our securities will be delisted, which could negatively impact the price of our securities, the liquidity of our common stock, and hinder our ability to raise capital in the future.

Risks Related to Our Business

We are an early-stage multi-omic and synthetic biology technology company with a history of net losses, which we expect to continue, and we may not be able to generate meaningful revenues or achieve and sustain profitability in the future.

We are an early-stage multi-omic and synthetic biology technology company, and we have incurred significant losses since separating from Synthetic Genomics, Inc. (SGI) and beginning to operate as a stand-alone entity in March 2019, and expect to continue incurring losses in the future as we manufacture and commercialize our products and materials, including our BioXp systems, continue to enhance and develop our products, and implement our business plans and strategies. We incurred a net loss of \$47.7 million for the year ended December 31, 2023, and a net loss of \$21.2 million for the six months ended June 30, 2024. As of June 30, 2024, we had an accumulated deficit of \$182.7 million. These losses and accumulated deficit were primarily due to the substantial investments we have made to develop, manufacture, commercialize and market our technology and products. Over the next several years, we expect to continue to devote a significant portion of our resources towards the continued development, manufacture and commercialization of our synthetic biology products. These efforts may prove more costly than we currently anticipate. Additionally, we may encounter unexpected development delays, unforeseen expenses, operating delays, declines in revenue or other unknown factors that may result in losses in future periods. Accordingly, we cannot assure you that we will achieve profitability in the future or that, if we do become profitable, we will remain profitable.

We have a limited operating history, which may make it difficult to evaluate the prospects for our future viability and predict our future performance.

Our prospects must be considered in light of the uncertainties, risks, expenses, and difficulties frequently encountered by companies in their early stages of operations. For example, our management team has had a limited time working together and many of our key employees are new to our company. Predictions about our future success or viability are highly uncertain and may not be as accurate as they could be if we had a longer operating history or a longer history of successfully developing and commercializing products.

In addition, as a business with a limited operating history, we may encounter unforeseen expenses, difficulties, complications, delays and other known and unknown obstacles. We have encountered in the past, and will encounter in the future, risks and uncertainties frequently experienced by growing companies with limited operating histories in emerging and rapidly changing industries. If our assumptions regarding these risks and uncertainties, which we use to plan and operate our business, are incorrect or change, or if we do not address these risks successfully, our results of operations could differ materially from our expectations, and our business, financial condition and results of operations could be adversely affected.

Our operating results may fluctuate significantly in the future, which makes our future operating results difficult to predict and could cause our operating results to fall below expectations or any guidance we may provide.

Our quarterly and annual operating results have and may continue to fluctuate significantly, which makes it difficult for us to predict our future operating results. These fluctuations have occurred and may occur due to a variety of factors, many of which are outside of our control, including, but not limited to:

- the level of demand for our commercialized products, which may vary significantly from period to period;
- our ability to drive adoption of our products in our target markets and our ability to expand into any future target markets, including internationally;
- the prices at which we will be able to sell our products;
- the volume and mix of our sales between our BioXp systems, BioXp kits, benchtop reagents and other products, or changes in the manufacturing or sales costs related to our products;
- the length of time of the sales cycle for purchases of, or royalties on, our products, including lead time needed to procure critical raw materials from suppliers and finished goods from our third-party contract suppliers and manufacturers;
- the extent to which we succeed in developing, commercializing and supporting new products;
- our ability to obtain necessary export licenses for our products in certain countries and territories;
- potential shortages, or increases in costs, of our product components or raw materials for existing and new products, or other disruptions to our supply chain;
- the timing and cost of, and level of investment in, research and development and commercialization activities relating to our products, which may change from time to time;
- our ability to successfully manage relationships with customers, third-party distributors and suppliers of our products;
- the timing and amount of expenditures that we may incur to develop, commercialize or acquire additional products and technologies;
- changes in governmental funding sources;
- cyclical changes to the research and development budgets within the pharmaceutical, biotechnology and industrial segments of synthetic biology;
- seasonal spending patterns of our customers;
- the expenses needed to attract and retain skilled personnel;
- future accounting pronouncements or changes in our accounting policies;
- the outcome of any litigation or governmental investigations involving us, our industry or both;
- higher than anticipated service, replacement and warranty costs;
- the costs associated with being a public company;
- changes in the regulatory environment;
- the impact of macro-economic factors that affect investment in synthetic biology and research industries, our business operations, and resources and operations of our customers, suppliers, and distributors; and
- general industry, economic and market conditions and other factors, including factors unrelated to our operating performance or the operating performance of our competitors.

The cumulative effects of the factors discussed above could result in large fluctuations and unpredictability in our quarterly and annual operating results. As a result, comparing our operating results on a period-to-period basis may not be meaningful. Investors should not rely on our past results as an indication of our future performance.

This variability and unpredictability could also result in our failing to meet the expectations of industry or financial analysts or investors for any period of time. If our operating results fall below the expectations of analysts or investors or below any guidance we may provide, or if the guidance we provide is below the expectations of analysts or investors, it could cause the market price of our common stock to decline.

We will need to raise additional capital to fund our continuing operations, which may be unavailable to us on acceptable terms or at all or may cause dilution or place significant restrictions on our ability to operate as a going concern.

If our available cash resources and anticipated cash flow from operations are insufficient to satisfy our liquidity requirements, including because of lower demand for our products or the realization of other risks described herein, we will be required to raise additional capital prior to such time through issuances of equity or convertible debt securities, or seek debt financing or other form of third-party funding. We also may seek to raise additional capital in the future to expand our business, to pursue strategic investments, to take advantage of financing opportunities or for other reasons, including:

- increasing our sales and marketing and other commercialization efforts to drive market adoption of our products;
- funding development and marketing efforts of our current or any future products;
- expanding our technologies into additional markets;
- acquiring, licensing or investing in technologies and other intellectual property rights;
- acquiring or investing in complementary businesses or assets; and
- financing capital expenditures and general and administrative expenses.

Our present and future funding requirements will depend on many factors, including:

- our rate of progress in increasing penetration of our target markets with current and new products, and the cost of the sales and marketing activities associated with establishing adoption of our products;
- our rate of progress in, and cost of research and development activities associated with, products in research and development; and
- the effect of competing technological and market developments.

Our 2024 Shareholder Notes restrict our ability to pursue certain transactions that we may believe to be in our best interest. If we are unable to obtain adequate financing or financing on terms satisfactory to us when needed, our ability to continue to pursue our business objectives and to respond to business opportunities, challenges, or unforeseen circumstances could be significantly limited, and could have a material adverse effect on our business, financial condition, results of operations and prospects.

The various ways we could raise additional capital carry potential risks. If we raise funds by issuing equity securities, dilution to our stockholders would result. If we raise funds by issuing debt securities, those debt securities would have rights, preferences and privileges senior to those of holders of our common stock. The terms of debt securities issued or borrowings pursuant to a credit agreement could impose significant restrictions on our operations. If we raise funds through collaborations or licensing arrangements, we might be required to relinquish significant rights to our technologies or products or grant licenses on terms that are not favorable to us.

If we raise funds through the sale of assets, we may sell intellectual property, product lines or other parts of our business. Divestitures involve risks, including difficulties in the separation of operations, services, products and personnel, the diversion of management's attention from other business concerns, the disruption of our business, the potential loss of key employees and the retention of uncertain environmental or other contingent liabilities related to the divested assets. In addition, divestitures may result in significant asset impairment charges, including those related to goodwill and other intangible assets, and the loss of revenue which could have a material adverse effect on our financial condition and results of operations. In addition, we may not realize the expected value from the divested assets and may need to raise additional capital to replace the revenue generated from any assets that are divested. We can provide no assurance that such capital will be available or available on terms that are acceptable to us. We cannot assure you that we will be successful in managing these or any other significant risks that we encounter in selling assets, and any divestiture we undertake could materially and adversely affect our business, financial condition, results of operations and cash flows, and may also result in a diversion of management attention, operational difficulties and losses.

If we are unable to obtain adequate financing or financing on terms satisfactory to us, we may have to delay, reduce the scope of, or discontinue one or more development or commercial programs, delay potential commercialization or reduce the scope of sales or marketing activities and pursue other cost cutting measures, including the reduction of headcount, scope of operations and planned capital expenditures, which may have a material adverse effect on our business, results of operations, financial condition or ability to fund our scheduled obligations on a timely basis or continue as a going concern. Further, our ability to continue to pursue our business objectives and to respond to business opportunities, challenges, or unforeseen circumstances could be significantly limited and could have a material adverse effect on our business, financial condition, results of operations and prospects.

Our independent registered public accounting firm's report for our Annual Report on Form 10-K contains an explanatory paragraph that expresses substantial doubt about our ability to continue as a "going concern."

As of June 30, 2024, we had \$10.3 million of cash, cash equivalents, restricted cash, and short-term investments. This raises substantial doubt about our ability to continue as a going concern within one year after the date that the financial statements were issued. See Part II, Item 8, Financial Statements and Supplementary Data, Note 1 of our Annual Report on Form 10-K for additional information on our assessment of our ability to continue as a going concern. Uncertainty regarding our liquidity may have a material and adverse impact on the price of our common stock, which could negatively impact our ability to raise sufficient funds for our operations and continue as a going concern. In addition, cash forecasts and capital requirements are subject to change as a result of a variety of risks and uncertainties. Developments in and expenses associated with our commercialization activities and other research and development activities may consume capital resources earlier than planned. Due to these and other factors, forecasts for any periods in which we indicate that we expect to have sufficient resources to fund our operations, as well as any other operational or business projection we have disclosed, or may disclose, may not be achieved.

Adverse developments affecting the financial services industry, including events or concerns involving liquidity, defaults or non-performance by financial institutions, could adversely affect our business, financial condition or results of operations.

Actual events involving limited liquidity, defaults, non-performance or other adverse developments that affect financial institutions or the financial services industry generally, or concerns or rumors about any events of these kinds or other similar risks, have in the past and may in the future adversely affect our liquidity. For example, on March 10, 2023, the Federal Deposit Insurance Corporation (FDIC) announced that Silicon Valley Bank had been closed by the California Department of Financial Protection and Innovation. At that time, some of our cash and cash equivalents were held at Silicon Valley Bank and our access to such funds was limited until the United States Department of the Treasury announced in a joint statement with the Federal Reserve and FDIC that depositors of Silicon Valley Bank would have access to all of their money starting March 13, 2023. While we regained access to our funds at Silicon Valley Bank and continue to evaluate our banking relationships, our access to funding sources and other credit arrangements in amounts adequate to finance or capitalize our current and projected future business operations could be significantly impaired by events such as liquidity constraints or failures, disruptions or instability in the financial services industry or financial markets, or concerns or negative expectations about the prospects for companies in the financial services industry. These factors may also adversely affect our ability to access our cash and cash equivalents at affected financial institutions.

In addition, investor concerns regarding the U.S. or international financial systems could result in less favorable commercial financing terms, including higher interest rates or costs and tighter financial and operating covenants, or systemic limitations on access to credit and liquidity sources, thereby making it more difficult for us to acquire financing on terms favorable to us, or at all. Any decline in available funding or access to our cash and liquidity resources could, among other things, adversely impact our ability to meet our operating expenses, financial obligations or fulfill our other obligations, result in breaches of our contractual obligations or result in violations of federal or state wage and hour laws. Any of these impacts, or any other impacts resulting from the factors described above or other related or similar factors not described above, could have material adverse impacts on our liquidity and our business, financial condition or results of operations.

We may not be able to achieve or maintain satisfactory pricing and margins for our products.

Our industry has a history of price competition, and we can give no assurance that we will be able to achieve satisfactory prices for our products or maintain prices at the levels we have historically achieved. If we are forced to lower the price we charge for our products, our gross margins will decrease, which will adversely affect our ability to invest in and grow our business. We believe that we will continue to be subject to significant pricing pressure, which may limit our ability to maintain or increase our prices.

Our cost of goods is dependent upon the pricing we are able to negotiate with our suppliers of raw materials, instruments and components. In particular, we have experienced price increases for certain raw materials, such as oligonucleotides, and expect these raw materials to continue to be in high demand. We have also experienced price increases for certain raw materials directly as a result of supply chain issues associated with the COVID-19 pandemic and we are uncertain how long those constraints could continue to impact our raw material pricing. We do not have long term supply contracts for any of our raw materials. If our costs increase and we are unable to offset such increases with a proportionate increase in our prices, our margins would erode, which would harm our business and results of operations.

If we fail to attract new customers, continue to enhance our existing commercialized products or timely introduce compelling new products, our revenues and our prospects could be harmed.

Our ability to attract new customers and increase revenue from existing customers will depend in large part on our ability to timely introduce compelling new products and pursue new market opportunities that develop as a result of technological and scientific advances. The success of any enhancement to our existing commercialized products or introduction of new products depends on several factors, including timely completion and delivery, cost-effective development and manufacturing, competitive pricing, adequate quality testing, integration with existing technologies, appropriately timed and staged introduction and overall market acceptance. We have experienced supply chain delays and increases in raw material cost for several of our products during development, including our BioXp 9600 system that we launched in 2022. If we continue to experience these delays and increases in cost, our ability to commercialize our BioXp systems or other new, planned products could be delayed. Moreover, any other new product that we develop may not be introduced in a timely or cost-effective manner, may contain defects, errors, vulnerabilities or bugs, or may not achieve the market acceptance necessary to generate significant revenue.

The typical development cycle of new multi-omic and synthetic biology products can be lengthy and complicated, and may require new scientific discoveries or advancements, considerable resources and complex technology and engineering. Such developments may involve external suppliers and service providers, making the management of development projects complex and subject to risks and uncertainties regarding timing, timely delivery of required components or services and satisfactory technical performance of such components or assembled products. If we do not achieve the required technical specifications or successfully manage new product development processes, or if development work is not performed according to schedule, then the development of such new technologies or products may be adversely impacted.

In addition, there is extensive competition in our industry, which is characterized by rapid and significant technological changes, frequent new product introductions and enhancements and evolving industry demands and standards. Our future success will depend on our ability to maintain a competitive position, including technologically superior and less expensive products compared to those of our competitors. Technological development by others may result in our technologies, as well as products developed using our technologies, becoming obsolete. If we are unable to successfully develop new products, compete with alternative products, or otherwise gain and maintain market acceptance, our business, results of operations and financial condition could be harmed.

We depend on our key personnel and other highly qualified personnel, and if we are unable to recruit, train and retain our personnel, we may not achieve our goals.

Our future success depends upon our ability to recruit, train, retain and motivate key personnel. Our senior management team, including Eric Esser, our President and Chief Executive Officer; William Kullback, our Chief Financial Officer; and Daniel Gibson, Ph.D., our Chief Technology Officer, is critical to our vision, strategic direction, product development and commercialization efforts. We have entered into at-will employment agreements with each of Mr. Esser, Mr. Kullback, and Dr. Gibson, and such agreements may be terminated by either party at any time without cause. The departure of one or more of our executive officers, senior management team members or other key employees could be disruptive to our business unless we are able to hire qualified successors. We do not maintain “key man” life insurance on our senior management team.

Our continued growth depends, in part, on attracting, retaining and motivating qualified personnel, including highly trained sales personnel with the necessary scientific background and ability to understand our systems at a technical level to effectively identify and sell to potential new customers. New hires require significant training and, in most cases, take significant time before they achieve full productivity. Our failure to successfully integrate these key personnel into our business could adversely affect our business. In addition, competition for qualified personnel is intense, particularly in the San Diego area, where our operations are headquartered. We compete for qualified scientific and information technology personnel with other life science and information technology companies as well as academic institutions and research institutions.

We do not maintain fixed-term employment contracts with any of our employees. As a result, our employees could leave our company with little or no prior notice and would be free to work for a competitor. Due to the complex and technical nature of our products and technology and the dynamic market in which we compete, any failure to attract, train, retain and motivate qualified personnel could materially harm our business, results of operations, financial condition and prospects.

If we do not sustain or successfully manage our anticipated growth, our business and prospects will be harmed.

Our anticipated growth will place significant strains on our management, operational and manufacturing systems and processes, sales and marketing team, financial systems and internal controls and other aspects of our business. As of June 30, 2024, we had 98 full-time and 9 part-time employees in the United States and 3 full-time employees located internationally. We expect that we will need to hire additional accounting, finance and other personnel in connection to our efforts to comply with the requirements of being a public company. As a public company, our management and other personnel are required to devote a substantial amount of time towards maintaining compliance with these requirements and effectively manage these growth activities. We may face challenges

integrating, developing and motivating our rapidly growing employee base. To effectively manage our growth, we must continue to improve our operational and manufacturing systems and processes, our financial systems and internal controls and other aspects of our business and continue to effectively expand, train and manage our personnel. As described in Item 9A of our Annual Report on Form 10-K, we have identified a material weakness in our internal controls related to our limited finance, accounting and IT staffing levels. Our ability to correct this weakness and our ability to successfully manage our expected growth is uncertain. If our organization continues to grow, we will be required to implement more complex organizational management structures, and we may find it increasingly difficult to maintain the benefits of our corporate culture, including our ability to quickly develop and launch new and innovative products. If we do not successfully manage our anticipated growth, our business, results of operations, financial condition and prospects will be harmed.

A significant portion of our revenue in the near term will be generated from the sale of our current on market and in development products.

We anticipate that a substantial contributor to our growth will come from new product introductions, such as those based in our Gibson SOLA technology, a technology that is commercially unproven and still in development. We do expect to continue selling our existing BioXp systems and BioXp kits to our current customers but will not exercise the same level of effort in this regard as a result of our decreased personnel. There can be no assurance that our customers will adopt Gibson SOLA or continue purchasing BioXp instruments or BioXp kits. There can also be no assurance that we will be able to design other products that will meet the expectations of our customers or that any of our future products will become commercially viable. As technologies change in the future for synthetic biology research tools, we will be expected to upgrade or adapt our products in order to maintain the latest technology.

While concentrating our research and development and commercialization efforts on our multi-omics and synthetic biology solutions, we may forego other opportunities that may provide greater revenue or be more profitable. If our research and product development efforts do not result in additional commercially viable products within the anticipated timelines, or at all, our business and results of operations will be adversely affected. Any delay or failure by us to develop and release our new products or product enhancements would have a substantial adverse effect on our business and results of operations.

Rapidly changing technology in multi-omics and synthetic biology could make the products we are developing obsolete unless we continue to develop and manufacture new and improved products and pursue new market opportunities.

Our industry is characterized by rapid and significant technological changes, frequent new product introductions and enhancements and evolving industry standards. The preferences and needs of our customers may change over time. Our future success will depend on our ability to continually improve the products we are developing, to develop and introduce new products that address the evolving needs of our customers on a timely and cost-effective basis, and to pursue new market opportunities that develop as a result of technological and scientific advances. These new market opportunities may be outside the scope of our proven expertise or in areas which have unproven market demand, and the utility and value of new products developed by us may not be accepted in the markets served by the new products. Our inability to gain market acceptance of new products could harm our future operating results. Our future success also depends on our ability to manufacture these new and improved products to meet customer demand in a timely and cost-effective manner, including our ability to resolve manufacturing issues that may arise as we commence production of these complex products. Unanticipated difficulties or delays in replacing existing products with new products we introduce or in manufacturing improved or new products in sufficient quantities to meet customer demand could diminish future demand for our products and harm our future operating results.

We have and may continue to engage in acquisitions or strategic partnerships acquire or invest in other companies or technologies, which could divert our management's attention, result in additional dilution to our stockholders, reduce our financial resources, cause us to incur debt, disrupt our operations and harm our operating results.

We have and may in the future engage in acquisitions or strategic partnerships and may seek to acquire or invest in other businesses, applications or technologies that we believe could complement or expand our current or future products, enhance our technical capabilities or otherwise offer growth opportunities. For example, in 2021 we acquired EtonBio, Inc., a San Diego-based biotech company specializing in synthetic biology products and services. Any acquisitions or partnerships may divert the attention of management and cause us to incur various costs and expenses in identifying, investigating and pursuing suitable acquisitions, whether or not they are consummated. We may not be able to identify desirable acquisition targets or be successful in entering into an agreement with any particular target or obtain the expected benefits of any acquisition or investment.

To date, the growth of our operations has been mostly organic, and we have limited experience in acquiring and integrating other businesses or technologies. We may not be able to successfully integrate acquired personnel, operations and technologies, or effectively manage the combined business following an acquisition. Acquisitions could also result in dilutive issuances of equity

securities, the use of our available cash, or the incurrence of debt, which could harm our operating results. In addition, if an acquired business fails to meet our expectations, our operating results, business and financial condition may suffer.

If we experience a significant disruption in our information technology systems or breaches of data security, our business could be adversely affected.

We rely, and will continue to rely, on multiple information technology systems to operate the systems that allow our company to function, including cloud-based and on-premises information technology systems. We rely extensively on information technology systems to facilitate our principal company activities, including to operate the cloud-based platform on which the services offered to our customers rely. In addition, we also use information technology systems for a variety of key business functions, including to keep financial records, facilitate our research and development initiatives, manage our manufacturing operations, maintain quality control, fulfill customer orders, maintain corporate records, communicate with staff and external parties, and operate other critical functions.

Like all companies that rely on information technology systems, our information technology systems and those of our vendors and partners are potentially vulnerable to failures of confidentiality, integrity, and availability. Such failures could include, for example, malicious intrusion, corruption of data, and disruptive events, including but not limited to natural disasters and catastrophes. Such failures, if they occur, could compromise company, vendor or partner systems and employee, company, vendor, or partner data. A wide range of cyber attacks, including cyber intrusions, denial of service, and other malicious internet-based activity, such as social engineering and phishing scams, continue to increase. Cloud-based platform providers of services have been and are expected to continue to be targeted by a variety of threat actors, including sophisticated nation-state and nation-state-supported actors. Such threat actors use attack methods that change frequently, are increasingly complex and sophisticated, including social engineering and phishing scams, and can originate from a wide variety of sources, including insider threats or external actors. In addition to traditional computer “hackers,” malicious code, such as viruses and worms, employee theft or misuse, denial-of-service attacks and sophisticated nation-state and nation-state supported actors now engage in attacks, including advanced persistent threat intrusions. In addition, we have not finalized our information technology and data security policies and procedures and therefore, our information technology systems may be more susceptible to such failures and attacks than if such security policies and procedures were finalized. Despite our efforts to create security barriers to such threats, it is virtually impossible for us to entirely mitigate these risks and there is no guarantee that our efforts are or will be adequate to safeguard against all such threats. Moreover, despite our current and future efforts, it is possible that we may not be able to anticipate, detect, appropriately react and respond to, or implement effective preventative measures against, all cybersecurity incidents. Such cybersecurity incidents can be difficult to detect and any delay in identifying such incidents may lead to increased harm and legal exposure of the type described below.

If our security measures, or those of our vendors and partners, are compromised for any reason, including negligence, error, or malfeasance, our principal company activities could cease to function, or be significantly degraded, until such cybersecurity incidents are remediated. Further, our business could be harmed, our reputation could be damaged, and we could become subject to regulatory inquiries or litigation, all of which could result in significant liability. In addition, if we were to experience a prolonged system disruption in our information technology systems or those of certain of our vendors and partners, it could negatively impact our ability to serve our customers, which could adversely impact our business, financial condition, results of operations and prospects. If operations at our facilities were disrupted and could not be promptly restored, such disruption could cause a material disruption in our business, financial condition, results of operations, and prospects. Moreover, there could be public announcements regarding any cybersecurity incidents and, if securities analysts or investors perceive these announcements to be negative, it could, among other things, have a material adverse effect on our business, reputation, financial condition, results of operations and prospects.

Our information technology systems, and those of our vendors and partners, are potentially vulnerable to cybersecurity incidents such as data security breaches, which could lead to the loss and exposure of information, including personal, sensitive, and confidential data, to unauthorized persons, resulting in a data security breach. Any such data security breaches could, among other things, lead to the loss of trade secrets or other intellectual property, or could lead to the exposure of personal information, including sensitive personal information, of our employees, customers and others, any of which could have a material adverse effect on our business, reputation, financial condition, results of operations and prospects. In addition, any such data security breaches could result in legal claims or proceedings, regulatory inquiries, investigations, or actions, and other types of liability under laws that protect the privacy and security of personal information, including federal, state and foreign data protection, privacy, data security, and consumer protection regulations, violations of which could result in significant penalties and fines. Additionally, the introduction and passage of new privacy laws, including but not limited to the California Privacy Rights Act (CPRA), which went into effect on January 1, 2023 and modifies the California Consumer Privacy Act (CCPA), potentially resulting in further uncertainty and may require us to incur additional costs and expenses in an effort to comply. The CPRA restricts use of certain categories of sensitive personal information that we may handle, establish restrictions on the retention of personal information, expand the types of data breaches subject to the private right of action, and establish the California Privacy Protection Agency to implement and enforce the new law and impose administrative fines. Additional compliance investment and potential business process changes will likely be required. Similar laws have been proposed in other states and at the federal level, reflecting a trend toward more stringent data privacy and security legislation in the United States. For example, other states, including Virginia, Colorado, Utah, Indiana, Iowa, Tennessee, Montana,

Texas, and Connecticut have enacted privacy laws similar to the CCPA that impose new obligations or limitations in areas affecting our business and we continue to assess the impact of these state legislation, on our business as additional information and guidance becomes available. Aspects of these state privacy statutes remain unclear, resulting in further uncertainty and potentially requiring us to modify our data practices and policies and to incur substantial additional costs and expenses in an effort to comply.

In addition, U.S. and international laws and regulations that have been applied to protect user privacy (including laws regarding unfair and deceptive practices in the U.S. and General Data Protection Regulation (GDPR) in the EU/UK) may be subject to evolving interpretations or applications. This area of law is continuing to evolve and is subject to significant uncertainty, which may require us to incur additional costs and expenses in order to comply. Furthermore, responding to a legal claim or proceeding or a regulatory inquiry, investigation, or action, regardless of its merit, could be costly, divert management's attention and harm our reputation. Compliance with these laws and regulations is difficult, constantly evolving, time consuming, and requires a flexible cybersecurity framework and substantial resources. Compliance efforts will likely be an increasing and substantial cost in the future.

Although we have not experienced any major cybersecurity incidents to date, if we do experience an incident, the cost of protecting against, investigating, mitigating and responding to these cybersecurity incidents and data security breaches, and complying with applicable breach notification obligations to individuals, regulators, vendors, partners, and others can be significant. As threats related to cybersecurity incidents and data security breaches continue to evolve, we may be required to expend significant additional resources to continue to modify or enhance our protective measures or to detect, appropriately react to, and respond to such cybersecurity incidents and data security breaches. The inability to implement, maintain and upgrade adequate safeguards could have a material adverse effect on our business, financial condition, results of operations and prospects. Should such disruptions occur, our current insurance policies may not be adequate to compensate us for the potential costs and other losses arising from such disruptions, failures, or security breaches and it is possible that an insurer could deny coverage on any future claim. In addition, such insurance may not be available to us in the future on economically reasonable terms or at all. The successful assertion of one or more large claims against us that exceed available insurance coverage, or the occurrence of changes in our insurance policies, including premium increases or the imposition of large deductible or co-insurance requirements, could have a material adverse effect on our business, financial condition, results of operations and prospects.

A customer may unintentionally misuse our products or a bad actor may intentionally use our products with intent to create harm and, in either case, third parties may seek to hold us liable for the resulting harm.

All orders for our products that we receive are processed through a security filter. We verify that the shipping addresses of our customers are valid, screen the customer versus known agent lists and comply in all material respects with the know your customer rules. Despite these precautions it is possible that one of our customers may unintentionally misuse our products or a bad actor may attempt to misuse our products to create harm. If misuse of our products were to occur, the terms and conditions of our invoices may be insufficient to protect us from liability. Any indemnification that our customers are required to provide to us may be insufficient to cover the costs and damages resulting from the misuse of our products. Further, any product liability insurance we may obtain could specifically exclude bad acts of our customers from coverage or coverage limits may be insufficient to protect us from the amount of the liability we could incur. Any unintentional or intentional misuse of our products could result in liability or require us to expend costs to defend ourselves, may not be covered by insurance and may have a material and adverse effect on our business or results of operations.

Risks Related to Supply, Manufacturing and Distribution of Our Products

We began manufacturing our BioXp products and certain materials used in our BioXp products in-house in 2023. We have limited experience manufacturing our products and if we directly or indirectly encounter problems manufacturing our products or materials, our business and financial results could suffer.

We have historically relied on a single contract manufacturer for our BioXp instruments. We began manufacturing all of our BioXp 9600 systems in-house in mid-2023 and all of our BioXp 3250 systems in the second half of 2023. Manufacturing our instruments is a highly exacting and complex process. Problems can arise during manufacturing for a variety of reasons, including equipment malfunction, failure to follow specific protocols and procedures, problems with raw materials or components, cyber-attacks, natural disasters and environmental factors, and if not discovered before the product is released to market, such problems could adversely affect our ability to achieve our sales goals and could result in adverse impacts to our business and financial condition. In addition, if we are unable to properly manufacture our BioXp systems, we may not find an alternative manufacturer on a timely basis, or at all, to supply sufficient quantities or at an acceptable cost or quality, which could delay, prevent or impair commercialization of our instruments.

Additionally, we have historically relied on external vendors to supply the oligonucleotides we use as raw material in our BioXp kit products. While we began manufacturing oligonucleotides in our own manufacturing facility in 2023, in the future, we expect to

rely on external vendors again for the manufacture of our oligonucleotides. If we are unable to obtain oligonucleotides on favorable terms, we may not be able to continue developing our current and future products as planned.

We currently rely on single source suppliers for certain components of our instruments and raw materials. If these suppliers should fail or not perform satisfactorily, our ability to commercialize and supply our products would be adversely affected.

Certain of the components used in our instruments are sourced from limited or single-source suppliers. If we were to lose such suppliers, there can be no assurance that we will be able to identify or enter into agreements with alternative suppliers on a timely basis on acceptable terms, if at all. An interruption in our ability to sell and deliver instruments to customers could occur if we encounter delays or difficulties in securing these components, or if the quality of the components supplied do not meet our specifications, or if we cannot then obtain an acceptable substitute, or if we experience continued increases in the costs of these components due to inflationary pressures. If any of these events occur, our business, results of operations, financial condition and prospects could be harmed.

We also rely on third parties for certain components of our BioXp kits and benchtop reagents, including the nucleotides we use in our BioXp kits, which are primarily sourced from Integrated DNA Technologies, Inc. (IDT), a division of Danaher Corporation. In the past, supply issues with IDT caused us to rely on an alternative supplier for these components and raw materials. We cannot guarantee that we will be able to source these materials at similar quantities and on similar terms if our preferred suppliers were to become unable or unwilling to fulfill our requirements.

Our reliance on third party manufacturers subjects us to risks associated with their businesses and operations. This dependence on others may harm our ability to develop and commercialize our products on a timely and competitive basis. Any such failure may result in decreased product sales and lower product revenue, which would harm our business. For example, even if we have agreements with third parties, they may not perform their obligations to us and they may be unable or unwilling to establish or increase production capacity commensurate with our needs. Disputes may also arise between us and our suppliers that result in the delay or termination of commercialization or that result in costly litigation or arbitration that diverts management's attention and resources. Also, third party manufacturers are subject to their own operational and financial risks that are outside of our control, and potentially their control also, that may cause them to suffer liquidity or operational problems and that could interfere with their business operations.

We have limited experience producing and supplying our products. We may be unable to consistently manufacture or source our products to the necessary specifications or in quantities necessary to meet demand on a timely basis and at acceptable performance and cost levels.

Our BioXp systems, BioXp kits and benchtop reagents comprise an integrated solution with many different components that work together. As such, a quality defect in a single component can compromise the performance of the entire system. In order to successfully generate revenue from this product line, we need to supply our customers with products that meet their expectations for quality and functionality in accordance with established specifications on a timely basis. Our instruments are manufactured using complex processes, sophisticated equipment and strict adherence to specifications and quality systems procedures. Given the complexity of this instrumentation, individual units may occasionally require additional installation and service prior to becoming available for customer use. We have experienced quality issues with certain of our mRNA BioXp kits in the past and if we have additional issues with this product or future products, our business could be harmed.

As we continue to scale commercially and develop new products, and as our products incorporate increasingly sophisticated technology, it will become more difficult to ensure our products are produced in the necessary quantities while maintaining quality. There is no assurance that we or our third-party manufacturers will be able to continue to manufacture our products so that our technology consistently achieves the product specifications and produces results with acceptable quality. In addition, our BioXp kits and benchtop reagents have a limited shelf life, after which their performance is not ensured and many of our products must be shipped and stored at controlled temperatures. Shipment of BioXp kits and benchtop reagents that exceed their shelf life or shipment of defective products to customers may result in recalls and warranty replacements, which would increase our costs and may damage our reputation, and depending upon current inventory levels and the availability and lead time for additional inventory, could lead to availability issues. Any future design issues, unforeseen manufacturing problems, such as contamination of our or our manufacturers' facilities, equipment malfunctions, aging components, quality issues with components and materials sourced from third-party suppliers, or failures to strictly follow procedures or meet specifications, may have a material adverse effect on our brand, business, reputation, results of operations and financial condition and could result in us or our third-party manufacturers losing International Organization for Standardization (ISO) or quality management certifications. If our third-party manufacturers fail to maintain ISO quality management certifications, our customers might choose not to purchase products from us.

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In addition, as we scale our commercial operations, we will also need to make corresponding improvements to other operational functions, such as our customer support, service and billing systems, compliance programs and internal quality assurance programs. We cannot assure you that any increases in scale, related improvements and quality assurance will be successfully implemented or that appropriate personnel will be available. As we develop additional products, we may need to bring new equipment on-line, implement new systems, technology, controls and procedures and hire personnel with different qualifications.

An inability to manufacture products and components that consistently meet specifications, in necessary quantities, at commercially acceptable costs and without significant delays, may have a material adverse effect on our business, results of operations, financial condition and prospects.

We must continue to secure and maintain sufficient and stable supplies of components and raw materials.

Certain disruptions in the supply of, and changes in the competitive environment for, components and raw materials integral to the manufacturing of our products may adversely affect our profitability. We use a broad range of materials and supplies in our products. A significant disruption in the supply of these materials could decrease production and shipping levels, materially increase our operating costs and materially and adversely affect our revenues and profit margins. For example, we have experienced supply chain delays for several of our products during development, including our BioXp 9600 system. Shortages of materials or interruptions in transportation systems, labor strikes, work stoppages, war, acts of terrorism or other interruptions to or difficulties in the employment of labor or transportation in the markets in which we purchase materials, components and supplies for the production of our products, in each case, may adversely affect our ability to maintain production of our products and achieve profitability. Unforeseen discontinuation or unavailability of certain components, such as enzymes or nucleotides, each of which we currently primarily source from a single supplier, could cause backorders as we modify our product specifications to accommodate replacement components. If we were to experience a significant or prolonged shortage of critical components from any of our suppliers and could not procure the components from other sources, we would be unable to manufacture our products and ship them to our customers in a timely fashion, or at all, which would adversely affect our sales, margins and customer relations.

Our products could have defects or errors, giving rise to claims against us, adversely affecting market adoption and negatively impacting our business, financial condition, and results of operations.

Our products utilize novel and complex technology related to writing synthetic DNA and mRNA and may develop or contain undetected defects or errors. We cannot assure you that material performance problems, defects, or errors will not arise, and as we commercialize our products, these risks may increase. We provide warranties at the point of sale that our products will meet performance expectations and will be free from defects. We also provide extended warranties at an additional cost to the customer. The costs incurred in correcting any defects or errors may be substantial and could adversely affect our operating margins.

In manufacturing our products, we depend upon third parties for the supply of various components, many of which require a significant degree of technical expertise to produce. If we fail to make our products to specification or produce defective products, or if our suppliers fail to make our components to specification or provide defective components to us, and our quality control tests and procedures fail to detect such errors or defects, or if we or our suppliers use defective materials or workmanship in the manufacturing process, the reliability and performance of our products will be compromised.

If our products contain defects, we may experience:

- a failure to achieve market acceptance for our products;
- loss of customer orders and delay in order fulfillment;
- damage to our reputation;
- increased warranty and customer service and support costs due to product repair or replacement;
- product recalls or replacements;
- inability to attract new customers;
- diversion of resources from our manufacturing and research and development departments into our service department; and
- legal claims against us, including product liability claims, which could be costly and time consuming to defend and result in substantial damages.

If we become subject to product liability claims, we may be required to pay damages out of our cash reserves.

Our business exposes us to potential product liability claims that are inherent in the production, marketing and sale of biotechnological and genetic products. We do not currently have product liability insurance and any product liability claim, or recall of one of our products, would have to be paid out of our cash reserves.

Shipping is a critical part of our business. Any changes in our shipping arrangements or damages or losses sustained during shipping could adversely affect our business, financial condition, results of operations and prospects.

We currently rely on commercial carriers for our shipping. If we are not able to negotiate acceptable pricing and other terms with these carriers, or if they experience performance problems or other difficulties, it could negatively impact our operating results and our customers' experience. If a product is damaged in transit, it may result in a substantial delay in the fulfillment of the customer's order, and depending on the type and extent of the damage and whether the incident is covered by insurance, it may result in a substantial financial loss to us. If our products are not delivered in a timely fashion or are damaged or lost during the delivery process, our customers could become dissatisfied and cease using our products or services, which would adversely affect our business, financial condition, results of operations and prospects.

Our business depends on our ability to quickly and reliably deliver our products and in particular, our BioXp kits and benchtop reagents, to our customers. Certain of these products are perishable and must be kept below certain temperatures and, therefore, we ship these products on dry ice and only ship such products on certain days of the week to reach customers without spoilage. Disruptions in the delivery of these products, whether due to labor disruptions, bad weather, natural disasters, terrorist acts or threats or for other reasons could result in our customers receiving products that are not fit for use, and if used, could result in inaccurate results or ruined experiments. While we work with customers to replace any products that are impacted by delivery disruptions, our reputation and our business may be adversely impacted even if we replace products free of charge. In addition, if we are unable to continue to obtain expedited delivery services on commercially reasonable terms, our operating results may be adversely affected.

In addition, should our commercial carriers encounter difficulties in delivering our products to customers, particularly at the end of any financial quarter, it could adversely impact our ability to recognize revenue for those products in that period and accordingly adversely affect our financial results for that period.

Risks Related to Our Sales, Marketing and Customer Support

We have limited experience in sales and marketing of our products. If we are unable to expand our sales, marketing, distribution and customer service and support capabilities, we may not be successful in commercializing our current and future products.

We have limited experience in sales and marketing our products. Our ability to achieve profitability depends on our being able to attract customers for our products. To meet our sales objectives, we may need to expand our sales, marketing, distribution and customer service and support capabilities with personnel with the appropriate technical expertise. In undertaking expansion efforts, we will face a number of risks relating to:

- our ability to attract, retain and manage the sales, marketing and customer service and support personnel necessary to commercialize and gain market acceptance for our technology;
- the time and cost of maintaining specialized sales, marketing and customer service and support personnel; and
- the relative success of our sales, marketing and customer service and support personnel.

We currently enlist, and may in the future seek to enlist one or more third parties to assist with sales, distribution and customer service and support. There is no guarantee that we will be successful in attracting effective sales and distribution partners or that we will be able to enter into such arrangements on favorable terms. If our sales and marketing efforts, or those of any third-party sales and distribution partners, are not successful, our products, including the BioXp systems, may not gain market acceptance, which could materially impact our business and results of operations.

A substantial proportion of our sales are through distributors, and we do not control their efforts to sell our products. If our relationships with these third-party distributors deteriorate, or if these third-party distributors fail to sell our products or engage in activities that harm our reputation, our financial results may be negatively affected.

Our current sales model includes direct sales in North America and parts of Europe, and relationships with third party distributors in other parts of Europe and various countries in the Middle East, Africa and Asia Pacific regions. We believe that our reliance on distributors improves the economics of our business, as we do not carry the high fixed costs of a direct sales force in many of the countries in which our products are sold. If we are unable to maintain or enter into such distribution arrangements on acceptable terms, or at all, we may not be able to successfully commercialize our products in certain countries.

Furthermore, distributors can choose the level of effort that they apply to selling our products relative to others in their portfolio. The selection, training, and compensation of distributors' sales personnel are within their control rather than our own and may vary significantly in quality from distributor to distributor. They may experience their own financial difficulties, or distribution relationships may be terminated or allowed to expire, which could increase the cost of or impede commercialization of our products in applicable countries. Disputes may also arise between us and our distributors that result in the delay or termination of commercialization or that result in costly litigation or arbitration that diverts management's attention and resources. Distributors may not properly maintain or defend our intellectual property rights or may use our proprietary information in such a way as to invite litigation that could jeopardize or invalidate our proprietary information or expose us to potential litigation. Distributors could move forward with competing products developed either independently or in collaboration with others, including our competitors.

In addition, although our contract terms require our distributors to comply with all applicable laws regarding the sale of our products, including regulatory labeling, protection of personal data, U.S. export regulations and the U.S. Foreign Corrupt Practices Act (FCPA), we may not be able to ensure proper compliance. If our distributors fail to effectively market and sell our products in full compliance with applicable laws and regulations, our results of operations and business may suffer.

The size of the markets for our products may be smaller than estimated, and new market opportunities may not develop as quickly as we expect, or at all, thus limiting our ability to successfully meet our anticipated revenue projections.

The market for synthetic biology technologies and products is evolving, making it difficult to predict with any accuracy the size of the markets for our current and future products, including our BioXp systems, BioXp kits, benchtop reagents and our Gibson SOLA products. Our estimates of the total addressable market for our current and future products are based on a number of internal and third-party estimates and assumptions. In particular, our estimates are based on our expectations that researchers in the market for certain synthetic biology research tools and technologies will view our products as competitive alternatives to, or better options than, existing tools and technologies. We also expect researchers will recognize the ability of our products to complement, enhance and enable new applications of their current tools and technologies. Underlying each of these expectations are a number of estimates and assumptions that may be incorrect, including the assumptions that government or other sources of funding will continue to be available to synthetic biology researchers at times and in amounts necessary to allow them to purchase our products and that researchers have an unmet need for performing synthetic biology applications. As a result, the sizes of the annual total addressable market for new markets and new products are even more difficult to predict. The synthetic biology market may develop more slowly or differently than we expect. While we believe our assumptions and the data underlying our estimates of the total addressable market for our products are reasonable, these assumptions and estimates may not be correct and the conditions supporting our assumptions or estimates, or those underlying the third-party data we have used, may change over time, thereby reducing the accuracy of our estimates. As a result, our estimates of the total addressable market for our products may be incorrect.

The future growth of the market for our current and future products depends on many factors beyond our control. For example, in 2020, 11% of our revenue was from products specifically targeting research and development efforts related to COVID-19 vaccines and therapeutic products. As effective COVID-19 vaccines or treatments were developed, approved and rolled out to protect against and treat the COVID-19 virus, demand for these products declined, the size of our market opportunity for such products was impacted and our revenue was affected as a result. In 2023, our revenue from COVID-19 related products was less than 1% of total revenue.

We expect that our products will be subject to the market forces and adoption curves common to other new technologies. The market for synthetic biology technologies and products is in its early stages of development. Sales of new products into new market opportunities may take years to develop and mature and we cannot be certain that these market opportunities will develop as we expect. If the markets for our current and future products are smaller than estimated or do not develop as we expect, our growth may be limited and our business, financial condition and operational results of operations could be adversely affected.

Our success depends on broad scientific and market acceptance of our products, which we may fail to achieve.

Our ability to achieve and maintain scientific and commercial market acceptance of our products will depend on a number of factors. If widespread adoption of our products takes longer than anticipated, we will continue to experience operating losses.

The success of life sciences products is due, in large part, to recognition and acceptance by the scientific community, their adoption of these products in the applicable field of research and the growth, prevalence and costs of competing products. Such recognition and acceptance of our products may not occur in the near term, or at all. New synthetic biology technology, including our own Gibson SOLA and other new technologies, may not be adopted until the consistency and accuracy of such technology has been proven, if ever.

Other factors in achieving commercial market acceptance of our products include:

- our ability to market and increase awareness of the capabilities of our products;

- our customers' willingness to adopt new products and workflows;
- whether early adopters and key opinion leaders publish research involving the use of our products;
- our products' ease-of-use and whether it reliably provides advantages over alternative technologies;
- the rate of adoption of our products and services by academic institutions, laboratories, biopharmaceutical companies and others;
- the prices we charge for our products;
- our ability to develop new products and workflows;
- whether competitors commercialize products that perform similar functions as our products; and
- the impact of our investments in product innovation and commercial growth.

We cannot assure you that we will be successful in addressing each of these criteria or other criteria that might affect the market acceptance of any products we commercialize. If we are unsuccessful in achieving and maintaining scientific and market acceptance of our products, our business, financial condition and results of operations would be adversely affected.

The synthetic biology technology market is highly competitive. If we fail to compete effectively, our business and results of operation will suffer.

We face significant competition in the synthetic biology technology market. We currently compete with synthetic biology technology companies and the companies that are supplying components, products and services that serve customers engaged in synthetic biology research. These companies include, among others, Thermo Fisher Scientific Inc.; Danaher Corporation; Azenta; GenScript Biotech Corporation; SAS; Integrated DNA Technologies, Inc.; Molecular Assemblies, Inc.; Nuclera Nucleics Ltd; Nutcracker Therapeutics, Inc.; Twist Bioscience Corporation; Aldevron, LLC; TriLink BioTechnologies, Inc.; Evonetix Ltd.; Eurofins Scientific; Synthego Corporation; Illumina, Inc.; and Roche AG.

Some of our current competitors are large, publicly-traded companies, or are divisions of large publicly-traded companies, and may enjoy a number of competitive advantages over us, including:

- greater name and brand recognition;
- greater financial and human resources;
- broader product lines;
- larger sales forces and more established distributor networks;
- substantial intellectual property portfolios;
- larger and more established customer bases and relationships; and
- better established, larger scale and lower cost manufacturing capabilities.

We cannot assure investors that our products will compete favorably or that we will be successful in the face of increasing competition from products and technologies introduced by our existing or future competitors or companies entering our markets. In addition, we cannot assure investors that our competitors do not have or will not develop products or technologies that currently or in the future will enable them to produce competitive products with greater capabilities or at lower costs than ours. Any failure to compete effectively could materially and adversely affect our business, financial condition and operating results.

Our revenue, results of operations and cash flows would be adversely affected by the loss of a significant customer.

We have derived, and we may continue to derive, a significant portion of our revenues from a limited number of large customers. We estimate that our twenty largest customers accounted for 54% and 59% of our revenue for the years ended December 31, 2022 and December 31, 2023, respectively. The loss of key customers, or the reduction in the amount of product ordered by them may adversely affect our revenue, results of operations, cash flows and reputation in the marketplace. One customer, Pfizer, Inc., accounted for 33% of our revenue for the year ended December 31, 2023, primarily attributable to a Research and License Agreement. We cannot assure you that Pfizer, Inc. will fully adopt our technology in its clinical processes and as such cannot assure you that we will continue to derive significant revenue from that agreement.

We generally do not have long-term contracts with our customers requiring them to purchase any specified quantities of products from us.

We generally do not have long-term contracts with our customers requiring them to purchase any specified quantities of products from us. Without such contracts, our customers are not obligated to order our products. We cannot accurately predict our customers' decisions to reduce or cease purchasing our products. Additionally, even where we enter into contracts with our customers, there is no guarantee that such agreements will be negotiated on terms that are commercially favorable to us in the long term. If many of our customers were to substantially reduce their purchase volume or cease ordering products from us, this could materially and adversely affect our financial performance.

Our business will depend significantly on research and development spending by the pharmaceutical, biotechnology and industrial agricultural customers, as well as academic institutions and other research institutions. Any reduction in spending could limit demand for our products and adversely affect our business, results of operations, financial condition and prospects.

We expect that substantially all of our sales revenue in the near term will be generated from sales to pharmaceutical, biotechnology and industrial agricultural customers, as well as academic institutions and other research institutions. Much of these customers' funding is dependent on annual research and development budgets and in the case of academic and other research institutions will be, in turn, provided by various state, federal and international government agencies. As a result, the demand for our products will depend upon the research and development budgets of these customers, which are impacted by factors beyond our control, such as:

- research and development budgets within the pharmaceutical, biotechnology, agricultural and other industries;
- government funding of research and development;
- changes to programs that provide funding to research laboratories and institutions, including changes in the amount of funds allocated to different areas of research or changes that have the effect of increasing the length of the funding process;
- macroeconomic conditions and the political climate;
- potential changes in the regulatory environment;
- differences in budgetary cycles, especially government- or grant-funded customers, whose cycles often coincide with government fiscal year ends;
- market-driven pressures to consolidate operations and reduce costs; and
- scientific and market acceptance of relatively new synthetic biology products.

In addition, various state, federal and international agencies that provide grants and other funding may be subject to stringent budgetary constraints that could result in spending reductions, reduced grant making, reduced allocations or budget cutbacks, which could jeopardize the ability of funding organizations or the organizations to whom they provide funding, to purchase our products. For example, congressional appropriations to the National Institutes of Health (NIH), have generally increased year-over-year for the last 19 years, and reached a new high in 2020, but the NIH also experiences occasional year-over-year decreases in appropriations, including as recently as 2013. In addition, funding for life science research has increased more slowly during the past several years compared to previous years and has actually declined in some countries. There is no guarantee that NIH appropriations will not decrease in the future, and a decrease may be more likely under the current administration, whose annual budget proposals have repeatedly decreased NIH appropriations. A decrease in the amount of, or delay in the approval of, appropriations to NIH or other similar United States or international organizations, such as the Medical Research Council in the United Kingdom, could result in fewer grants benefiting synthetic biology research. These reductions or delays could also result in a decrease in the aggregate amount of grants awarded for synthetic biology research or the redirection of existing funding to other projects or priorities, any of which in turn could cause our customers and potential customers to reduce or delay purchases of our products. Our operating results may fluctuate substantially due to any such reductions and delays. Any decrease in our customers' budgets or expenditures, or in the size, scope or frequency of their capital or operating expenditures, could materially and adversely affect our business, results of operations, financial condition and prospects.

Our success depends on our ability to service and support our products directly or in collaboration with our strategic partners.

To the extent that we or our strategic partners fail to maintain a high quality level of service and support for our products, there is a risk that the perceived quality of our products will be diminished in the marketplace. Likewise, we may fail to provide the level, quantity or quality of service expected by the marketplace. This could result in slower adoption rates and lower than anticipated utilization of our products, which could have a material adverse effect on our business, financial condition and results of operations.

Risks Related to Health Pandemics, Including the COVID-19 Pandemic and Other Natural Disasters

Unfavorable U.S. or global economic conditions, including inflation, as a result of the COVID-19 pandemic, or otherwise, could adversely affect our ability to raise capital and our business, results of operations and financial condition.

The COVID-19 pandemic resulted in, and may continue to result in, extreme volatility and disruptions in the capital and credit markets in general and has negatively impacted our stock price since becoming a public company in 2021. Should this impact continue, our ability to raise additional capital through equity, equity-linked or debt financings, will be reduced, which could negatively impact our short-term and long-term liquidity and our ability to operate in accordance with our operating plan, or at all. Additionally, our results of operations could be adversely affected by general conditions in the global economy, including inflation, and financial markets. The capital markets or general economic conditions may be adversely affected by geopolitical risks, hostilities, terrorist attacks or wars, including the current war between Russia and Ukraine and ongoing hostilities in the Middle East. A severe or prolonged economic downturn could result in a variety of risks to our business, including weakened demand for our products and our ability to raise additional capital when needed on favorable terms, if at all. A weak or declining economy could strain our customers' budgets or cause delays in their payments to us. Any of the foregoing could harm our business. We cannot anticipate all of the ways in which the current economic climate and financial market conditions could adversely impact our ability to raise capital, business, results of operations and financial condition.

If our facilities or our third-party manufacturers' facilities become unavailable or inoperable, our research and development program and commercialization of our products could be adversely impacted and manufacturing of our products could be interrupted.

Our San Diego, California, facilities house our corporate, research and development, manufacturing operations and quality assurance teams. Currently, all of our BioXp systems are manufactured in our San Diego facilities and our BioXp kits and benchtop reagents are manufactured at various locations in the United States and internationally, including our San Diego facilities. We do not have a second or back-up facility to use if our San Diego facilities become inoperable.

Our facilities in San Diego and those of our third-party manufacturers are vulnerable to natural disasters, public health crises, and catastrophic events. For example, our San Diego facilities are located near earthquake fault zones and are vulnerable to damage from earthquakes as well as other types of disasters, including fires, floods, power loss, communications failures and similar events. If any disaster, public health crisis or catastrophic event were to occur, our ability to operate our business would be seriously, or potentially completely, impaired. If our facilities or our third-party manufacturer's facilities become unavailable for any reason, we cannot provide assurances that we will be able to secure alternative manufacturing facilities with the necessary capabilities and equipment on acceptable terms, if at all. We may encounter particular difficulties in replacing our San Diego facilities given the specialized equipment housed within it. The inability to manufacture our products, combined with our limited inventory of finished products, may result in the loss of future customers or harm our reputation, and we may be unable to re-establish relationships with those customers in the future.

If our research and development program or commercialization program were disrupted by a disaster or catastrophe, the launch of new products, including our workflow automation and reagent solutions, and the timing of improvements to our products could be significantly delayed and could adversely impact our ability to compete with other available products and solutions. If our or our third-party manufacturer's capabilities are impaired, we may not be able to manufacture and ship our products in a timely manner, which would adversely impact our business. Although we possess insurance for damage to our property and the disruption of our business, this insurance may not be sufficient to cover all our potential losses and may not continue to be available to us on acceptable terms, or at all.

Risks Related to Doing Business Internationally

Doing business internationally creates operational and financial risks for our business.

We estimate that during the fiscal years ended December 31, 2022 and December 31, 2023, approximately 14% of our revenue was generated from customers located outside of the United States. Conducting and launching operations on an international scale requires close coordination of activities across multiple jurisdictions and time zones and consumes significant management resources. If we fail to coordinate and manage these activities effectively, our business, financial condition or results of operations could be adversely affected. International sales entail a variety of risks, including longer payment cycles and difficulties in collecting accounts receivable outside of the United States, currency exchange fluctuations, challenges in staffing and managing foreign operations, tariffs

and other trade barriers, unexpected changes in legislative or regulatory requirements of foreign countries into which we sell our products, difficulties in obtaining export licenses for our products or in overcoming other trade barriers, laws and business practices favoring local companies, political and economic instability, including conflicts and tensions involving Russia and China and the Israel-Hamas war, difficulties protecting or procuring intellectual property rights, and restrictions resulting in delivery delays and significant taxes or other burdens of complying with a variety of foreign laws.

Changes in the value of the relevant currencies may affect the cost of certain items required in our operations. Changes in currency exchange rates may also affect the relative prices at which we are able to sell products in the same market. Our revenue from international customers may be negatively impacted as increases in the U.S. dollar relative to our international customers' local currency could make our products more expensive, impacting our ability to compete. Our costs of materials from international suppliers may increase if in order to continue doing business with us they raise their prices as the value of the U.S. dollar decreases relative to their local currency. Foreign policies and actions regarding currency valuation could result in actions by the United States and other countries to offset the effects of such fluctuations. The recent global financial downturn has led to a high level of volatility in foreign currency exchange rates and that level of volatility may continue, which could adversely affect our business, financial condition or results of operations.

Our international business could expose us to business, regulatory, political, operational, financial, and economic risks associated with doing business outside of the United States.

Engaging in international business inherently involves a number of difficulties and risks, including:

- required compliance with existing and changing foreign regulatory requirements and laws that are or may be applicable to our business in the future, such as the GDPR, including as implemented in the U.K., and other data privacy requirements, labor and employment regulations, anti-competition regulations, the U.K. Bribery Act of 2010 and other anti-corruption laws;
- required compliance with U.S. laws such as the FCPA, and other U.S. federal laws and regulations, including those established by the Office of Foreign Asset Control;
- export requirements and import or trade restrictions;
- laws and business practices favoring local companies;
- foreign currency exchange fluctuations, longer payment cycles and difficulties in enforcing agreements and collecting accounts receivables through certain foreign legal systems;
- hyperinflation or economic or political instability in foreign countries, including the outbreak of war in the Ukraine or the Middle East;
- changes in social, economic, and political conditions or in laws, regulations and policies governing foreign trade, manufacturing, research and development, and investment, including as a result of the separation of the United Kingdom from the European Union, commonly referred to as Brexit;
- the imposition of inconsistent laws or regulations;
- changes in or interpretations of foreign law that may adversely affect our ability to sell our products, perform services or repatriate profits to the United States;
- potentially adverse tax consequences, tariffs, customs charges, bureaucratic requirements and other trade barriers;
- difficulties and costs of staffing and managing foreign operations; and
- difficulties protecting, maintaining, enforcing or procuring intellectual property rights.

If one or more of these risks occurs, it could require us to dedicate significant resources to remedy such occurrence, and if we are unsuccessful in finding a solution, our financial results will suffer.

We may be subject to fines or other penalties for potential past violations of U.S. export control and economic sanctions laws.

Our international business activities must comport with U.S. export controls and other international trade restraints, including the U.S. Department of Commerce's Export Administration Regulations and economic sanctions regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control.

In late 2021, following a voluntary internal review of our compliance with U.S. export control and sanctions laws, we became aware that certain of our products had been sold indirectly into embargoed countries via our distributors and resellers, potentially in

violation of U.S. export control and economic sanctions laws. These laws restrict or prohibit the sale of certain products, including our BioXp systems, into certain countries, including Russia. In the past, we may have exported products prior to receiving these required authorizations. We believe that these potential violations were inadvertent and occurred because we and certain of our resellers did not have sufficient compliance procedures in place to prevent the transactions at issue. As a result, we were unable to preclude certain of our channel partners and resellers from selling our solutions into countries subject to a U.S. embargo until late 2021. Commencing in late 2021, we took a series of corrective actions intended to remediate the effect of any unauthorized past actions, including actions to permanently stop supporting the use of our BioXp systems in sanctioned countries. On April 3, 2023, the U.S. Department of Commerce, Bureau of Industry and Security issued a warning letter closing its investigation of this matter. The warning letter stated that based on the facts and circumstances, the matter is closed with no further action required. Should we have similar issues arise in the future, the U.S. government may reconsider its decision to close this matter.

We are subject to various U.S. and international anti-corruption laws and other anti-bribery and anti-money laundering laws and regulations.

We are subject to the FCPA, the U.S. domestic bribery statute contained in 18 U.S.C. § 201, the U.S. Travel Act, and other anti-corruption, anti-bribery, and anti-money laundering laws in the jurisdictions where we do business, both domestic and abroad. Anti-corruption and anti-bribery laws have been enforced aggressively in recent years and are interpreted broadly. These laws generally prohibit companies, their employees, business partners, third-party intermediaries, representatives, and agents from authorizing, offering, or providing, directly or indirectly, improper payments or benefits to government officials or commercial parties to obtain or retain business, direct business to any person, or gain any improper advantage. We sometimes leverage third parties to conduct our business abroad. We and our employees, business partners, third-party intermediaries, representatives, and agents may have direct or indirect interactions with officials and employees of government agencies or state-owned or affiliated entities and we may be held liable for their corrupt or other illegal activities even if we do not explicitly authorize those activities. We cannot assure you that our employees and agents will not take actions that violate applicable law, for which we may be ultimately held responsible. These laws also require that we keep accurate books and records and maintain internal accounting controls and compliance procedures designed to prevent any such actions. While we have policies and procedures to address compliance with these laws, we cannot assure you that our employees, business partners, third-party intermediaries, representatives, and agents will not take actions that violate our policies or applicable law, for which we may be ultimately held responsible. Our exposure for violating these laws increases as our international presence expands and as we increase sales and operations in foreign jurisdictions.

Any violation of the FCPA or other applicable anti-bribery, anti-corruption, and anti-money laundering laws could result in whistleblower complaints, adverse media coverage, investigations, loss of export privileges, severe criminal or civil sanctions, settlements, prosecution, enforcement actions, fines, damages, or suspension or debarment from government contracts, all of which may have an adverse effect on our reputation, business, stock price, financial condition, prospects, and results of operations. In addition, responding to any investigation or action will likely result in a materially significant diversion of management's attention and resources and significant defense costs and other professional fees.

Risks Related to Our Regulatory Environment

If we elect to label and promote any of our products as clinical diagnostics tests or medical devices, we would be required to obtain prior approval or clearance by the U.S. Food and Drug Administration (FDA), which would take significant time and expense and could fail to result in FDA clearance or approval for the intended uses we believe are commercially attractive.

Our products are currently labeled and promoted, and are, and in the near-future will be, sold primarily to academic and research institutions and research companies as research use only (RUO) products. They are not currently designed, or intended to be used, for clinical diagnostic tests or as medical devices. If we elect to label and market our products for use as, or in the performance of, clinical diagnostics in the United States, thereby subjecting them to FDA regulations as medical devices, we would be required to obtain premarket 510(k) clearance or premarket approval from the FDA, unless an exception applies.

We may in the future register with the FDA as a medical device manufacturer and list some of our products with the FDA pursuant to an FDA Class I listing for general purpose laboratory equipment. While this regulatory classification is exempt from certain FDA requirements, such as the need to submit a premarket notification commonly known as a 510(k), and some of the requirements of the FDA's Quality System Regulations (QSRs), we would be subject to ongoing FDA "general controls," which include compliance with FDA regulations for labeling, inspections by the FDA, complaint evaluation, corrections and removals reporting, promotional restrictions, reporting adverse events or malfunctions for our products, and general prohibitions against misbranding and adulteration.

In addition, we may in the future submit 510(k) premarket notifications to the FDA to obtain FDA clearance of certain of our products. It is possible, in the event we elect to submit 510(k) applications for any of our products, that the FDA would take the

position that a more burdensome premarket application, such as a premarket approval application or a de novo application, is required for those same products. If such applications were required, greater time and investment would be required to obtain FDA approval. Even if the FDA agreed that a 510(k) was appropriate, FDA clearance can be expensive and time consuming. Notwithstanding the effort and expense, FDA clearance or approval could be denied for some or all of our products for which we choose to market as a medical device or a clinical diagnostic device. There can be no assurance that future products for which we may seek premarket clearance or approval will be approved or cleared by FDA or a comparable foreign regulatory authority on a timely basis, if at all, nor can there be assurance that labeling claims will be consistent with our anticipated claims or adequate to support continued adoption of such products. Compliance with FDA or comparable foreign regulatory authority regulations would require substantial costs, and subject us to heightened scrutiny by regulators and substantial penalties for failure to comply with such requirements or the inability to market our products. The lengthy and unpredictable premarket clearance or approval process, as well as the unpredictability of the results of any required clinical studies, may result in our failing to obtain regulatory clearance or approval to market such products, which would significantly harm our business, results of operations, reputation, and prospects.

If we sought and received regulatory clearance or approval for any of our products, we would be subject to ongoing FDA obligations and continued regulatory oversight and review, including the general controls listed above and the FDA's QSRs for our development and manufacturing operations. We could also be subject to additional FDA post-marketing obligations for such products, any or all of which would increase our costs and divert resources away from other projects. If we sought and received regulatory clearance or approval and are not able to maintain regulatory compliance with applicable laws, we could be prohibited from marketing our products for use as, or in the performance of, clinical diagnostics and be subject to enforcement actions, including warning letters and adverse publicity, fines, injunctions, and civil penalties, recalls or seizure of products, operating restrictions and criminal prosecution.

In addition, we could decide to seek regulatory clearance or approval for certain of our products in countries outside of the United States. Sales of such products outside the United States will likely be subject to foreign regulatory requirements, which can vary greatly from country to country. As a result, the time required to obtain clearances or approvals outside the United States may differ from that required to obtain FDA clearance or approval and we may not be able to obtain foreign regulatory approvals on a timely basis or at all. In the European Union, we would need to comply with the new Medical Device Regulation 2017/745 and In Vitro Diagnostic Regulation 2017/746, which went into application on May 26, 2021 and May 26, 2022 respectively. In March 2023, the European Commission extended the transition timelines for managed detection and response (MDR) and in vitro diagnostic (IVDR) for manufacturers of certain medical devices. This will increase the difficulty of regulatory approvals in Europe in the future. In addition, the FDA regulates exports of medical devices. Failure to comply with these regulatory requirements or obtain and maintain required approvals, clearances and certifications could impair our ability to commercialize our products for diagnostic use outside of the United States.

Our products could become subject to government regulation as medical devices by the FDA and other regulatory agencies even if we do not elect to seek regulatory clearance or approval to market our products for diagnostic purposes, which would adversely impact our ability to market and sell our products and harm our business. If our products become subject to FDA regulation, the regulatory clearance or approval and the maintenance of continued and post-market regulatory compliance for such products will be expensive, time-consuming and uncertain both in timing and in outcome.

We do not currently expect our workflow automation and reagent solutions to be subject to the clearance or approval of the FDA, as it is not intended to be used for the diagnosis, treatment or prevention of disease. However, as we expand our product line and the applications and uses of our current or products into new fields, certain of our future products could become subject to regulation by the FDA, or comparable international agencies, including requirements for regulatory clearance or approval of such products before they can be marketed. Also, even if our products are labeled, promoted and intended as RUO, the FDA or comparable agencies of other countries could disagree with our conclusion that our products are intended for research use only or deem our sales, marketing and promotional efforts as being inconsistent with RUO products. For example, our customers may independently elect to use our RUO labeled products in their own laboratory developed tests (LDTs) for clinical diagnostic use, which could subject our products to government regulation, and the regulatory clearance or approval and maintenance process for such products may be uncertain, expensive, and time-consuming. Regulatory requirements related to marketing, selling and distribution of RUO products could change or be uncertain, even if clinical uses of our RUO products by our customers were done without our consent. If the FDA or other regulatory authorities assert that any of our RUO products are subject to regulatory clearance or approval, our business, financial condition, or results of operations could be adversely affected.

The FDA has historically exercised enforcement discretion in not enforcing the medical device regulations against laboratories offering LDTs. FDA recently proposed a rulemaking that would subject LDTs to a new and phased-in regulatory framework. This rule, if finalized, or if there are any other significant changes in the way that the FDA regulates any LDTs that our customers develop using our RUO components could affect our business. If the FDA requires laboratories to undergo premarket review, as proposed, and comply with other applicable FDA requirements in the future, the cost and time required to commercialize an LDT will increase

substantially, and may reduce the financial incentive for laboratories to develop LDTs, which could reduce demand for our RUO applications and products.

As manufacturers develop more complex diagnostic tests and diagnostic software, the FDA may increase its regulation of LDTs. Any future legislative or administrative rule making or oversight of LDTs, if and when finalized, may impact the sales of our products and how customers use our products, and may require us to change our business model in order to maintain compliance with these laws. We cannot predict how these various efforts will be resolved, how Congress or the FDA will regulate LDTs in the future, or how that regulatory system will impact our business. Changes to the current regulatory framework, including the imposition of additional or new regulations, including regulation of our products, could arise at any time during the development or marketing of our products, which may negatively affect our ability to obtain or maintain FDA or comparable regulatory approval of our products, if required. Further, sales of devices for diagnostic purposes may subject us to additional healthcare regulation and enforcement by the applicable government agencies. Such laws include, without limitation, state and federal anti-kickback or anti-referral laws, healthcare fraud and abuse laws, false claims laws, privacy and security laws, Physician Payments Sunshine Act and related transparency and manufacturer reporting laws, and other laws and regulations applicable to medical device manufacturers.

Additionally, on November 25, 2013, the FDA issued Final Guidance “Distribution of In Vitro Diagnostic Products Labeled for Research Use Only.” The guidance emphasizes that the FDA will review the totality of the circumstances when it comes to evaluating whether equipment and testing components are properly labeled as RUO. The final guidance states that merely including a labeling statement that the product is for research purposes only will not necessarily render the device exempt from the FDA’s clearance, approval, and other regulatory requirements if the circumstances surrounding the distribution, marketing and promotional practices indicate that the manufacturer knows its products are, or intends for its products to be, used for clinical diagnostic purposes. These circumstances may include written or verbal sales and marketing claims or links to articles regarding a product’s performance in clinical applications and a manufacturer’s provision of technical support for clinical applications.

As part of the United States’ efforts to combat COVID-19 and consistent with Executive Orders 13771 and 13924, the Department of Health and Human Services (HHS) announced rescission of guidance and other informal issuances of the FDA regarding premarket review of LDT absent notice-and-comment rulemaking, stating that, absent notice-and-comment rulemaking, those seeking approval or clearance of, or an emergency use authorization, for an LDT may nonetheless voluntarily submit a premarket approval application, premarket notification or an Emergency Use Authorization request, respectively, but are not required to do so. In November 2021, HHS under the Biden administration issued a statement that withdrew the August 2020 policy announcement, stating that HHS does not have a policy on LDTs that is separate from FDA’s longstanding approach. Legislative and administrative proposals to amend the FDA’s oversight of LDTs have been introduced in recent years, including the VALID Act. In September 2022, Congress passed the FDA user fee reauthorization legislation without substantive FDA policy riders, including the Verifying Accurate Leading-edge IVCT Development Act of 2021 (the VALID Act), but Congress may revisit the policy riders and enact other FDA programmatic reforms in the future. It is unclear how future legislation by federal and state governments and FDA regulation will impact the industry, including our business and that of our customers. Any restrictions on LDTs by the FDA, HHS, Congress or state regulatory authorities may decrease the demand for our products. Additionally, compliance with additional regulatory burdens could be time consuming and costly for us, our partners and customers. The adoption of new restrictions on RUO products, whether by the FDA or Congress, could adversely affect demand for our products. Further, we could be required to obtain premarket clearance or approval before we can sell our products to certain customers.

Ethical, legal and social concerns surrounding the use of genetic information could reduce demand for our technology.

Our products may be used to create DNA sequences of humans, agricultural crops and other living organisms. Our products could be used in a variety of applications, which may have underlying ethical, legal and social concerns. Governmental authorities could, for safety, social or other purposes, impose limits on or implement regulation of the use of gene synthesis. Such concerns or governmental restrictions could limit the use of our DNA synthesis products, which could have a material adverse effect on our business, financial condition and results of operations. In addition, public perception about the safety and environmental hazards of, and ethical concerns over, genetically engineered products and processes could influence public acceptance of our technologies, products and processes. These concerns could result in increased expenses, regulatory scrutiny, delays or other impediments to our programs.

We use biological and hazardous materials that require considerable expertise and expense for handling, storage and disposal and may result in claims against us.

We work with materials, including chemicals, biological agents, and compounds and DNA samples that could be hazardous to human health and safety or the environment. Our operations and research and development processes also produce hazardous and biological waste products. Federal, state and local laws and regulations govern the use, generation, manufacture, storage, handling and disposal of these materials and wastes. Compliance with applicable environmental laws and regulations is expensive, and current or

future environmental laws and regulations may restrict or have a material effect on our operations and research and development programs. If we do not comply with applicable regulations, we may be subject to fines and penalties.

In addition, accidental injury or contamination from these materials or wastes could interrupt our commercialization efforts, research and development programs and business operations, as well as cause environmental damage resulting in costly clean-up and liabilities under applicable laws and regulations. Furthermore, environmental laws and regulations are complex, change frequently and have tended to become more stringent. We cannot predict the impact of such changes and cannot be certain of our future compliance.

While our property insurance policy provides limited coverage in the event of contamination from hazardous and biological products and the resulting cleanup costs, we do not currently have any additional insurance coverage for legal liability for claims arising from the handling, storage or disposal of hazardous materials. Accordingly, in the event of contamination or injury, we could be liable for damages or penalized with fines in an amount exceeding our resources, and our operations could be suspended or otherwise adversely affected. We may not be able to maintain insurance on acceptable terms, if at all.

We could inadvertently develop DNA sequences or engage in other activity that contravenes biosecurity requirements, or regulatory authorities could promulgate more far reaching biosecurity requirements that our standard business practices cannot accommodate, which could give rise to substantial legal liability, impediments to our business and reputational damage.

The Federal Select Agent Program (FSAP) involves rules administered by the Centers for Disease Control and Prevention and the Animal and Plant Health Inspection Service that regulate possession, use and transfer of biological select agents and toxins that have the potential to pose a severe threat to public, animal or plant health or to animal or plant products.

We have established a biosecurity program under which we follow biosafety and biosecurity best practices and avoid DNA synthesis activities that implicate FSAP rules; however, we could inadvertently fail to comply with FSAP or other biosecurity rules. In addition, authorities could promulgate new biosecurity requirements that restrict our operations. One or more resulting legal penalties, restraints on our business or reputational damage could have material adverse effects on our business and financial condition.

We are currently subject to, and may in the future become subject to additional, U.S. federal and state laws and regulations imposing obligations on how we collect, store and process personal information. Our actual or perceived failure to comply with such obligations could harm our business. Ensuring compliance with such laws could also impair our efforts to maintain and expand our future customer base, and thereby decrease our revenue.

In the ordinary course of our business, we currently, and in the future will, collect, store, transfer, use or process sensitive data, including personally identifiable information of employees, and intellectual property and proprietary business information owned or controlled by ourselves and other parties. The secure processing, storage, maintenance, and transmission of this critical information are vital to our operations and business strategy. We are, and may increasingly become, subject to various laws and regulations, as well as contractual obligations, relating to data privacy and security in the jurisdictions in which we operate. The regulatory environment related to data privacy and security is increasingly rigorous, with new and constantly changing requirements applicable to our business, and enforcement practices are likely to remain uncertain for the foreseeable future. These laws and regulations may be interpreted and applied differently over time and from jurisdiction to jurisdiction, and it is possible that they will be interpreted and applied in ways that may have a material adverse effect on our business, financial condition, results of operations and prospects. Compliance with these laws and regulations is difficult, constantly evolving, time consuming, and requires a flexible privacy framework and substantial resources. Compliance efforts will likely be an increasing and substantial cost in the future.

We are in a continuing process of clarifying evolving compliance requirements and updating our compliance measures. We currently have in place policies and procedures related to the storage, collection and processing of information, and are in the process of conducting internal and external data privacy reviews, to evaluate and advance our compliance with all applicable data protection laws and regulations. We do not currently have policies and procedures in place for assessing our third-party vendors' compliance with applicable data protection laws and regulations. All of these evolving compliance and operational requirements impose significant costs, such as costs related to organizational changes, implementing additional protection technologies, training employees and engaging consultants, which are likely to increase over time. In addition, such requirements may require us to modify our data processing practices and policies, distract management or divert resources from other initiatives and projects, all of which could have a material adverse effect on our business, financial condition, results of operations and prospects. Any failure or perceived failure by us or our third-party vendors, collaborators, contractors and consultants to comply with any applicable federal, state or similar foreign laws and regulations relating to data privacy and security, or could result in damage to our reputation, as well as proceedings or litigation by governmental agencies or other third parties, including class action privacy litigation in certain jurisdictions, which would subject us to significant fines, sanctions, awards, penalties or judgments, all of which could have a material adverse effect on our business, financial condition, results of operations and prospects.

Risks Related to Our Intellectual Property

If we are unable to obtain and maintain sufficient intellectual property protection for our products and technology, or if the scope of the intellectual property protection obtained is not sufficiently broad, our competitors could develop and commercialize products similar or identical to ours, and our ability to successfully commercialize our products and build a strong brand identity may be impaired.

We rely on patent protection as well as trademark, copyright, trade secret and other intellectual property rights protection and contractual restrictions to protect our proprietary products and technologies. Each of these types of measures provides limited protection and may not adequately protect our rights or permit us to gain or keep any competitive advantage. If we fail to obtain, maintain and protect our intellectual property, third parties may be able to compete more effectively against us. In addition, we may incur substantial litigation costs in our attempts to enforce our right in, defend against challenges to, or recover or restrict use of our intellectual property.

To the extent our intellectual property offers inadequate protection, or is found to be invalid or unenforceable, we would be exposed to a greater risk of direct competition. If our intellectual property does not adequately cover competitors' products, our competitive position could be adversely affected, as could our business, financial condition, results of operations and prospects. Both the patent application process and the process of managing patent and other intellectual property disputes can be time-consuming and expensive.

Our success depends in large part on our ability to obtain and maintain protection of the intellectual property, particularly patents we may own solely or jointly with, or license from, third parties, in the United States and in other countries of interest, with respect to our products and technologies. However, obtaining and enforcing patents is costly, time-consuming and complex. We may not be able to file and prosecute all necessary or desirable patent applications, or maintain, enforce and license any patents that may issue from such patent applications, at a reasonable cost or in a timely manner or in all jurisdictions. It is also possible that we will fail to identify patentable aspects of our research and development output before it is too late to obtain patent protection. Moreover, we may not develop additional proprietary products, methods and technologies that are patentable. We may not have the right to control the preparation, filing and prosecution of patent applications, or to maintain the rights to patents licensed from or to third parties; such patents and applications may not be prosecuted and enforced by such third parties in our best interests.

The patent position of synthetic biology technology companies is highly uncertain, involves complex legal and factual questions, and has been the subject of much litigation in recent years. Changes in either the patent laws or in interpretations of patent laws in the United States or other jurisdictions may diminish the value of our intellectual property. As a result, the issuance, scope, validity, enforceability, and commercial value of our patent rights are highly uncertain. It is possible that none of our pending patent applications will result in issued patents in a timely fashion or at all, and even if patents are granted, they may not provide a basis for intellectual property protection of commercially viable products or services, may not provide us with any competitive advantages. We cannot predict the breadth of claims that may be granted or enforced in our patents or in third-party patents. It is possible that third parties will design around our current or future patents such that we cannot prevent such third parties from using similar technologies and commercializing similar products to compete with us. Some of our owned or licensed patents or patent applications may be challenged, and we may not be successful in defending any such challenge. Any successful third-party challenge to our patents could result in the narrowing, unenforceability or invalidity of such patents and increased competition with our business. The outcome of patent litigation or other proceeding can be uncertain, and any attempt by us to enforce our patent rights against others or to challenge the patent rights of others may not be successful, or, regardless of success, may take substantial time and result in substantial cost, and may divert our efforts and attention from other aspects of our business. Any of the foregoing events could have a material adverse effect on our business, financial condition and results of operations.

The U.S. law relating to the patentability of certain inventions in the synthetic biology technology industry is uncertain and rapidly changing, which may adversely impact our existing patents or our ability to obtain patents in the future.

Changes in either the patent laws or interpretation of the patent laws in the United States or in other jurisdictions could increase the uncertainties and costs surrounding the prosecution of patent applications and the enforcement or defense of issued patents. The U.S. Congress has recently passed legislation implementing significant changes to U.S. patent law.

Various courts including the U.S. Supreme Court have rendered decisions that impact the patentability and patent eligibility of inventions or discoveries relating to synthetic biology technology, including by narrowing the scope and strength of patent protection in some instances. In light of these developments and depending on actions by the U.S. Congress, the federal courts and the United States Patent and Trademark office (the USPTO), the laws and regulations governing patents could be interpreted and applied, or could change, in unpredictable ways that may have a material adverse effect on our ability to obtain new patents and to defend and enforce our existing patents and patents that we might obtain in the future.

We cannot assure you that our patent portfolio will not be negatively impacted by the current uncertain state of the law, new court rulings or changes in guidance or procedures issued by the USPTO or other patent offices around the world. From time to time, the U.S. Supreme Court, other federal courts, the U.S. Congress or the USPTO may change the standards of patentability, scope and validity of patents in areas including synthetic biology technology and any such changes, or any similar adverse changes in the patent laws and procedures of other jurisdictions, could have a negative impact on our business, financial condition, prospects and results of operations.

We may not be able to protect our intellectual property rights throughout the world.

Filing, prosecuting and defending patents on our products in all countries throughout the world would be prohibitively expensive, and our intellectual property rights in some countries outside the United States can be less extensive than those in the United States.

The laws of some foreign countries do not protect intellectual property rights to the same extent as the laws of the United States. We may encounter difficulties in protecting and defending such rights in foreign jurisdictions. Consequently, we may not be able to prevent third parties from practicing our inventions in competition with us in some or all countries outside the United States, or from selling or importing products made using our inventions in and into the United States or other jurisdictions. Competitors and other third parties may use our technologies in jurisdictions where we have not obtained patent protection to develop their own products and technologies and may also export infringing products to territories where we do have patent protection but where enforcement may not be as strong as in the United States. Our patents or other intellectual property rights may not be effective or sufficient to prevent such third-party products from competing with our products. In addition, certain countries have compulsory licensing laws under which a patent owner may be compelled to grant licenses to other parties. Furthermore, many countries limit the enforceability of patents against certain kinds of third parties, including government agencies or government contractors. In these countries, the patent owner may have limited remedies, which could materially diminish the value of any patents.

Many companies have encountered significant problems in protecting and defending intellectual property rights in foreign jurisdictions. The legal systems of many other countries do not favor the enforcement of patents and other intellectual property protection, which could make it difficult for us to gain any meaningful competitive advantage from our patents or other intellectual property rights. The legal systems in certain countries may also favor state-sponsored or domestic companies over foreign companies, even though we may have patents and other intellectual property protection in these countries. The absence of harmonized intellectual property protection laws makes it difficult to ensure consistent treatment and enforcement of patent, trade secret, and other intellectual property rights on a worldwide basis. As a result, it is possible that we will not be able to enforce our rights against third parties that misappropriate our proprietary technology or otherwise violate our intellectual property rights in any given country around the world.

Proceedings to enforce our patent rights in foreign jurisdictions could result in substantial cost and divert our efforts and attention from other aspects of our business, could put our patents at risk of being invalidated or interpreted narrowly and our patent applications at risk of not issuing, and could provoke third parties to assert claims against us. We may not prevail in any lawsuits that we initiate, or that are initiated against us, and any damages or other remedies awarded to us may not be commercially meaningful. In addition, changes in the law and legal decisions by courts in foreign countries may affect our ability to obtain adequate protection for our products, services and other technologies and the enforcement of intellectual property. Accordingly, our efforts to enforce our intellectual property rights around the world may be inadequate to obtain a significant commercial advantage from the intellectual property that we develop or license. Any of the foregoing events could have a material adverse effect on our business, financial condition, results of operations and prospects.

Issued patents covering our products could be found invalid or unenforceable if challenged.

Our owned and licensed patents and patent applications may be subject to validity, enforceability and priority disputes. The issuance of a patent is not conclusive as to its inventorship, scope, validity or enforceability. Some of our patents or patent applications (including licensed patents and patent applications) may be challenged in opposition, interference or derivation, ex parte re-examination, inter partes review, post-grant review or other similar proceedings. Any successful third-party challenge to our patents in this or any other proceeding could result in the unenforceability or invalidity of such patents, which may lead to increased competition to our business, which could have a material adverse effect on our business, financial condition, results of operations and prospects. In addition, if we initiate legal proceedings against a third party to enforce a patent covering our products, the defendant could counterclaim that the patent we are asserting in the proceeding is invalid or unenforceable. In patent litigation in the United States, defendant counterclaims alleging invalidity or unenforceability are commonplace. There are numerous grounds upon which a third party can assert invalidity or unenforceability of a patent. Third parties may also raise similar claims before administrative bodies in the United States or abroad, outside the context of litigation per se. Such proceedings could result in revocation of or amendment to our patents in such a way that they no longer protect our products. The outcome following legal assertions of invalidity and

unenforceability during patent litigation is unpredictable. If a defendant or other third party were to prevail on a legal assertion of invalidity or unenforceability, we would lose at least part, and perhaps all, of the patent protection on certain aspects of our products and technologies, which could have a material adverse effect on our business, financial condition, results of operations and prospects. In addition, if the breadth or strength of protection provided by our patents and patent applications is threatened, regardless of the outcome, it could dissuade companies from collaborating with us to license intellectual property or to develop or commercialize current or future products.

We may not be aware of all third-party intellectual property rights potentially relevant to our products, technology and services. Publications of discoveries in the scientific literature lag behind the discoveries, and patent applications in the United States and other jurisdictions are typically not published until approximately 18 months after the earliest effective filing date or, in some cases, not until such patent applications issue as patents. We might not have been the first to make the inventions claimed in each of our pending patent applications and we might not have been the first to file patent applications for these inventions. To determine the priority of these inventions, we may have to participate in interference or derivation proceedings in the U.S. or analogous proceedings in non-U.S. jurisdictions, which could result in substantial cost to us and the loss of valuable patent protection. No assurance can be given that other patent applications will not have priority over our patent applications. In addition, changes to the patent laws of the United States allow for various post-grant proceedings that have not been extensively tested, and their outcome is therefore uncertain. Furthermore, if third parties bring these proceedings against our patents, regardless of the merit of such proceedings and regardless of whether we are successful, we could experience significant costs and our management may be distracted. Any of the foregoing events could have a material adverse effect on our business, financial condition, results of operations and prospects.

If we are unable to protect the confidentiality of our trade secrets, the value of our technology could be materially adversely affected and our business could be harmed.

We rely heavily on trade secrets and confidentiality agreements to protect our unpatented know-how, technology and other proprietary information and to maintain our competitive position. However, trade secrets and know-how can be difficult to protect. In particular, we expect that with respect to our technologies, certain know how will over time be disseminated within the industry through independent development, the publication of journal articles describing the methodology, and the movement of personnel from academic to industry scientific positions.

In addition to pursuing patents on our technology, we take steps to protect our intellectual property and proprietary technology by entering into agreements, including confidentiality agreements, non-disclosure agreements and intellectual property assignment agreements, with our employees, consultants, academic institutions, corporate partners and, when needed, our advisers. However, we cannot be certain that such agreements have been entered into with all relevant parties, and we cannot be certain that our trade secrets and other confidential proprietary information will not be disclosed or that competitors or other third parties will not otherwise gain access to our trade secrets or independently develop substantially equivalent information and techniques. For example, any of the foregoing parties may breach the agreements and disclose our proprietary information, including our trade secrets, and we may not be able to obtain adequate remedies for such breaches. Such agreements may not be enforceable or may not provide meaningful protection for our trade secrets or other proprietary information in the event of unauthorized use or disclosure or other breaches of the agreements, and we may not be able to prevent such unauthorized disclosure, which could adversely impact our ability to establish or maintain a competitive advantage in the market, business, financial condition, results of operations and prospects.

Monitoring unauthorized disclosure is difficult, and we cannot guarantee that the steps we have taken to prevent such disclosure are adequate. If we were to enforce a claim that a third party had wrongfully obtained and was using our trade secrets, it could be expensive and time-consuming, it could distract our personnel, and the outcome would be unpredictable. In addition, courts outside the United States may be less effective in protecting trade secrets.

We also seek to preserve the integrity and confidentiality of our confidential proprietary information by maintaining physical security of our premises and physical and electronic security of our information technology systems, but it is possible that these security measures could be breached. If any of our confidential proprietary information were to be lawfully obtained or independently developed by a competitor or other third party, absent patent protection, we would have no right to prevent such competitor from using that technology or information to compete with us, which could harm our competitive position. Competitors or third parties could purchase our products and attempt to replicate the competitive advantages we derive from our development efforts with their own competitive technologies that fall outside the scope of our intellectual property rights. They might also independently develop our technologies without reference to our trade secrets. If any of our trade secrets were to be disclosed to or independently discovered by a competitor or other third party, it could materially and adversely affect our business, financial condition, results of operations and prospects.

We may be subject to claims challenging the inventorship or ownership of our patents and other intellectual property.

We may be subject to claims that former employees, collaborators or other third parties have an interest in our owned or in-licensed patents, trade secrets or other intellectual property as an inventor or co-inventor. For example, we may have inventorship or ownership disputes arising from conflicting obligations of employees, consultants or others who are involved in developing our products. In addition, counterparties to our consulting, sponsored research, software development and other agreements may assert that they have an ownership interest in intellectual property developed under such arrangements. In particular, certain software development agreements pursuant to which third parties have developed parts of our proprietary software may not include provisions that expressly assign to us ownership of all intellectual property developed for us by such third parties. Furthermore, certain of our sponsored research agreements pursuant to which we provide research services for third parties do not assign to us all intellectual property developed under such agreements. As such, we may not have the right to use all such developed intellectual property under such agreements, we may be required to obtain licenses from third parties and such licenses may not be available on commercially reasonable terms or at all, or they may be non-exclusive. If we are unable to obtain such licenses and such licenses are necessary for the development, manufacture and commercialization of our products and technologies, we may need to cease the development, manufacture and commercialization of our products and technologies. Litigation may be necessary to defend against these and other claims challenging inventorship or ownership of our owned or in-licensed patents, trade secrets or other intellectual property. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights. In such an event, we may be required to obtain licenses from third parties and such licenses may not be available on commercially reasonable terms or at all, or they may be non-exclusive. If we are unable to obtain and maintain such licenses, we may need to cease the development, manufacture and commercialization of the relevant products and technologies. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to management and other employees, and certain customers or partners may defer engaging with us until the particular dispute is resolved. Any of the foregoing could have a material adverse effect on our business, financial condition, results of operations and prospects.

We may not be able to protect and enforce our trademarks and trade names, or build name recognition in our markets of interest, thereby harming our competitive position.

The registered or unregistered trademarks or trade names that we use may be challenged, infringed, circumvented, declared generic, opposed, invalidated, cancelled or determined to be infringing on or dilutive of other marks. As a consequence, we may not be able to protect, register or maintain our rights in these trademarks and trade names.

Third parties may have prior rights in, or have filed, and may in the future file, for registration of, trademarks similar or identical to our trademarks in certain markets of interest that may block our ability to use or to register, or that may limit the scope of protection afforded to, our trademarks and trade names in such markets, thereby impeding our ability to protect, register, maintain or enforce our trademarks and trade names in all markets of interest and to build brand identity and possibly leading to litigation risks and market confusion.

If a third party succeeds in registering or developing common law rights in trademarks similar or identical to our trademarks that predate our rights, and if we are not successful in overcoming any objection from the USPTO or such third party based on or in challenging such rights and defending against challenges to our trademarks, we may not be able to use such trademarks to develop brand recognition of our technologies, products or services.

A third party with prior rights in a similar or identical trademark could challenge our use and registration of our trademarks and trade names by filing a trademark infringement court action or by seeking to block or cancel any registration for our trademarks through an opposition, cancellation, invalidity or other administrative proceeding.

The outcome of any such trademark litigation or other proceeding can be uncertain. If we are unable to successfully defend against any such challenge, in addition to not being able to secure or maintain a registration for our trademark, we may be required, including by court order, to cease all further use of such trademark. Moreover, in the case of a trademark infringement action, a court may require us to issue corrective advertising or to take other steps as the court may deem necessary to remove or reduce the risk of consumer confusion, including changing our company name and rebranding our products. Any of these actions could take time, would be expensive and could lead to a loss of brand recognition or customer confusion as a result. The court may also order us to pay damages (actual damages demonstrated at trial and a disgorgement of our profits), including treble damages and attorneys' fees if the court finds that we willfully infringed such third party trademark. Regardless of success, any such litigation or other proceeding may take substantial time and effort and result in substantial cost, and may divert our efforts and attention from other aspects of our business and could have a material adverse effect on our business, financial condition and results of operations.

Further, we have and may in the future enter into agreements with owners of such third party trade names or trademarks to avoid potential trademark litigation, which may limit our ability to use, register or enforce our trade names or trademarks in certain fields of business or in certain markets or which may place certain other restrictions on the use of our trademarks and trade names that could limit our ability to build a strong brand identity. If we are unable to establish name recognition based on our trademarks and trade

names, then we may not be able to compete effectively, and our business, financial condition, results of operations and prospects may be adversely affected.

Patent terms may be inadequate to protect our competitive position on our workflow automation and reagent solutions for an adequate amount of time.

Patents have a limited lifespan. In the United States, if all maintenance fees are timely paid, the basic term of a utility patent is 20 years from its earliest effective non-provisional filing date. In the United States, the basic term of a patent may be lengthened by patent term adjustment, which compensates the patentee for certain administrative delays by the USPTO in examining and granting a patent, and it may be shortened by filing a terminal disclaimer over an earlier expiring patent. Even if a patent covering our products is obtained, once the patent life has expired, we would no longer be able to use the patent to exclude others from making or selling competitive products. If one of our products requires extended development, testing or regulatory review, patent protection for the product might expire soon after or even before the product is commercialized. As a result, our owned and licensed patent portfolio may not provide us with sufficient rights to exclude others from commercializing products similar or identical to ours, which could have a material adverse effect on our business, financial condition and results of operations.

We have and may again become involved in lawsuits to defend against third-party claims of infringement, misappropriation or other violations of intellectual property or to protect or enforce our intellectual property, any of which could be expensive, time consuming and unsuccessful, and may prevent or delay our development and commercialization efforts.

Our commercial success depends in part on our ability and the ability of future collaborators to develop, manufacture, market and sell our product and use our products and technologies without infringing, misappropriating or otherwise violating the intellectual property rights of third parties. There is a substantial amount of litigation involving patents and other intellectual property rights in the synthetic biology technology sector, as well as other proceedings for challenging patents, including interference, derivation, inter partes review, post grant review, reexamination proceedings, and pre- and post-grant oppositions. We have and may in the future be exposed to, or threatened with, litigation by third parties having patent or other intellectual property rights alleging that our products, manufacturing methods, trademarks, software or technologies infringe, misappropriate or otherwise violate their intellectual property rights. Numerous issued patents and pending patent applications that are owned by third parties exist in the fields in which we are developing our products and technologies. It is not always clear to industry participants, including us, the claim scope that may issue from pending patent applications owned by third parties or which patents cover various types of products, technologies or their methods of use or manufacture. Because of the large number of patents issued and patent applications filed in our fields, there may be a risk that third parties, including our competitors, may allege that they have patent rights encompassing our products, technologies or methods and that we are employing their proprietary technology without authorization.

If third parties, including our competitors, believe that our products or technologies infringe, misappropriate or otherwise violate their intellectual property, such third parties may seek to enforce their intellectual property, including patents against us by filing an intellectual property-related lawsuit, including a patent infringement lawsuit, against us. Even if we believe third-party intellectual property claims are without merit, there is no assurance that a court would find in our favor on questions of misappropriation, infringement, validity, enforceability, or priority. If any third parties were to assert patents against us and we are unable to successfully defend against any such assertion, we may be required, including by court order, to cease the development and commercialization of the infringing products or technology and we may be required to redesign such products and technologies so they do not infringe such patents, which may not be possible or may require substantial monetary expenditures and time. We could also be required to pay damages, which could be significant, including treble damages and attorneys' fees if we are found to have willfully infringed such patents. We could also be required to obtain a license to such patents in order to continue the development and commercialization of the infringing product or technology; however such a license may not be available on commercially reasonable terms or at all, including because certain of these patents are held by or may be licensed to our competitors. Even if such license were available, it may require substantial payments or cross-licenses under our intellectual property rights, and it may only be available on a nonexclusive basis, in which case third parties, including our competitors, could use the same licensed intellectual property to compete with us. Any of the foregoing could have a material adverse effect on our business, financial condition, results of operation or prospects.

We may choose to challenge, including in connection with any allegation of patent infringement by a third party, the validity or enforceability of any third-party patent that we believe may have applicability in our field, and any other third-party patent that may be asserted against us. Such challenges may be brought either in court or by requesting that the USPTO, European Patent Office, or other patent offices' review the patent claims, such as in an ex-parte reexamination, inter partes review, post-grant review proceeding or opposition proceeding. However, there can be no assurance that any such challenge by us will be successful. Even if such proceedings are successful, these proceedings are expensive and may consume our time or other resources, distract our management and technical personnel, and the costs of the proceedings could be substantial.

Third parties, including our competitors, could be infringing, misappropriating or otherwise violating our owned and in-licensed intellectual property rights. Monitoring unauthorized use of our intellectual property is difficult and costly. We may not be able to detect unauthorized use of, or take effective steps to enforce, our intellectual property rights. From time to time, we seek to analyze our competitors' products and services, and may in the future seek to enforce our rights against potential infringement, misappropriation or violation of our intellectual property. However, the steps we have taken to protect our intellectual property rights may not be effective to enforce our rights as against such infringement, misappropriation or violation of our intellectual property. Any inability to meaningfully enforce our intellectual property rights could harm our ability to compete and reduce demand for our products and technologies.

Litigation proceedings may be necessary for us to enforce our patent and other intellectual property rights. In any such proceedings, a court may refuse to stop the other party from using the technology at issue on the grounds that our owned and in-licensed patents do not cover the technology in question. Further, in such proceedings, the defendant could counterclaim that our intellectual property is invalid or unenforceable and the court may agree, in which case we could lose valuable intellectual property rights, which could allow third parties to commercialize technology or products similar to ours and compete directly with us, without payment to us, or could require us to obtain license rights from the prevailing party in order to be able to manufacture or commercialize our products without infringing such party's intellectual property rights, and if we unable to obtain such a license, we may be required to cease commercialization of our products and technologies, any of which could have a material adverse effect on our business, financial condition, results of operations and prospects. The outcome in any such proceedings is unpredictable.

Regardless of whether we are the defending party or the party seeking to enforce rights in any intellectual property-related proceeding, and regardless of outcome, such proceedings that may be necessary in the future could result in substantial costs and diversion of resources and could have a material adverse effect on our business, financial condition, results of operations and prospects. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation. In addition, there could be public announcements of the results of hearings, motions, or other interim proceedings or developments, and if securities analysts or investors perceive these results to be negative, it could have a substantial adverse effect on the price of our common stock. Some of our competitors and other third parties may be able to sustain the costs of such litigation or proceedings more effectively than we can because of their greater financial resources and more mature and developed intellectual property portfolios. We may not have sufficient financial or other resources to adequately conduct these types of litigation or proceedings. Any of the foregoing, or any uncertainties resulting from the initiation and continuation of any litigation, could have a material adverse effect on our ability to raise the funds necessary to continue our operations or could otherwise have a material adverse effect on our business, financial condition, results of operations and prospects. Claims that we have misappropriated the confidential information or trade secrets of third parties could have a similar adverse effect on our business, financial condition, results of operations and prospects.

Obtaining and maintaining our patent protection depends on compliance with various required procedures, document submissions, fee payments and other requirements imposed by governmental patent agencies, and our patent protection could be reduced or eliminated for non-compliance with these requirements.

Various official fees, including renewal fees, must be paid to the respective patent authorities to apply for, prosecute, and maintain patents and patent applications. The USPTO and other patent authorities also variously require compliance with a number of procedural and substantive provisions under local law and practice during and sometimes after the patent application process. In many cases, an inadvertent lapse in paying a fee or fulfilling another requirement can be cured by payment of a late fee or by other means in accordance with the applicable rules. However, there are situations in which non-compliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. In such an event, our competitors may be able to enter the market without infringing our patents and this circumstance would have a material adverse effect on our business, financial condition, results of operations and prospects.

We may be subject to claims that our employees, consultants or independent contractors have wrongfully used or disclosed confidential information of third parties or that our employees have wrongfully used or disclosed alleged trade secrets of their former employers.

We have employed and expect to employ individuals who were previously employed at universities or at other companies, including our competitors or potential competitors. Although we try to ensure that our employees, consultants, advisors and independent contractors do not use the proprietary information or know-how of others in their work for us, we may be subject to claims that our employees, advisors, consultants or independent contractors have inadvertently or otherwise used or disclosed intellectual property, including trade secrets or other proprietary information, of their former employers or other third parties, or to claims that we have improperly used or obtained such trade secrets. Litigation may be necessary to defend against these claims. If we fail in defending such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights and face increased competition to our business. Any such litigation or the threat thereof may adversely affect our ability to hire employees or

contract with advisors, contractors and consultants. A loss of key research personnel work product could hamper or prevent our ability to commercialize potential products, which could harm our business. Even if we are successful in defending against these claims, litigation could result in substantial costs and be a distraction to management. This type of litigation or proceeding could substantially increase our operating losses and reduce our resources available for development activities. Some of our competitors may be able to sustain the costs of this type of litigation or proceedings more effectively than we can because of their substantially greater financial resources.

In addition, while it is our policy to require our employees and contractors who may be involved in the conception or development of intellectual property to execute agreements assigning such intellectual property to us, we may be unsuccessful in executing such an agreement with each party who, in fact, conceives or develops intellectual property that we regard as our own. The assignment of intellectual property rights may not be self-executing, or the assignment agreements may be breached, and we may be forced to bring claims against third parties, or defend claims that they may bring against us, to determine the ownership of what we regard as our intellectual property. Furthermore, individuals executing agreements with us may have pre-existing or competing obligations to a third party, such as an academic institution, and thus an agreement with us may be disputed or ineffective in perfecting ownership of inventions developed by that individual, which could have a material adverse effect on our business, financial condition, results of operations, and prospects.

Furthermore, we may in the future be subject to claims by former employees, consultants or other third parties asserting an ownership right in our owned or licensed patents or patent applications. An adverse determination in any such proceeding may result in loss of exclusivity or freedom to operate or in patent claims being narrowed, invalidated or held unenforceable, in whole or in part, which could limit our ability to stop others from using or commercializing similar technology, without payment to us, or could limit the duration of the overall patent protection covering our technology and products. Such challenges may also result in our inability to develop, manufacture or commercialize our products without infringing third-party patent rights. Any of the foregoing could harm our business, financial condition, results of operations and prospects.

If we cannot license rights to use technologies on reasonable terms, we may not be able to commercialize new products in the future.

We may identify third-party technology that we may need to license or acquire in order to develop or commercialize our products or technologies, including our workflow automation and reagent solutions. However, we may be unable to secure such licenses or acquisitions. The licensing or acquisition of third-party intellectual property rights is a competitive area, and several more established companies may pursue strategies to license or acquire third-party intellectual property rights that we may consider attractive or necessary. These established companies may have a competitive advantage over us due to their size, capital resources and greater commercialization capabilities. In addition, companies that perceive us to be a competitor may be unwilling to assign or license rights to us.

We also may be unable to license or acquire third-party intellectual property rights on terms that would allow us to make an appropriate return on our investment or at all. In return for the use of a third party's technology, we may agree to pay the licensor royalties based on sales of our products or services. Royalties are a component of cost of products or technologies and affect the margins on our products. We may also need to negotiate licenses to patents or patent applications before or after introducing a commercial product. We may not be able to obtain necessary licenses to patents or patent applications, and our business may suffer if we are unable to enter into the necessary licenses on acceptable terms or at all, if any necessary licenses are subsequently terminated, if the licensor fails to abide by the terms of the license or fails to prevent infringement by third parties, or if the licensed intellectual property rights are found to be invalid or unenforceable.

Intellectual property rights do not necessarily address all potential threats.

The degree of future protection afforded by our intellectual property rights is uncertain because intellectual property rights have limitations, and may not adequately protect our business or permit us to maintain our competitive advantage. For example:

- others may be able to make products that are similar to products and technologies we may develop or utilize similar technology that are not covered by the claims of the patents that we own or license now or in the future;
- we might not have been the first to make the inventions covered by the issued patent or pending patent application that we license or may own in the future;
- we might not have been the first to file patent applications covering certain of our or their inventions;
- others may independently develop similar or alternative technologies or duplicate any of our technologies without infringing, misappropriating or otherwise violating our owned or licensed intellectual property rights;

- it is possible that our pending licensed patent applications or those that we may own in the future will not lead to issued patents;
- issued patents that we hold rights to may be held invalid or unenforceable as a result of legal challenges by our competitors;
- our competitors might conduct research and development activities in countries where we do not have patent rights and then use the information learned from such activities to develop competitive products for sale in our major commercial markets;
- we may not develop additional proprietary technologies that are patentable;
- the patents of others may harm our business; and
- we may choose not to file a patent for certain trade secrets or know-how, and a third party may subsequently file a patent covering such intellectual property.

Should any of these events occur, they could materially adversely affect our business, financial condition, results of operations and prospects.

Risks Related to Ownership of Our Common Stock

Northpond and Novalis and their affiliates own a significant percentage of our common stock and have the right to designate five of the 13 members of our board of directors, and may be able to exert significant control over matters subject to stockholder approval, preventing other stockholders and new investors from influencing significant corporate decisions.

Northpond and Novalis, two of our stockholders, collectively beneficially owned approximately 46% of our outstanding common stock as of June 30, 2024. Under the Director Designation Side Letter, we increased the size of our board to 13 directors and appointed five Lender Nominees designated by Northpond and Novalis to our board of directors. Further, pursuant to the Director Designation Side Letter, we agreed to, among other items, and subject to applicable stockholder vote, to ensure that the Lender Nominees otherwise remain on our board of directors, appoint replacement directors nominated by the Lenders in the event that a Lender Nominee ceases to serve as a director (subject to the Lenders, along with their affiliates, continuing to collectively beneficially own at least 10% of our common stock), and ensure that at least a majority of our nominating and corporate governance committee consists of the Lender Nominees or their replacements, subject to the aforementioned 10% ownership requirement.

Because of their share ownership and control of the board of directors, Northpond and Novalis may have the ability to exert substantial influence or actual control over our management and affairs and over substantially all matters requiring action by our stockholders and board of directors, including amendments to our Certificate of Incorporation, Bylaws, election and removal of directors, the appointment of management, future issuances of our common stock or other securities, payment of dividends, if any, on our common stock, the incurrence or modification of indebtedness by us, any proposed merger, consolidation or sale of all or substantially all of our assets and other corporate transactions, as well as certain day-to-day decisions involved in operating our business, such as annual operating plans, capital expenditures and other investments in our business. The interests of the Lenders may not necessarily in all cases be aligned with management's views on the operation of our business or the interests of our other stockholders. In addition, the Lenders and their affiliates may have an interest in pursuing acquisitions, divestitures, and other transactions or not pursuing such transactions that, in their judgment, could enhance or reduce their investment, even though such transactions might involve risks to our other stockholders. In addition, the Lenders and their affiliates are able to determine the outcome of substantially all matters requiring stockholder approval and are able to cause or prevent a change of control of our Company or a change in the composition of our board of directors and could preclude any acquisition of our Company. This concentration of voting control could deprive our other stockholders of an opportunity to receive a premium for their shares of common stock as part of a sale of our Company and ultimately might affect the market price of our common stock.

The market price of our common stock has been highly volatile and may continue to be volatile in the future, which could result in substantial losses for investors purchasing our common stock in the market.

The market price of our common stock has been highly volatile since our initial public offering and may continue to be volatile. As a result, you may not be able to sell your common stock at or above the price at which you purchased the stock. Some of the factors that may cause the market price of our common stock to continue fluctuating include, but are not limited to:

- actual or anticipated fluctuations in our operating results, including fluctuations in our quarterly and annual results;
- operating expenses being more than anticipated;

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- our ability to comply with the covenants under our 2022 Loan Agreements;
- our ability to raise capital if and when needed;
- supply chain and production disruption due to our moving primary manufacturing facilities to our San Diego facility;
- the failure or discontinuation of any of our product development and research programs;
- changes in the structure or funding of research at academic and research laboratories and institutions, including changes that would affect their ability to purchase our products;
- the success of existing or new competitive businesses or technologies;
- announcements about new research programs or products of our competitors;
- developments or disputes concerning patent applications, issued patents or other proprietary rights;
- the recruitment or departure of key personnel;
- litigation and governmental investigations involving us, our industry or both;
- regulatory or legal developments in the United States and other countries;
- variations in market conditions in the synthetic biology technology sector;
- investor perceptions of us or our industry;
- changes in estimates or recommendations by securities analysts, if any, that cover our common stock or companies that are perceived to be similar to us;
- whether our financial results meet the expectations of securities analysts or investors;
- the level of expenses related to any of our research and development programs or products;
- actual or anticipated changes in our estimates as to our financial results or development timelines;
- variations in our financial results or those of companies that are perceived to be similar to us;
- the announcement or expectation of additional financing efforts;
- sales of our common stock by us or sales of our common stock by our insiders or other stockholders;
- general economic, industry and market conditions, including deteriorating market conditions due to investor concerns regarding inflation and the outbreak of war in the Ukraine and the Middle East; and
- the pandemics, natural disasters or major catastrophic events.

Recently, stock markets in general, and the market for life sciences technology companies in particular, have experienced significant price and volume fluctuations that have often been unrelated or disproportionate to changes in the operating performance of the companies whose stock is experiencing those price and volume fluctuations. Broad market and industry factors may seriously affect the market price of our common stock, regardless of our actual operating performance. Following periods of such volatility in the market price of a company's securities, securities class action litigation has often been brought against that company. Because of the potential volatility of our stock price, we may become the target of securities litigation in the future. Securities litigation could result in substantial costs and divert management's attention and resources from our business.

Our directors, officers and principal stockholders have significant voting power and may take actions that may not be in the best interests of our other stockholders.

As of June 30, 2024, our directors, officers and stockholders holding 5% or more of our outstanding common stock and their affiliates beneficially owned over 82% of our outstanding common stock in the aggregate, assuming the conversion of all Redeemable Convertible Preferred Stock and exercise of all options and warrants beneficially held by such persons. As a result, these stockholders, if they act together, will be able to exert significant influence over the management and affairs of our company and most matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions. This concentration of ownership may have the effect of delaying or preventing a change in control, might adversely affect the market price of our common stock and may not be in the best interests of our other stockholders.

Sales of a substantial number of shares of our common stock by our existing stockholders could cause the price of our common stock to decline.

Sales of a substantial number of shares of our common stock in the public market could occur at any time or the perception in the market that the holders of a large number of shares of common stock intend to sell shares and could reduce the market price of our common stock.

Holders of an aggregate of 837,741 shares of our common stock issued prior to our initial public offering have rights, subject to conditions, to require us to file registration statements with the SEC covering their shares or to include their shares in registration statements that we may file for ourselves or other stockholders. We filed a registration statement on Form S-3 on July 27, 2023 covering 1,669,031 shares of common stock underlying the Redeemable Convertible Preferred Stock and accompanying Warrants issued in the Private Placement, which was subsequently declared effective on August 3, 2023. We are required to keep this registration statement effective pursuant to the terms of the Registration Rights Agreement dated June 5, 2023 that we entered into with the investors in the Private Placement. We also have registered all shares of common stock that we may issue under our equity compensation and employee stock purchase plans, making them freely tradeable in the public market upon issuance and, if applicable, vesting, subject to volume limitations applicable to affiliates. Sales of common stock in the public market as restrictions end or pursuant to registration rights may make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate. These sales also could cause the trading price of our common stock to fall and make it more difficult for you to sell shares of our common stock.

Recently, we were not in compliance with the minimum bid price or minimum stockholder equity rules of the Nasdaq Global Select Market, and if we cannot maintain compliance in the future, our securities may be delisted, which could negatively impact the price of our securities, the liquidity of our common stock, and hinder our ability to raise capital.

On November 24, 2023, we received a letter from the Listing Qualifications Department (the Staff) of The Nasdaq Stock Market LLC (Nasdaq) indicating that, based on the closing bid price of our common stock for the last 30 consecutive business day, we did not meet the minimum bid price of \$1.00 per share required for continued listing on The Nasdaq Global Select Market pursuant to Nasdaq Listing Rule 5450(a)(1) (the “Minimum Bid Price Requirement”). We were given a compliance period of 180 calendar days, or until May 22, 2024, to regain compliance with the Minimum Bid Price Requirement. To regain compliance, the closing bid price of our common stock must be at least \$1.00 per share for a minimum of ten consecutive business days during the 180-day period, or prior to May 22, 2024. To cure the Minimum Bid Price Requirement deficiency, we conducted a reverse stock split of our common stock at a ratio of 1-for-18 (the Reverse Stock Split). At our 2024 Annual Meeting of Stockholders, held virtually on May 1, 2024 (the Annual Meeting), our stockholders approved, among other items, an amendment to our amended and restated certificate of incorporation (the “Reverse Stock Split Amendment”) to effect the Reverse Stock Split. On May 2, 2024, we filed the Reverse Stock Split Amendment with the Secretary of State of the State of Delaware, which became effective at 12:01 AM ET on May 9, 2024. On May 23, 2024, we received a letter from the Staff of Nasdaq notifying us that we had regained compliance with the Minimum Bid Price Requirement and that the matter is now closed. However, the Reverse Stock Split has caused a decline in the value of our outstanding common stock and there is no assurance that the Reverse Stock Split will not cause a continuing decline in the value of that stock. The liquidity of the shares of our common stock may be affected adversely by the Reverse Stock Split given the reduced number of shares that were outstanding following the Reverse Stock Split. In addition the Reverse Stock Split may increase the number of stockholders who own odd lots (less than 100 shares) of our common stock, creating the potential for such stockholders to experience an increase in the cost of selling their shares and greater difficulty effecting such sales. There is no guarantee that implementing the Reverse Stock Split will allow us to maintain compliance with applicable Nasdaq requirements.

Further, on April 3, 2024, we received a letter from the Staff notifying us that based on information filed with our Annual Report on Form 10-K, which was filed with the SEC on March 29, 2024, we were not in compliance with the minimum stockholder’s equity requirement for continued listing in Nasdaq Listing Rule 5450(b)(1)(A), which requires companies listed on the Nasdaq Global Select Market to maintain a minimum of \$10 million in stockholder’s equity for continued listing (the Stockholders’ Equity Requirement). In accordance with Nasdaq Listing Rule 5810(c)(2), we were provided a period of 45 calendar days, or until Monday, May 20, 2024, to submit a plan to regain compliance (the Compliance Plan). We submitted a Compliance Plan and on May 31, 2024 received a letter from the Staff of Nasdaq granting an extension until September 30, 2024. However, there can be no assurance that we will be able to regain compliance with the Stockholders’ Equity Requirement or will otherwise be in compliance with the Nasdaq Listing Rules.

If we are unable to comply with applicable Nasdaq Listing Rules, shares of our common stock would be subject to delisting, which could have a material adverse effect on the market for, and liquidity and price of, our common stock and impair our ability to raise capital. Delisting from Nasdaq could also have other negative results, including, without limitation, the reduction or elimination of our coverage by securities analysts and other market participants, the potential loss of confidence by customers and employees, the loss of institutional investor interest, fewer business development opportunities, and damages under certain of our agreements with

stockholders. If our common stock is delisted from Nasdaq and is ineligible for quotation or listing on another market or exchange, it could become significantly more difficult to dispose of our common stock, which could cause the price of our common stock to decline further.

We completed a 1-for-18 Reverse Stock Split of our shares of common stock, which may reduce and limit the market trading liquidity of the shares due to the reduced number of shares outstanding.

Effective May 9, 2024, we completed the Reverse Stock Split of our common stock by a ratio of 1-for-18. As a result, the liquidity of our common stock may be adversely affected by the Reverse Stock Split due to the reduced number of shares outstanding following the Reverse Stock Split. Absent other factors, reducing the number of outstanding shares of our common stock through the Reverse Stock Split is intended to increase the per-share market price of our common stock. However, a reduction in the liquidity of our common stock as well as other factors, including our financial and operating results, strategic direction, market conditions, and market perception may adversely affect the market price of our common stock. As such, there can be no assurance that the Reverse Stock Split will result in an increase in the market price of our common stock, and such market price may also decrease in the future.

We identified a material weakness in our internal control over financial reporting and may identify additional material weaknesses in the future, which could continue to materially impair our ability to report accurate financial information in a timely manner.

We have identified a material weakness in our internal control over financial reporting, which has not been remediated and continues to exist as of June 30, 2024. As of June 30, 2024, the Company's management, with the participation of its principal executive officer and principal financial officer, has evaluated the effectiveness of its disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act. Based on such evaluation, the principal executive officer and principal financial officer have concluded that the Company's disclosure controls and procedures were not effective as of June 30, 2024 due to the previously identified material weakness in internal control over financial reporting as discussed below.

Management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act). Management, under the supervision and with the participation of the principal executive officer and principal financial officer, conducted an assessment of the effectiveness of internal control over financial reporting as of March 31, 2024, based on the framework and criteria established in Internal Control - Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO framework). Based on this assessment, management concluded that, as of June 30, 2024, its internal control over financial reporting was not effective due to the existence of the material weakness described below.

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that a reasonable possibility exists that a material misstatement of the annual or interim financial statements would not be prevented or detected on a timely basis. Management identified a combination of deficiencies in the Company's internal control over financial reporting that in the aggregate gave rise to a material weakness, which continues to exist as of June 30, 2024. The deficiencies primarily related to limited finance, accounting, and IT staffing levels not commensurate with the Company's complexity and its financial accounting and reporting requirements. The Company continued to undergo organizational changes in 2023, including multiple reductions in workforce and the resulting decision to operate with very lean finance, accounting and IT departments. Despite the hiring of a new Chief Financial Officer and a Corporate Controller in September 2023 and a Sarbanes-Oxley Act compliance firm in the fourth quarter of 2023, the timing and ongoing transitions associated with these changes caused the Company to lack the resources to fully monitor and operate its internal controls over financial reporting as of December 31, 2023, resulting in several deficiencies being discovered during its annual auditing process.

Based on the above, the Company did not fully implement components of the COSO framework, including elements of the control environment, risk assessment, control activities, information and communication, and monitoring activities components.

Management continues to evaluate the material weakness discussed above and is implementing its remediation plan as further described in Item 4 above. However, assurance as to when the remediation efforts will be complete cannot be provided and the material weakness cannot be considered remedied until the applicable controls have operated for a sufficient period of time and management has concluded, through testing, that these controls are operating effectively. Management cannot provide assurances that the measures that have been taken to date, and are continuing to be implemented, will be sufficient to remediate the material weakness identified or to avoid potential future material weaknesses.

We do not expect to pay any dividends for the foreseeable future. Investors may never obtain a return on their investment.

You should not rely on an investment in our common stock to provide dividend income. We do not anticipate that we will pay any dividends to holders of our common stock in the foreseeable future. Instead, we plan to retain any earnings to maintain and expand our existing operations, fund our research and development programs and continue to invest in our commercial infrastructure.

In addition, the terms of our Redeemable Convertible Preferred Stock and our 2022 Loan Agreements with MidCap contain, and any future credit facility or financing we obtain may contain, terms prohibiting or limiting the amount of dividends that may be declared or paid on our common stock. Accordingly, investors must rely on sales of their common stock after price appreciation, which may never occur, as the only way to realize any return on their investment. As a result, investors seeking cash dividends should not purchase our common stock.

If securities analysts do not continue to publish research or reports about our business or if they publish negative evaluations of our common stock, the price of our common stock could decline.

The trading market for our common stock relies in part on the research and reports that industry or securities analysts publish about us or our business. We do not currently have and may never obtain extensive research coverage by industry or securities analysts. If more analysts do not commence coverage of us, the trading price of our common stock could decrease. If one or more of the analysts covering our business downgrade their evaluations of our common stock, the price of our common stock could decline. If one or more of these analysts cease to cover our common stock, we could lose visibility in the market for our common stock, which in turn could cause the price of our common stock to decline.

Our amended and restated bylaws designate a state or federal court located within the State of Delaware as the exclusive forum for substantially all disputes between us and our stockholders, and also provide that the federal district courts will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act, each of which could limit our stockholders' ability to choose the judicial forum for disputes with us or our directors, officers, stockholders, or employees.

Our amended and restated certificate of incorporation specifies that, unless we consent in writing to the selection of an alternative forum, the sole and exclusive forum for (a) any derivative action or proceeding brought on our behalf, (b) any action asserting a claim of breach of a fiduciary duty owed by any of our current or former directors, stockholders, officers, or other employees to us or our stockholders, (c) any action or proceeding asserting a claim arising pursuant to, or seeking to enforce any right, obligation or remedy under, any provision of the Delaware General Corporation Law, our amended and restated certificate of incorporation, or our amended and restated bylaws, (d) any action or proceeding as to which the Delaware General Corporation Law confers jurisdiction on the Court of Chancery of the State of Delaware, or (e) any action or proceeding asserting a claim that is governed by the internal affairs doctrine shall be the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have jurisdiction, another state court in Delaware or, if no state court in Delaware has jurisdiction, the federal district court for the District of Delaware) and any appellate court therefrom, in all cases subject to the court having jurisdiction over the claims at issue and the indispensable parties; provided that the exclusive forum provision will not apply to suits brought to enforce any liability or duty created by the Exchange Act.

Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all such Securities Act actions. Accordingly, both state and federal courts have jurisdiction to entertain such claims. To prevent having to litigate claims in multiple jurisdictions and the threat of inconsistent or contrary rulings by different courts, among other considerations, our amended and restated bylaws also provide that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act.

Any person or entity purchasing or otherwise acquiring or holding or owning (or continuing to hold or own) any interest in any of our securities shall be deemed to have notice of and consented to the foregoing bylaw provisions. Although we believe these exclusive forum provisions benefit us by providing increased consistency in the application of Delaware law and federal securities laws in the types of lawsuits to which each applies, the exclusive forum provisions may limit a stockholder's ability to bring a claim in a judicial forum of its choosing for disputes with us or any of our directors, officers, stockholders, or other employees, which may discourage lawsuits with respect to such claims against us and our current and former directors, officers, stockholders, or other employees. Our stockholders will not be deemed to have waived our compliance with the federal securities laws and the rules and regulations thereunder as a result of our exclusive forum provisions. Further, in the event a court finds either exclusive forum provision contained in our amended and restated bylaws to be unenforceable or inapplicable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our results of operations.

Delaware law and provisions in our amended and restated certificate of incorporation and amended and restated bylaws might discourage, delay or prevent a change in control of our company or changes in our management and, therefore, depress the trading price of our common stock.

Our status as a Delaware corporation and the anti-takeover provisions of the Delaware General Corporation Law may discourage, delay or prevent a change in control by prohibiting us from engaging in a business combination with an interested stockholder for a period of three years after the person becomes an interested stockholder, even if a change of control would be

beneficial to our existing stockholders. In addition, our restated certificate of incorporation and restated bylaws contain provisions that may make the acquisition of our company more difficult, including the following:

- our board of directors is classified into three classes of directors with staggered three-year terms and directors will only be able to be removed from office for cause by the affirmative vote of holders of at least a majority of the voting power of our then outstanding capital stock;
- certain amendments to our amended and restated certificate of incorporation will require the approval of a majority of our board of directors and stockholders holding two-thirds of the voting power of our then outstanding capital stock;
- stockholder-proposed amendments to our amended and restated bylaws will require the approval of a majority of the stockholders entitled to vote, except certain provisions would require the affirmative vote of stockholders holding two-thirds of the voting power of our then outstanding capital stock;
- our stockholders will only be able to take action at a meeting of stockholders and will not be able to take action by written consent for any matter;
- vacancies on our board of directors will be able to be filled only by our board of directors and not by stockholders;
- only the chair of the board of directors, chief executive officer, president or a majority of the board of directors are authorized to call a special meeting of stockholders;
- certain litigation against us can only be brought in Delaware;
- our restated certificate of incorporation authorizes undesignated preferred stock, the terms of which may be established and shares of which may be issued, without the approval of the holders of our capital stock; and
- advance notice procedures apply for stockholders to nominate candidates for election as directors or to bring matters before an annual meeting of stockholders.

These anti-takeover defenses could discourage, delay, or prevent a transaction involving a change in control of our company. These provisions could also discourage proxy contests and make it more difficult for stockholders to elect directors of their choosing and to cause us to take other corporate actions they desire, any of which, under certain circumstances, could limit the opportunity for our stockholders to receive a premium for their shares of our capital stock and could also affect the price that some investors are willing to pay for our common stock.

Our ability to use net operating losses to offset future taxable income may be subject to certain limitations.

As of December 31, 2023, we had U.S. federal and state net operating loss carryforwards (NOLs) of \$109.6 million and \$76.0 million, respectively. The federal NOLs of \$1.3 million, generated before January 1, 2018, will begin to expire in 2034, but can be used to offset up to 100% of taxable income. Amounts generated after December 31, 2017 will carryforward indefinitely, but will be subject to a 80% taxable income limitation beginning in tax years after December 31, 2020, as provided by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). State NOLs, if not utilized, will begin to expire in 2029. We may use these NOLs to offset against taxable income for U.S. federal and state income tax purposes. Additionally, Section 382 of the Internal Revenue Code of 1986, as amended (the Code), may limit the NOLs we may use in any year for U.S. federal income tax purposes in the event of certain changes in ownership of our company. A Section 382 “ownership change” generally occurs if one or more stockholders or groups of stockholders who own at least 5% of a company’s stock increase their ownership by more than 50 percentage points over their lowest ownership percentage within a rolling three-year period. Similar rules may apply under state tax laws. We have not conducted a 382 study to determine whether the use of our NOLs is impaired. We may have previously undergone an “ownership change.” In addition, future issuances or sales of our stock, including certain transactions involving our stock that are outside of our control, could result in future “ownership changes.” “Ownership changes” that have occurred in the past or that may occur in the future could result in the imposition of an annual limit on the amount of pre-ownership change NOLs and other tax attributes we can use to reduce our taxable income, potentially increasing and accelerating our liability for income taxes, and also potentially causing those tax attributes to expire unused. States may impose other limitations on the use of our NOLs. Any limitation on using NOLs could, depending on the extent of such limitation and the NOLs previously used, result in our retaining less cash after payment of U.S. federal and state income taxes during any year in which we have taxable income, rather than losses, than we would be entitled to retain if such NOLs were available as an offset against such income for U.S. federal and state income tax reporting purposes, which could adversely impact our operating results.

We are an “emerging growth company” and a “smaller reporting company” and the reduced disclosure requirements applicable to emerging growth companies and smaller reporting companies may make our common stock less attractive to investors.

We are an “emerging growth company,” as defined in the JOBS Act. For so long as we remain an emerging growth company, we are permitted by SEC rules and plan to rely on exemptions from certain disclosure requirements that are applicable to other SEC registered public companies that are not emerging growth companies. These exemptions include not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes Oxley Act, not being required to comply with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor’s report providing additional information about the audit and the financial statements, reduced disclosure obligations regarding executive compensation and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. As a result, the information we provide stockholders will be different than the information that is available with respect to other public companies. To the extent that we continue to qualify as a “smaller reporting company,” as such term is defined in Rule 12b-2 under the Exchange Act, after we cease to qualify as an emerging growth company, we will continue to be permitted to make certain reduced disclosures in our periodic reports and other documents that we file with the SEC. We cannot predict whether investors will find our common stock less attractive if we rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

In addition, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. This allows an emerging growth company to delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected to avail ourselves of this exemption from new or revised accounting standards and, therefore, we will not be subject to the same new or revised accounting standards as other public companies that are not emerging growth companies. As a result, our financial statements may not be comparable to companies that comply with new or revised accounting pronouncements as of public company effective dates.

We incur significantly increased costs and management resources as a result of operating as a public company, and our management is required to devote substantial time to new compliance initiatives.

As a public company, we incur significant legal, accounting, compliance and other expenses that we did not incur as a private company and these expenses may increase even more after we are no longer an “emerging growth company.” Our management and other personnel need to devote a substantial amount of time and incur significant expense in connection with compliance initiatives. As a public company, we also bear all of the internal and external costs of preparing and distributing periodic public reports in compliance with our obligations under the securities laws.

In addition, regulations and standards relating to corporate governance and public disclosure, including the Sarbanes Oxley Act, and the related rules and regulations implemented by the SEC and Nasdaq, have increased legal and financial compliance costs and will make some compliance activities more time-consuming. We intend to invest resources to comply with evolving laws, regulations and standards, and this investment will result in increased general and administrative expenses and may divert management’s time and attention from our other business activities. If our efforts to comply with new laws, regulations and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to practice, regulatory authorities may initiate legal proceedings against us, and our business may be harmed. In the future, it may be more expensive or more difficult for us to obtain director and officer liability insurance as a public company, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage.

These factors could also make it more difficult for us to attract and retain qualified members of our board of directors, particularly to serve on our audit committee and compensation committee, and qualified executive officers.

We may be subject to securities litigation, which is expensive and could divert management attention.

The market price of our common stock has been and may continue to be volatile. The stock market in general, and the Nasdaq Stock Market and life sciences technology companies in particular, have experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of these companies. In the past, companies that have experienced volatility in the market price of their stock have been subject to securities class action litigation. We may be the target of this type of litigation in the future. Securities litigation against us could result in substantial costs and divert our management’s attention from other business concerns, which could seriously harm our business.

If we fail to maintain an effective system of internal control over financial reporting, we may not be able to accurately report our financial results in a timely manner or prevent fraud, which would adversely affect investor confidence in our company and harm our business.

Effective internal controls over financial reporting are necessary for us to provide reliable financial reports and, together with adequate disclosure controls and procedures, are designed to prevent fraud. Any failure to implement required new or improved controls, or difficulties encountered in their implementation, could cause us to fail to meet our reporting obligations in a timely manner, or at all. Testing by us conducted in connection with Section 404(a) of the Sarbanes Oxley Act may reveal material weaknesses in our internal controls over financial reporting related to our limited finance, accounting and IT staffing levels. While the Company is implementing its remediation plan as further described in Item 4 above, management cannot provide assurances that the measures that have been taken to date, and are continuing to be implemented, will be sufficient to remediate the material weakness identified or to avoid potential future materials weaknesses. Subsequent testing by our independent registered public accounting firm in connection with Section 404(b) of the Sarbanes Oxley Act may reveal continued or additional deficiencies in our internal controls over financial reporting that are deemed to be significant deficiencies or material weaknesses or that may require prospective or retroactive changes to our financial statements or identify other areas for further attention or improvement. Ineffective internal controls could also cause investors to lose confidence in our reported financial information, which could have a negative effect on the trading price of our common stock.

We are required to disclose material changes made in our internal controls over financing reporting and procedures on a quarterly basis and our management are required to assess the effectiveness of these controls annually. We are also required to make a formal assessment of the effectiveness of our internal control over financial reporting, and once we cease to be an emerging growth company or a non-accelerated filer, we will be required to include an attestation report on internal control over financial reporting issued by our independent registered public accounting firm. However, for as long as we are an “emerging growth company” under the JOBS Act or a non-accelerated filer, our independent registered public accounting firm will not be required to attest to the effectiveness of our internal controls over financial reporting pursuant to Section 404(b) of the Sarbanes-Oxley Act.

To achieve compliance with Section 404(a) of the Sarbanes-Oxley Act, we engage in a process to document and evaluate our internal control over financial reporting, which is both costly and challenging. In this regard, we will need to implement our remediation plan, continue to dedicate internal resources, potentially engage additional outside consultants to assess the adequacy of our internal control over financial reporting, continue steps to improve control processes as appropriate, validate through testing that controls are designed and operating effectively and implement a continuous reporting and improvement process for internal control over financial reporting.

As of June 30, 2024, we have determined that our disclosure controls and procedures were not effective due to the previously identified material weakness in internal control and financial reporting as described herein. The effectiveness of our internal controls in future periods is subject to the risk that our controls may become further inadequate because of changes in conditions. We may be unable to timely remediate our material weakness and may discover additional weaknesses in our system of internal financial and accounting controls and procedures that could result in a material misstatement of our financial statements. Our internal control over financial reporting will not prevent or detect all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system’s objectives will be met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud will be detected.

If we are not able to comply with the requirements of Section 404 of the Sarbanes-Oxley Act in a timely manner, or if we are unable to maintain proper and effective internal controls over financial reporting, we may not be able to produce timely and accurate financial statements. If that were to happen, our investors could lose confidence in our reported financial information, the market price of our stock could decline and we could be subject to sanctions or investigations by the SEC or other regulatory authorities including equivalent foreign authorities.

If our estimates or judgments relating to our critical accounting policies are based on assumptions that change or prove to be incorrect, our results of operation could fall below our publicly announced guidance or the expectations of securities analysts and investors, resulting in a decline in the market price of our common stock.

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in our financial statements and accompanying notes. We base our estimates on historical experience and estimates and on various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets, liabilities, equity, revenue and expenses that are not readily apparent from other sources. For example, in connection with the implementation of the new revenue accounting standard related to product sales, management makes judgments and assumptions based on our interpretation of the new standard. The new revenue standard is principle-based and interpretation of those principles may vary from company to company based on their unique circumstances. It is possible that interpretation, industry practice and guidance may evolve as we apply the new standard. If our assumptions underlying our estimates and judgments relating to our critical accounting policies change or if actual circumstances

differ from our assumptions, estimates or judgments, our operating results may be adversely affected and could fall below our publicly announced guidance or the expectations of securities analysts and investors, resulting in a decline in the market price of our common stock.

Risks Related to Our Private Placement of Redeemable Convertible Preferred Stock and Accompanying Warrants

Sales of shares of our common stock underlying the Redeemable Convertible Preferred Stock and Warrants issued in our recent private placement may cause the market price of our shares to decline.

In connection with the Private Placement, we issued 280,000 shares of Redeemable Convertible Preferred Stock, which are convertible at any time into shares of our common stock at an agreed conversion rate. In addition, we issued Warrants to purchase an aggregate of 1,007,074 shares of our common stock. We granted the holders of Redeemable Convertible Preferred Stock and accompanying Warrants certain demand, shelf and “piggyback” registration rights with respect to the shares of common stock issuable upon conversion of the Redeemable Convertible Preferred Stock and/or exercise of the accompanying Warrants. Upon the effectiveness of such registration statement on August 3, 2023, the shares of common stock issuable upon conversion of the Redeemable Convertible Preferred Stock and/or exercise of the accompanying Warrants may be freely sold in the open market. The sale of a significant amount of these shares in the open market or the perception that these sales may occur could cause the market price of our common stock to decline or become highly volatile.

The issuance of shares of our Redeemable Convertible Preferred Stock reduced the relative voting power of holders of our common stock and dilutes the ownership of such holders.

Holders of our Redeemable Convertible Preferred Stock are entitled to vote, on an as-converted basis, together with holders of our common stock on all matters submitted to a vote of the holders of our common stock. As a result, the issuance of the Redeemable Convertible Preferred Stock effectively reduces the relative voting power of the holders of our common stock. Moreover, the conversion of the Redeemable Convertible Preferred Stock to shares of our common stock would dilute the ownership interest of existing holders of our common stock, and any sales in the public market of our common stock issuable upon conversion of the Redeemable Convertible Preferred Stock could adversely affect prevailing market prices of our common stock. Sales by such holders of a substantial number of shares of our common stock in the public market, or the perception that such sales might occur, could have a material adverse effect on the price of our common stock.

The holders of shares of the Redeemable Convertible Preferred Stock may exercise significant influence over us. Certain holders of our Redeemable Convertible Preferred Stock also have two members on our board of directors and have the right to designate an additional five out of the 13 members of our board of directors.

Notwithstanding the application of the conversion blockers contained in the Certificate of Designation that governs the Redeemable Convertible Preferred Stock and the terms of the Warrants, holders of the Redeemable Convertible Preferred Stock and accompanying Warrants owned approximately 79% of our shares of common stock on an as-converted basis as of June 30, 2024. Holders of our Redeemable Convertible Preferred Stock are entitled to vote, on an as-converted basis, together with holders of our common stock on all matters submitted to a vote of the holders of our common stock. As a result, the holders of shares of the Redeemable Convertible Preferred Stock have the ability to significantly influence the outcome of any matter submitted for the vote of the holders of our common stock.

In addition, under the terms of the Certificate of Designation that governs the Redeemable Convertible Preferred Stock, the Redeemable Convertible Preferred Stock generally ranks, with respect to liquidation, dividends and redemption, senior to other securities and, so long as any shares of Redeemable Convertible Preferred Stock remain outstanding, the approval of the holders of a majority of the Redeemable Convertible Preferred Stock is required (with the exception of (i), which requires the consent of a 75% supermajority of the Redeemable Convertible Preferred Stock) in order for the Company to, among other things, (i) amend, modify or fail to give effect to any right of holders of the Redeemable Convertible Preferred Stock, (ii) change the authorized number of Redeemable Convertible Preferred Stock, (iii) create 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 Stock in terms of liquidation preference or dividend rights, (iv) issue shares of common stock or securities convertible into common stock while we have insufficient shares to effect the conversion of the Redeemable Convertible Preferred Stock 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 (v) create any U.S. subsidiary that is not majority-owned by the Company, except for joint ventures created in the ordinary course of business or foreign subsidiaries created for regulatory purposes.

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In addition to the two members of our board of directors currently serving who represent Novalis and Northpond, under the terms of the Director Designation Side Letter, these stockholders also have a right to nominate five additional members of our board. Further, pursuant to the Director Designation Side Letter, we must ensure that at least a majority of our Nominating and Corporate Governance Committee consists of the Lender Nominees or their replacements, each subject to such stockholders continuing to beneficially own at least 10% of our outstanding common stock. Notwithstanding the fact that all directors are subject to fiduciary duties to us and to applicable law, the interests of these directors could potentially differ from the interests of our security holders as a whole or of our other directors.

The holders of Redeemable Convertible Preferred Stock have rights, preferences and privileges that are not held by, and are preferential to, the rights of our common stockholders.

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 Stock is 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 Stock 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 Stock is 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 Stock 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.

These provisions may make it more costly for a potential acquirer to engage in a business combination transaction with us. Provisions that have the effect of discouraging, delaying or preventing a change in control could limit the opportunity for our stockholders to receive a premium for their shares of our common stock and could also affect the price that some investors are willing to pay for our common stock. If there are insufficient assets to pay in full such amounts, then the available assets will be ratably distributed to the holders of the Redeemable Convertible Preferred Stock in accordance with the respective amounts that would be payable on such shares if all amounts payable thereon were paid in full. This will reduce the remaining amount of our assets, if any, available to distribute to holders of our common stock. The holders of Redeemable Convertible Preferred Stock also have a preferential right to receive cumulative dividends on the Accrued Value of each share of Redeemable Convertible Preferred Stock at a rate of 8% per annum, compounded quarterly 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. Dividends on the Redeemable Convertible Preferred Stock are payable in kind and will accrue on the Accrued Value of each share of Redeemable Convertible Preferred Stock 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 or applicable regulatory restrictions.

In addition, the holders of our Redeemable Convertible Preferred Stock also have certain redemption and conversion rights, including the right to request redemption by the Company after the seventh anniversary of the closing of the Private Placement.

Our obligations to the holders of Redeemable Convertible Preferred Stock could limit our ability to obtain additional financing or increase our borrowing costs, which could have an adverse effect on our financial condition. These preferential rights could also result in divergent interests between the holders of shares of Redeemable Convertible Preferred Stock and holders of our common stock.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

Unregistered Sales of Equity Securities

None.

Item 3. Defaults Upon Senior Securities

Not applicable.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

(a) On May 2, 2024, we entered into a separation agreement (the Separation Agreement) with Todd Nelson, our former Chief Executive Officer, which provides for Mr. Nelson's separation of employment and a release of claims. The Separation Agreement provides for (i) a lump-sum severance payment equal to twelve months of Mr. Nelson's then current base salary, (ii) 12 months of COBRA continuation coverage and (iii) vesting on his outstanding and unvested options and restricted stock units issued to Mr. Nelson so long as he continues to be a Service Provider (as defined in the Separation Agreement), in exchange for a waiver and release. Mr. Nelson will remain a member of our board of directors and, pursuant to the Separation Agreement, beginning one year following the effective date of the Separation Agreement and ending on the date of our 2025 annual meeting of stockholders, Mr. Nelson will be entitled to receive a pro-rated amount of annual cash compensation payable to a member of our board of directors pursuant to our Amended and Restated Outside Director Compensation Policy. Thereafter, Mr. Nelson will receive cash and equity compensation paid by us pursuant to our Amended and Restated Outside Director Compensation Policy if he is re-elected to our board of directors at or following our 2025 annual meeting of stockholders.

The foregoing description of the Separation Agreement does not purport to be complete and is qualified in its entirety to the Separation Agreement, a copy of which will be filed as an exhibit to our Quarterly Report on Form 10-Q for the period ending June 30, 2024.

(b) During the quarter ended June 30, 2024, none of our officers or directors, as defined in Rule 16a-1(f), informed us of the adoption or termination of a Rule 10b5-1 trading arrangement or a non-Rule 10b5-1 trading arrangement, each as defined in Regulation S-K Item 408.

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Item 6. Exhibits

<u>Exhibit Number</u>	<u>Description</u>	<u>Form</u>	<u>File No.</u>	<u>Exhibit</u>	<u>Filing Date</u>
3.1	Amended and Restated Certificate of Incorporation	S-1	333-256644	3.2	5/28/21
3.1.1	Certificate of Amendment to Amended and Restated Certificate of Incorporation	8-K	001-40497	3.1	5/6/24
3.2	Amended and Restated Bylaws	S-1	333-256644	3.4	5/28/21
3.3	Certificate of Designation of Redeemable Convertible Preferred Stock	8-K	001-40497	3.1	6/9/23
4.1	Form of Common Stock Certificate	S-1/A	333-256644	4.2	6/14/2021
10.1+	Separation and General Release Agreement				
10.2+	Amended Offer Letter between the Registrant and Eric Esser dated April 17, 2024				
31.1	Certification of Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.				
31.2	Certification of Principal Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.				
32.1†	Certifications of Principal Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.				
32.2†	Certifications of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.				
101.INS	Inline XBRL Instance Document				
101.SCH	Inline XBRL Taxonomy Extension Schema With Embedded Linkbase Documents				
104	The cover page for the Company's Quarterly Report on Form 10-Q has been formatted in Inline XBRL and contained in Exhibit 101				

+ Indicates management contract or compensatory plan.

† The certifications attached as Exhibit 32.1 and Exhibit 32.2 that accompany this Quarterly Report on Form 10-Q, are deemed furnished and not filed with the Securities and Exchange Commission and are not to be incorporated by reference into any filing of the Registrant under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date of this Quarterly Report on Form 10-Q, irrespective of any general incorporation language contained in such filing.

SIGNATURES

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

Telesis Bio Inc.

Date: August 8, 2024

By: /s/ Eric Esser

Eric Esser

President and Chief Executive Officer

(Principal Executive Officer)

Date: August 8, 2024

By: /s/ William J. Kullback

William J. Kullback

Chief Financial Officer

(Principal Financial Officer and Principal Accounting Officer)

Separation Agreement

The following agreement (“**Agreement**”) between Todd Nelson (“**you**”) and Telesis Bio Inc. (the “**Company**” and, together with you, the “**Parties**”) confirms your separation from employment and offers you certain benefits to which you would not otherwise be entitled, conditioned upon your provision of a general release of claims and the obligations set forth in this Agreement.

1. Separation from Employment: Your last day of employment with the Company was April 17, 2024 (the “**Separation Date**”). You will remain a member of the Company’s Board of Directors as a Class I director.

2. Final Pay and Benefits: You acknowledge and agree that the Company has provided you with your final pay, less lawful deductions (the “**Final Pay**”) through the Separation Date, in a timely manner and in accordance with your state’s law. Whether or not you execute this Agreement, you will be entitled to, and are not releasing your rights to, any benefits required to be provided to you pursuant to any employee benefit plans in which you are a participant. You may also have rights to continue your group health coverage under the federal law commonly called “COBRA,” or a state law equivalent.

3. Severance Benefits:

a. *Severance Pay*: The Company will pay you severance in the gross amount of \$618,000 (“**Severance Pay**”). This amount is equal to twelve (12) months of your current base salary, and will be paid in a lump sum payment within thirty (30) calendar days of the Effective Date. Severance Pay will be treated as taxable compensation, but is not intended by either party to be treated, and will not be treated, as compensation for purposes of eligibility or benefits under any benefit plan of the Company. The Company will apply required tax and other applicable withholdings to payments made to you.

b. *COBRA Premiums*: The Company will also pay twelve (12) months of COBRA premiums for you and, if applicable, your dependents, for your continued group health coverage to the appropriate health insurer, provided you elect COBRA coverage. However, the Company will discontinue any such payment of COBRA premiums upon the earlier of (i) the date when you become eligible for substantially equivalent health insurance in connection with new employment or self-employment, or (ii) the expiration of your continuation coverage under COBRA. You agree to immediately notify the Company in the event of (i) above.

c. *Acknowledgement & Consideration*: You acknowledge that the payment of the above benefits (“**Severance Benefits**”) include some benefit you would not have been entitled to if had you not signed this Agreement, and fully satisfy all the Company’s obligations to you, including but not limited to the severance benefits in the TelesisBio Inc. Change in Control Severance Agreement you signed on September 5, 2023.

4. Equity: You were granted one or more stock options (each, an “**Option**”) to purchase shares of the Company’s common stock (“**Common Stock**”) under the Company’s 2021 Stock Incentive Plan (the “**Plan**”). You were also granted one or more restricted stock unit awards (“**RSUs**”) under the Plan. The number of vested and unvested shares subject to the Options and RSUs are set forth on Exhibit B attached hereto. You agree that you have reviewed the Exhibit B and it is accurate as to the number of vested and unvested shares subject to your Options and RSUs as of the Separation Date. Pursuant to the applicable notice of stock option grants and stock option agreements (collectively, a “**Stock Option Agreement**”) between you and the Company, you will continue vesting while you are a Service Provider (as defined in the Plan) and any vested shares subject to your Option(s) as of the date you cease to be a

Service Provider shall remain exercisable at any time until the date three months after you cease to be a Service Provider, or such longer period of time provided for in the Stock Option Agreements, and such vested Options to the extent unexercised will expire on the applicable date. Pursuant to the applicable notice of stock of restricted stock unit grants and restricted stock unit agreements (collectively, an “**RSU Award Agreement**”) between you and the Company, you will continue vesting while you are a Service Provider and any unvested RSUs as of the date you cease to be a Service Provider will terminate immediately at such time as you cease to be a Service Provider. The Stock Option Agreements, RSU Award Agreements and, if applicable, any agreements or notices under which you acquired or acquire any shares subject to your Options or RSUs will remain in full force and effect, and you agree to remain bound by those agreements. Beginning one year following your Separation Date and ending on the date of the 2025 annual meeting of the Company’s stockholders (the “**2025 Annual Meeting**”), for so long as you serve as an Outside Director as defined in the Company’s Amended and Restated Outside Director Compensation Policy, you will be entitled to receive a pro-rated amount of the annual cash compensation payable to a member of the Board under such policy. Thereafter, if (and only if) you are re-elected to the Board at or following the 2025 Annual Meeting, you will be compensated in accordance with the Company’s Outside Director Compensation Policy as then in effect for so long as you are an “Outside Director” as defined in the policy. Except as set forth above, you further acknowledge and agree that you do not have any other rights to receive, acquire, or vest into any additional shares of Common Stock or other class of capital stock of the Company or any of its parent, subsidiary or affiliated entities.

5. Employee Representations: You acknowledge that the Company relies on these representations by you entering into this Agreement:

a. You do not have any claim against the Company or the Releasees (defined below), or otherwise have not made internal, administrative, or judicial complaints, claims, or actions against or regarding the Company or the Releasees, for claims you are releasing in this Agreement;

b. You have reported to the Company any work-related injuries or occupational illnesses sustained by you during your employment with the Company;

c. You have been properly provided any leaves of absence requested and available to you based on your or your family members’ health or medical condition or military service, and have not been subjected to any improper treatment, conduct, or actions due to a request for or taking such leave;

d. With receipt of your Final Pay, you have received all compensation due because of services you performed for the Company;

e. You have been properly provided paid time off and, consistent with the Company’s vacation policy, you will not have any accrued but unused vacation time or paid time off as of the Separation Date for which you are entitled to payment; and

f. You are not aware of any conduct by any person that violates Company policy or the Company’s legal, compliance, or regulatory obligations, or any other suspected ethical or compliance issues by the Company or the other Releasees that you have not brought to the attention of the Company.

6. Return of Company Property: Except as otherwise provided for in this Agreement, you acknowledge and agree that as a condition precedent for the Severance Benefits, you must return to the Company all of its property and data of any type in your possession, custody, or control including, but not limited to keys, access codes or devices, physical or electronically stored documents or files, computer equipment, cell phone, and passwords. You further agree to return all the Company’s property and data in the same working condition in which they were issued to you. Notwithstanding the foregoing,

- a. you will be permitted to retain your Surface Pro tablet;
- b. the Company will allow you to retain your Company email address and continued access to your email address for so long as you remain a member of the Company's Board of Directors; and
- c. the Company will work to transfer the service contract with respect to your mobile cellular device so that you may retain the number related to the same.

The Company agrees and acknowledges that the mobile cellular device referenced in clause c. above was purchased by you and that you will retain the same.

7. Proprietary Information: You acknowledge that you are bound and continue to be bound by the Company's Proprietary Information and Inventions Agreement (the "**Confidentiality Agreement**"), a copy of which is attached as Exhibit A.

8. General Release and Waiver of Claims: To the fullest extent permitted by law, you on behalf of yourself, your heirs, family members, executors, estates, agents and assigns, or any controlled affiliate and any trust or other entity of which you or your heirs, estates or family directly or indirectly hold a majority beneficial interest, fully, finally, and forever release and discharge the Company and its owners, agents, officers, shareholders, employees, directors, attorneys, subscribers, subsidiaries, affiliates, successors, investors, and assigns (collectively "**Releasees**") of and from all claims and potential claims that may legally be waived by private agreement, whether known or unknown, which you have asserted or could assert against the Company arising out of or relating in any way to acts, circumstances, facts, transactions, or omissions based on facts occurring up to and including the date you sign this Agreement (the "**Released Claims**"). The Released Claims specifically include but are not limited to: claims under common law or equity; claims for additional compensation or benefits arising out of your employment or your separation from employment; wage and hour claims; unlawful discharge; breach of contract; breach of the covenant of good faith and fair dealing; fraud; violation of public policy; defamation; physical injury; emotional distress; negligence; claims under Title VII of the 1964 Civil Rights Act; the Age Discrimination in Employment Act ("**ADEA**"); Older Workers Benefit Protection Act ("**OWBPA**"); the Employee Retirement Income Security Act of 1974 ("**ERISA**"); the Americans with Disabilities Act; the Workers Adjustment and Retraining Notification Act; the Equal Pay Act; the Family Medical Leave Act; the Civil Rights Act of 1866; the Pregnancy Discrimination Act; under the California Fair Employment and Housing Act, or the California Labor Code, and any other federal, state, or local laws, constitution, rule, ordinance, order, and/or regulations, including their amendments and respective implementing regulations.

By signing below, you expressly waive any benefits of Section 1542 of the Civil Code of the State of California, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

9. Protected Rights:

- a. You understand that nothing in this Agreement limits your ability to file a charge or complaint with, to provide documents or information voluntarily or in response to a subpoena or other

information request to, or to participate in an investigation or proceeding conducted by, the Equal Employment Opportunity Commission, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission, or any other federal, state, or local government agency or commission (each, a “**Government Agency**”). You further understand this Agreement does not limit your ability to communicate with any Government Agency or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company. This Agreement does not limit your right to receive an award for information provided to any Government Agency.

b. You understand that nothing in this Agreement: (i) applies to claims for unemployment or workers’ compensation benefits; (ii) applies to claims arising after the date you sign this Agreement; (iii) applies to claims for reimbursement of expenses under the Company’s expense reimbursement policies; (iv) applies to claims for any vested rights under the Company’s ERISA-covered employee benefit plans as applicable on the date you sign this Agreement; (v) applies to claims that controlling law clearly states may not be released by private agreement; (vi) limits or affects your right, if any, to challenge the validity of this Agreement under the ADEA or the OWBPA; (vii) applies to a non-disclosure or non-disparagement clause agreed to before a dispute arises involving a nonconsensual sexual act or sexual contact, including when the victim lacks capacity to consent, or relating to conduct that is alleged to constitute sexual harassment; (viii) precludes you from exercising your rights, if any, under Section 7 of the National Labor Relations Act (“NLRA”) or under similar state law to engage in protected, concerted activity with other employees, including discussing your compensation or terms and conditions of employment; or (ix) prevents you from discussing or disclosing information about unlawful or criminal acts in the workplace, such as harassment or discrimination or any other conduct that you have reason to believe is unlawful or waives your right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or alleged sexual harassment on the part of the Company, or on the part of the agents or employees of the Company, when you have been required or requested to attend such a proceeding pursuant to a court order, subpoena, or written request from an administrative agency or the legislature. However, by signing this Agreement, you are waiving your right to recover any individual relief, including any backpay, frontpay, reinstatement or other legal or equitable relief, in any charge, complaint, or lawsuit or other proceeding brought by you or on your behalf by any third party, except for any right you may have to receive a payment or award from a Government Agency (and not the Company) for information provided to said Government Agency and except as provided under applicable law.

c. Notwithstanding your confidentiality obligations to the Company under the Confidentiality Agreement, this Agreement, and otherwise, you understand that as provided by the Federal Defend Trade Secrets Act, you will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret made: (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (ii) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

d. You understand that upon the Effective Date, this Agreement will be final and binding. You promise not to pursue any claim released by this Agreement. If approached by anyone for counsel or assistance in the presentation or prosecution of any disputes, differences, grievances, claims, charges, or complaints against the Releasees, you shall do no more than simply say you cannot provide counsel or assistance. If you break this promise, or otherwise breach your obligations under the Agreement, you agree to pay the Company’s costs and expenses, including reasonable attorneys’ fees, related to the defense of any claims covered by this Agreement or any Releasee’s efforts to enforce this Agreement. Notwithstanding the foregoing, although you are releasing claims you may have under the ADEA and the OWBPA, you may challenge the knowing and voluntary nature of this release before a court, the Equal

Employment Opportunity Commission or any other Government Agency charged with the enforcement of any employment laws.

10. Cooperation: You agree to cooperate with the Company relating to matters within your knowledge or responsibility. Without limiting this commitment, you agree (i) to meet with Company representatives, its counsel, or other designees at mutually convenient times and places with respect to any items within the scope of this provision; (ii) to provide truthful testimony regarding same to any court, agency, or other adjudicatory body; and (iii) to provide the Company with notice of contact by any non-governmental adverse party or such adverse party's representative, except as may be required by law. The Company will reimburse you for reasonable expenses in connection with the cooperation described in this paragraph.

11. No Disparagement: Subject to the Protected Rights paragraph above, you agree that you will never make any disparaging, defamatory, or negative statements public or privately, online or offline, orally or in writing about the Company or its stockholders, directors, officers, employees, products, services or business practices, your employment with the Company, or the termination of that employment. The Company agrees to refrain from any disparaging statements, defamation, libel, or slander of or about you. You understand that the Company's obligations under this paragraph extend only to the Company's current executive officers and members of its Board of Directors and only for so long as each officer or member is an executive officer of the Company or Board of Director member, as applicable.

12. No Admission of Liability: This Agreement shall not be construed or contended by you to be an admission or evidence of any wrongdoing, unlawful conduct, or liability by the Company or the Releasees. This Agreement shall be afforded the maximum protection allowable under Federal Rule of Evidence 408 and/or any other state or federal law of similar effect. However, the Parties agree that this Agreement may be used as evidence in a subsequent proceeding in which any of the Parties allege a breach of this Agreement or as a complete defense to any lawsuit brought by any party.

13. Headings; Sub-Headings: Headings and sub-headings of the paragraphs and sub-paragraphs of this Agreement are intended solely for convenience of reference and no provision of this Agreement is to be construed based upon the heading or sub-heading of any paragraph or sub-paragraph.

14. Complete and Voluntary Agreement: This Agreement, including any exhibit(s), constitutes the entire agreement between you and Releasees regarding the subject hereof and supersedes all prior negotiations and agreements, whether written or oral, relating to such subject. Notwithstanding the foregoing, this Agreement shall not supersede obligations you may have under any agreements with the Company regarding the non-disclosure of trade secrets and confidential or proprietary information, prohibiting solicitation of customers, suppliers, or employees, prohibiting competition with the Company, assigning intellectual property, or providing for a dispute resolution mechanism. You acknowledge that neither the Company, the Releasees, nor their agents or attorneys have made any promise, representation or warranty, either express or implied, written or oral, which is not contained in this Agreement to induce you to execute the Agreement. You acknowledge that you have executed this Agreement in reliance only upon the promises, representations and warranties herein, and that you are executing this Agreement voluntarily and free of any duress or coercion.

15. Severability: The provisions of this Agreement are severable, and if any part of the Agreement is found to be invalid or unenforceable, the other parts shall remain valid and enforceable.

16. Modification; Counterparts; Electronic/PDF Signatures: You agree this Agreement may not be altered, amended, modified, or otherwise changed except by another written agreement that specifically refers to this Agreement, executed by authorized representatives of each party to this

Agreement. This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute the same instrument. Counterparts may be delivered via facsimile, electronic mail, or other electronic transmission method, and may be executed using any electronic signature method complying with the United States ESIGN Act of 2000 (e.g., www.docusign.com). Any such counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

17. Interpretation and Construction of Agreement: This Agreement shall be construed and interpreted under the laws of the state where you were last employed by the Company (California) without regard to conflict of laws principles. Moreover, this Agreement shall not be construed against either Party as the author or drafter of the Agreement.

18. Review of Separation Agreement; Effective Date: You understand that you may take up to twenty-one (21) calendar days to consider this Agreement (the “**Consideration Period**”). You agree changes to this Agreement, whether material or immaterial, do not toll or restart the Consideration Period. If you choose to sign this Agreement before the Consideration Period ends, you represent: (i) you freely chose to do so after carefully considering its terms; (ii) you are knowingly and voluntarily waiving the remainder of the Consideration Period; and (iii) your decision to waive the remainder of the Consideration Period was not induced by the Company through fraud, misrepresentation, or a threat to withdraw or alter the offer prior to the expiration of the Consideration Period, or by providing different terms to you for signing this Agreement prior to the expiration of the Consideration Period. You affirm that you were advised to consult with an attorney before signing this Agreement. You may not sign this Agreement before your Separation Date so if the Consideration Period ends before your Separation Date, then you may sign this Agreement and return it to the Company on your Separation Date. You also understand you may revoke this Agreement within seven (7) calendar days of signing (the “**Revocation Period**”) and that the Company will only provide you with the Severance Benefits after that Revocation Period has expired. Any revocation must be made in writing and delivered to Frank Witney at frwitney@gmail.com. This Agreement is effective on the eighth (8th) calendar day after you sign it, provided that you have not revoked it (the “**Effective Date**”).

(Remainder of Page Intentionally Left Blank; Signatures Follow Below)

The Parties have read this agreement and understand its legal and binding effect. The Parties are acting voluntarily, deliberately, and of their own free will in signing this agreement.

By: _____
Franklin R. Witney
Chair, Board of Directors
Telesis Bio Inc.

Date: _____

Todd Nelson

Date: _____
*** Do not sign before Separation Date***

Exhibits

Exhibit A: Confidentiality Agreement

Exhibit B: Equity Summary

EXHIBIT A
Confidentiality Agreement
(begins on next page)

EXHIBIT B
Equity Summary

Stock Options:

Grant Number	Grant Date	Total Option Shares	Vested Shares	Unvested Shares	ISO/NSO
OG-164	04/24/2021	67,340	33,670	33,670	ISO
OG-164Split	04/24/2021	633,660	419,058	214,602	NSO
OG-399	02/28/2022	7,646	0	7,646	ISO
OG-399Split	02/28/2022	175,854	84,104	91,750	NSO
OG-496	06/22/2023	176,194	48,578	127,616	ISO
OG-496Split	06/22/2023	209,306	55,828	153,478	NSO
Total:		=SUM(ABOVE) 1,270,000	=SUM(above) 641,238	=SUM(above) 628,762	

RSUs:

Grant Number	Grant Date	Total Shares subject to RSUs	Vested Shares	Unvested Shares
RSU-01	02/28/2022	47,900	23,950	23,950
RSU-16	06/22/2023	47,700	11,925	35,775
Total:		=SUM(ABOVE)) 95,600	=SUM(ABOVE) 35,875	=SUM(ABOVE) 59,725



April 17, 2024

Eric Esser

Dear Eric:

You and Codex DNA, Inc. (now Telesis Bio Inc., and referred to herein as the "Company") previously entered into an offer letter dated as of May 2, 2022 (the "Offer Letter"). As discussed, this letter confirms certain changes in employment terms effective as of April 17, 2024 (the "Effective Date"). Except as set forth below, the terms and conditions set forth in the Offer Letter will remain in full force and effect.

1. **Position.** Your new title will be President and Chief Executive Officer, and you will report to the Company's Board of Directors (the "Board"). On or following the Effective Date, you will also be appointed to and serve as a member of the Board, with a term expiring at the Company's 2026 Annual Meeting, so long as you continue to provide services to the Company.

2. **Cash Compensation.** Your salary for this position will initially be \$490,000 per year, less applicable withholdings, paid in accordance with the Company's normal payroll practices. Future adjustments in compensation, if any, will be made by the Company in its sole and absolute discretion. You will also be eligible to participate in the Company's 2024 Annual Performance Incentive Plan as it may be adopted and amended from time to time in the Company's sole and absolute discretion. Following the Effective Date, your annual bonus target will be increased to 100% of your base salary, which, to the extent earned, will be paid following the end of the calendar year, but in no event later than April 15th of the year following the year in which it is earned. Eligibility and the amount of the bonus will be dependent on milestones and goals as set forth in the current bonus program. In addition, you must be in good standing with the Company in order to be eligible to receive a bonus.

3. **Equity Awards.**

(a) Following the Effective Date and subject to the approval of the Board, you will be granted an option to purchase 200,000 shares of the Company's Common Stock (the "Option"). The exercise price per share of the Option will be determined by the Board when the Option is granted. The Option will be subject to the terms and conditions applicable to options granted under the Company's Stock Incentive Plan (the "Plan"), as described in the Plan and the applicable Stock Option Agreement. Subject to your continuous service with the Company, you will vest in 25% of the Option shares on the first anniversary of the Effective Date, which will be the equivalent of 12 months continuous service, and the balance will vest in equal monthly installments over the next 36 months of continuous service, as described in the applicable Stock Option Agreement. For the avoidance of doubt, this letter agreement



will not amend the terms of any options previously granted to you by the Company and such options will remain in effect and subject to the terms of the applicable Stock Option Agreement.

(b) Following the Effective Date and subject to the approval of the Board, you will be granted an award of 100,000 restricted stock units ("RSUs"). The RSUs will be subject to the terms and conditions applicable to RSUs granted under the Plan, as described in the Plan and the applicable RSU Agreement. Subject to your continuous service with the Company, 50% of the RSUs will vest on the first anniversary of the Effective Date and the remaining 50% of the RSUs will vest on the second anniversary of the Effective Date.

4. **Nondisclosure and Invention Assignment Agreement.** The Nondisclosure and Invention Assignment Agreement entered into between you and the Company will remain in full force and effect.

5. **Employment Relationship.** Your employment with the Company will continue to be for no specific period of time and will remain "at-will," meaning that either you or the Company may terminate your employment at any time and for any reason, with or without cause. Although your job duties, title, compensation and benefits, as well as the Company's personnel policies and procedures, may change from time to time, the "at-will" nature of your employment may only be changed in an express written agreement signed by you and a duly authorized officer of the Company (other than you). For the avoidance of doubt, the Change in Control Severance Agreement between you and the Company dated August 28, 2023 (the "CIC Severance Agreement") will remain in full force and effect.

6. **Interpretation, Amendment and Enforcement.** This letter agreement supersedes and replaces any prior agreements, representations or understandings (whether written, oral, implied or otherwise) between you and the Company relating to this subject matter and together with the Offer Letter, the CIC Severance Agreement and the Nondisclosure and Invention Assignment Agreement, except as amended hereby, constitutes the complete agreement between you and the Company regarding the subject matter set forth herein. This letter agreement may not be amended or modified, except by an express written agreement signed by both you and a duly authorized officer of the Company (other than you).

7. **General Provisions.**

(a) **Severability.** Whenever possible, each provision of this letter agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this letter agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this letter agreement will be reformed, construed and enforced in such jurisdiction to the extent possible in keeping with the intent of the parties.

(b) **Waiver.** Any waiver of any breach of any provisions of this letter agreement must be in writing to be effective, and it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision of this letter agreement.



(c) **Counterparts.** This letter agreement may be executed in separate counterparts, any one of which need not contain signatures of more than one party, but both of which taken together will constitute one and the same agreement.

(d) **Headings.** The headings of the sections hereof are inserted for convenience only and shall not be deemed to constitute a part hereof nor to affect the meaning thereof.

(e) **Successors and Assigns.** This letter agreement is intended to bind and inure to the benefit of and be enforceable by you and the Company, and our respective successors, assigns, heirs, executors and administrators, except that you may not assign any of your duties hereunder and you may not assign any of your rights hereunder without the written consent of the Company, which shall not be withheld unreasonably.

(f) **Choice of Law.** All questions concerning the construction, validity and interpretation of this letter agreement will be governed by the laws of the State of California.

* * * * *

You may indicate your agreement with these terms and accept the changes to your employment terms by signing this letter agreement and returning it to me.

If you have any questions, please contact me at _____.

Very truly yours,

TELESIS BIO INC.

By: ____

Title: ____

I have read and accept this letter agreement:

Signature of Eric Esser

Dated: ____

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

Pursuant to
Securities Exchange Act Rules 13a-14(a) and 15d-14(a),
As Adopted Pursuant to
Section 302 of the Sarbanes-Oxley Act of 2002

I, Eric Esser, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Telesis Bio Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Eric Esser

Eric Esser

President, Chief Executive Officer, and Director
(Principal Executive Officer)

Date: August 8, 2024

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

Pursuant to
Securities Exchange Act Rules 13a-14(a) and 15d-14(a),
As Adopted Pursuant to
Section 302 of the Sarbanes-Oxley Act of 2002

I, William Kullback, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Telesis Bio Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ William Kullback

William Kullback

Chief Financial Officer

(Principal Financial Officer and Principal Accounting Officer)

Date: August 8, 2024

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Telesis Bio Inc. (the "Company") on Form 10-Q for the period ended June 30, 2024, as filed with the Securities and Exchange Commission (the "Report"), Eric Esser, as Chief Executive Officer of the Company, hereby certifies, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350), to his knowledge:

1. The Report, fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act of 1934, as amended; and
2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Eric Esser

Eric Esser

President, Chief Executive Officer, and Director

(Principal Executive Officer)

Date: August 8, 2024

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Telesis Bio Inc. (the "Company") on Form 10-Q for the period ended June 30, 2024, as filed with the Securities and Exchange Commission (the "Report"), William Kullback, as Chief Financial Officer of the Company, hereby certifies, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350), to his knowledge:

1. The Report, fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act of 1934, as amended; and
2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ William Kullback

William Kullback

Chief Financial Officer

(Principal Financial Officer and Principal Accounting Officer)

Date: August 8, 2024
