

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

FORM 10-Q

(Mark One)

QUARTERLY REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 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: **000-55136**

Skye Bioscience, Inc.

(Exact name of registrant as specified in its charter)

Nevada

(State or other jurisdiction
of incorporation or organization)

45-0692882

(I.R.S. Employer
Identification No.)

11250 El Camino Real, Suite 100, San Diego, CA 92130

(Address of principal executive offices) (Zip Code)

(858) 410-0266

(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, par value \$0.001	SKYE	Nasdaq Global 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 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

As of May 9, 2024, there were 28,067,907 shares of the issuer's \$0.001 par value common stock issued and outstanding.

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PART I - FINANCIAL INFORMATION

Item 1. Financial Statements

SKYE BIOSCIENCE, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS

	March 31, 2024 (Unaudited)	December 31, 2023
ASSETS		
Current assets		
Cash	\$ 83,342,907	\$ 1,256,453
Restricted cash	9,080,202	9,080,202
Prepaid expenses	640,536	194,259
Other current assets	1,506,442	1,119,929
Total current assets	94,570,087	11,650,843
Property and equipment, net	36,076	43,276
Operating lease right-of-use asset	220,804	237,983
Other assets	8,309	8,309
Total assets	\$ 94,835,276	\$ 11,940,411
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current liabilities		
Accounts payable	\$ 1,095,134	\$ 1,155,785
Accrued interest - related party	124,658	126,027
Accrued payroll liabilities	353,462	888,381
Accrued interest - legal contingency	309,823	234,750
Other current liabilities	3,179,647	998,552
Estimate for legal contingency	6,053,468	6,053,468
Convertible note - related party, net of discount	4,609,203	4,371,998
Operating lease liability, current portion	75,535	72,038
Total current liabilities	15,800,930	13,900,999
Non-current liabilities		
Operating lease liability, net of current portion	150,953	171,230
Total liabilities	15,951,883	14,072,229
Commitments and contingencies (Note 9)		
Stockholders' equity (deficit)		
Preferred stock, \$0.001 par value; 200,000 shares authorized at March 31, 2024 and December 31, 2023; no shares issued and outstanding at March 31, 2024 and December 31, 2023	—	—
Common stock, \$0.001 par value; 100,000,000 shares authorized at March 31, 2024 and December 31, 2023; 28,062,907 and 12,349,243 shares issued and outstanding at March 31, 2024 and December 31, 2023, respectively	28,063	12,349
Additional paid-in-capital	188,257,410	102,238,382
Accumulated deficit	(109,402,080)	(104,382,549)
Total stockholders' equity (deficit)	78,883,393	(2,131,818)

Total liabilities and stockholders' equity (deficit)

<u>\$ 94,835,276</u>	<u>\$ 11,940,411</u>
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See accompanying notes to the condensed consolidated financial statements.

SKYE BIOSCIENCE, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(UNAUDITED)

	For the Three Months Ended March 31,	
	2024	2023
Operating expenses		
Research and development	\$ 1,946,450	\$ 1,184,880
General and administrative	4,205,800	1,915,278
Total operating expenses	6,152,250	3,100,158
Operating loss	(6,152,250)	(3,100,158)
Other (income) expense		
Interest expense	436,936	18,396
Interest income	(426,514)	(24,514)
(Gain) loss from asset sales	(1,145,141)	307,086
Debt conversion inducement expense	—	1,383,285
Wind-down costs	—	383,109
Total other (income) expense, net	(1,134,719)	2,067,362
Loss before income taxes	(5,017,531)	(5,167,520)
Provision for income taxes	2,000	—
Net loss	\$ (5,019,531)	\$ (5,167,520)
Loss per common share:		
Basic	\$ (0.18)	\$ (1.37)
Diluted	\$ (0.18)	\$ (1.37)
Weighted average shares of common stock outstanding used to compute earnings per share:		
Basic	27,999,901	3,767,578
Diluted	27,999,901	3,767,578

See accompanying notes to the condensed consolidated financial statements.

SKYE BIOSCIENCE, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(UNAUDITED)

	For the Three Months Ended March 31,	
	2024	2023
Cash flows from operating activities:		
Net loss	\$ (5,019,531)	\$ (5,167,520)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	27,560	33,174
Stock-based compensation expense	2,478,179	131,579
Amortization of debt discount	237,205	—
(Gain) loss from divestiture of assets	(1,145,141)	307,086
Debt conversion inducement expense	—	1,383,285
Accrued interest conversion expense	—	15,952
Foreign currency remeasurement gain	—	(45,351)
Changes in assets and liabilities:		
Prepaid expenses	(446,277)	96,668
Other current assets	(386,513)	(258,443)
Accounts payable	(60,652)	(445,903)
Accounts payable - related parties	—	(20,331)
Accrued interest - related party	(1,369)	—
Accrued interest - legal contingency	75,073	—
Accrued payroll liabilities	(534,919)	134,767
Operating lease liability	(16,780)	2,618
Other current liabilities	85,042	(132,654)
Other current liabilities - related parties	—	(95,850)
Net cash used in operating activities	<u>(4,708,123)</u>	<u>(4,060,923)</u>
Cash flows from investing activities:		
Proceeds from the sale of assets, net of sales costs	1,145,141	5,532,266
Purchase of property and equipment	(3,181)	(1,860)
Net cash provided by investing activities	<u>1,141,960</u>	<u>5,530,406</u>
Cash flows from financing activities:		
Proceeds from the issuance of common stock and warrants, net of equity issuance costs of \$4,338,393	85,652,617	—
Repayment of insurance premium loan payable	—	(45,307)
Net cash provided by (used in) financing activities	<u>85,652,617</u>	<u>(45,307)</u>
Net increase in cash and restricted cash	82,086,454	1,424,176
Cash and restricted cash, beginning of period	<u>\$ 10,336,655</u>	<u>\$ 1,249,107</u>
Cash and restricted cash, end of period	<u>\$ 92,423,109</u>	<u>\$ 2,673,283</u>

Supplemental disclosures of cash-flow information:

Reconciliation of cash and restricted cash:

Cash	\$	83,342,907	\$	2,668,697
Restricted cash		9,080,202		4,586
Total cash and restricted cash shown in the condensed consolidated statements of cash flows	\$	92,423,109	\$	2,673,283

Cash paid during the period for:

Interest	\$	126,027	\$	4,275
Income taxes		2,000		5,141

Supplemental disclosures of non-cash financing activities:

Accrued financing charges	\$	2,096,054	\$	—
Common stock warrant exercises		—		282,905
Conversion of multi-draw credit agreement		—		1,565,470
Conversion of accrued interest due to related party		—		31,766
Financing of insurance premium		—		203,884

See accompanying notes to the condensed consolidated financial statements.

SKYE BIOSCIENCE, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)
(UNAUDITED)

	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total Stockholders' Equity/ (Deficit)
	Shares	Amounts			
Balance, January 1, 2024	12,349,243	\$ 12,349	\$ 102,238,382	\$ (104,382,549)	\$ (2,131,818)
Stock-based compensation expense	—	—	2,478,179	—	2,478,179
Issuance of common stock and warrants, net of issuance costs of \$6,434,447	15,713,664	15,714	83,540,849	—	83,556,563
Net loss	—	—	—	(5,019,531)	(5,019,531)
Balance, March 31, 2024	28,062,907	\$ 28,063	\$ 188,257,410	\$ (109,402,080)	\$ 78,883,393

	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total Stockholders' Equity/ (Deficit)
	Shares	Amounts			
Balance, January 1, 2023	3,654,119	\$ 3,654	\$ 63,726,057	\$ (66,737,765)	\$ (3,008,054)
Stock-based compensation expense	—	—	131,579	—	131,579
Exercise of pre-funded warrants	66,566	66	282,839	—	282,905
Conversion of multi-draw credit agreement - related party and accrued interest	165,517	166	2,980,355	—	2,980,521
Net loss	—	—	—	(5,167,520)	(5,167,520)
Balance, March 31, 2023	3,886,202	\$ 3,886	\$ 67,120,830	\$ (71,905,285)	\$ (4,780,569)

See accompanying notes to the condensed consolidated financial statements.

SKYE BIOSCIENCE, INC. AND SUBSIDIARIES
NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

1. Organization, Basis of Presentation and Significant Accounting Policies

Nature of Operations

Skye Bioscience, Inc. (the “Company” or “Skye”) was incorporated in Nevada on March 16, 2011. The Company is a clinical stage pharmaceutical company focused on the discovery, development and commercialization of novel classes of therapeutic drugs that modulate the endocannabinoid system, which has been shown to play a vital role in overall human health. Notably, the Company is developing drugs with novel mechanisms of action targeting the CB1 receptor through its own research and development efforts.

As of March 31, 2024, the Company has devoted substantially all its efforts to securing its product pipeline (through a strategic acquisition and academic licenses), carrying out its own research and development, preparing for and conducting clinical trials, building infrastructure and raising capital. The Company has not yet realized revenue from its planned principal operations and is a number of years away from potentially being able to do so.

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles (“GAAP”) for interim financial information and the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. Interim financial results are not necessarily indicative of results anticipated for the full year, or any future periods.

The Unaudited Condensed Consolidated Financial Statements included in this Quarterly Report on Form 10-Q should be read in conjunction with the Audited Consolidated Financial Statements and notes thereto included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2023, from which the prior year balance sheet information herein was derived. The Unaudited Condensed Consolidated Financial Statements included in this Quarterly Report on Form 10-Q should be read in conjunction with the Audited Consolidated Financial Statements and notes thereto included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2023.

Certain reclassifications have been made to the amounts in prior periods to conform to the current period’s presentation, primarily the separate classification of prepaid expenses and other current assets on the Company’s condensed balance sheet, and condensed statement of cash flows and change in fair value of derivative liability and interest expense on the condensed statement of operations. Such reclassifications did not have a material impact on the Unaudited Condensed Financial Statements.

During Q1 2024, there were no changes to our significant accounting policies as described in our Annual Report on Form 10-K for the fiscal year ended December 31, 2023.

Pronouncements Implemented

In November 2023, the FASB issued ASU 2023-07, *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures*. The amendments in this ASU require disclosures, on an annual and interim basis, of significant segment expenses that are regularly provided to the chief operating decision maker (“CODM”), as well as the aggregate amount of other segment items included in the reported measure of segment profit or loss. This ASU requires that a public entity disclose the title and position of the CODM and an explanation of how the CODM uses the reported measure(s) of segment profit or loss in assessing segment performance and deciding how to allocate resources. This ASU is effective for fiscal years beginning after December 15, 2023, and interim periods within fiscal years beginning after December 15, 2024, with early adoption permitted. The amendments in this ASU should be applied retrospectively to all prior periods presented in the financial statements. We early adopted the ASU and determined that its adoption did not have a material impact on the Company’s consolidated financial statements and related disclosures. As defined the ASU, operating segments are defined as components of an enterprise about which discrete financial information is available that is evaluated regularly by the CODM in making decisions on how to allocate resources and assess performance for the organization. The Company operates and manages its business as one reportable and operating segment — pharmaceutical development. The Company’s chief operating decision maker is the Chief Executive Officer. The Company’s chief operating decision maker reviews consolidated operating results to make decisions about allocating resources and assessing performance for the entire Company.

In August 2020, the Financial Accounting Standards Board ("FASB") issued ASU 2020-06, *Debt - Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging - Contracts in Entity's Own Equity (Subtopic 815-40)*. The new standard reduces the number of accounting models for convertible debt instruments, amends the accounting for certain contracts in an entity's own equity, and modifies how certain convertible instruments and contracts that may be settled in cash or shares impact the calculation of diluted earnings per share. Specifically, the guidance removes certain accounting models that separate the embedded conversion features from the host contract for convertible instruments and requires the use of the if-converted method to calculate diluted earnings per share. The adoption of this standard did not have an impact on the Company's Consolidated Financial Statements.

Recent Accounting Pronouncements Not Yet Adopted

In December 2023, the FASB issued ASU 2023-09, *Improvements to Income Tax Disclosures*. This ASU requires greater disaggregation of information about a reporting entity's effective tax rate reconciliation as well as information on income taxes paid. This ASU applies to all entities subject to income taxes and is intended to help investors better understand an entity's exposure to potential changes in jurisdictional tax legislation and assess income tax information that affects cash flow forecasts and capital allocation decisions. This ASU is effective for annual periods beginning after December 15, 2024, with early adoption permitted. This ASU should be applied on a prospective basis although retrospective application is permitted. The Company is currently evaluating the impact the adoption of this ASU will have on its consolidated financial statements and related disclosures.

2. Asset Dispositions

Sale of real estate

The wind down of Emerald Health Therapeutics, Inc. ("EHT's") operations included the disposition of real estate held by AVI (the "AVI building"). At the time of the EHT Acquisition, none of the purchase consideration was allocated to the fair value of the AVI building. As a result of the sale, for the three months ended March 31, 2024, the Company recorded a gain on sale of \$1,145,141 in other (income) expense, net of sales costs.

Divestiture of VDL

On February 9, 2023, the Company sold Verdélite Sciences, Inc. ("VDL"). For the three months ended March 31, 2023, the Company has recorded a loss on sale of asset of \$307,086 in other (income) expense based on the difference between the carrying amount of the assets sold and the net cash proceeds.

3. Prepaid Expenses, Other Current Assets and Liabilities

Prepaid expenses consist of the following:

	As of March 31, 2024	As of December 31, 2023
Clinical expenses	\$ 86,940	\$ 61,352
Other prepaid expenses	553,596	132,907
	\$ 640,536	\$ 194,259

Other current assets consist of the following:

	As of March 31, 2024	As of December 31, 2023
AusIndustry incentive	\$ 525,707	\$ 540,604
Vendor deposits	814,195	403,439
Excise tax bonds	123,051	125,784
Other tax receivables	26,228	32,458
Other current assets	17,261	17,644
	\$ 1,506,442	\$ 1,119,929

Other current liabilities consist of the following:

	As of March 31, 2024	As of December 31, 2023
Accrued placement agent fees	\$ 2,096,054	\$ —
Research and development costs	452,465	467,784
Legal fees	298,711	258,213
EHT Acquisition related liabilities	123,169	180,897
Professional and consulting fees	124,586	69,468
Other accrued liabilities	84,662	22,190
	\$ 3,179,647	\$ 998,552

4. Warrants

There are significant judgements and estimates inherent in the determination of the fair value of the Company's warrants. These judgements and estimates include assumptions regarding the Company's future operating performance and the determination of the appropriate valuation methods.

Warrants

Warrants vested and outstanding as of March 31, 2024 are summarized as follows:

Source	Exercise Price	Weighted Average Remaining Contractual Term (Years)	Number of Warrants Outstanding
2015 Common Stock Warrants	\$ 1,250.00	1.07	400
2016 Common Stock Warrants to Service Providers	287.50	2.59	160
2019 Common Stock Warrants	87.50	0.64	32,000
2020 Common Stock Warrants to Placement Agent	20.00	1.33	32,668
2021 Inducement Warrants	37.50	2.32	84,667
2021 Inducement Warrants to Placement Agent	47.00	2.32	5,927
2021 Common Stock Warrants	22.50	2.50	311,113
2021 Common Stock Warrants to Placement Agent	27.50	2.50	21,778
2022 Common Stock Warrants to Service Provider	10.00	0.00	8,000
November 2019 EHT Common Stock Warrants	72.25	0.67	34,213
December 2019 EHT Common Stock Warrants	37.25	0.75	3,783
February 2020 EHT Common Stock Warrants	37.25	0.86	80,694
August 2023 Convertible Note Common Stock Warrants	5.16	9.39	340,000
August 2023 PIPE Financing Common Stock Warrants	5.16	9.39	2,325,537
January 2024 Pre-Funded Warrants Common Stock	0.001	Indefinite	9,978,739
Total warrants outstanding as of March 31, 2024			13,259,679

As of March 31, 2024, all of the Company's warrants are fully vested

January 2024 Pre-Funded Warrants

In connection with the January 2024 PIPE Financing (see Note 6), the Company entered into a Securities Purchase Agreement (the "January 2024 SPA"), pursuant to which the Company agreed to use and sell at closing to certain accredited institutional investors pre-funded warrants (the "Pre-Funded Warrants") to purchase shares of common stock of the Company. Per the January 2024 SPA, accredited institutional investors purchased Pre-Funded Warrants to purchase up to 9,978,739 shares of common stock at a price of \$2.30 per Pre-Funded Warrant. The Pre-Funded Warrants have an exercise price of \$0.001 per share, will be exercisable immediately and will be exercisable until exercised in full. The gross proceeds from the issuance of these Pre-Funded Warrants was \$22,991,015. The Company determined that the Pre-Funded Warrants are freestanding instruments that do not meet the definition of a liability or derivative. The Pre-Funded Warrants are indexed to the Company's common stock and meets all other conditions for equity classification. Accordingly, the Pre-Funded Warrants are classified as equity and is accounted for as a component of additional paid-in capital at the time these were issued. The Company also determined that the Pre-Funded Warrants should be included in the determination of basic and diluted earnings per share calculation.

5. Debt

The Company's convertible debt consists of the following:

	As of March 31, 2024	As of December 31, 2023
Total principal value of convertible note - related party, net of discount	\$ 5,000,000	\$ 5,000,000
Unamortized debt discount	(379,947)	(610,749)
Unamortized debt issuance costs	(10,850)	(17,253)
Carrying value of total convertible debt - related party	\$ 4,609,203	\$ 4,371,998

Convertible Note - Related Party

On August 15, 2023, the Company entered into a Secured Note and Warrant Purchase Agreement with MFDI, LLC ("MFDI"), pursuant to which the Company issued to MFDI a \$5,000,000 secured convertible promissory note (the "Convertible Note") and a warrant to purchase 340,000 shares of common stock on August 18, 2023 (the "Convertible Note Financing") (Note 4). The Convertible Note bears interest at a rate of 10% per annum and matures on August 18, 2024, unless earlier repurchased or converted. MFDI can elect to convert the Convertible Note at any time and the conversion price is fixed at \$5.16. Accrued interest will be payable quarterly within 30 days of the last day of each calendar quarter. The Company may prepay the principal or interest outstanding under the Note at any time without penalty. The debt discounts related to the warrants, and debt issuance costs, are being amortized over the term of the Convertible Note using the effective interest rate method. Amortization of the debt discount is recognized as non-cash interest expense in Other (income) expense within the Consolidated Statements of Operations. As of March 31, 2024 the fair value of the Company's Convertible Note approximates its intrinsic value which is equal to \$10,155,039. The intrinsic value of the Convertible Note was calculated as the excess fair value of the underlying conversion shares over the principal value of the Convertible Note. The Convertible Note is classified as Level 2 of the fair value hierarchy model based on market prices that can be corroborated with observable market data for the Company's common stock.

For the three months ended March 31, 2024, the effective interest rate on the Convertible Note was 1.39%.

Interest Expense

The Company's interest expense consists of the following:

	Three Months Ended March 31,	
	2024	2023
Related party interest expense – stated rate	\$ 124,658	\$ 15,952
Legal judgment interest expense	75,073	—
Other interest expense	—	2,444
Non-cash interest expense:		
Amortization of debt discount	237,205	—
	\$ 436,936	\$ 18,396

6. Stockholders' Equity and Capitalization

PIPE Financings

January 2024 PIPE Financing

On January 29, 2024, the Company entered into a securities purchase agreement, pursuant to which on January 31, 2024, the Company issued an aggregate of 11,713,664 shares of common stock and 9,978,739 pre-funded warrants to purchase up to 9,978,739 shares of common stock (the "January 2024 PIPE Financing") for an aggregate purchase price of \$49,991,010. The January 2024 PIPE Financing was priced at \$2.31 per common share and per \$2.30 pre-funded warrant based on the 5-day average share price preceding January 29, 2024. The pre-funded warrants are exercisable at any time for an exercise price of \$0.001.

In connection with the January 2024 PIPE Financing, the Company incurred \$3,823,752 in direct equity issuance costs for net proceeds of \$46,167,258.

March 2024 PIPE Financing

On March 11, 2024, the Company entered into a securities purchase agreement, pursuant to which on March 13, 2024, the Company issued an aggregate of 4,000,000 shares of common stock (the "March 2024 PIPE Financing") for an aggregate purchase price of \$40,000,000. The March 2024 PIPE Financing was priced at \$10.00 per common share.

In connection with the March 2024 PIPE Financing, the Company incurred \$2,610,695 in direct equity issuance costs for net proceeds of approximately \$37,389,305.

7. Stock-Based Compensation

Stock Incentive Plan

On October 31, 2014, the Board of Directors approved the Company's 2014 Omnibus Incentive Plan. On June 14, 2022, the Board approved the 2014 Amended and Restated Omnibus Incentive Plan (the "2014 Amended and Restated Plan") which replaced the 2014 Omnibus Incentive Plan in its entirety.

On September 29, 2023, the Board and Majority Stockholders adopted and approved Amendment No. 1 to the 2014 Amended and Restated Plan. Amendment No. 1 to the 2014 Amended and Restated Plan became effective on November 6, 2023. As of March 31, 2024, 2,464,345 shares were authorized for the issuance under the 2014 Plan.

The Company has reserved shares for issuance under our equity incentive plan upon share option exercise. As of March 31, 2024, the Company had 127,034 shares available for future grant under the 2014 Plan.

Stock Options

The following is a summary of option activities under the Company's 2014 Amended and Restated Plan for the three months ended March 31, 2024:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value*
Outstanding, December 31, 2023	498,298	\$ 8.96	7.24	\$ 20,441
Granted	703,100	14.56		
Outstanding, March 31, 2024	1,201,398	\$ 12.23	9.37	\$ 5,678,677
Exercisable, March 31, 2024	218,793	\$ 16.09	7.82	\$ 1,442,967

*The aggregate intrinsic value is the sum of the amounts by which the quoted market price of the Company's stock exceeded the exercise price of the stock options at March 31, 2024 for those stock options for which the quoted market price was in excess of the exercise price ("in-the-money options").

The weighted-average grant-date fair value of stock options granted during the three months ended March 31, 2024, was \$1.60.

The fair value of the Company's stock option grants were estimated on the date of grant using the Black-Scholes option-pricing model under the following assumptions:

	Three Months Ended March 31, 2024
Dividend yield	0.00%
Volatility factor	99.58% - 99.96%
Risk-free interest rate	4.26%
Expected term (years)	5.27 - 6.08

Restricted Stock Units

On February 29, 2024, the Company granted RSUs to its executive management team and to certain members of the Board with market based vesting conditions. The RSUs are eligible to vest subject to the achievement and attainment of certain market capitalization target goals and share price targets (market-based vesting conditions). The Company used the Monte Carlo Simulation model to evaluate the derived service period and fair value of awards with market and performance conditions, including assumptions of historical volatility and risk-free interest rate commensurate with the vesting term.

The fair value of the Company's market-based RSUs were estimated on the date of grant under the following assumptions:

	Three Months Ended March 31, 2024
Dividend yield	0.00%
Volatility factor	93.71%
Risk-free interest rate	4.16%
Derived service periods (years)	1.27 - 2.48

The following is a summary of restricted stock unit activity during the year ended March 31, 2024:

	Number of Shares	Weighted Average Grant Date Fair Value
Unvested, December 31, 2023	847,777	\$ 3.66
Granted	275,000	14.10
Unvested, March 31, 2024	1,122,777	\$ 6.21

Stock-Based Compensation Expense

The Company recognizes stock-based compensation expense using the straight-line method over the requisite service period or derived service period. The Company recognized stock-based compensation expense for the stock options and the RSUs discussed above, in its Unaudited Condensed Consolidated Statements of Operations as follows:

	Three Months Ended March 31,	
	2024	2023
Research and development	\$ 391,611	\$ 44,468
General and administrative	2,086,568	87,111
	\$ 2,478,179	\$ 131,579

During the three months ended March 31, 2024, the first three market based conditions of the RSUs granted in August 2023 were met and the Company recognized \$1,777,673 in stock based compensation related to these awards.

The total amount of unrecognized compensation cost was \$14,398,828 as of March 31, 2024. This amount will be recognized over a weighted average period of 4.75 years.

8. Loss Per Share of Common Stock

The following tables are a reconciliation of the numerators and denominators used in the calculation of basic and diluted net loss per share computations:

	Three Months Ended March 31, (Unaudited)	
	2024	2023
Basic EPS and diluted EPS:		
Loss (Numerator)		
Net loss	\$ (5,019,531)	\$ (5,167,520)
Shares (Denominator)		
Weighted average common shares outstanding(1)	27,999,901	3,767,578
Per-Share Amount	\$ (0.18)	\$ (1.37)

The following outstanding shares of common stock equivalents were excluded from the computation of diluted net loss per share of common stock for the periods presented because including them would have been anti-dilutive:

	Three Months Ended March 31, (Unaudited)	
	2024	2023 (1)
Stock options	1,201,398	175,733
Warrants	3,280,940	708,373
Unvested restricted stock units	503,444	10,667
Unvested restricted stock	5,000	—
Convertible Debt	968,922	—

(1) Previously reported outstanding shares of common stock equivalents were adjusted for the effects of the reverse stock split at a ratio of one-for-two hundred and fifty (1-for-250). The reverse stock split was transacted on September 6, 2023.

9. Contingencies

General Litigation and Disputes

From time to time, in the normal course of operations, the Company may be a party to litigation and other dispute matters and claims. Litigation can be expensive and disruptive to normal business operations. Moreover, the results of complex legal proceedings are difficult to predict. An unfavorable outcome to any legal matter, if material, could have a materially adverse effect on the Company's operations or financial position, liquidity or results of operations.

Wendy Cuning vs Skye Bioscience, Inc.

The Company is a party to a legal proceeding with a former employee alleging, among other things, wrongful termination, violation of whistleblower protections under the Sarbanes-Oxley Act of 2002, and retaliation under California law against the Company relating to certain actions and events that occurred with the Company's former management during the employee's employment term from March 2018 to July 2019. The case, entitled *Wendy Cuning vs Skye Bioscience, Inc.*, was filed in U.S. District Court (the "District Court") for the Central District of California (the "Cuning Lawsuit"). On January 18, 2023, a jury rendered a verdict in favor of Ms. Cuning and awarded her \$512,500 in economic damages (e.g., lost earnings, future earnings and interest), \$840,960 in non-economic damages (e.g., emotional distress) and \$3,500,000 in punitive damages. On February 13, 2023, the Company received the final judgment on the special verdict (the "Final Judgment") from the District Court.

On August 2, 2023, the District Court ruled on the plaintiff's motion for attorney fees and awarded the plaintiff \$1,200,008. Based on this order, the Company reduced the aggregate estimate for the legal contingency by \$151,842, the difference between the attorney fees awarded by the District Court and the Company's previous estimate.

Immediately prior to the closing of the PIPE Financing, on August 17, 2023, the Company obtained a stay on enforcement of the judgment in the Cuning Lawsuit by posting an appeal bond in the amount of \$9,080,202.

On October 19, 2023, the Company received the final orders from the District Court denying the post-trial motions that the Company filed with the District Court in March 2023 seeking judgment as a matter of law, a new trial, and/or a reduction of the judgment. Additionally, in March of 2023, the Company appealed the judgment in the Cunning Lawsuit to the Ninth District Court of Appeals, which is moving forward now that the District Court has ruled on the post-trial motions.

The Company strongly believes that this case was incorrectly decided as to liability, the amount of compensatory damages, and the appropriateness and amount of punitive damages. The Company is challenging the verdict in the Ninth District Court of Appeals and is pursuing reimbursement under its existing insurance policies, but given the jury verdict, the Company has determined that a loss is probable and accordingly have recorded a legal contingency expense and a current balance sheet liability for the total amount of the jury verdict. The Company has recorded an aggregate estimate for the legal contingency of \$6,053,468 plus accrued interest of \$309,823 at an annual interest rate of 4.9% on the judgment and 5.38% on the legal fees, which is determined by the Superior Court of California. Depending on the judge's final order on the post-trial motions and appeal, it is reasonably possible that the legal contingency booked could materially change after the issuance of these financials.

For the three months ended March 31, 2024, the Company recorded interest expense of \$5,073 and nil, respectively, which is included in Other (income) expense in the Condensed Consolidated Statements of Operations (Note 5).

Skye Bioscience, Inc. vs Partner Re Ireland Insurance

In February 2023, the Company brought a suit against the Company's D&O carrier, Partner Re Ireland Insurance DAC ("Partner Re"), bringing claims for (a) breach of contract, (2) tortious breach of the implied covenant of good faith and fair dealing and (3) declaratory relief that Partner Re is obligated to reimburse the Company for the defense fees and costs incurred in defense of the Cuning Lawsuit and must indemnify the Company for any settlement or judgment in the Cuning Lawsuit. The Company's allegations arise out of Partner Re's refusal to reimburse the Company for costs incurred by the Company in defending the Cuning Lawsuit. The case, entitled *Skye Bioscience, Inc., v. Partner Re Ireland Insurance DAC*, was filed in the United States District Court for the Central District of California.

On April 17, 2023, Partner Re filed a motion to dismiss the Company's complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). On June 20, 2023, the judge issued a final ruling in favor of the Company and denied Partner Re's motion to dismiss the Company's lawsuit. In its ruling, the Court rejected Partner Re's primary basis for denying coverage.

Based on the outcome, the Company is pursuing up to \$5,000,000 in coverage less the deductible to cover legal expenses incurred and the final verdict or settlement of the Cuning Lawsuit.

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

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our condensed consolidated financial statements (unaudited) for the three months ended March 31, 2024 and 2023, together with the notes thereto and the consolidated financial statements and the related notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2023. In addition to historical information, this discussion and analysis contains forward-looking statements that involve risks, uncertainties and assumptions. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of certain factors, including, but not limited, to those set forth under "Risk Factors" and elsewhere in this Quarterly Report on Form 10-Q.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

Statements in this Quarterly Report on Form 10-Q contain forward-looking statements that are based on management's current expectations and assumptions and information currently available to management and are subject to risks and uncertainties. If such risks or uncertainties materialize or such assumptions prove incorrect, our business, operating results, financial condition and stock price could be materially and negatively affected. In some cases, you can identify forward-looking statements by terminology including "anticipates," "believes," "can," "continue," "could," "estimates," "expects," "intends," "may," "plans," "potential," "predicts," "should," "will," "would" or the negative of these terms or other comparable terminology. Factors that could cause actual results to differ materially from those currently anticipated include those set forth in the section below titled "Risk Factors," including, without limitation, risks relating to:

- the results of our research and development activities, including uncertainties relating to the discovery of potential product candidates and the preclinical and clinical testing of our product candidates;
- the timing, progress and results of our clinical studies for SBI-100 Ophthalmic Emulsion (SBI-100 OE) and Nimacimab and our estimates regarding the market opportunity for SBI-100 OE and Nimacimab if approved;
- the early stage of our product candidates presently under development;
- our ability to obtain and, if obtained, maintain regulatory approval of our current product candidates, and any of our other future product candidates, and any related restrictions, limitations, and/or warnings in the label of any approved product candidate;
- our ability to retain or hire key scientific or management personnel;
- our ability to protect our intellectual property rights that are valuable to our business, including patent and other intellectual property rights;
- our dependence on University of Mississippi, third party manufacturers, suppliers, research organizations, testing laboratories and other potential collaborators, including global supply chain disruptions;
- our ability to develop successful sales and marketing capabilities in the future as needed;
- the size and growth of the potential markets for any of our current product candidates, and the rate and degree of market acceptance of any of our current product candidates;
- competition in our industry;
- regulatory developments in the United States and foreign countries; and
- current pending litigation matters, including the Cunning Lawsuit.

We operate in a rapidly changing environment and new risks emerge from time to time. As a result, it is not possible for our management to predict all risks, including the current global economic environment, the impacts of the high inflationary environment, and associated business disruptions such as delayed clinical trials, laboratory resources and supply chain limitations, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks, uncertainties and assumptions, the forward-looking events and circumstances discussed in this report may not occur and actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements. You should not rely upon forward-looking statements as predictions of future events. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee that the future results, levels of activity, performance or events and circumstances reflected in the forward-looking statements will be achieved or occur. Moreover, neither we nor any other person assumes responsibility for the accuracy and completeness of the forward-looking statements. The forward-looking statements included in this report speak only as of the date hereof, and except as required by law, we undertake no obligation to update publicly any forward-looking statements for any reason after the date of this report to conform these statements to actual results or to changes in our expectations.

Unless otherwise provided in this Quarterly Report, references to “we,” “us,” “our” and “Skye” in this discussion and analysis refer to Skye Bioscience, Inc., a Nevada corporation, together with its wholly owned subsidiaries, Nemus, a California corporation, SKYE Bioscience Pty Ltd (“SKYE Bioscience Australia”), an Australian proprietary limited company, Emerald Health Therapeutics, Inc. (EHT) a corporation governed by the Business Corporations Act (British Columbia), Bird Rock Bio Sub, Inc. (“BRB”), a Delaware corporation, Ruiyi Acquisition Corp, a Delaware corporation and Avalite Sciences, Inc. (AVI) a corporation governed by the Business Corporations Act (British Columbia).

Overview

We are a clinical stage biopharmaceutical company with a mission to pioneer and lead the development of new pharmaceutical products that unlock the potential of the endocannabinoid system (the “ECS”). Our strategy and clinical assets focus, initially, on the modulation of the CB1 axis to advance the standard of care and provide novel alternative therapies to treat diseases with neuropathic, inflammatory, and metabolic conditions.

Our lead clinical program's product candidate, Nimacimab, is a peripherally-restricted negative allosteric modulating antibody specific for the human CB1 receptor, administered as a subcutaneous injectable for the treatment of metabolic disorders, including obesity. We plan to launch a Phase 2 clinical trial of Nimacimab, which will include a combination study with a GLP-1 agonist, to treat obesity in Q3 2024, with final data in late 2025.

Our other product candidate, SBI-100 OE, is a Phase 2-stage CB1 agonist (activator) delivered topically into the eye for the treatment of glaucoma and ocular hypertension. Our proprietary eye drop is a nanoemulsion formulation that has been developed in a way that provides enhanced bio-availability and permeability, while also extending the duration of activity. In February 2024, we announced the completion of patient enrollment in our Phase 2a placebo-controlled study designed to treat glaucoma and ocular hypertension and are expecting to report data in Q2 2024.

In preclinical experiments using SBI-100 OE we have demonstrated statistically superior IOP-lowering compared to the prostaglandin-based therapy, latanoprost, the current standard-of-care for treating glaucoma. Statistical significance was reached across multiple time points during a seven-day course of dosing using a validated rabbit normotensive ocular model and SBI-100 OE exerted pharmacologic activity consistent with once-daily to twice-daily dosing.

We believe that both of our drug candidates are differentiated in their respective markets and target indications with a large unmet need. Because the modulation of the ECS through CB1 has been shown to play a role in both glaucoma and obesity, we are developing both these products as either first or second-line therapies.

In January 2024 and March 2024, we completed two private placement equity transactions with institutional accredited investors, in which we raised combined net aggregate proceeds of approximately \$83,556,563. We expect the capital from the January and March PIPE financings will allow us to fund both of our planned clinical trials for glaucoma and obesity through top-line Phase 2 data.

We were incorporated under the laws of the State of Nevada on March 16, 2011 and our headquarters are based in San Diego, CA. Since our incorporation, we have devoted substantially all of our efforts to building our product portfolio through the acquisition of clinical assets and licensing agreements, carrying out research and development, building infrastructure and raising capital.

Financial Overview

Revenues

To date, we have not generated any revenue. We do not expect to receive any revenue from any drug candidates that we develop unless and until we obtain regulatory approval for, and commercialize, our drug candidates or generate revenue from collaborative agreements with third parties.

Research and Development Expenses

During the three months ended March 31, 2024, we incurred \$1,946,450 in research and development expenses primarily related to our efforts in conducting the Phase 2a SBI-100 OE clinical trial. During the three months ended March 31, 2023, we incurred \$1,184,880 in research and development expense primarily related to our efforts in conducting the Phase 1 SBI-100 OE clinical trial. We expect that our ongoing research and development expenses will consist of costs incurred for the development of our drug candidates, including, but not limited to:

- license fees;
- employee-related expenses, which include salaries, benefits and stock-based compensation;
- payments to third party contract research organizations and investigative sites; and
- payments to third party manufacturing organizations and consultants.

We expect to incur future research and development expenditures to support our nonclinical and clinical studies. Nonclinical activities include laboratory evaluation of product chemistry, toxicity and formulation, as well as animal studies to assess safety and efficacy.

The process of conducting the necessary clinical research to obtain regulatory approval is costly and time consuming and the successful development of our drug candidates is highly uncertain. Our future research and development expenses will depend on the clinical success of each of our drug candidates as well as ongoing assessments of the commercial potential of such drug candidates. In addition, we cannot forecast with any degree of certainty which drug candidates may be subject to future collaborations, when such arrangements will be secured, if at all, and to what degree such arrangements would affect our development plans and capital requirements. We expect to incur increased research and development expenses in the future as we continue our efforts towards advancing our lead program for Nimacimab.

General and Administrative Expenses

Our general and administrative expenses have fluctuated year-over-year as we have entered into various strategic acquisitions to restructure and reposition our company. Additionally, as a business in the early stages of drug development we are in the process of scaling our operations by hiring additional employees and building the infrastructure necessary to increase efficiencies. These initiatives have resulted in additional costs related to the implementation of certain systems, insurance, legal and accounting costs related to operating as a public company. To incentivize our employees and be competitive to retain strong talent we issued additional equity awards in 2023 and 2024, which have resulted in increased stock-based compensation expense. We expect that our general and administrative expenses will continue to increase in the future in order to support our expected increase in research and development activities, including increased salaries and other related costs, stock-based compensation and consulting fees for executive, finance, accounting and business development functions. We also expect general and administrative expenses to increase as a result of additional costs associated with being a public company, including expenses related to compliance with the rules and regulations of the SEC, additional insurance expenses, investor relations activities and other administration and professional services. Other significant costs are expected to include legal fees relating to patent and corporate matters, facility costs and fees for accounting and other consulting services.

Other (Income) Expense

Other (income) expense primarily includes a gain from the sale of the AVI building, interest income and interest expense incurred from our short term convertible debt.

Critical Accounting Estimates

There have been no material changes in our Critical Accounting Estimates from the information provided in the "Critical Accounting Estimates" section of "Item 7-Management's Discussion and Analysis of Financial Condition and Results of Operations" in our Form 10-K.

Recently Issued and Adopted Accounting Pronouncements

See Note 1 to the accompanying Unaudited Condensed Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for information on recently issued accounting pronouncements and recently adopted accounting pronouncements. While we expect certain recently adopted accounting pronouncements to impact our estimates in future periods, the impact upon adoption was not significant to our current estimates and operations.

Results of Operations

Comparison of the three months ended March 31, 2024 and 2023

Research and Development Expenses

Below is a summary of our research and development expenses during the three months ended March 31, 2024 and to the same period in 2023:

	Three Months Ended March 31,			
	2024	2023	\$ Change 2024 vs. 2023	% Change 2024 vs. 2023
Research and development expenses	\$ 1,946,450	\$ 1,184,880	\$ 761,570	64 %

Research and development expenses for the three months ended March 31, 2024, increased by \$761,570 as compared to the same period in 2023. The net increase in research and development expenses was primarily due to an increase of \$379,516 in research and development salaries and equity based compensation, a net increase of \$345,465 in contracted clinical costs associated with clinical trial expenses from conducting our Phase 2a glaucoma study and the preparation for our Phase 2 obesity study which were offset by decreases in contract manufacturing costs.

General and Administrative Expenses

Below is a summary of our general and administrative expenses during the three months ended March 31, 2024 and to the same period in 2023:

	Three Months Ended March 31,			
	2024	2023	\$ Change 2024 vs. 2023	% Change 2024 vs. 2023
General and administrative expenses	\$ 4,205,800	\$ 1,915,278	\$ 2,290,522	120 %

General and administrative expenses for the three months ended March 31, 2024, increased by \$2,290,522 as compared to the same period in 2023. The increase in general and administrative expenses was primarily due to an increase in salaries and benefits of \$2,053,956 from the recognition of stock based compensation expense due to the achievement of certain performance based milestones related to restricted stock units granted to members of management and members of the board of directors of the Company. Other increases include other general business expenses and administrative fees, consulting and insurance fees of \$103,187 and \$81,503 and \$51,750, respectively. These increases were offset by a decrease of \$99,308 in investor relations costs.

Other (Income) Expense

Below is a summary of our other (income) expense for the three months ended March 31, 2024 and to the same period in 2023:

	Three Months Ended March 31,			
	2024	2023	\$ Change 2024 vs. 2023	% Change 2024 vs. 2023
Interest expense	\$ 436,936	\$ 18,396	\$ 418,540	2275 %
Interest income	(426,514)	(24,514)	(402,000)	1640
(Gain) loss from asset sales	(1,145,141)	307,086	(1,452,227)	(473)
Debt conversion inducement expense	—	1,383,285	(1,383,285)	(100)
Wind-down costs	—	383,109	(383,109)	(100)
Total other (income) expense	\$ (1,134,719)	\$ 2,067,362	\$ (3,202,081)	(155)%

For the three months ended March 31, 2024, we had net other income of \$1,134,719 related primarily to the gain on the sale of the AVI building of \$1,145,141, an increase in interest income of \$402,000, offset by an increase of \$418,540 related party interest expense from the Convertible Note. In addition, during 2023 we incurred a one-time debt conversion inducement expense of \$1,383,285 and recognized wind down costs of \$383,109 from the EHT Acquisition.

Liquidity and Capital Resources

Liquidity

We have incurred operating losses and negative cash flows from operations since our inception and as of March 31, 2024, we had working capital of \$78,769,157, an accumulated deficit of \$109,402,080, and stockholders' equity of \$78,883,393. We had unrestricted cash in the amount of \$83,342,907 as of March 31, 2024, as compared to \$1,256,453 as of December 31, 2023. For the three months ended March 31, 2024 and 2023, the Company incurred losses from operations of \$6,152,250 and \$3,100,158, respectively. For the three months ended March 31, 2024 and 2023, the Company incurred net losses of \$5,019,531 and \$5,167,520, respectively.

In January 2024 and March 2024, we completed two private placement equity transactions with institutional accredited investors, in which we raised combined net aggregate proceeds of approximately \$83,500,000. We believe that the capital from the January and March PIPE financings will allow us to fund both of our planned clinical trials for glaucoma and obesity through top line Phase 2 data.

The Company's condensed consolidated financial statements have been prepared on the basis of the Company continuing as a going concern for the next 12 months. Based on its current operational requirements, the Company believes that its current cash will be sufficient to fund its projected operations for at least 12 months from the date of the issuance of these consolidated financial statements. However, our forecast of the period of time through which our financial resources will be adequate to support our operations is a forward-looking statement that involves risks and uncertainties, and actual results could vary materially. We have based this estimate on assumptions that may prove to be wrong, and we could use our capital resources sooner than we expect. Additionally, the process of testing product candidates in clinical trials is costly, and the timing of progress and expenses in these trials is uncertain.

Our future capital requirements will depend on many factors, including:

- the scope, rate of progress, results and costs of our clinical trials, preclinical studies and other related activities;
- our ability to establish and maintain strategic collaborations, licensing or other arrangements and the financial terms of such agreements;
- the timing of, and the costs involved in, obtaining regulatory approvals for any of our current or future drug candidates;
- the number and characteristics of the drug candidates we seek to develop or commercialize;
- the cost of manufacturing clinical supplies, and establishing commercial supplies, of our drug candidates;
- the cost of commercialization activities if any of our current or future drug candidates are approved for sale, including marketing, sales and distribution costs;
- the expenses needed to attract and retain skilled personnel;
- the costs associated with being a public company;
- the amount of revenue, if any, received from commercial sales of our drug candidates, should any of our drug candidates receive marketing approval; and

- the costs involved in preparing, filing, prosecuting, maintaining, defending and enforcing possible patent claims, including litigation costs and the outcome of any such litigation.

Cash Flows

The following is a summary of our cash flows for the periods indicated and has been derived from our Unaudited Condensed Consolidated Financial Statements which are included elsewhere in this Form 10-Q:

	Three Months Ended March 31,	
	2024	2023
Net cash used in operating activities	\$ (4,708,123)	\$ (4,060,923)
Net cash provided by investing activities	1,141,960	5,530,406
Net cash provided by (used in) financing activities	85,652,617	(45,307)

Cash Flows from Operating Activities

The primary use of cash for our operating activities during the period was to fund research development activities for our preclinical and clinical product candidates and general and administrative activities. Our cash used in operating activities also reflected changes in our working capital, net of adjustments for non-cash charges, such as stock-based compensation, depreciation and amortization, amortization of debt discount and the (gain) loss from divestiture of assets.

Cash used in operating activities of \$4,708,123 during the three months ended March 31, 2024, reflected a net loss of \$5,019,531, partially offset by aggregate non-cash charges of \$1,597,803 and included a \$1,286,395 net change in our operating assets and liabilities.

Non-cash charges included \$2,478,179 for stock-based compensation expense primarily attributable to the vesting of restricted stock units related to the achievement of certain market based performance milestones, \$237,205 in non-cash interest expense debt amortization expense and a \$1,145,141 gain from the sale of a real estate asset. The net change in our operating assets and liabilities included an \$832,790 cash outflow from changes in our prepaid expenses and other current assets, a \$392,953 net cash outflow from changes in our accrued expenses and other current liabilities and a \$60,652 cash outflow from the repayment of our accounts payable.

Cash used in operating activities of \$4,060,923 during the three months ended March 31, 2023, reflected a net loss of \$5,167,520, partially offset by aggregate non-cash charges of \$1,825,725 and included a \$719,128 net change in our operating assets and liabilities.

Cash Flows from Investing Activities

During the three months ended March 31, 2024, the Company purchased \$3,181 in machinery and office equipment and recognized \$1,145,141 in net proceeds from the sale of the AVI building.

During the three months ended March 31, 2023, the Company purchased \$1,860 in machinery office equipment. During the three months ended March 31, 2023, the Company received \$5,532,266 in proceeds related to the divestiture of VDL.

Cash Flows from Financing Activities

Cash flows from financing activities primarily reflect proceeds from the sale of our securities and loan repayments.

During the three months ended March 31, 2024, cash provided by financing activities included \$85,652,617 in proceeds received in connection with the January and March PIPE Financings, net of issuance costs.

During the three months ended March 31, 2023, cash used in financing activities included a \$45,307 repayment on our insurance premium loan payable.

Off-Balance Sheet Arrangements

There are no off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors.

Item 3. Quantitative and Qualitative Disclosures about Market Risk.

Not applicable.

Item 4. Controls and Procedures.

Evaluation of disclosure controls and procedures. We maintain controls and procedures that are designed to ensure that information required to be disclosed in the reports that we file or submit under the Securities Exchange Act of 1934 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 our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosures. In designing and evaluating the disclosure controls and procedures, management recognizes that any control and procedures, no matter how well designed and operated, can only provide reasonable assurance of achieving the desired control objectives, and in reaching a reasonable level of assurance, management necessarily is required to apply its judgement in evaluating the cost-benefit relationship of possible controls and procedures.

We conducted an evaluation, under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of March 31, 2024. Based upon their evaluation and subject to the foregoing, the Chief Executive Officer and Chief Financial Officer have concluded that, as of the end of the period covered by this report, the disclosure controls and procedures were effective at a reasonable assurance level.

Changes in internal controls. Management determined there were no changes in internal control over financial reporting that occurred during the fiscal quarter covered by this report that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II - OTHER INFORMATION

Item 1. Legal Proceedings

For a description of material legal proceedings, see Note 9, "General Litigation and Disputes" to the accompanying Unaudited Condensed Consolidated Financial Statements included in this Quarterly Report on Form 10-Q.

Item 1A. Risk Factors.

In addition to the other information set forth in this report, you should carefully consider the factors discussed in Part I, "Item 1A. Risk Factors" in our Annual Report on Form 10-K filed on March 22, 2024, which could materially affect our business, financial condition or future results. Except as set forth below, we do not believe there have been any material changes to the risk factors that were included in the Company's Annual Report on Form 10-K filed with the SEC on March 22, 2024.

Our failure to meet the continued listing requirements of the Nasdaq could result in a delisting of our Common Stock.

If we fail to satisfy the continued listing requirements of the Nasdaq, such as the corporate governance requirements or the minimum closing bid price requirement, Nasdaq may take steps to delist our common stock. Such a delisting would likely have a negative effect on the price of our Common Stock and would impair your ability to sell or purchase our Common Stock when you wish to do so. In the event of a delisting, we can provide no assurance that any action taken by us to restore compliance with listing requirements would allow our Common Stock to become listed again, stabilize the market price or improve the liquidity of our Common Stock, prevent our Common Stock from dropping below the Nasdaq minimum bid price requirement or prevent future non-compliance with Nasdaq's listing requirements.

The manufacture and maintenance of our clinical product candidates is complex and we may encounter difficulties in production and maintenance, particularly with respect to clinical material inventory, acquisition of materials, process development or scaling-up of our manufacturing capabilities.

The manufacture and maintenance of our product candidates is complex, highly regulated and subject to multiple risks. The complex processes associated with the manufacture of our product candidates expose us to various manufacturing challenges and risks, which may include delays in manufacturing our product candidates, limits on our ability to increase manufacturing capacity, and the potential for product failure and product variation that may interfere with the timing and scope of our clinical development plans and add additional costs. It is possible that we will make changes to our manufacturing process at various points during product development or commercialization for various reasons, such as controlling costs, achieving scale, decreasing processing time, increasing manufacturing success rate, or other reasons. Such changes can be costly and carry the risk that they will not achieve their intended objectives, or these changes could cause our product candidates to perform differently and affect the results of current or future clinical trials, or the performance of a commercialized product. In some circumstances, changes in the manufacturing process may require us to perform analytical or clinical comparability studies and to collect additional data prior to undertaking more advanced clinical trials, and such studies may introduce additional costs or delays to the program. We may be required to collect additional clinical data from any modified process prior to obtaining marketing approval for the product candidate produced with such modified process. If clinical data are not ultimately comparable to that seen in the earlier trials in terms of safety or efficacy, we may be required to make further changes to our process and/or undertake additional clinical testing, either of which could significantly delay the clinical development or commercialization of the associated product candidate.

Compliance with cGMP requirements and other quality or regulatory issues may arise with our current or any future contract manufacturing organizations ("CMOs"). Furthermore, ongoing stability studies subsequent to manufacture must be periodically conducted to demonstrate that each of our product candidates do not undergo unacceptable deterioration over its shelf life. If issues affecting the quality of our product candidates or those of our CMOs are discovered, the timing and scope of our clinical trials may be delayed or modified and in certain instances such manufacturing facilities may need to be closed for an extended period of time to investigate and remedy the issue. To the extent any adversely affected material is being used in an ongoing clinical trial, the FDA could impose a clinical hold on our trial to investigate and remedy the quality issue. We cannot assure that any manufactured product or product candidate will not suffer a loss in stability or that other issues relating to the manufacture of our product candidates will not occur in the future.

Additionally, our CMOs may experience manufacturing difficulties due to resource constraints, including manufacturing capacity, material constraints, or as a result of labor disputes or unstable political environments. If our CMOs were to encounter any of these difficulties, our ability to provide our product candidate to patients in clinical trials, or to provide product for treatment of patients once approved, would be jeopardized.

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

There were no sales of equity securities during the period covered by this Quarterly Report on Form 10-Q that were not registered under the Securities Act of 1933 or were not previously reported in a Current Report on Form 8-K filed by the Company.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosures.

Not applicable.

Item 5. Other Information.

None.

Item 6. Exhibits.

3.1	Articles of Incorporation of Registrant, as amended (incorporated by reference to Exhibit 3.1 to our Annual Report on Form 10-K filed on March 22, 2024)
3.2	Amended and Restated Bylaws of Registrant (incorporated by reference to Exhibit 3.2 to our Annual Report on Form 10-K filed on March 2, 2021)
4.1	Form of Pre-Funded Warrant (incorporated by reference to Exhibit 4.1 to our Current Report on Form 8-K filed on January 29, 2024)
4.2	Amendment to Common Stock Purchase Warrants (incorporated by reference to Exhibit 4.1 to our Current Report on Form 8-K filed on March 13, 2024)
10.1*+	Form of Securities Purchase Agreement, dated as of January 29, 2024, by and among Skye Bioscience, Inc. and the Investors named therein
10.2+	Form of Registration Rights Agreement, dated as of January 29, 2024, by and among Skye Bioscience, Inc. and the Investors named therein (incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K filed on January 29, 2024)
10.3+	Form of Securities Purchase Agreement, dated as of March 11, 2024, by and among Skye Bioscience, Inc. and the Investors named therein (incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K filed on March 13, 2024)
10.4+	Form of Registration Rights Agreement, dated as of March 11, 2024, by and among Skye Bioscience, Inc. and the Investors named therein (incorporated by reference to Exhibit 10.2 to our Current Report on Form 8-K filed on March 13, 2024)
31.1*	Certification of Principal Executive Officer, pursuant to Rule 13a-14 and 15d-14 of the Securities Exchange Act of 1934
31.2*	Certification of Principal Financial Officer, pursuant to Rule 13a-14 and 15d-14 of the Securities Exchange Act of 1934
32.1*	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
32.2*	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
101	The following materials from the Skye Biosciences, Inc. Quarterly Report on Form 10-Q for the quarter ended March 31, 2024, formatted in Inline Extensible Business Reporting Language (iXBRL): (i) Condensed Consolidated Balance Sheets (Unaudited), (ii) Condensed Consolidated Statements of Operations (Unaudited), (iii) Condensed Consolidated Statements of Cash Flows (Unaudited), (iv) Condensed Consolidated Statements of Stockholders' Deficit (Unaudited), and (v) related Notes to the Unaudited Condensed Consolidated Financial Statements.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

(*) Filed herewith.

+ Certain exhibits and schedules have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The registrant agrees to furnish supplementally to the Securities and Exchange Commission a copy of any omitted exhibits or schedules upon request.

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.

**Skye Bioscience, Inc.,
a Nevada corporation**

May 10, 2024

By: /s/ Punit Dhillon
Punit Dhillon
Its: Chief Executive Officer, Secretary, Chairman of the Board, and Director
(Principal Executive Officer)

May 10, 2024

By: /s/ Kaitlyn Arsenault
Kaitlyn Arsenault
Its: Chief Financial Officer
(Principal Financial and Accounting Officer)

SECURITIES PURCHASE AGREEMENT

This SECURITIES PURCHASE AGREEMENT (this “**Agreement**”) is made and entered into as of January 29, 2024, by and among Skye Bioscience, Inc., a Nevada corporation (the “**Company**”), and the Investors identified on **Exhibit A** attached hereto (each an “**Investor**” and collectively the “**Investors**”).

RECITALS

- A. The Company and the Investors are executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by the provisions of Section 4(a)(2) of the 1933 Act (as defined below) and Rule 506 of Regulation D promulgated by the SEC (as defined below);
- B. Each Investor, severally and not jointly, wishes to purchase from the Company, and the Company wishes to sell and issue, upon the terms and subject to the conditions stated in this Agreement, shares (the “**Shares**”) of the Company’s Common Stock, par value \$0.001 per share (the “**Common Stock**”) and/or pre-funded warrants to purchase Common Stock (the “**Pre-Funded Warrants**”) in the form of **Exhibit B** attached hereto; and
- C. Contemporaneously with the sale of the Shares and the Pre-Funded Warrants, the parties hereto will execute and deliver a Registration Rights Agreement, in the form attached hereto as **Exhibit C** (the “**Registration Rights Agreement**”), pursuant to which the Company will agree to provide certain registration rights in respect of the Shares and the shares of Common Stock issuable upon exercise of the Pre-Funded Warrants (the “**Warrant Shares**” and together with the Shares and the Warrants, the “**Securities**”) under the 1933 Act and applicable state securities laws.

In consideration of the mutual promises made herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Definitions.** For the purposes of this Agreement, the following terms shall have the meanings set forth below:

“**Affiliate**” means, with respect to any Person, any other Person which directly or indirectly through one or more intermediaries Controls, is controlled by, or is under common Control with such Person. For the avoidance of doubt, with respect to any Investor that is an investment fund or other investment vehicle, such Investor shall be deemed not to be an Affiliate of (i) any portfolio company of such Investor or its Affiliates or (ii) any limited partner of any such Investor or its Affiliates.

“**Articles of Incorporation**” has the meaning set forth in Section 4.3.

“**BBA**” means 667, L.P. and Baker Brothers Life Sciences, L.P., collectively.

“**BBA Side Letter**” means the letter agreement intended to be entered into between the Company and BBA in the form of **Exhibit D** attached hereto.

“**Board**” means the board of directors of the Company.

“**Business Day**” means a day, other than a Saturday or Sunday, on which banks in New York City are open for the general transaction of business.

“**Closing**” has the meaning set forth in Section 3.1.

“**Closing Date**” has the meaning set forth in Section 3.1.

“**Closing Securities**” means the Shares and the Pre-Funded Warrants sold at Closing.

“**Common Stock**” has the meaning set forth in the recitals to this Agreement.

“**Company’s Knowledge**” means the actual knowledge of the Company’s executive officers (as defined in Rule 405 under the 1933 Act) of the Company after due inquiry.

“**Control**” (including the terms “controlling,” “controlled by” or “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“**Disqualification Event**” has the meaning set forth in Section 4.23.

“**EDGAR system**” has the meaning set forth in Section 4.9.

“**Entity**” means any corporation (including any non-profit corporation), partnership (including any general partnership, limited partnership or limited liability partnership), joint venture, estate, trust, company (including any company limited by shares, limited liability company or joint stock company), firm, society or other enterprise, association, organization or entity, and each of its successors.

“**Environmental Laws**” has the meaning set forth in Section 4.15.

“**GAAP**” has the meaning set forth in Section 4.17.

“**Governmental Body**” means any: (a) nation, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including any governmental division, department, agency, commission, bureau, instrumentality, official, ministry, fund, foundation, center, organization, unit, body or Entity and any court or other tribunal, and for the avoidance of doubt, any taxing authority); or (d) self-regulatory organization.

“**IT Systems and Data**” has the meaning set forth in Section 4.33.

“**Lock-Up Agreements**” means the Lock-Up Agreements, each substantially in the form of **Exhibit E** attached hereto, among the Placement Agents and the directors and officers of the Company.

“**Material Adverse Effect**” means any event, circumstance, development, condition, occurrence, state of facts, change or effect that, individually or in the aggregate with any other event, circumstance, development, condition, occurrence, state of facts, change or effect, has or would reasonably be expected to have a material adverse effect on (i) the assets (including intangible assets), liabilities (actual or contingent), results of operations, financial condition or business of the Company and its subsidiaries taken as a whole as currently conducted or as currently proposed to be conducted, (ii) the legality or enforceability of any of the Transaction Documents or (iii) the ability of the Company to perform its obligations under the Transaction Documents, including preventing or materially delaying or materially impairing such performance, except that for purposes of Section 6.1(g) of this Agreement, in no event shall general financial, credit, capital market or regulatory conditions or any changes therein (provided, however, that such effects do not affect the Company and its subsidiaries taken as a whole disproportionately as compared to the Company’s competitors) constitute a “Material Adverse Effect.”

“**Material Contract**” means any contract, instrument or other agreement to which the Company is a party or by which it is bound that has been filed or was required to have been filed as an exhibit to the SEC Filings pursuant to Item 601(b)(4) or Item 601(b)(10) of Regulation S-K.

“**Person**” means an individual, Entity or Governmental Body.

“**Placement Agents**” means Piper Sandler & Co. and Oppenheimer & Co. Inc.

“**Pre-Funded Warrants**” has the meaning set forth in the recitals to this Agreement.

“**Principal Trading Market**” means the Trading Market on which the Common Stock is primarily quoted for trading, which, as of the date of this Agreement and the Closing Date, shall be the OTC Bulletin Board.

“**Public Disclosure**” has the meaning set forth in Section 9.7.

“**Qualified Investor**” means any Investor that, together with its Affiliates, continues to own at least 80% of the Closing Securities originally purchased by it (which in the case of the Pre-Funded Warrants shall be calculated by reference to the number of Warrant Shares originally issuable upon exercise thereof without regard to any exercise limitations in the Transaction Documents and shall include any Warrant Shares issued upon exercise thereof that continue to be beneficially owned by such Investor or its Affiliates), as adjusted for stock splits, recapitalizations and other similar events.

“**Registration Rights Agreement**” has the meaning set forth in the recitals to this Agreement.

“**Required Consent**” has the meaning set forth in Section 7.9.

“**Regulatory Authorities**” has the meaning set forth in Section 4.30(i).

“**Restricted Transaction**” has the meaning set forth in Section 7.9.

“**SEC**” means the U.S. Securities and Exchange Commission.

“**SEC Filings**” has the meaning set forth in Section 4.8.

“**Securities**” has the meaning set forth in the recitals to this Agreement.

“**Shares**” has the meaning set forth in the recitals to this Agreement.

“**Short Sales**” means all “short sales” as defined in Rule 200 of Regulation SHO under the 1934 Act (but shall not be deemed to include the location and/or reservation of borrowable shares of Common Stock).

“**Trading Market**” means whichever of the OTC Bulletin Board, the New York Stock Exchange, the NYSE American, the Nasdaq Global Select Market, the Nasdaq Global Market or the Nasdaq Capital Market on which the Common Stock is listed or quoted for trading on the date in question.

“**Transfer Agent**” has the meaning set forth in Section 7.1.

“**Transaction Documents**” means this Agreement, the Registration Rights Agreement, the Pre-Funded Warrants, all exhibits and schedules thereto and hereto and any other documents or agreements executed in connection with the transactions contemplated thereunder and hereunder.

“**Warrant Shares**” has the meaning set forth in the recitals to this Agreement.

“**1933 Act**” means the Securities Act of 1933, as amended, or any successor statute, and the rules and regulations promulgated thereunder.

“**1934 Act**” means the Securities Exchange Act of 1934, as amended, or any successor statute, and the rules and regulations promulgated thereunder.

2. **Purchase and Sale of the Closing Securities.** On the Closing Date, upon the terms and subject to the conditions set forth herein, the Company will issue and sell, and each Investor will purchase, severally and not jointly, the number of Shares and/or the Pre-Funded Warrants to purchase the number of Warrant Shares set forth opposite the name of such Investor under the heading “Number of Shares” and “Number of Warrant Shares underlying Pre-Funded Warrants”, respectively, on **Exhibit A** attached hereto. The Pre-Funded Warrants shall have an exercise price equal to \$0.001 per Warrant Share.

3. **Closing.**

3.1 Upon the satisfaction or waiver of the conditions set forth in Section 6, the closing of the purchase and sale of the Closing Securities (the “**Closing**”) shall occur remotely via exchange of executed documents and funds as promptly as practicable (but in no event later than the second Business Day following the satisfaction or waiver of the last to be satisfied or waived of the conditions) (the “**Closing Date**”).

3.2 On or before the Closing Date, each Investor shall deliver or cause to be delivered to the Company, via wire transfer of immediately available funds pursuant to the wire instructions delivered to such Investor by the Company prior to the Closing Date, an amount equal to the purchase price to be paid by the Investor for the Closing Securities to be acquired by it as set forth opposite the name of such Investor under the heading “Aggregate Purchase Price of Securities” on **Exhibit A** attached hereto.

3.3 At the Closing, the Company shall deliver or cause to be delivered to each Investor a number of Shares and Pre-Funded Warrants, registered in the name of the Investor (or its nominee in accordance with its delivery instructions), equal to the number of Shares and a Pre-Funded Warrant to purchase up to the number of Warrant Shares set forth opposite the name of such Investor under the headings “Number of Shares” and “Number of Warrant Shares underlying Pre-Funded Warrants”, respectively, on **Exhibit A** attached hereto, against payment of the purchase price therefor. The Shares shall be delivered via a book-entry record through the Transfer Agent and, as soon as practicable thereafter, the Company shall provide a copy of the records of the Transfer Agent showing the Investor as the owner of the Shares on and as of the Closing Date.

4. **Representations and Warranties of the Company.** The Company hereby represents and warrants to the Investors and the Placement Agents as of the date hereof and as of the Closing Date that, except as described in the SEC Filings (excluding (i) any exhibits to the SEC Filings and (ii) any risk factor disclosures and any disclosure of risks included in any “forward-looking statements” disclaimer contained in the SEC Filings), each of which qualify these representations and warranties in their entirety:

4.1 **Organization, Good Standing and Qualification.** The Company is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has all requisite corporate power and authority to carry on its business as now conducted and to own or lease its properties. The Company is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction in which the conduct of its business or its ownership or leasing of property makes such qualification or leasing necessary unless the failure to so qualify has not had and would not

reasonably be expected to have a Material Adverse Effect. Each subsidiary of the Company has been duly incorporated or organized and is validly existing and in good standing (or such equivalent concepts to the extent they exist under the law of such jurisdiction) under the laws of the jurisdiction of its incorporation or organization, and has all requisite power and authority to carry on its business as now conducted and to own or lease its properties. Each of the Company's subsidiaries is duly qualified to do business and is in good standing (or such equivalent concept to the extent it exists under the law of such jurisdiction) in each jurisdiction in which the conduct of its business or its ownership or leasing of property makes such qualification necessary unless the failure to so qualify has not had and would not reasonably be expected to have a Material Adverse Effect. Neither the Company nor any subsidiary is in violation nor default of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents.

4.2 **Authorization.** The Company has the requisite corporate power and authority and has taken all requisite corporate action necessary for, and no further action on the part of the Company, its officers, directors and stockholders is necessary for, (i) the authorization, execution and delivery of the Transaction Documents, (ii) the authorization of the performance of all obligations of the Company hereunder or thereunder, and (iii) the authorization, issuance (or reservation for issuance) and delivery of the Securities. The Transaction Documents constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability, relating to or affecting creditors' rights generally and to general equitable principles.

4.3 **Capitalization.**

(a) The Company is authorized under its articles of incorporation (the "**Articles of Incorporation**") to issue 100,000,000 shares of Common Stock and 200,000 shares of preferred stock, par value \$0.001 per share. The Company's disclosure of its issued and outstanding capital stock in its most recent SEC Filing containing such disclosure was accurate in all material respects as of the date indicated in such SEC Filing. Since the date indicated in such SEC Filing, there has not been any change in the Company's capital stock, other than as a result of the exercise of stock options or the award of stock options, restricted stock or restricted stock units in the ordinary course of business pursuant to the Company's equity plans described in the SEC Filings. All of the issued and outstanding shares of the Company's capital stock have been duly authorized and validly issued and are fully paid and nonassessable; none of such shares were issued in violation of any preemptive rights; and such shares were issued in compliance in all material respects with applicable state and federal securities law and any rights of third parties. No Person is entitled to preemptive or similar statutory or contractual rights with respect to the issuance by the Company of any securities of the Company, including, without limitation, the Securities. Except for stock options, restricted stock and restricted stock units approved pursuant to Company equity plans described in the SEC Filings, warrants described in the SEC Filings, the secured convertible promissory note issued to MFDI, LLC described in the SEC Filings, and other agreements described in the SEC Filings, or as otherwise set forth in this Agreement, as of the date hereof there are no outstanding warrants, options, convertible securities or other rights, agreements or arrangements of any character under which the Company is or may be obligated to issue any equity securities of any kind, except as contemplated by this Agreement. Except for the Registration Rights Agreement, there are no voting agreements, buy-sell agreements, option or right of first purchase agreements or other agreements of any kind among the Company and any of the securityholders of the Company relating to the securities of the Company held by them. No Person has the right to require the Company to register any securities of the Company under the 1933 Act, whether on a demand basis or in connection with the registration of securities of the Company for its own account or for the account of any other Person that have not otherwise been satisfied in full or waived.

(b) The issuance and sale of the Securities hereunder will not obligate the Company to issue shares of Common Stock or other securities to any other Person (other than the Investors) and, will not result in the adjustment of the exercise, conversion, exchange or reset price of any outstanding security.

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

4.4 **Valid Issuance.** The Shares and Pre-Funded Warrants are duly authorized and, when issued, delivered and paid for in accordance with the applicable Transaction Documents, will be validly issued, fully paid and nonassessable and free and clear of all liens, encumbrances, rights of refusal of any kind and restrictions (other than those created by the Investors), except for restrictions on transfer set forth in the Transaction Documents or imposed by applicable securities laws. The Warrant Shares have been duly and validly authorized and reserved for issuance and, upon exercise of the Pre-Funded Warrants in accordance with their respective terms, including the payment of any exercise price therefor, will be validly issued, fully paid and nonassessable and will be free and clear of all liens, encumbrances, rights of refusal of any kind and restrictions (other than those created by the Investors), except for restrictions on transfer set forth in the Transaction Documents or imposed by applicable securities laws. Assuming the accuracy of the representations and warranties of the Investors in Section 5 hereof, the Securities will be issued in compliance with all applicable federal and state securities laws. No further approval or authorization of any stockholder, the Board or others is required for the issuance and sale of the Securities.

4.5 **Consents.** Subject to the accuracy of the representations and warranties of each Investor set forth in Section 5 hereof, the execution, delivery and performance by the Company of the Transaction Documents and the offer, issuance and sale of the Securities require no consent of, action by or in respect of, or filing with, any Person, Governmental Body, agency, or official, including, without limitation, any consent, action by, or approval of shareholders of the Company, other than (a) filings that have been made pursuant to applicable state securities laws, (b) post-sale filings pursuant to applicable state and federal securities laws, (c) filings pursuant to the rules and regulations of the OTCQB Market and (d) filing of the registration statement required to be filed by the Registration Rights Agreement, each of which the Company has filed or undertakes to file within the applicable time. Subject to the accuracy of the representations and warranties of each Investor set forth in Section 5 hereof, the Company has taken all action necessary to exempt (i) the issuance and sale of the Securities and (ii) the other transactions contemplated by the Transaction Documents from the provisions of any stockholder rights plan or other “poison pill” arrangement, any anti-takeover, business combination or control share law or statute binding on the Company or to which the Company or any of its assets and properties is subject that is or could reasonably be expected to become applicable to the Investors as a result of the transactions contemplated hereby, including without limitation, the issuance of the Securities and the ownership, disposition or voting of the Securities by the Investors or the exercise of any right granted to the Investors pursuant to this Agreement or the other Transaction Documents.

4.6 **Use of Proceeds.** The net proceeds of the sale of the Securities hereunder shall be used by the Company for non-clinical and clinical development, business development activities, repayment of debt, working capital and general corporate purposes.

4.7 **No Material Adverse Change.** Since September 30, 2023, there has not been:

(a) any change in the consolidated assets, liabilities, financial condition or operating results of the Company from that reflected in the financial statements included in the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2023, except for changes in the ordinary course of business which have not had and would not reasonably be expected to have a Material Adverse Effect, individually or in the aggregate;

(b) any declaration or payment by the Company of any dividend, or any authorization or payment by the Company of any distribution, on any of the capital stock of the Company, or any redemption or repurchase by the Company of any securities of the Company;

(c) any material damage, destruction or loss, whether or not covered by insurance, to any assets or properties of the Company or any of its subsidiaries;

(d) any waiver, not in the ordinary course of business, by the Company or any of its subsidiaries of a material right or of a material debt owed to it;

(e) any satisfaction or discharge of any lien, claim or encumbrance or payment of any obligation by the Company or any of its subsidiaries, except in the ordinary course of business and which is not material to the assets, properties, financial condition, operating results or business of the Company and its subsidiaries taken as a whole (as such business is presently conducted);

(f) any change or amendment to the Company's Articles of Incorporation or Bylaws, or material change to any material contract or arrangement by which the Company or any of its subsidiaries is bound or to which any of its assets or properties is subject;

(g) any material labor difficulties or, to the Company's Knowledge, labor union organizing activities with respect to employees of the Company or any of its subsidiaries;

(h) any material transaction entered into by the Company or any of its subsidiaries other than in the ordinary course of business;

(i) the loss of the services of any key employee, or material change in the composition or duties of the senior management of the Company or any of its subsidiaries; or

(j) any other event or condition of any character that has had or would reasonably be expected to have a Material Adverse Effect.

4.8 **SEC Filings.** Except as disclosed in Schedule 4.8, the Company has timely filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the 1933 Act and the 1934 Act, including pursuant to Section 13(a) or 15(d) thereof, for the one year period preceding the date hereof (collectively, the "**SEC Filings**"). At the time of filing thereof, the SEC Filings complied in all material respects with the requirements of the 1933 Act or the 1934 Act, as applicable, and the rules and regulations of the SEC thereunder and did not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

4.9 **No Conflict, Breach, Violation or Default.** The execution, delivery and performance of the Transaction Documents by the Company and the issuance and sale of the Securities in accordance with the provisions thereof will not, except (solely in the case of clause (i)(b) and clause (ii)) for such violations, conflicts or defaults as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) conflict with or result in a breach or violation of (a) any of the terms and provisions of, or constitute a default under, the Company's Articles of Incorporation or the

Company's Bylaws, both as in effect on the date hereof (true and complete copies of which have been made available to the Investors through the Electronic Data Gathering, Analysis, and Retrieval system (the "EDGAR system")), or (b) assuming the accuracy of the representations and warranties in Section 5, any applicable statute, rule, regulation or order of any governmental agency or body or any court, domestic or foreign, having jurisdiction over the Company or its subsidiaries, or any of their assets or properties, or (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any lien, encumbrance or other adverse claim upon any of the properties or assets of the Company or its subsidiaries or, except as disclosed in the SEC Filings, give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any Material Contract. This Section 4.9 does not relate to matters with respect to tax status, which are the subject of Section 4.10, employee relations and labor matters, which are the subject of Section 4.13, or environmental laws, which are the subject of Section 4.15.

4.10 Tax Matters. The Company and its subsidiaries have timely prepared and filed all material tax returns required to have been filed by them with all appropriate governmental agencies and timely paid all material taxes shown thereon or otherwise owed by them, except where failure to so file would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. There are no material unpaid assessments against the Company or any of its subsidiaries, except for any such assessment that is currently being contested in good faith or as would not reasonably be expected to have Material Adverse Effect nor, to the Company's Knowledge, any audits by any federal, state or local taxing authority. All material taxes that the Company or any of its subsidiaries is required to withhold or to collect for payment have been duly withheld and collected and paid to the proper governmental entity or third party when due. There are no tax liens pending or, to the Company's Knowledge, threatened against the Company or any of subsidiaries or any of its of their respective assets or property. With the exception of agreements or other arrangements that are not primarily related to taxes entered into in the ordinary course of business, there are no outstanding tax sharing agreements or other such arrangements between the Company or any of its subsidiaries and any other corporation or entity (other than among the Company and any subsidiary of the Company).

4.11 Title to Properties. The Company and its subsidiaries have good and marketable title to all real properties and all other material properties and assets owned by them, in each case free from liens, encumbrances and defects, except such as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect; and the Company and its subsidiaries hold any leased real or personal property under valid and enforceable leases with no exceptions, except such as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

4.12 Certificates, Authorities and Permits. The Company and its subsidiaries possesses adequate certificates, authorities or permits issued by appropriate governmental agencies or bodies necessary to conduct the business now operated by them, except where failure to so possess would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. Neither the Company nor any of its subsidiaries has received any written notice of proceedings relating to the revocation or modification of any such certificate, authority or permit that would reasonably be expected to have a Material Adverse Effect, individually or in the aggregate.

4.13 Labor Matters.

(a) Neither the Company nor any of its subsidiaries is party to or bound by any collective bargaining agreements or other agreements with labor organizations. To the Company's Knowledge, neither the Company nor any of its subsidiaries has violated in any material respect any laws, regulations, orders or contract terms affecting the collective bargaining rights of employees or labor

organizations, or any laws, regulations or orders affecting employment discrimination, equal opportunity employment, or employees' health, safety, welfare, wages and hours.

(b) No material labor dispute with the employees of the Company or any of its subsidiaries, or with the employees of any principal supplier, manufacturer, customer or contractor of the Company or any of its subsidiaries, exists or, to the Company's Knowledge, is threatened or imminent.

4.14 **Intellectual Property.** The Company and its subsidiaries own, possess, license or have other rights to use, all patents, patent applications, trade and service marks, trade and service mark registrations, trade names, copyrights, licenses, inventions, trade secrets, technology, know-how and other intellectual property that are described in the SEC Filings (collectively, the "Intellectual Property"); and to the Company's Knowledge, no additional third party intellectual property rights are necessary for the conduct of the business of the Company and its subsidiaries in all material respects as now conducted or as proposed in the SEC Filings to be conducted; and (a) except as described in the SEC filings, there are no rights of third parties to any such Intellectual Property, including no liens, security interests or other encumbrances; (b) to the Company's Knowledge, there is no material infringement by third parties of any such Intellectual Property; (c) there is no pending or, to the Company's Knowledge, threatened action, suit, proceeding or claim by others challenging the Company's or its subsidiaries' rights in or to any such Intellectual Property, and the Company is unaware of any facts, which could form a reasonable basis for any such action, suit, proceeding or claim; (d) such Intellectual Property that is described in the SEC Filings has not been adjudged by a court of competent jurisdiction invalid or unenforceable, in whole or in part; (e) there is no pending or, to the Company's Knowledge, threatened action, suit, proceeding or claim by others challenging the validity or scope of any such Intellectual Property that is owned or licensed by the Company or its subsidiaries, including interferences, oppositions, reexaminations or government proceedings; (f) there is no pending or, to the Company's Knowledge, threatened action, suit, proceeding or claim by others that the Company or its subsidiaries infringe, misappropriate, or otherwise violate any patent, trademark, copyright, trade secret or other proprietary rights of others; (g) to the Company's Knowledge, there is no third-party U.S. patent or published U.S. patent application which contains claims for which an Interference Proceeding (as defined in 35 U.S.C. § 135) has been commenced against any patent or patent application described in the SEC Filings as being owned by or licensed to the Company or its subsidiaries; (h) to the Company's Knowledge, the Company and its subsidiaries have complied with the terms of each agreement pursuant to which Intellectual Property has been licensed to the Company or such subsidiary, and all such agreements are in full force and effect; and (i) each key employee of the Company or any of its subsidiaries and each employee of the Company or any of its subsidiaries involved with the development of Intellectual Property has entered into an invention assignment agreement with the Company or the applicable subsidiary of the company, and to the Company's Knowledge, no such employee is in violation of such confidential information and invention assignment agreement or any prior employee contract or proprietary information agreement with any other corporation or third party.

4.15 **Environmental Matters.** Neither the Company nor any of its subsidiaries is in violation of any statute, rule, regulation, decision or order of any governmental agency or body or any court, domestic or foreign, relating to the use, disposal or release of hazardous or toxic substances or relating to the protection or restoration of the environment or human exposure to hazardous or toxic substances (collectively, "**Environmental Laws**"), has not released any hazardous substances regulated by Environmental Law onto any real property that it owns or operates, and has not received any written notice or claim it is liable for any off-site disposal or contamination pursuant to any Environmental Laws, which violation, release, notice, claim, or liability would reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, and to the Company's Knowledge, there is no pending or threatened investigation that would reasonably be expected to lead to such a claim.

4.16 **Legal Proceedings.** There are no legal, governmental or regulatory investigations, actions, suits or proceedings pending, or to the Company's Knowledge, threatened to which the Company or its subsidiaries are, or may reasonably be expected to become, a party or to which any property of the Company or its subsidiaries are, or may reasonably be expected to become, the subject that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect. Neither the Company nor any of its subsidiaries is a party or subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality. There is no action, suit or proceeding initiated by the Company or any of its subsidiaries currently pending or which the Company or any of its subsidiaries currently intends to initiate.

4.17 **Financial Statements.** The financial statements included in each SEC Filing comply as to form in all material respects with applicable accounting requirements and the rules and regulations of the SEC with respect thereto as in effect at the time of filing (or to the extent corrected by a subsequent restatement) and present fairly, in all material respects, the consolidated financial position of the Company as of the dates shown and its consolidated results of operations and cash flows for the periods shown, subject in the case of unaudited financial statements to normal, immaterial year-end audit adjustments, and such financial statements have been prepared in conformity with United States generally accepted accounting principles applied on a consistent basis during the periods involved ("GAAP") (except as may be disclosed therein or in the notes thereto, and except that the unaudited financial statements may not contain all footnotes required by GAAP, and, in the case of quarterly financial statements, except as permitted by Form 10-Q under the 1934 Act). Except as set forth in the financial statements of the Company included in the SEC Filings or as otherwise disclosed in the SEC Filings filed prior to the date hereof, the Company and its subsidiaries have not incurred any liabilities, contingent or otherwise, except those incurred in the ordinary course of business, consistent (as to amount and nature) with past practices since the date of such financial statements, none of which, individually or in the aggregate, have had or would reasonably be expected to have a Material Adverse Effect. The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the SEC Filings fairly present the information called for in all material respects and have been prepared in accordance with the SEC's rules and guidelines applicable thereto.

4.18 **Insurance Coverage.** The Company and its subsidiaries maintain in full force and effect insurance coverage that is customary for comparably situated companies for the business being conducted and properties owned or leased by the Company and its subsidiaries, and the Company reasonably believes such insurance coverage to be adequate against all liabilities, claims and risks against which it is customary for comparably situated companies to insure.

4.19 **Brokers and Finders.** Other than the Placement Agents' fees, no Person will have, as a result of the transactions contemplated by the Transaction Documents, any valid right, interest or claim against or upon the Company or an Investor for any commission, fee or other compensation pursuant to any agreement, arrangement or understanding entered into by or on behalf of the Company or any of its subsidiaries. No Investor shall have any obligation with respect to any fees, or with respect to any claims made by or on behalf of other Persons for fees, in each case of the type contemplated by this Section 4.19 that may be due in connection with the transactions contemplated by this Agreement or the Transaction Documents.

4.20 **No Directed Selling Efforts or General Solicitation.** Neither the Company nor its subsidiaries nor any Person acting on its or their behalf has conducted any general solicitation or general advertising in connection with the offer or sale of any of the Securities.

4.21 **No Integrated Offering.** Assuming the accuracy of the Investors' representations and warranties set forth in Section 5, neither the Company nor its subsidiaries nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any Company security or solicited any offers to buy any Company security, under circumstances that would adversely affect reliance by the Company on Section 4(a)(2) of the 1933 Act and Rule 506 under the 1933 Act for the exemption from registration for the transactions contemplated hereby or would require registration of the Securities under the 1933 Act.

4.22 **Private Placement.** Assuming the accuracy of the representations and warranties of the Investors set forth in Section 5, the offer and sale of the Closing Securities to the Investors is exempt from the registration requirements of the 1933 Act pursuant to Section (4)(a)(2) of the 1933 Act and Rule 506 under the 1933 Act.

4.23 **No Disqualification Events.** With respect to the Shares and Pre-Funded Warrants to be offered and sold hereunder in reliance on Rule 506 under the 1933 Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the 1933 Act) connected with the Company in any capacity at the time of sale is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the 1933 Act (a "**Disqualification Event**"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Investors a copy of any disclosures provided thereunder.

4.24 **Questionable Payments.** Neither the Company nor its subsidiaries nor, to the Company's Knowledge, any of their current or former directors, officers, employees, agents or other Persons acting on behalf of the Company or its subsidiaries, has on behalf of the Company or its subsidiaries in connection with their business: (a) used any corporate funds for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity; (b) made any direct or indirect unlawful payments to any governmental officials or employees from corporate funds; (c) established or maintained any unlawful or unrecorded fund of corporate monies or other assets which is in violation of law; (d) made any false or fictitious entries on the books and records of the Company or its subsidiaries; or (e) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment of any nature.

4.25 **Transactions with Affiliates.** None of the executive officers or directors of the Company or any of its subsidiaries and, to the Company's Knowledge, none of the employees of the Company or any of its subsidiaries is presently a party to any transaction with the Company or any of its subsidiaries (other than as holders of stock options, restricted stock units, warrants and/or restricted stock, and for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from any officer, director or such employee or, to the Company's Knowledge, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee or partner.

4.26 **Internal Controls.**

(a) The Company has established and maintains disclosure controls and procedures (as defined in Rules 13a-15 and 15d-15 under the 1934 Act), which (a) are designed to ensure that material information relating to the Company, including its subsidiaries, is made known to the Company's

principal executive officer and its principal financial officer by others within those entities; (b) have been evaluated by management of the Company for effectiveness as of the end of the Company's most recent fiscal quarter; and (c) are effective in all material respects to perform the functions for which they were established. Since the end of the Company's most recent audited fiscal year, there have been no material weaknesses in the Company's internal control over financial reporting (whether or not remediated) and no change in the Company's internal control over financial reporting that has materially affected, or would reasonably be expected to materially affect, the Company's internal control over financial reporting. The Company is not aware of any change in its internal controls over financial reporting that has occurred during its most recent fiscal quarter that has materially affected, or would reasonably be expected to materially affect, the Company's internal control over financial reporting.

4.27 **Disclosures.** Neither the Company nor any Person acting on its behalf has provided the Investors or their agents or counsel with any information that constitutes or would reasonably be expected to constitute material non-public information concerning the Company or its subsidiaries, other than with respect to the transactions contemplated hereby, which will be disclosed in the Public Disclosure (as defined below). The SEC Filings do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

4.28 **Required Filings.** Except for the transactions contemplated by this Agreement, including the acquisition of the Securities contemplated hereby, no event or circumstance has occurred or information exists with respect to the Company, its subsidiaries or their respective businesses, properties, operations or financial condition, which, under applicable law, rule or regulation, requires public disclosure or announcement by the Company but which has not been so publicly announced or disclosed.

4.29 **Investment Company.** The Company is not required to be registered as, and immediately following the Closing will not be required to register as, an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

4.30 **Tests and Preclinical and Clinical Trials.** The preclinical studies and clinical trials conducted by or on behalf of or sponsored by the Company or its subsidiaries, or in which the Company or its subsidiaries have participated, that are described in the SEC Filings, or the results of which are referred to in the SEC Filings, as applicable, were, and if still pending are, being conducted in all material respects in accordance with standard medical and scientific research standards and procedures for products or product candidates comparable to those being developed by the Company and its subsidiaries and all applicable statutes and all applicable rules and regulations of the U.S. Food and Drug Administration and comparable regulatory agencies outside of the United States to which they are subject (collectively, the "**Regulatory Authorities**"); (ii) the descriptions in the SEC Filings of the results of such studies and trials are accurate and complete in all material respects and fairly present the data derived therefrom; (iii) to the Company's Knowledge, there are no other studies or trials not described in the SEC Filings, the results of which the Company believes are inconsistent with or reasonably call into question the results described or referred to in the SEC Filings; (iv) the Company and its subsidiaries have operated at all times and are currently in compliance with all applicable statutes, rules and regulations of the Regulatory Authorities, except where such non-compliance would not, individually or in the aggregate, have a Material Adverse Effect; and (v) neither the Company nor any of its subsidiaries have received any written notices, correspondence or other communications from the Regulatory Authorities or any other governmental agency requiring or threatening the termination, material modification or suspension of any preclinical studies or clinical trials that are described in the SEC Filings or the results of which are referred to in the SEC Filings, other than ordinary course communications with respect to

modifications in connection with the design and implementation of such studies or trials, and, to the Company's Knowledge, there are no reasonable grounds for the same.

4.31 **Manipulation of Price.** The Company has not taken, and, to the Company's Knowledge, no Person acting on its behalf has taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities.

4.32 **Anti-Bribery and Anti-Money Laundering Laws.** Each of the Company, its subsidiaries and its and their respective officers, directors, supervisors, managers, agents, or employees, are and have at all times been in compliance with and their participation in the offering will not violate: (A) anti-bribery laws, including but not limited to, any applicable law, rule, or regulation of any locality, including but not limited to any law, rule, or regulation promulgated to implement the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed December 17, 1997, including the U.S. Foreign Corrupt Practices Act of 1977, as amended, the U.K. Bribery Act 2010, or any other law, rule or regulation of similar purposes and scope or (B) anti-money laundering laws, including, but not limited to, applicable federal, state, international, foreign or other laws, regulations or government guidance regarding anti-money laundering, including, without limitation, Title 18 US. Code sections 1956 and 1957, the Patriot Act, the Bank Secrecy Act, and international anti-money laundering principles or procedures by an intergovernmental group or organization, such as the Financial Action Task Force on Money Laundering, of which the United States is a member and with which designation the United States representative to the group or organization continues to concur, all as amended, and any Executive order, directive, or regulation pursuant to the authority of any of the foregoing, or any orders or licenses issued thereunder.

4.33 **Cybersecurity.** Except as would not, individually or in the aggregate, have a Material Adverse Effect, (i) the Company and its subsidiaries are presently in compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of the Company's or any subsidiary's information technology and computer systems, networks, hardware, software, data (including the data of its respective customers, employees, suppliers, vendors and any third party data maintained by or on behalf of it), equipment or technology (collectively, "**IT Systems and Data**") and to the protection of such IT Systems and Data from unauthorized use, access, misappropriation or modification; (ii) there has been no security breach or other compromise of or relating to such IT Systems and Data and neither the Company nor any of its subsidiaries has been notified of, or has knowledge of any event or condition that would reasonably be expected to result in, any security breach or other compromise to such IT Systems and Data; (iii) the Company and its subsidiaries have implemented and maintained commercially reasonable safeguards to maintain and protect its material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and Data; and (iv) the Company and its subsidiaries have implemented backup and disaster recovery technology consistent with commercially reasonable industry standards and practices.

4.34 **No Additional Agreements.** The Company has not entered into any other agreement or understanding (including, without limitation, side letters) with any Investor to purchase the Closing Securities or on terms more favorable to such Investor than as set forth herein.

4.35 **Shell Company Status.** The Company is not, and has never been, an issuer identified in Rule 144(i)(1).

4.36 **Compliance.** Neither the Company nor any of its subsidiaries is (i) in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or subsidiary of the Company under), nor has the Company or any subsidiary of the Company received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived) or (ii) in violation of any judgment, decree or order of any court, arbitrator or Governmental Body, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

4.37 **Placement Agents.** The Company hereby acknowledges and agrees that (i) each Placement Agent is acting solely as placement agent in connection with the execution, delivery and performance of the Transaction Documents and is not acting as an underwriter, initial purchaser, dealer or in any other such capacity and is not and shall not be construed as a fiduciary for such Investor, the Company or any other person or entity in connection with the execution, delivery and performance of the Transaction Documents, (ii) each Placement Agent has not made nor will make any representation or warranty, whether express or implied, of any kind or character and each Placement Agent has not provided any advice or recommendation in connection with the execution, delivery and performance of the Transaction Documents and (iii) each Placement Agent will not have any responsibility with respect to (A) any representations, warranties or agreements made by any person or entity under or in connection with the execution, delivery and performance of the Transaction Documents, or the execution, legality, validity or enforceability (with respect to any person) thereof, or (B) the business, affairs, financial condition, operations or properties of, or any other matter concerning the Company.

4.38 **Subsidiaries.** All of the direct and indirect subsidiaries of the Company are set forth on Schedule 4.38. The Company owns, directly or indirectly, all of the capital stock or other equity interests of each such subsidiary free and clear of any lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction), and all of the issued and outstanding shares of capital stock of each such subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities.

5. **Representations and Warranties of the Investors.** Each of the Investors hereby severally, and not jointly, represents and warrants to the Company and the Placement Agents that:

5.1 **Organization and Existence.** Such Investor is a duly incorporated or organized and validly existing corporation, limited partnership, limited liability company or other legal entity, has all requisite corporate, partnership or limited liability company power and authority to enter into and consummate the transactions contemplated by the Transaction Documents and to carry out its obligations hereunder and thereunder, and to invest in the Securities pursuant to this Agreement, and is in good standing under the laws of the jurisdiction of its incorporation or organization.

5.2 **Authorization.** The execution, delivery and performance by such Investor of the Transaction Documents to which such Investor is a party have been duly authorized and each has been duly executed and when delivered will constitute the valid and legally binding obligation of such Investor, enforceable against such Investor in accordance with their respective terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability, relating to or affecting creditors' rights generally, and general principles of equity.

5.3 **Purchase Entirely for Own Account.** The Securities to be received by such Investor hereunder will be acquired for such Investor's own account, not as nominee or agent, for the purpose of investment and not with a view to the resale or distribution of any part thereof in violation of the 1933

Act, and such Investor has no present intention of selling, granting any participation in, or otherwise distributing the same in violation of the 1933 Act without prejudice, however, to such Investor's right at all times to sell or otherwise dispose of all or any part of such Securities in compliance with applicable federal and state securities laws. The Securities are being purchased by such Investor in the ordinary course of its business. Nothing contained herein shall be deemed a representation or warranty by such Investor to hold the Securities for any period of time. Such Investor is not a broker-dealer registered with the SEC under the 1934 Act or an entity engaged in a business that would require it to be so registered.

5.4 **Investment Experience.** Such Investor acknowledges that it can bear the economic risk and complete loss of its investment in the Securities and has such knowledge and experience in financial or business matters that it is capable of evaluating the merits and risks of the investment contemplated hereby.

5.5 **Disclosure of Information.** Such Investor has had an opportunity to receive, review and understand all information related to the Company requested by it and to ask questions of and receive answers from the Company regarding the Company, its business and the terms and conditions of the offering of the Securities, and has conducted and completed its own independent due diligence. Such Investor acknowledges that copies of the SEC Filings are available on the EDGAR system. Based on the information such Investor has deemed appropriate and without reliance on the Placement Agents, it has independently made its own analysis and decision to enter into the Transaction Documents. Such Investor is relying exclusively on its own investment analysis and due diligence (including professional advice it deems appropriate) with respect to the execution, delivery and performance of the Transaction Documents, the Securities and the business, condition (financial and otherwise), management, operations, properties and prospects of the Company, including but not limited to all business, legal, regulatory, accounting, credit and tax matters. Neither such inquiries nor any other due diligence investigation conducted by such Investor shall modify, limit or otherwise affect such Investor's right to rely on the Company's representations and warranties contained in this Agreement. Such Investor acknowledges and agrees that the Placement Agents shall have no liability or obligation on or with respect to the accuracy or completeness, as of any date, of any information set forth in, or any omission from, any valuation or other materials that may have been provided or made available to such Investor in connection with the transactions contemplated hereby.

5.6 **Restricted Securities.** Such Investor understands that the Securities are characterized as "restricted securities" under the U.S. federal securities laws inasmuch as they are being acquired from the Company in a transaction not involving a public offering and that under such laws and applicable regulations such securities may be resold without registration under the 1933 Act only in certain limited circumstances.

5.7 **Legends.** It is understood that, except as provided below, certificates or book-entry positions evidencing the Shares and Warrant Shares may bear the following or any similar legend(s):

(a) "THE OFFER AND SALE OF THESE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAW OF ANY STATE OF THE UNITED STATES. THE SECURITIES MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, HYPOTHECATED, TRANSFERRED OR ASSIGNED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER APPLICABLE SECURITIES LAWS, OR UNLESS OFFERED, SOLD, PLEDGED, HYPOTHECATED OR TRANSFERRED PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THOSE LAWS. THE COMPANY AND ITS TRANSFER AGENT SHALL BE ENTITLED TO REQUIRE AN

OPINION OF COUNSEL SATISFACTORY TO THE COMPANY AND THE TRANSFER AGENT THAT SUCH REGISTRATION IS NOT REQUIRED. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.”

(b) If required by the authorities of any state in connection with the issuance or sale of the Shares and Warrant Shares, the legend required by such state authority.

5.8 **Investor Status.** At the time such Investor was offered the Closing Securities, it was, and as of the date hereof it is, either: (i) an “accredited investor” within the meaning of Rule 501(a) of the 1933 Act or (ii) a “qualified institutional buyer” as defined Rule 144A(a) under the 1933 Act. Such investor is a sophisticated institutional investor with sufficient knowledge and experience in investing in private equity transactions to properly evaluate the risks and merits of its purchase of the Securities. Such Investor has determined based on its own independent review, analysis and such professional advice as it deems appropriate that its purchase of the Securities and participation in the transactions contemplated by the Transaction Documents (i) are fully consistent with its financial needs, objectives and condition, (ii) comply and are fully consistent with all investment policies, guidelines and other restrictions applicable to such Investor, (iii) have been duly authorized and approved by all necessary action, (iv) do not and will not violate or constitute a default under such Investor’s charter, bylaws or other constituent document or under any law, rule, regulation, agreement or other obligation by which such Investor is bound and (v) are a fit, proper and suitable investment for such Investor, notwithstanding the substantial risks inherent in investing in or holding the Securities. Furthermore, each such Investor is an “Institutional Account” as defined in FINRA Rule 4512(c).

5.9 **No General Solicitation.** Such Investor did not learn of the investment in the Securities as a result of any general or public solicitation or general advertising, or publicly disseminated advertisements or sales literature, including (a) any advertisement, article, notice or other communication published in any newspaper, magazine, website, or similar media, or broadcast over television or radio, or (b) any seminar or meeting to which such Investor was invited by any of the foregoing means of communications.

5.10 **Brokers and Finders.** No Person will have, as a result of the transactions contemplated by the Transaction Documents, any valid right, interest or claim against or upon the Company or an Investor for any commission, fee or other compensation pursuant to any agreement, arrangement or understanding entered into by or on behalf of such Investor.

5.11 **Short Sales and Confidentiality Prior to the Date Hereof.** Other than consummating the transactions contemplated hereunder, such Investor has not, nor has any Person acting on behalf of or pursuant to any understanding with such Investor, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that such Investor first contacted the Company, the Placement Agents or any other Person regarding the transactions contemplated hereby and ending immediately prior to the date hereof. Notwithstanding the foregoing, in the case of an Investor that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Investor’s assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement and other than to such Person’s outside attorney, accountant, auditor or investment advisor only to the extent necessary to permit evaluation of the investment, and the performance of the necessary or required tax, accounting, financial, legal, or administrative tasks and

services and other than as may be required by law, such Investor has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to the identification of the availability of, or securing of, available shares to borrow in order to effect Short Sales or similar transactions in the future.

5.12 **Placement Agents.** Such Investor hereby acknowledges and agrees that it has independently evaluated the merits of its decision to purchase the Securities and that (i) each Placement Agent is acting solely as placement agent in connection with the execution, delivery and performance of the Transaction Documents and is not acting as an underwriter, initial purchaser, dealer or in any such other capacity and is not and shall not be construed as a fiduciary for such Investor, the Company or any other person or entity in connection with the execution, delivery and performance of the Transaction Documents, (ii) it is not relying upon, and has not relied upon, any statement, representation or warranty made by either Placement Agent, any of their respective affiliates or any of their control persons, officers, directors and employees, in making its investment or decision to invest in the Company, (iii) each Placement Agent has not made nor will make any representation or warranty, whether express or implied, of any kind or character and each Placement Agent has not provided any advice or recommendation in connection with the execution, delivery and performance of the Transaction Documents, (iv) each Placement Agent will not have any responsibility with respect to (A) any representations, warranties or agreements made by any person or entity under or in connection with the execution, delivery and performance of the Transaction Documents, or the execution, legality, validity or enforceability (with respect to any person) thereof, or (B) the business, affairs, financial condition, operations or properties of, or any other matter concerning the Company, and (v) no Placement Agent will have any liability or obligation (including without limitation, for or with respect to any losses, claims, damages, obligations, penalties, judgments, awards, liabilities, costs, expenses or disbursements incurred by such Investor, the Company or any other person or entity), whether in contract, tort or otherwise, to such Investor, or to any person claiming through it, in respect to any action heretofore or hereafter taken or omitted to be taken by any of them in connection with any Investor's purchase of the Securities or the execution, delivery and performance of the Transaction Documents.

5.13 **No Government Recommendation or Approval.** Such Investor understands that no United States federal or state agency, or similar agency of any other country, has reviewed, approved, passed upon, or made any recommendation or endorsement of the Company or the purchase of the Securities.

5.14 **Residency.** Such Investor's office in which its investment decision with respect to the Securities was made is located at the address immediately below such Investor's name on its signature page hereto.

5.15 **No Conflicts.** The execution, delivery and performance by such Investor of the Transaction Documents and the consummation by such Investor of the transactions contemplated hereby and thereby will not (i) result in a violation of the organizational documents of such Investor or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which such Investor is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws) applicable to such Investor, except in the case of clauses (ii) and (iii) above, for such conflicts, defaults, rights or violations which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of such Investor to perform its obligations hereunder.

6. **Conditions to Closing.**

6.1 **Conditions to the Investors' Obligations.** The obligation of each Investor to purchase Closing Securities at the Closing is subject to the fulfillment to such Investor's satisfaction, on or prior to the Closing Date, of the following conditions, any of which may be waived by such Investor (as to itself only):

(a) The representations and warranties made by the Company in Section 4 hereof shall be true and correct in all material respects, except for those representations and warranties qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects, as of the date hereof and as of the Closing Date, as though made on and as of such date, except to the extent any such representation or warranty expressly speaks as of an earlier date, in which case such representation or warranty shall be true and correct in all material respects, except for those representations and warranties qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects, as of such earlier date. The Company shall have performed in all material respects all obligations and covenants herein required to be performed by it on or prior to the Closing Date.

(b) The Company shall have obtained any and all consents, permits, approvals, registrations and waivers necessary for the consummation of the purchase and sale of the Closing Securities and the consummation of the other transactions contemplated by the Transaction Documents, all of which shall be in full force and effect.

(c) The Company shall have executed and delivered the Registration Rights Agreement.

(d) No judgment, writ, order, injunction, award or decree of or by any court, or judge, justice or magistrate, including any bankruptcy court or judge, or any order of or by any Governmental Body, shall have been issued, and no action or proceeding shall have been instituted by any Governmental Body, enjoining or preventing the consummation of the transactions contemplated hereby or in the other Transaction Documents.

(e) The Company shall have delivered a Certificate, executed on behalf of the Company by its Chief Executive Officer or its Chief Accounting Officer, dated as of the Closing Date, certifying to the fulfillment of the conditions specified in subsections (a), (b), (d), (g), and (h) of this Section 6.1.

(f) The Company shall have delivered a Certificate, executed on behalf of the Company by its Secretary, dated as of the Closing Date, certifying the resolutions adopted by the Board approving the transactions contemplated by the Transaction Documents, the issuance of the Securities, certifying the current versions of the Articles of Incorporation and Bylaws of the Company and certifying as to the signatures and authority of persons signing the Transaction Documents and related documents on behalf of the Company.

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

(h) No stop order or suspension of trading shall have been imposed by the OTC Bulletin Board, the SEC or any other governmental or regulatory body with respect to public trading in the Common Stock.

(i) This Agreement shall not have been terminated as to such Investor in accordance with Section 6.3 herein.

(j) The Company shall have delivered a legal opinion of Morrison & Foerster LLP, counsel to the Company, dated as of the Closing Date, in form and substance reasonably satisfactory to the Investors, which the Investors and the Placement Agents shall be entitled to rely upon.

(k) The duly executed Lock-Up Agreements shall have been delivered to the Placement Agents.

(l) The Company shall have executed and delivered the Pre-Funded Warrant purchased by such Investor, registered in each such Investor's name.

(m) In the case of BBA, the Company shall have executed and delivered the BBA Side Letter.

6.2 Conditions to Obligations of the Company. The Company's obligation to sell and issue Closing Securities at the Closing to each Investor is subject to the fulfillment to the satisfaction of the Company on or prior to the Closing Date of the following conditions, any of which may be waived by the Company:

(a) The representations and warranties made by such Investor in Section 5 hereof shall be true and correct in all material respects, except for those representations and warranties qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects, as of the date hereof and as of the Closing Date, as though made on and as of such date, except to the extent any such representation or warranty expressly speaks as of an earlier date, in which case such representation or warranty shall be true and correct in all material respects, except for those representations and warranties qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects, as of such earlier date. Such Investor shall have performed in all material respects all obligations and covenants herein required to be performed by them on or prior to the Closing Date.

(b) Such Investor shall have executed and delivered the Registration Rights Agreement.

(c) Such Investor purchasing Closing Securities at the Closing shall have paid in full its purchase price to the Company.

(d) This Agreement shall not have been terminated as to such Investor in accordance with Section 6.3 herein.

(e) In the case of BBA, BBA shall have executed and delivered the BBA Side Letter.

6.3 Termination of Obligations to Effect Closing; Effects.

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

(i) Upon the mutual written consent of the Company and Investors that agreed to purchase a majority of the Shares and Warrant Shares underlying the Pre-Funded Warrants to be issued and sold pursuant to this Agreement;

(ii) By either the Company or any Investor (with respect to itself only) if the Closing has not occurred on or prior to February 2, 2024; provided, however, that, except in the case of clause (i) above, the party seeking to terminate its obligation to effect the Closing shall not then be in breach of any of its representations, warranties, covenants or agreements contained in this Agreement or the other Transaction Documents if such breach has resulted in the circumstances giving rise to such party's seeking to terminate its obligation to effect the Closing.

(b) In the event of termination by the Company or any Investor of its obligations to effect the Closing pursuant to Section 6.3, written notice thereof shall be given to the other Investors by the Company and the other Investors shall have the right to terminate their obligations to effect the Closing upon written notice to the Company and the other Investors. Nothing in this Section 6.3 shall be deemed to release any party from any liability for any breach by such party of the terms and provisions of this Agreement or the other Transaction Documents or to impair the right of any party to compel specific performance by any other party of its obligations under this Agreement or the other Transaction Documents.

7. Covenants and Agreements of the Parties

7.1 **Removal of Legends.** Subject to receipt from the Investor by the Company and the transfer agent for the Common Stock (the "**Transfer Agent**") of customary representations and other documentation reasonably acceptable to the Company and the Transfer Agent in connection therewith, upon the earliest of such time as the Shares and the Warrant Shares (i) have been sold or transferred pursuant to an effective registration statement under the 1933 Act, (ii) have been sold pursuant to Rule 144 or any other exemption under the 1933 Act, or (iii) are eligible for resale under Rule 144(b)(1) or any successor provision, the Company shall, in accordance with the provisions of this Section 7.1 and within the standard settlement period for the Principal Trading Market that is then in effect, after any request therefor from an Investor accompanied by such customary and reasonably acceptable documentation referred to above, (A) deliver to the Transfer Agent irrevocable instructions that the Transfer Agent shall make a new, unlegended entry for such book entry shares, and (B) cause its counsel to deliver to the Transfer Agent one or more opinions to the effect that the removal of such legends in such circumstances may be effected under the 1933 Act if required by the Transfer Agent to effect the removal of the legend in accordance with the provisions of this Agreement. Any shares subject to legend removal under this Section 7.1 may be transmitted by the Transfer Agent to the Investor by crediting the account of the Investor's prime broker with the Depository Trust Company's ("DTC") system as directed by such Investor. The Company shall be responsible for the fees of its Transfer Agent and any DTC fees associated with such issuance.

7.2 **Transfer Restrictions.** Each Investor agrees that it will sell, transfer or otherwise dispose of the Securities only in compliance with all applicable state and federal securities laws and that any Securities sold by such Investor pursuant to an effective registration statement will be sold in compliance with the plan of distribution set forth therein.

7.3 **Subsequent Equity Sales by the Company.** The Company shall not, and shall use its commercially reasonable efforts to ensure that no Affiliate of the Company shall, sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the 1933 Act) that will be integrated with the offer or sale of the Securities in a manner that would require the registration under the 1933 Act of the sale of the Securities to the Investors, or that will be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any trading market such that it would require stockholder approval prior to the closing of such other transaction unless stockholder approval is obtained before the closing of such subsequent transaction. The Company shall not take any

action or steps that would adversely affect reliance by the Company on Section 4(a)(2) for the exemption from registration for the transactions contemplated hereby or require registration of the Securities under the 1933 Act.

7.4 **Fees.** The Company shall be responsible for the payment of any placement agent's fees, financial advisory fees, or broker's commissions (other than for Persons engaged by any Investor) relating to or arising out of the transactions contemplated hereby.

7.5 **Short Sales and Confidentiality After the Date Hereof.** Each Investor covenants that it will not, nor will it cause any Affiliates acting on its behalf or pursuant to any understanding with it to, execute any Short Sales during the period from the date hereof until the earlier of (i) the Closing Date or (ii) such time as this Agreement is terminated in full. Notwithstanding the foregoing, in the case of an Investor that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Investor's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Each Investor covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company, such Investor will maintain the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction), other than to such Person's outside attorney, accountant, auditor or investment advisor only to the extent necessary to permit evaluation of the investment, and the performance of the necessary or required tax, accounting, financial, legal, or administrative tasks and services and other than as may be required by law.

7.6 **Filings.** The Company shall make all filings with the SEC and its Trading Market as required by the transactions contemplated hereby.

7.7 **Clear Market.** For a period of 30 days after the Closing Date, the Company will not, and will not publicly disclose an intention to, (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, hedge, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or submit to, or file with, the SEC a registration statement under the 1933 Act, or (ii) enter into any swap, hedging or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Common Stock or any such other securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise, other than (A) any shares of Common Stock, restricted stock, restricted stock units and options to purchase Common Stock, shares of Common Stock underlying options granted and other securities, each pursuant to any director or employee equity plans, stock ownership plan or dividend reinvestment plan of the Company in effect on the date hereof; (B) any shares of Common Stock of the Company issued upon the exercise of convertible securities of the Company outstanding on the date hereof; and (C) the filing of a registration statement by the Company, pursuant to the Registration Rights Agreement.

7.8 **Uplisting.** The Company agrees to use reasonable best efforts to meet the listing requirements of the Nasdaq Capital Market and, if such listing requirements are met, to list the Common Stock on the Nasdaq Capital Market. The Company provides no assurance that it will be able to attain or maintain any such listing.

7.9 **Intellectual Property Transactions.** For so long as the Investors continue to beneficially own in the aggregate at least 40% of the Closing Securities originally purchased pursuant to this Agreement (which in the case of the Pre-Funded Warrants shall be calculated by reference to the number of Warrant Shares originally issuable upon exercise thereof without regard to any exercise limitations in

the Transaction Documents and shall include any Warrant Shares issued upon exercise thereof that continue to be beneficially owned by an Investor or its Affiliates) (as adjusted for stock splits, recapitalizations and other similar events), the Company shall not transfer, license (other than in the ordinary course of business), encumber, or sell a royalty interest in any Intellectual Property relating to *nimacimab* (each, a “**Restricted Transaction**”) unless the Company shall have received written consent to enter into such Restricted Transaction from Qualified Investors that, together with their respective Affiliates, beneficially own at least a majority of the then-outstanding Closing Securities beneficially owned by the Qualified Investors and their respective Affiliates (which in the case of the Pre-Funded Warrants shall be calculated by reference to the number of Warrant Shares issuable upon exercise thereof without regard to any exercise limitations in the Transaction Documents and shall include any Warrant Shares issued upon exercise thereof that continue to be beneficially owned by an Investor or its Affiliates) (a “**Required Consent**”); provided that if the Company has obtained a Required Consent with respect to a proposed Restricted Transaction, and the Company does not enter into a definitive agreement with respect to such proposed Restricted Transaction within 90 days following the date of such Required Consent, the Company may not enter into any such Restricted Transaction unless it shall have obtained a subsequent Required Consent pursuant to this Section 7.9.

8. **Survival and Indemnification.**

8.1 **Survival.** The representations, warranties, covenants and agreements contained in this Agreement shall survive the Closing of the transactions contemplated by this Agreement for the applicable statute of limitations.

8.2 **Indemnification.** The Company agrees to indemnify and hold harmless each Investor and its Affiliates, and their respective directors, officers, trustees, members, managers, employees, investment advisers and agents, from and against any and all losses, claims, damages, liabilities and expenses (including without limitation reasonable and documented attorney fees and disbursements and other documented out-of-pocket expenses reasonably incurred in connection with investigating, preparing or defending any action, claim or proceeding, pending or threatened and the costs of enforcement thereof) to which such Person may become subject as a result of any breach of representation, warranty, covenant or agreement made by or to be performed on the part of the Company under the Transaction Documents, and will reimburse any such Person for all such amounts as they are incurred by such Person solely to the extent such amounts have been finally judicially determined not to have resulted from such Person’s fraud or willful misconduct.

8.3 **Conduct of Indemnification Proceedings.** Any person entitled to indemnification hereunder shall (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification and (ii) permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the indemnified party; *provided* that any person entitled to indemnification hereunder shall have the right to employ separate counsel and to participate in the defense of such claim, but the fees and expenses of such counsel shall be at the expense of such person unless (a) the indemnifying party has agreed in writing to pay such fees or expenses, (b) the indemnifying party shall have failed to assume the defense of such claim and employ counsel reasonably satisfactory to such person or (c) in the reasonable judgment of any such person, based upon written advice of its counsel, a conflict of interest exists between such person and the indemnifying party with respect to such claims (in which case, if the person notifies the indemnifying party in writing that such person elects to employ separate counsel at the expense of the indemnifying party, the indemnifying party shall not have the right to assume the defense of such claim on behalf of such person); and *provided, further*, that the failure of any indemnified party to give written notice as provided herein shall not relieve the indemnifying party of its obligations hereunder, except to the extent that such failure to give notice shall

materially adversely affect the indemnifying party in the defense of any such claim or litigation. It is understood that the indemnifying party shall not, in connection with any proceeding in the same jurisdiction, be liable for fees or expenses of more than one separate firm of attorneys at any time for all such indemnified parties. No indemnifying party will, except with the consent of the indemnified party, which consent shall not be unreasonably withheld, conditioned or delayed, consent to entry of any judgment or enter into any settlement that does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect of such claim or litigation. No indemnified party will, except with the consent of the indemnifying party, which consent shall not be unreasonably withheld, conditioned or delayed, consent to entry of any judgment or enter into any settlement.

9. Miscellaneous.

9.1 **Successors and Assigns.** This Agreement may not be assigned by a party hereto without the prior written consent of the Company or each of the Investors, as applicable, provided, however, that an Investor may assign its rights and delegate its duties hereunder in whole or in part to an Affiliate or to a third party acquiring some or all of its securities in a transaction complying with applicable securities laws without the prior written consent of the Company or the other Investors, provided such assignee agrees in writing to be bound by the provisions hereof that apply to Investors. The provisions of this Agreement shall inure to the benefit of and be binding upon the respective permitted successors and assigns of the parties. Without limiting the generality of the foregoing, in the event that the Company is a party to a merger, consolidation, share exchange or similar business combination transaction in which the Common Stock is converted into the equity securities of another Person, from and after the effective time of such transaction, such Person shall, by virtue of such transaction, be deemed to have assumed the obligations of the Company hereunder, the term "Company" shall be deemed to refer to such Person and the term "Securities" shall be deemed to refer to the securities received by the Investors in connection with such transaction. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective permitted successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

9.2 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signatures complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

9.3 **Titles and Subtitles.** The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

9.4 **Notices.** Unless otherwise provided, any notice required or permitted under this Agreement shall be given in writing and shall be deemed effectively given as hereinafter described (i) if given by personal delivery, then such notice shall be deemed given upon such delivery, (ii) if given by e-mail, then such notice shall be deemed given on the date of transmission (provided that notice shall not be considered given or effective if the sender receives an automatic system-generated response that such e-mail was undeliverable), (iii) if given by mail, then such notice shall be deemed given upon the earlier of (A) receipt of such notice by the recipient or (B) three days after such notice is deposited in first class mail, postage prepaid, and (iv) if given by an internationally recognized overnight air courier, then such notice shall be deemed given one Business Day after delivery to such carrier. All notices shall be

addressed to the party to be notified at the address as follows, or at such other address as such party may designate by ten days' advance written notice to the other party:

If to the Company:

Skye Bioscience, Inc.
11250 El Camino Real, Suite 100
San Diego, CA 92130
Telephone: []
Attention: Punit Dhillon
Email: []

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

Morrison & Foerster LLP
12531 High Bluff Drive, Suite 100
San Diego, CA 92130
Telephone: []
Attention: Steve Rowles
Email: []

If to the Investors:

Only to the addresses set forth on the signature pages hereto.

9.5 **Expenses.** The parties hereto shall pay their own costs and expenses in connection herewith regardless of whether the transactions contemplated hereby are consummated, except that the Company has agreed to reimburse the Investors in an aggregate amount of up to \$100,000 for the Investors' reasonable and documented legal fees at the time of Closing. The Company shall pay all Placement Agent fees relating to or arising out of the transactions contemplated by this Agreement.

9.6 **Amendments and Waivers.** Prior to Closing, no amendment or waiver of any provision of this Agreement will be effective with respect to any party unless made in writing and signed by a duly authorized representative of such party. Following the Closing, any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Investors holding a majority of the Securities issued pursuant to this Agreement. Notwithstanding the foregoing, this Agreement may not be amended and the observance of any term of this Agreement may not be waived with respect to any Investor without the written consent of such Investor unless such amendment or waiver applies to all Investors in the same fashion. Any amendment or waiver effected in accordance with this paragraph shall be binding upon (i) prior to Closing, each Investor that signed such amendment or waiver and (ii) following the Closing, each holder of any Securities purchased under this Agreement at the time outstanding, and in each case, each future holder of all such Securities and the Company.

9.7 **Publicity.** Except as set forth below, no public release or announcement concerning the transactions contemplated hereby shall be issued by the Investors without the prior consent of the Company and the Placement Agents, except as such release or announcement may be required by law or the applicable rules or regulations of any securities exchange or securities market, in which case the Investors shall allow the Company and the Placement Agents reasonable time to comment on such release or announcement in advance of such issuance. Notwithstanding the foregoing, each Investor may identify

the Company and the value of such Investor's security holdings in the Company in accordance with applicable investment reporting and disclosure regulations or internal policies without prior notice to or consent from the Company (including, for the avoidance of doubt, filings pursuant to Sections 13 and 16 of the 1934 Act). The Company shall not include the name of any Investor or any Affiliate or investment adviser of such Investor in any press release or public announcement (which, for the avoidance of doubt, shall not include any SEC Filing to the extent such disclosure is required by SEC rules and regulations) without the prior written consent of such Investor. No later than the Business Day immediately following the date this Agreement is executed, the Company shall issue a press release or file a Form 8-K with the SEC disclosing all material terms of the transactions contemplated by this Agreement, the other Transaction Documents and any material non-public information that the Company may have provided any Investor at any time prior to the issuance of such press release or Form 8-K (the "**Public Disclosure**"). In addition, the Company will make such other filings and notices in the manner and time required by the SEC or the OTCQB Market.

9.8 **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof but shall be interpreted as if it were written so as to be enforceable to the maximum extent permitted by applicable law, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the parties hereby waive any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

9.9 **Entire Agreement.** This Agreement, including the signature pages, Exhibits, the other Transaction Documents and any confidentiality agreement between the Company and each Investor constitute the entire agreement among the parties hereof with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, both oral and written, between the parties with respect to the subject matter hereof and thereof; provided, however, that with respect to any conflict between this Agreement and the Registration Rights Agreement, the Registration Rights Agreement shall govern as it relates to the registration of the resale of the Securities.

9.10 **Further Assurances.** The parties shall execute and deliver all such further instruments and documents and take all such other actions as may reasonably be required to carry out the transactions contemplated hereby and to evidence the fulfillment of the agreements herein contained.

9.11 **Third-Party Beneficiaries.** The Placement Agents shall be the express third-party beneficiary of the representations and warranties of the Company in Section 3 and the representations and warranties of the Investors in Section 4. This Agreement is intended for the benefit of the parties hereto, the Placement Agents, the parties named in Section 8.2, and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in this Section 9.11 or Section 8.2.

9.12 **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of New York without regard to the choice of law principles thereof. Each of the parties hereto irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the purpose of any suit, action, proceeding or judgment relating to or arising out of this Agreement and the transactions contemplated hereby. Service of process in connection with any such suit, action or proceeding may be served on each party hereto anywhere in the world by the same methods as are specified for the giving of notices under this Agreement. Each of the parties hereto irrevocably consents to the jurisdiction of any such court in any such suit, action or proceeding and to the laying of venue in such court. Each party hereto irrevocably

waives any objection to the laying of venue of any such suit, action or proceeding brought in such courts and irrevocably waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. **EACH OF THE PARTIES HERETO WAIVES ANY RIGHT TO REQUEST A TRIAL BY JURY IN ANY LITIGATION WITH RESPECT TO THIS AGREEMENT AND THE OTHER TRANSACTION DOCUMENTS OR ARISING OUT OF THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY AND REPRESENTS THAT COUNSEL HAS BEEN CONSULTED SPECIFICALLY AS TO THIS WAIVER.**

9.13 **Independent Nature of Investors' Obligations and Rights.** The obligations of each Investor under any Transaction Document are several and not joint with the obligations of any other Investor, and no Investor shall be responsible in any way for the performance of the obligations of any other Investor under any Transaction Document. The decision of each Investor to purchase Closing Securities pursuant to the Transaction Documents has been made by such Investor independently of any other Investor. Nothing contained herein or in any Transaction Document, and no action taken by any Investor pursuant thereto, shall be deemed to constitute the Investors as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Investors are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Investor acknowledges that no other Investor has acted as agent for such Investor in connection with making its investment hereunder and that no Investor will be acting as agent of such Investor in connection with monitoring its investment in the Securities or enforcing its rights under the Transaction Documents. Each Investor shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Investor to be joined as an additional party in any proceeding for such purpose. The Company acknowledges that each of the Investors has been provided with the same Transaction Documents for the purpose of closing a transaction with multiple Investors and not because it was required or requested to do so by any Investor. It is expressly understood and agreed that each provision contained in this Agreement is between the Company and an Investor, solely, and not between the Company and the Investors collectively and not between and among the Investors.

9.14 **Exculpation of the Placement Agents.** Each party hereto agrees, for the express benefit of the Placement Agents, their respective affiliates and their respective representatives, that, in connection with the Transaction Documents and the transactions contemplated thereby:

(a) Neither of the Placement Agents nor any of their respective affiliates or any of their respective representatives (i) shall be liable for any improper payment made in accordance with the information provided by the Company; (ii) makes any representation or warranty, or has any responsibilities as to the validity, accuracy, value or genuineness of any information, certificates or documentation delivered by or on behalf of the Company pursuant to this Agreement or the other Transaction Documents or in connection with any of the transactions contemplated by this Agreement or the other Transaction Documents, including any offering or marketing materials; or (iii) shall be liable (x) for any action taken, suffered or omitted by any of them in good faith and reasonably believed to be authorized or within the discretion or rights or powers conferred upon them by this Agreement or any other Transaction Document or (y) for anything which any of them may do or refrain from doing in connection with this Agreement or any other Transaction Document, except for such party's own gross negligence, willful misconduct or bad faith.

(b) Each of the Placement Agents, their respective affiliates and their respective representatives shall be entitled to rely on, and shall be protected in acting upon, any certificate,

instrument, opinion, notice, letter or any other document or security delivered to any of them by or on behalf of the Company.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement or caused their duly authorized officers to execute this Agreement as of the date first above written.

COMPANY:

SKYE BIOSCIENCE, INC.

By: /s/Punit Dhillon

Name: Punit Dhillon

Title: Chief Executive Officer

[Signature Page to Securities Purchase Agreement]

INVESTOR:

[_____]

By: ___

Name:

Title:

[Signature Page to Securities Purchase Agreement]

EXHIBIT A
Schedule of Investors

EXHIBIT B
Form of Pre-Funded Warrant

EXHIBIT C

Form of Registration Rights Agreement

EXHIBIT D
Form of BBA Side Letter

EXHIBIT E

Form of Lock-Up Agreement

**Certification of Principal Executive Officer,
Required by Rule 13a-14(a) of the Securities Exchange Act of 1934, as Amended,
as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Punit Dhillon, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Skye Bioscience, Inc. for the quarter ended March 31, 2024;
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/ Punit Dhillon

Punit Dhillon

Chief Executive Officer, Chairman of the Board, and Director

Date: May 10, 2024

**Certification of Principal Financial Officer,
Required by Rule 13a-14(a) of the Securities Exchange Act of 1934, as Amended,
as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, *Kaitlyn Arsenault*, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Skye Bioscience, Inc. for the quarter ended March 31, 2024;
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/ Kaitlyn Arsenault

Kaitlyn Arsenault

Chief Financial Officer

(Principal Accounting Officer)

Date: May 10, 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 Skye Bioscience, Inc. a Nevada corporation (the "Company") on Form 10-Q for the quarter ended March 31, 2024, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Punit Dhillon, Chief Executive Officer, Chairman of the Board, and Director of the Company, certifies to the best of his knowledge, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

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

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

/s/ Punit Dhillon

Punit Dhillon

Chief Executive Officer, Chairman of the Board, and Director

Date: May 10, 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 Skye Bioscience, Inc. a Nevada corporation (the "Company") on Form 10-Q for the quarter ended March 31, 2024, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Kaitlyn Arsenault, Chief Financial Officer of the Company, certifies to the best of his knowledge, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

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

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

/s/ Kaitlyn Arsenault

Kaitlyn Arsenault

Chief Financial Officer

(Principal Accounting Officer)

Date: May 10, 2024