UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): December 27, 2024

PRECIGEN, INC.

(Exact name of registrant as specified in its charter)

Virginia	001-36042	26-0084895
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

20374 Seneca Meadows Parkway, Germantown, Maryland 20876
(Address of principal executive offices) (Zip Code)

(301) 556-9900
(Registrant's telephone number, including area code)

N/A
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, No Par Value	**PGEN**	**Nasdaq Global Select Market**

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

Emerging growth company ☐

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

Item 1.01 Entry into a Material Definitive Agreement.

The information contained in Item 8.01 of this Report on Form 8-K (this "Report") is incorporated by reference into this Item 1.01.

Item 3.02 Unregistered Sales of Equity Securities.

The information contained in Item 8.01 of this Report is incorporated by reference into this Item 3.02.

Item 3.03 Material Modification to Rights of Security Holders.

The information contained in Item 8.01 of this Report is incorporated by reference into this Item 3.03.

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

The information contained in Item 8.01 of this Report is incorporated by reference into this Item 5.03.

Item 7.01 Regulation FD Disclosure.

A copy of Precigen's press release announcing the transactions described in this Report is furnished as Exhibit 99.1 to this Report and is incorporated by reference into this Item 7.01.

On December 30, 2024, Precigen issued a press release titled "Precigen Completes Submission of BLA with Request for Priority Review to the FDA for PRGN-2012 for the Treatment of Adults with Recurrent Respiratory Papillomatosis." A copy of the press release is furnished as Exhibit 99.2 to this Report and is incorporated by reference into this Item 7.01.

Item 8.01 Other Events.

On December 27, 2024, Precigen, Inc. ("Precigen") announced that it had entered into a Securities Purchase Agreement dated December 27, 2024 (the "Purchase Agreement") with investors, including Randal J. Kirk, its executive chairman of the board of directors, affiliates of Patient Capital Management and Bill Miller, as well as certain other investors (the "Investors") for the sale of its 8.00% Series A Convertible Perpetual Preferred Stock ("Preferred Stock") and warrants ("Warrants") to purchase 52,666,669 shares of its common stock, no par value per share ("Common Stock") at an exercise price of $0.75 per share (the "Exercise Price") in a private placement. Precigen sold an aggregate of 79,000 shares of Preferred Stock, with an initial liquidation preference and stated value of $1,000 per share, together with the Warrants, for gross proceeds of $79.0 million, prior to deducting offering expenses. Precigen expects to use the net proceeds of the offering for working capital and general corporate purposes. The offering closed on December 30, 2024.

On December 27, 2024, Precigen filed articles of amendment (the "Articles of Amendment") to its Amended and Restated Articles of Incorporation with the State Corporation Commission of the Commonwealth of Virginia (the "SCC"), including a form of certificate for the Preferred Stock (the "Form of Certificate"), to establish the preferences, limitations and relative rights of the Preferred Stock. The Articles of Amendment became effective following the issuance of a Certificate of Amendment by the SCC to Precigen on December 30, 2024.

Dividends on the Preferred Stock will be paid annually in cash when, as and if declared by the board of directors of Precigen, except that for the first two years following the issue date of the Preferred Stock, such dividends will be paid in kind in the form of an increase to the stated value and the liquidation preference of the Preferred Stock by the amount of such dividends, together with Warrants to acquire a number of additional shares of Common Stock equal to 50% of the amount of such dividends divided by the Exercise Price, subject to Shareholder Approval (as defined below). The Preferred Stock will be redeemable, in whole or in part, for cash at Precigen's option at any time on or after the issue date. The redemption price will be equal to the stated value of the Preferred Stock to be redeemed, plus accumulated and unpaid dividends, if any, to, but excluding, the redemption date. If a "fundamental change" (as defined in the Articles of Amendment) occurs, then holders of the Preferred Stock may require Precigen to repurchase their shares of Preferred Stock for cash. The repurchase price will be equal to the stated value of the shares of Preferred Stock to be repurchased, plus accumulated and unpaid dividends, if any, to, but excluding, the repurchase date.

The Preferred Stock will be convertible into Common Stock at the option of the holders of the Preferred Stock at any time on or after the later of the six-month anniversary of the issue date of the Preferred Stock and the date on which Precigen has, among other things, obtained Shareholder Approval. The Warrants are exercisable for shares of Common Stock at any time after such Shareholder Approval. The Preferred Stock will also be convertible into Common Stock at Precigen's option at any time on or after the third anniversary of the issue date of the Preferred Stock, but only if the closing sale price per share of Common Stock equals or exceeds $4.00 for a specified period of time and certain other conditions are satisfied.

The Preferred Stock is initially convertible into shares of Common Stock at a conversion rate of 888.8888 shares of Common Stock per $1,000 of stated value, for an initial conversion price of approximately $1.125 per share. However, if the arithmetic average of the closing sale prices of the Common Stock over the five trading day period ending on, and including, the last trading day of the fiscal quarter immediately preceding any conversion date exceeds the conversion price otherwise in effect on such conversion date, then the conversion rate for purposes of such conversion will be a number of shares of Common Stock per $1,000 of stated value equal to $1,000 divided by such arithmetic average. The conversion rate is subject to customary adjustments.

The Preferred Stock has no maturity date, ranks senior to the outstanding shares of Common Stock with respect to the payment of dividends and distributions in liquidation and has a liquidation preference equal to its stated value plus any accrued and unpaid dividends (whether or not declared). Subject to certain limited exceptions, the Preferred Stock and the Warrants are not transferrable for six months.

Precigen has agreed that it will use its best efforts to hold a special meeting or an annual meeting of shareholders to obtain (1) any shareholder approval that may be required under the listing rules of the Nasdaq Global Select Market, (2) any shareholder approval that may be required to increase the number of authorized shares of Common Stock sufficient to permit the exercise of the Warrants and to permit the conversion of the Preferred Stock into the maximum number of shares of Common Stock deliverable upon conversion of all shares of Preferred Stock no later than 180 days after December 30, 2024 and (3) the filing with the SCC and effectiveness of an amendment to Precigen's Amended and Restated Articles of Incorporation evidencing such shareholder approval (collectively, the "Shareholder Approval"). If such Shareholder Approval is not obtained at the first such special meeting or annual meeting, Precigen has agreed that it will use its best efforts to call a special meeting or annual meeting every 90 days following the date of the most recent such meeting to seek such approval until the earlier of the date such Shareholder Approval is obtained or the Warrants and the Preferred Stock are no longer outstanding.

The Preferred Stock and the Warrants have not been registered under the Securities Act of 1933, as amended (the "Securities Act"), or any state's securities laws and were issued and sold in a private placement pursuant to Section 4(a)(2) of the Securities Act. Neither the Preferred Stock nor the Warrants may be offered or sold in the United States, except pursuant to an effective registration statement or an applicable exemption from the registration requirements of the Securities Act. Precigen has entered into a registration rights agreement (the "Registration Rights Agreement") affording the Investors certain registration rights in respect of the Preferred Stock, the Common Stock issuable upon conversion of the Preferred Stock and the Common Stock issuable upon exercise of the Warrants.

The foregoing summaries of the Articles of Amendment, the Form of Certificate, the Purchase Agreement, the Form of the Warrant and the Registration Rights Agreement do not purport to be complete and are subject to and qualified in their entirety by reference to the full text of each such document, which are attached hereto as Exhibits 3.1, 4.1, 10.1, 10.2, and 10.3 and incorporated by reference herein.

This Report shall not constitute an offer to sell or a solicitation of an offer to buy the Preferred Stock, the Warrants or the Common Stock, nor shall there be any sale of the Preferred Stock or the Warrants in any state or jurisdiction in which such offer, solicitation or sale would be unlawful under the securities laws of any such state or jurisdiction.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

3.1	Articles of Amendment to the Amended and Restated Articles of Incorporation of Precigen, Inc., filed with the State Corporation Commission of the Commonwealth of Virginia and effective on December 30, 2024
4.1	Form of Certificate for the 8.00% Series A Convertible Perpetual Preferred Stock (included as Exhibit A to Exhibit 3.1)
10.1	Securities Purchase Agreement, dated December 27, 2024 between Precigen Inc. and the Investors party thereto.
10.2	Registration Rights Agreement, dated December 30, 2024 between Precigen Inc. and the Investors party thereto.
10.3	Form of Common Stock Purchase Warrant.
99.1	Press release of Precigen, Inc., dated December 27, 2024, announcing the private placement of convertible preferred stock and warrants to purchase common stock.
99.2	Press release of Precigen, Inc., dated December 30, 2024, announcing completion of submission for a biologics license application to the FDA for PRGN-2012.
104	Cover Page Interactive Data File (formatted as inline XBRL with applicable taxonomy extension information contained in Exhibits 101).

Forward Looking Statements

Some of the statements made in this Report are forward-looking statements. These forward-looking statements are based upon Precigen's current expectations and projections about future events, including the intended use of proceeds of the private placement. Various factors may cause differences between Precigen's expectations and actual results. These risks and uncertainties include, without limitation, risks and uncertainties related to Precigen's broad discretion in the use of proceeds. For further information on potential risks and uncertainties, and other important factors, any of which could cause Precigen's actual results to differ from those contained in the forward-looking statements, see the section entitled "Risk Factors" in Precigen's most recent Annual Report on Form 10-K and subsequent reports filed with the Securities and Exchange Commission.

SIGNATURE

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 hereunto duly authorized.

Precigen, Inc.

By: /s/ Donald P. Lehr

Donald P. Lehr

Chief Legal Officer

Dated: December 30, 2024

Exhibit 3.1

ARTICLES OF AMENDMENT
TO THE
AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF
PRECIGEN, INC.

1. Name of Corporation. The name of the Corporation is Precigen, Inc.

2. Text of Amendment. Article III of the Corporation's Amended and Restated Articles of Incorporation (the "**Articles of Incorporation**") shall be amended to add Article III.D. as set forth in Appendix A attached hereto, stating the terms, including the preferences, rights and limitations, of the Corporation's 8.00% Series A Convertible Perpetual Preferred Stock (the "**Series A Preferred Stock**").

3. Adoption and Date of Adoption. Pursuant to Section 13.1-639A of the Virginia Stock Corporation Act (the "**VSCA**"), Article III of the Articles of Incorporation permits the Corporation's Board of Directors to amend the Articles of Incorporation in order to establish the terms, including the preferences, rights and limitations, of one or more series of the Corporation's authorized class of preferred stock without the approval of the Corporation's shareholders.

The Corporation certifies that the foregoing amendment was adopted on December 27, 2024, by the Corporation's Board of Directors without shareholder approval pursuant to the above-referenced section of the VSCA and the Articles of Incorporation. The Corporation has not issued any shares of the Series A Preferred Stock as of the date hereof.

4. Effective Date and Time. Pursuant to Section 13.1-606 of the VSCA, the effective time and date of these Articles of Amendment shall be 9:15 a.m. Eastern Time on December 30, 2024.

[Signature page follows]

IN WITNESS WHEREOF, the Corporation has caused these Articles of Amendment to be signed by its authorized officer on December 27, 2024.

PRECIGEN, INC.

By: /s/ Donal P. Lehr

Name: Donald P. Lehr

Title: Chief Legal Officer

D. 8.00% Series A Convertible Perpetual Preferred Stock

There shall be a series of Preferred Stock having the designation and the powers, preferences and relative, participating, optional and other special rights and the qualifications, limitations and restrictions thereof as follows:

1. *Designation and Amount; Ranking.*

(a) There shall be created from the 25,000,000 shares of preferred stock, no par value per share, of the Corporation authorized to be issued pursuant to the Articles of Incorporation, a series of preferred stock, designated as "8.00% Series A Convertible Perpetual Preferred Stock" no par value per share (the "**Preferred Stock**"), and the authorized number of shares of Preferred Stock shall be 81,000. Shares of Preferred Stock that are purchased or otherwise acquired by the Corporation, or that are converted into shares of Common Stock, shall be cancelled and shall revert to authorized but unissued shares of Preferred Stock.

(b) The Preferred Stock, with respect to dividend rights and rights upon the liquidation, winding-up or dissolution of the Corporation, ranks: (i) senior to all Junior Stock; (ii) on a parity with all Parity Stock; and (iii) junior to all Senior Stock, in each case as provided more fully herein.

2. *Definitions*. As used in this Article III.D with respect to the Preferred Stock, the following terms shall have the following meanings:

(a) "**Accumulated Dividends**" shall mean, with respect to any share of Preferred Stock, as of any date, the aggregate accumulated and unpaid dividends (excluding any Accumulated PIK Dividend Amount by which the Stated Value has been increased on a PIK Dividend Payment Date pursuant to Section 3(a)) on such share from the Issue Date until such date. There shall be no Accumulated Dividends with respect to any share of Preferred Stock prior to the Issue Date.

(b) "**Accumulated PIK Dividend Amount**" shall mean, as of any PIK Dividend Payment Date, the amount of dividends per share of Preferred Stock calculated at the Dividend Rate for the period from, and including, the immediately preceding PIK Dividend Payment Date (or, if there is no immediately preceding PIK Dividend Payment Date, from, and including, the Issue Date) to, but excluding, such PIK Dividend Payment Date.

(c) "**Additional Conversion Amount**" shall have the meaning specified in Section 11.

(d) "**Affiliate**" shall have the meaning ascribed to it, on the date hereof, under Rule 144 of the Securities Act.

(e) "**Agent Members**" shall have the meaning specified in Section 13(a)(ii).

(f) "**Articles of Incorporation**" shall mean the Amended and Restated Articles of Incorporation of the Corporation, as they may be further amended, modified or restated from time to time.

(g) "**Board of Directors**" shall mean the board of directors of the Corporation or, with respect to any action to be taken by the Board of Directors, any committee of the Board of Directors duly authorized to take such action.

(h) "**Business Day**" shall mean any day other than a Saturday, Sunday or other day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

(i) "**Capital Stock**" shall mean, for any entity, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that entity (excluding, for the avoidance of doubt, any convertible or exchangeable debt securities, which, prior to conversion or exchange rank senior in right of payment to the Preferred Stock).

(j) "**Certificated Preferred Stock**" shall mean physical Preferred Stock in fully registered, certificated form.

(k) "**close of business**" shall mean 5:00 p.m. (New York City time).

(l) "**Closing Sale Price**" of the Common Stock on any date shall mean the closing sale price per share (or if no closing sale price is reported, the average of the closing bid and ask prices or, if more than one in either case, the average of the average closing bid and the average closing ask prices) on such date as reported in composite transactions for the principal United States national or regional securities exchange on which the Common Stock is traded or, if the Common Stock is not listed for trading on a United States national or regional securities exchange on the relevant date, the last quoted bid price for the Common Stock in the over-the-counter market on the relevant date, as reported by OTC Markets Group Inc. or a similar organization. In the absence of such a quotation, the Closing Sale Price shall be the average of the mid-point of the last bid and ask prices for the Common Stock on the relevant date from each of at least three nationally recognized independent investment banking firms selected by the Corporation for this purpose.

(m) "**Common Stock**" shall mean the common stock, no par value per share, of the Corporation, subject to Section 9(g).

(n) "**Common Equity**" of any Person shall mean Capital Stock of such Person that is generally entitled (i) to vote in the election of directors of such Person or (ii) if such Person is not a corporation, to vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management or policies of such Person.

(o) "**Conversion Date**" shall have the meaning specified in Section 9(b).

(p) "**Conversion Price**" shall mean, at any time, $1,000 *divided by* the Conversion Rate in effect at such time.

(q) "**Conversion Rate**" shall mean a number of fully paid and nonassessable shares of Common Stock equal to 888.8888 per $1,000 of Stated Value.

(r) "**Corporation**" shall mean Precigen, Inc., a Virginia corporation.

(s) "**Distributed Property**" shall have the meaning specified in Section 9(d)(iii).

(t) "**Dividend Payment Date**" shall mean January 15 of each year, commencing on January 15, 2026.

(u) "**Dividend Period**" shall mean the period from, and including, each Dividend Payment Date to, but excluding, the next succeeding Dividend Payment Date, except for the initial "**Dividend Period**," which shall be the period from, and including, the Issue Date to, but excluding, January 15, 2026.

(v) "**Dividend Rate**" shall mean the rate per annum of 8.00% per share of Preferred Stock on the Stated Value.

(w) "**Dividend Record Date**" shall mean, with respect to any Dividend Payment Date, the January 1, immediately preceding such Dividend Payment Date.

(x) "**DTC**" or "**Depository**" shall mean The Depository Trust Company, or any successor depository.

(y) "**Effective Date**" shall mean the first date on which the shares of the Common Stock trade on the applicable exchange or market, regular way, reflecting the relevant share split or share combination, as applicable.

(z) "**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(aa) "**Ex-Date**," when used with respect to any issuance, dividend or distribution on the Common Stock (or other applicable security), shall mean the first date on which the Common Stock (or other applicable security) trades on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution from the Corporation or, if applicable, from the seller of the Common Stock (or other applicable security) on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market.

(bb) "**Form of Series A Preferred Stock Certificate**" means the "Form of Series A Preferred Stock Certificate" attached hereto as Exhibit A.

(cc) "**Fundamental Change**" shall be deemed to have occurred at any time after the Preferred Stock is originally issued if any of the following occurs:

(i) a "person" or "group" within the meaning of Section 13(d) of the Exchange Act, other than the Corporation, the Corporation's Subsidiaries, the employee benefit plans of the Corporation and its Subsidiaries, the Permitted Holders and any group that includes the Permitted Holders, files a Schedule TO (or any successor schedule, form or report) or any other schedule, form or report under the Exchange Act that discloses that such person or group has become the direct or indirect "beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of the Corporation's Common Equity representing more than 50% of the voting power of the Corporation's Common Equity;

(ii) the consummation of:

(A) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination) as a result of which the Common Stock would be converted into, or exchanged for, cash, securities or other property or assets;

(B) any share exchange, consolidation or merger of the Corporation pursuant to which the Common Stock will be converted into cash, securities or other property or assets;

(C) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Corporation and its Subsidiaries, taken as a whole, to any Person other than one of the Corporation's Subsidiaries; or

(D) any sale of assets of the Corporation or its Subsidiaries in any single or numerous transaction(s) together representing more than 35% of the value of the consolidated assets of the Corporation and its Subsidiaries, taken as a whole, as determined in good faith by the Board of Directors, to any Person other than one of the Corporation's Subsidiaries; or

(iii) the shareholders of the Corporation approve any plan or proposal for the liquidation or dissolution of the Corporation;

provided, *however*, that a transaction or series of transactions that is solely for the purpose of re-domiciling or otherwise changing the jurisdiction of incorporation or formation of the Corporation shall not constitute a Fundamental Change.

If any transaction described above in which the Common Stock is replaced by the Common Equity of another Person occurs, following completion of any related Fundamental Change Period, references to the Corporation in this definition shall instead be references to such other Person.

(dd) "**Fundamental Change Company Notice**" shall have the meaning specified in Section 5(c).

(ee) "**Fundamental Change Period**" shall mean, for any Fundamental Change, the period beginning at the open of business on the relevant Fundamental Change Effective Date and ending at the close of business on the related Fundamental Change Repurchase Date.

(ff) "**Fundamental Change Repurchase Date**" shall have the meaning specified in Section 5(a).

(gg) "**Fundamental Change Repurchase Notice**" shall have the meaning specified in Section 5(b).

(hh) "**Fundamental Change Repurchase Price**" shall have the meaning specified in Section 5(a).

(ii) "**Fundamental Change Effective Date**" shall mean, with respect to any Fundamental Change, the date on which such Fundamental Change occurs or becomes effective.

(jj) "**Global Preferred Stock**" shall have the meaning specified in Section 13(a)(i).

(kk) "**Holder**" or "**holder**" shall mean a holder of record of the Preferred Stock.

(ll) "**Issue Date**" shall mean December 30, 2024, the original date of issuance of the Preferred Stock.

(mm) "**Junior Stock**" shall mean the Common Stock, all classes of the Corporation's common stock and each other class of the Corporation's Capital Stock or series of preferred stock established after the Issue Date the terms of which do not expressly provide that such class or series ranks senior to or on a parity with the Preferred Stock as to dividend rights or rights upon the liquidation, winding-up or dissolution of the Corporation.

(nn) "**Liquidation Preference**" shall mean $1,000 per share of Preferred Stock.

(oo) "**Mandatory Conversion Date**" shall have the meaning specified in Section 10(b).

(pp) "**Officer**" shall mean the Chief Executive Officer, the Chief Financial Officer, the Chief Legal Officer, and the Chief Operating Officer of the Corporation.

(qq) "**Officers' Certificate**" shall mean a certificate signed by two Officers.

(rr) "**open of business**" shall mean 9:00 a.m. (New York City time).

(ss) "**Optional Redemption**" shall have the meaning specified in Section 4(a).

(tt) "**Parity Stock**" shall mean any class of the Corporation's Capital Stock or series of preferred stock established after the Issue Date, the terms of which expressly provide that such class or series will rank on a parity with the Preferred Stock as to dividend rights and rights upon the liquidation, winding-up or dissolution of the Corporation.

(uu) "**Permitted Holder**" means (i) Randal J. Kirk, (ii) the spouse and lineal descendants and spouses of lineal descendants of Randal J. Kirk, (iii) the estates or legal representatives of any person named in clauses (i) or (ii), (iv) trusts established for the benefit of any person named in clauses (i) or (ii) and (v) any entity solely owned or controlled, directly or indirectly, by one or more of the foregoing.

(vv) "**Person**" shall mean any individual, corporation, general partnership, limited partnership, limited liability partnership, joint venture, association, joint-stock company, trust, limited liability company, unincorporated organization or government or any agency or political subdivision thereof.

(ww) "**PIK Dividend Payment Date**" shall mean each of January 15, 2026 and January 15, 2027.

(xx) "**Preferred Stock**" shall have the meaning specified in Section 1(a).

(yy) "**Record Date**" shall mean, with respect to any dividend, distribution or other transaction or event in which the holders of the Common Stock (or other applicable security) have the right to receive any cash, securities or other property or in which the Common Stock (or such other security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of the Common Stock (or such other security) entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors, statute, contract or otherwise).

(zz) "**Redemption Date**" shall have the meaning specified in Section 4(b).

(aaa) "**Redemption Notice**" shall have the meaning specified in Section 4(b).

(bbb) "**Redemption Price**" shall mean an amount in cash per share of Preferred Stock equal to 100% of the Stated Value, *plus* Accumulated Dividends to, but excluding, such Redemption Date.

(ccc) "**Reference Property**" shall have the meaning specified in Section 9(g).

(ddd) "**Reorganization Event**" shall have the meaning specified in Section 9(g).

(eee) "**Resale Restriction Termination Date**" shall have the meaning specified in Section 14(b).

(fff) "**Restricted Securities**" shall have the meaning specified in Section 14(a).

(ggg) "**Rule 144**" shall mean Rule 144 as promulgated under the Securities Act.

(hhh) "**Scheduled Trading Day**" shall mean a day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange or market on which the Common Stock is listed or admitted for trading. If the Common Stock is not so listed or admitted for trading, "**Scheduled Trading Day**" means a Business Day

(iii) "**Securities Act**" shall mean the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

(jjj) "**Securities Purchase Agreement**" shall mean that certain Securities Purchase Agreement, dated December 27, 2024 between Precigen, Inc. and the investors party thereto, as may be amended, supplemented, restated or otherwise modified from time to time.

(kkk) "**Senior Stock**" shall mean any class of the Corporation's Capital Stock or series of preferred stock established after the Issue Date, the terms of which expressly provide that such class or series will rank senior to the Preferred Stock as to dividend rights or rights upon the liquidation, winding-up or dissolution of the Corporation.

(lll) "**Shareholder Approval Date**" shall mean the earliest date on which the Corporation (i) has obtained shareholder approval (x) to increase the number of authorized shares of Common Stock sufficient to permit the conversion of the Preferred Stock into the maximum number of shares of Common Stock deliverable upon conversion of all shares of Preferred Stock and (y) to the extent necessary under the rules of The Nasdaq Global Select Market in order to permit the transactions contemplated by the Securities Purchase Agreement

including the exercise of the Warrants (as defined therein) and the conversion of the Preferred Stock, and (ii) has filed with the State Corporation Commission of the Commonwealth of Virginia an amendment to the Articles of Incorporation evidencing such shareholder approval with respect to clause (i)(x) and which has been declared effective.

(mmm) "**Spin-Off**" shall have the meaning specified in Section 9(d)(iii).

(nnn) "**Stated Value**" shall mean, initially, an amount per share of the Preferred Stock equal to the Liquidation Preference, as increased on each PIK Dividend Payment Date by the Accumulated PIK Dividend Amount pursuant to Section 3(a), and as decreased by any payment of the Accumulated PIK Dividend Amount pursuant to the fourth sentence of Section 3(a).

(ooo) "**Subsidiary**" shall mean, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of its Capital Stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person, (ii) such Person and one or more Subsidiaries of such Person or (iii) one or more Subsidiaries of such Person.

(ppp) "**Trading Day**" shall mean a day during which trading in the Common Stock generally occurs on The Nasdaq Global Select Market or, if the Common Stock is not listed on The Nasdaq Global Select Market, on the principal other U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock is then listed or admitted for trading. If the Common Stock is not so listed or traded, "**Trading Day**" shall mean a Business Day.

(qqq) "**Transfer Agent**" shall mean Equiniti Trust Company, LLC, acting as the Corporation's duly appointed transfer agent, registrar, conversion agent and dividend disbursing agent for the Preferred Stock. The Corporation may, in its sole discretion, remove the Transfer Agent with 10 days' prior notice to the Transfer Agent and Holders; *provided* that the Corporation shall appoint a successor Transfer Agent who shall accept such appointment prior to the effectiveness of such removal.

(rrr) "**unit of Reference Property**" shall have the meaning specified in Section 9(g).

(sss) "**VSCA**" shall mean the Virginia Stock Corporation Act.

3. *Dividends*.

(a) Except as provided in the proviso to the immediately succeeding sentence, holders of shares of Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors out of funds of the Corporation legally available for payment, cumulative dividends in cash at the Dividend Rate.

Dividends on the Preferred Stock shall be payable annually in arrears at the Dividend Rate, and shall accumulate, whether or not earned or declared, from the most recent date to which dividends have been paid or added to the Stated Value, as the case may be, or, if no dividends have been paid or added to the Stated Value, from the Issue Date (whether or not in

any Dividend Period or Periods any agreements of the Corporation prohibit the current payment of dividends, there shall be funds of the Corporation legally available for the payment of such dividends or the Corporation declares the payment of dividends), and shall be paid in cash; *provided, however*, that on each PIK Dividend Payment Date, the Stated Value shall automatically be increased by the Accumulated PIK Dividend Amount on such PIK Dividend Payment Date, and holders of the shares of Preferred Stock shall not be entitled to receive dividends in cash for accumulated dividends added to the Stated Value in accordance with this proviso except upon (1) a payment made at the election of the Corporation pursuant to the second immediately succeeding sentence, (2) an Optional Redemption, (3) a repurchase upon a Fundamental Change or (4) the liquidation, winding-up or dissolution of the Corporation, in each case as set forth in this Article III.D. Dividends other than dividends described in the proviso of the immediately preceding sentence shall be payable in arrears on each Dividend Payment Date to the holders of record of Preferred Stock as they appear on the Corporation's stock register at the close of business on the relevant Dividend Record Date. Accumulations of dividends on shares of Preferred Stock for any past Dividend Periods (including, at the Corporation's election, any Accumulated PIK Dividend Amount) may be declared and paid at any time to holders of record of Preferred Stock not more than 40 nor less than 20 calendar days immediately preceding any Dividend Payment Date and shall not bear interest. The Corporation shall provide not less than 20 calendar days' notice prior to any such Dividend Payment Date.

Dividends for any period shall be computed on the basis of a 360-day year consisting of twelve 30-day months (or for any period less than a full month, the number of elapsed days).

(b) No dividend shall be declared or paid upon, or any sum set apart for the payment of dividends upon, any outstanding share of the Preferred Stock with respect to any Dividend Period unless all dividends for all preceding Dividend Periods (other than Dividend Periods preceding a PIK Dividend Payment Date) have been declared and paid, or declared and a sufficient sum has been set apart for the payment of such dividend, upon all outstanding shares of Preferred Stock.

(c) Except as set forth in the two immediately succeeding paragraphs, no cash dividends or other distributions may be declared, made or paid, or set apart for payment upon, any Parity Stock or Junior Stock at any time after the last PIK Dividend Payment Date unless all Accumulated Dividends shall have been or contemporaneously are declared and paid, or are declared and a sum sufficient for the payment thereof is set apart for such payment, on the Preferred Stock and any Parity Stock for all dividend payment periods ending on or prior to the date of such declaration, payment, redemption, purchase or acquisition.

Notwithstanding the immediately preceding paragraph, if full dividends have not been paid on the Preferred Stock and any Parity Stock, dividends may be declared and paid on the Preferred Stock and such Parity Stock so long as the dividends are declared and paid *pro rata* so that the amounts of dividends declared per share on the Preferred Stock and such Parity Stock shall in all cases bear to each other the same ratio that accumulated and unpaid dividends per share on the shares of Preferred Stock (excluding, for the avoidance of doubt, accumulated dividends for which the Stated Value has been increased on a PIK Dividend Payment Date pursuant to Section 3(a)) and such Parity Stock bear to each other at the time of declaration.

In addition, the limitations set forth in the second immediately preceding paragraph shall not apply to (1) any dividend or distribution payable in shares of Common Stock or other Junior

Stock; (2) any dividends or distributions of rights in connection with a shareholders' rights plan or any redemption or repurchase of rights pursuant to any shareholders' rights plan; or (3) the exchange or conversion of Junior Stock for or into other Junior Stock or of Parity Stock for or into other Parity Stock (with the same or lesser aggregate liquidation preference) or Junior Stock and, in each case, the payment of cash solely in lieu of fractional shares.

(d) Holders of shares of Preferred Stock shall not be entitled to any dividend in excess of full cumulative dividends, except as set forth in Section 9(d).

(e) If any Dividend Payment Date falls on a day that is not a Business Day, the required payment will be made on the next succeeding Business Day and no interest or additional dividends on such payment will accrue or accumulate, as the case may be, in respect of the delay.

(f) The Holders of shares of Preferred Stock at the close of business on a Dividend Record Date shall be entitled to receive the dividend payment on those shares on the corresponding Dividend Payment Date notwithstanding the conversion of such shares in accordance with Section 9 following such Dividend Record Date. Shares of Preferred Stock surrendered for conversion pursuant to Section 9 during the period from the close of business on any Dividend Record Date to the open of business on the immediately following Dividend Payment Date must be accompanied by funds equal to the amount of dividends (if any) payable on the shares of Preferred Stock so converted on such Dividend Payment Date to Holders of record on such Dividend Record Date; *provided* that no such payment need be made if the Corporation has specified a Redemption Date that is after a Dividend Record Date and on or prior to the Business Day immediately following the corresponding Dividend Payment Date. Except as provided in the immediately preceding sentence and Sections 10 and 11, the Corporation shall make no payment or allowance for unpaid dividends, whether or not in arrears, on converted shares of Preferred Stock or for dividends on the shares of Common Stock issued upon conversion.

4. *Optional Redemption*.

(a) No sinking fund is provided for the Preferred Stock. Subject to Section 4(b), on or after the Issue Date, the Corporation may redeem (an "**Optional Redemption**") for cash all, or any whole number of shares, of the Preferred Stock, at the Redemption Price in accordance with this Section 4.

(b) In case the Corporation exercises its Optional Redemption right to redeem all, or any whole number of shares, of the Preferred Stock pursuant to Section 4(a), it shall fix a date for redemption (each, a "**Redemption Date**") and it or, at its written request received by the Transfer Agent not less than 55 calendar days prior to the Redemption Date (or such shorter period of time as may be acceptable to the Transfer Agent), the Transfer Agent, in the name of and at the expense of the Corporation, shall mail or cause to be mailed a notice of such Optional Redemption (a "**Redemption Notice**") not less than 30 days prior to the Redemption Date to each Holder of Preferred Stock at its last address as the same appears on the Corporation's stock register; *provided*, *however*, that, if the Corporation shall give such notice, it shall also give written notice of the Redemption Date to the Transfer Agent. The Redemption Date must be a Business Day.

(c) The Redemption Notice, if mailed in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, failure to give such Redemption Notice by mail or any defect in the Redemption Notice to the Holder of any share of Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other share of Preferred Stock.

(d) Each Redemption Notice shall specify:

(i) the Redemption Date;

(ii) the Redemption Price;

(iii) that on the Redemption Date, the Redemption Price will become due and payable upon each share of Preferred Stock, and that any dividends thereon shall cease to accumulate on and after the Redemption Date;

(iv) the place or places where such shares of Preferred Stock are to be surrendered for payment of the Redemption Price;

(v) that Holders may surrender their shares of Preferred Stock for conversion at any time prior to the close of business on the second Business Day immediately preceding the Redemption Date;

(vi) the procedures a converting Holder must follow to convert its Preferred Stock;

(vii) the Conversion Rate;

(viii) the CUSIP, ISIN or other similar numbers, if any, assigned to such Preferred Stock; and

(ix) in the case the Preferred Stock is to be redeemed in part only, the number of shares of Preferred Stock to be redeemed and on and after the Redemption Date, upon surrender of a certificate for any Preferred Stock to be redeemed in part only, a new certificate for Preferred Stock evidencing a number of shares of Preferred Stock representing the unredeemed portion thereof shall be issued.

A Redemption Notice shall be irrevocable.

(e) If any Redemption Notice has been given in respect of the Preferred Stock in accordance with Section 4(b), Holders of the Preferred Stock shall surrender any shares of Preferred Stock that are to be redeemed and that have not been converted prior to the related Redemption Date to the Corporation on the Redemption Date at the place or places stated in the Redemption Notice. Prior to 11:00 a.m., New York City time, on the Redemption Date, the Corporation shall deposit with the Transfer Agent an amount of cash (in immediately available funds if deposited on the Redemption Date), sufficient to pay the Redemption Price of all of the shares of Preferred Stock to be redeemed on such Redemption Date.

On the later of the Redemption Date and the date of presentation and surrender by the relevant Holder of the Preferred Stock to be redeemed at the place or places stated in the

Redemption Notice, the Corporation shall pay the Redemption Price to such Holder of the Preferred Stock to be redeemed by mailing checks for the amount payable to the Holders of such shares of Preferred Stock entitled thereto as they shall appear in the share register of the Corporation; *provided*, *however*, that payments to the Depository shall be made by wire transfer of immediately available funds to the account of the Depository or its nominee. The Transfer Agent shall, promptly after such payment and upon written demand by the Corporation, return to the Corporation any funds in excess of the Redemption Price.

(f) If less than all the shares of Preferred Stock then outstanding are to be redeemed, then (x) the shares of Preferred Stock to be redeemed will be selected by the Transfer Agent as follows: (1) in the case of Global Preferred Stock, in accordance with the applicable procedures of the Depository; and (2) in the case of Certificated Preferred Stock, by lot or pro rata and (y) if only a portion of a certificate evidencing Preferred Stock is subject to redemption and some but not all of the shares of Preferred Stock represented by such certificate are converted, then the shares of Preferred Stock so converted shall be deemed to be from the portion of such certificate evidencing Preferred Stock that was subject to the redemption. In addition, in the case of a certificate evidencing Preferred Stock to be redeemed in part only, on and after the Redemption Date, upon surrender by the relevant Holder of such certificate, a new certificate for Preferred Stock evidencing a number of shares of Preferred Stock representing the unredeemed portion thereof shall be issued to such Holder.

(g) From and after the Redemption Date (unless the Corporation shall default in providing for the payment of the Redemption Price), dividends will cease to accrue on the Preferred Stock that is subject to redemption, the Preferred Stock that is subject to redemption shall no longer be deemed outstanding and all rights of the Holders of the Preferred Stock that is subject to redemption will terminate, except the right to receive the Redemption Price payable upon redemption.

(h) The Corporation shall not be entitled to exercise its right to make an Optional Redemption unless the Redemption Price is paid solely in cash on the Redemption Date, including with respect to any Accumulated Dividends as of the Redemption Date.

5. *Repurchase Upon a Fundamental Change.*

(a) If a Fundamental Change occurs at any time, each Holder shall have the right, at such Holder's option, to require the Corporation to repurchase for cash all of such Holder's shares of Preferred Stock, or any portion thereof, on the date (the "**Fundamental Change Repurchase Date**") specified by the Corporation that is not less than 15 Scheduled Trading Days nor more than 30 Scheduled Trading Days following the date of the Fundamental Change Company Notice at a repurchase price equal to 100% of the Stated Value thereof, *plus* Accumulated Dividends thereon to, but excluding, such Fundamental Change Repurchase Date (the "**Fundamental Change Repurchase Price**"), unless the Fundamental Change Repurchase Date falls after a Dividend Record Date but on or prior to the Dividend Payment Date to which such Dividend Record Date relates, in which case the Corporation shall instead pay the full amount of Accumulated Dividends to Holders of record as of such Dividend Record Date, and the Fundamental Change Repurchase Price shall be equal to 100% of the Stated Value of the Preferred Stock to be repurchased pursuant to this Section 5.

(b) Repurchases of Preferred Stock under this Section 5 shall be made, at the option of the Holder thereof, upon:

(i) delivery to the Transfer Agent by a Holder of a duly completed notice (the "**Fundamental Change Repurchase Notice**") in the form set forth in Attachment 2 to Exhibit A hereto, if the Preferred Stock is represented by Certificated Preferred Stock, or in compliance with the Depository's procedures for surrendering interests in Preferred Stock, if the Preferred Stock is represented by Global Preferred Stock, in each case on or before the close of business on the second Business Day immediately preceding the Fundamental Change Repurchase Date; and

(ii) delivery of the Preferred Stock, if the Preferred Stock is represented by Certificated Preferred Stock, to the Transfer Agent at any time after delivery of the Fundamental Change Repurchase Notice (together with all necessary endorsements for transfer) at the office of the Transfer Agent, or book-entry transfer of the Preferred Stock, if the Preferred Stock is represented by Global Preferred Stock, in compliance with the procedures of the Depository, in each case such delivery being a condition to receipt by the Holder of the Fundamental Change Repurchase Price therefor.

The Fundamental Change Repurchase Notice in respect of any Preferred Stock to be repurchased shall state:

(i) in the case of Preferred Stock represented by Certificated Preferred Stock, the certificate numbers of the Preferred Stock to be delivered for repurchase;

(ii) the number of shares of Preferred Stock to be repurchased; and

(iii) that the shares of Preferred Stock are to be repurchased by the Corporation pursuant to the applicable provisions hereof;

provided, *however*, that if the Preferred Stock is represented by Global Preferred Stock, the Fundamental Change Repurchase Notice must comply with appropriate Depository procedures.

Notwithstanding anything herein to the contrary, any Holder delivering to the Transfer Agent the Fundamental Change Repurchase Notice contemplated by this Section 5(b) shall have the right to withdraw, in whole or in part, such Fundamental Change Repurchase Notice at any time prior to the close of business on the second Business Day immediately preceding the Fundamental Change Repurchase Date by delivery of a written notice of withdrawal to the Transfer Agent in accordance with Section 5(d).

The Transfer Agent shall promptly notify the Corporation of the receipt by it of any Fundamental Change Repurchase Notice or written notice of withdrawal thereof.

(c) The Corporation must give notice (a "**Fundamental Change Company Notice**") of each Fundamental Change and of the repurchase right at the option of the Holders arising as a result thereof to all Holders of the Preferred Stock no later than the Business Day immediately preceding the relevant Fundamental Change Effective Date. In the case of Preferred Stock represented by Certificated Preferred Stock, such notice shall be by first class mail or, in the case of Preferred Stock represented by Global Preferred Stock, such notice shall be delivered in accordance with the applicable procedures of the Depository. Simultaneously with providing

such notice, the Corporation shall publish such information on the Corporation's website or through such other public medium as the Corporation may use at that time. Each Fundamental Change Company Notice shall specify:

(i) the events causing the Fundamental Change;

(ii) the date of the Fundamental Change;

(iii) the last date on which a Holder may exercise the repurchase right pursuant to this Section 5;

(iv) the Fundamental Change Repurchase Price;

(v) the Fundamental Change Repurchase Date;

(vi) the name and address of the Transfer Agent and the conversion agent, if applicable;

(vii) that the shares of Preferred Stock with respect to which a Fundamental Change Repurchase Notice has been delivered by a Holder may be converted only if the Holder withdraws the Fundamental Change Repurchase Notice in accordance with the terms hereof (unless the Corporation defaults in the payment of the Fundamental Change Repurchase Price); and

(viii) the procedures that Holders must follow to require the Corporation to repurchase their Preferred Stock in connection with the Fundamental Change.

No failure of the Corporation to give the foregoing notices and no defect therein shall limit the Holders' repurchase rights or affect the validity of the proceedings for the repurchase of the Preferred Stock pursuant to this Section 5(c).

At the Corporation's request, the Transfer Agent shall give such notice in the Corporation's name and at the Corporation's expense; *provided*, *however*, that, in all cases, the text of such Fundamental Change Company Notice shall be prepared by the Corporation.

(d) A Fundamental Change Repurchase Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the office of the Transfer Agent in accordance with this Section 5(d) at any time prior to the close of business on the second Business Day immediately preceding the Fundamental Change Repurchase Date, specifying:

(i) the number of shares of Preferred Stock with respect to which such notice of withdrawal is being submitted,

(ii) if Certificated Preferred Stock has been issued, the certificate number(s) of the shares of Preferred Stock in respect of which such notice of withdrawal is being submitted, and

(iii) the number of shares of Preferred Stock represented by such Certificated Preferred Stock that remains subject to the original Fundamental Change Repurchase Notice;

provided, *however*, that if the Preferred Stock is represented by Global Preferred Stock, the notice must comply with appropriate procedures of the Depository.

(e) The Corporation will deposit with the Transfer Agent (or other paying agent appointed by the Corporation) prior to 11:00 a.m., New York City time, on the Fundamental Change Repurchase Date (in immediately available funds if deposited on the Fundamental Change Repurchase Date) an amount of money sufficient to repurchase all of the shares of Preferred Stock to be repurchased at the appropriate Fundamental Change Repurchase Price. Subject to receipt of funds and/or shares of Preferred Stock by the Transfer Agent (or such paying agent), payment for shares of Preferred Stock surrendered for repurchase (and not withdrawn prior to the close of business on the second Business Day immediately preceding the Fundamental Change Repurchase Date) will be made on the later of:

(i) the Fundamental Change Repurchase Date (provided the Holder has satisfied the conditions in Section 5(b)); and

(ii) the time of book-entry transfer or the delivery of such Preferred Stock to the Transfer Agent by the Holder thereof in the manner required by Section 5(b) by mailing checks for the amount payable to the Holders of such shares of Preferred Stock entitled thereto as they shall appear in the share register of the Corporation;

provided, *however*, that payments to the Depository shall be made by wire transfer of immediately available funds to the account of the Depository or its nominee. The Transfer Agent shall, promptly after such payment and upon written demand by the Corporation, return to the Corporation any funds in excess of the Fundamental Change Repurchase Price.

(f) If by 11:00 a.m., New York City time, on the Fundamental Change Repurchase Date, the Transfer Agent (or other paying agent appointed by the Corporation) holds money sufficient to make payment on all the shares of Preferred Stock that are to be repurchased on such Fundamental Change Repurchase Date, then, with respect to the shares of Preferred Stock that have been properly surrendered for repurchase and have not been validly withdrawn, such shares will cease to be outstanding, dividends will cease to accumulate on such shares (whether or not book-entry transfer of such shares has been made or the shares have been delivered to the Transfer Agent) and all other rights of the Holders of such shares of Preferred Stock will terminate (other than the right to receive the Fundamental Change Repurchase Price and, if applicable, Accumulated Dividends).

(g) Upon surrender of shares of Preferred Stock represented by Certificated Preferred Stock to be repurchased in part pursuant to this Section 5, the Corporation shall execute and the Transfer Agent shall authenticate and deliver to the Holder new certificate(s) representing such Preferred Stock in an authorized denomination equal in number to the unrepurchased number of shares so surrendered.

(h) If the Corporation does not have legally available funds sufficient to pay the Fundamental Change Repurchase Price in cash, the Corporation will, as soon as the Corporation is legally able to do so, pay such unpaid amount in cash.

6. [*Reserved*.]

7. *Voting.* (a) Holders of the Preferred Stock will not have voting rights except those described in Section 7 below and as specifically required by the VSCA or by the Articles of Incorporation.

(b) So long as any shares of Preferred Stock are outstanding, in addition to any other vote or consent of shareholders required by law or by the Articles of Incorporation, the affirmative vote or consent of the holders of at least a majority of the outstanding shares of Preferred Stock, voting as a single class, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, shall be necessary for effecting or validating:

(i) any amendment or alteration of the Articles of Incorporation so as to authorize or create, or increase the authorized amount of, any class or series of Senior Stock or any class or series of Parity Stock;

(ii) any amendment, alteration or repeal of any provision of the Articles of Incorporation so as to materially and adversely affect the rights, preferences, privileges or voting powers of the Preferred Stock; or

(iii) any consummation of a binding share exchange or reclassification involving the Preferred Stock, or of a merger or consolidation of the Corporation with or into another Person, unless, in each case:

(x) the shares of Preferred Stock remain outstanding and are not amended in any respect (except to the extent required pursuant to the terms of the Articles of Incorporation) or

(y) in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, the shares of Preferred Stock are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and such preference securities have such rights, preferences, privileges and voting powers, taken as a whole, that are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Preferred Stock immediately prior to such consummation, taken as a whole;

provided, *however*, that for all purposes of this Section 7(b), any increase in the amount of the Corporation's authorized Preferred Stock or the creation or issuance of any shares of Parity Stock or Junior Stock, or any increase in the amount of authorized shares of Parity Stock or Junior Stock, shall not be deemed to materially and adversely affect the rights, preferences, privileges or voting powers of Holders of shares of Preferred Stock specified herein and shall not require the affirmative vote or consent of Holders of the Preferred Stock.

(c) Without the consent of the Holders of the Preferred Stock, the Corporation may amend, alter, supplement or repeal any terms of the Preferred Stock by amending or supplementing the Articles of Incorporation or any stock certificate representing shares of the Preferred Stock:

(i) to cure any ambiguity, omission, inconsistency or mistake in any such agreement or instrument (including any provision contained in this Article III.D); or

(ii) to make any other change that does not adversely affect the rights, preferences, privileges or voting powers of any Holder in any material respect (other than any Holder that consents to such change).

8. *Liquidation Rights.*

(a) In the event of any liquidation, winding-up or dissolution of the Corporation, whether voluntary or involuntary, each Holder of shares of Preferred Stock shall be entitled to receive and to be paid out of the assets of the Corporation available for distribution to its shareholders the Stated Value *plus* Accumulated Dividends to the date fixed for liquidation, winding-up or dissolution in preference to the holders of, and before any payment or distribution is made on, any Junior Stock, including, without limitation, the Common Stock.

(b) Neither the sale (for cash, shares of stock, securities or other consideration) of all or substantially all the assets or business of the Corporation (other than in connection with the liquidation, winding-up or dissolution of the Corporation) nor the merger or consolidation of the Corporation into or with any other Person shall be deemed to be a liquidation, winding-up or dissolution, voluntary or involuntary, for the purposes of this Section 8.

(c) After the payment to the Holders of the shares of Preferred Stock of full preferential amounts provided for in this Section 8, the Holders of Preferred Stock as such shall have no right or claim to any of the remaining assets of the Corporation.

(d) In the event the assets of the Corporation available for distribution to the Holders of shares of Preferred Stock and holders of shares of Parity Stock upon any liquidation, winding-up or dissolution of the Corporation, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such Holders are entitled pursuant to this Section 8, no such distribution shall be made on account of any shares of Parity Stock upon such liquidation, dissolution or winding-up unless proportionate distributable amounts shall be paid on account of the shares of Preferred Stock, equally and ratably, in proportion to the full distributable amounts for which holders of all Preferred Stock and of any Parity Stock are entitled upon such liquidation, winding-up or dissolution.

9. *Conversion.*

(a) The shares of Preferred Stock shall not be convertible by any Holder at any time prior to the later of the Shareholder Approval Date and the six-month anniversary of the Issue Date. On or after the later of the Shareholder Approval Date and the six-month anniversary of the Issue Date, each Holder of Preferred Stock shall have the right at any time, at its option, to convert, subject to the terms and provisions of this Section 9, any or all of such Holder's shares of Preferred Stock into Common Stock at the Conversion Rate. Upon conversion of any share of Preferred Stock, the Corporation shall deliver to the converting Holder, in respect of each $1,000 of Stated Value of each share of Preferred Stock being converted, a number of shares of Common Stock equal to the Conversion Rate, together with a cash payment in lieu of any fractional share of Common Stock in accordance with Section 12, on the second Business Day immediately following the relevant Conversion Date, subject to Section 9(d)(iii) and Section 9(d)(v). Notwithstanding anything to the contrary herein, if as of the Conversion Date (or

Mandatory Conversion Date, as applicable) for any conversion the arithmetic average of the Closing Sale Prices of the Common Stock for each Trading Day during the period of five consecutive Trading Days ending on, and including, the last Trading Day of the immediately preceding fiscal quarter (subject to appropriate adjustment for any event described in Section 9(d)(i) that has occurred during or subsequent to such period) exceeds the Conversion Price otherwise in effect on such Conversion Date (or Mandatory Conversion Date, as applicable), then the Conversion Rate for purposes of such conversion for each $1,000 of Stated Value shall be deemed to be equal to $1,000 *divided by* such arithmetic average (as adjusted, if applicable).

(b) Before any Holder shall be entitled to convert a share of Preferred Stock as set forth above, such Holder shall:

(i) in the case of a beneficial interest in a Global Preferred Stock, comply with the procedures of the Depository in effect at that time; and

(ii) in the case of Certificated Preferred Stock:

(1) complete, manually sign and deliver an irrevocable notice to the office of the conversion agent as set forth in the Form of Notice of Conversion (or a facsimile thereof) in the form set forth in Attachment 1 to Exhibit A hereto (a "**Notice of Conversion**") and state in writing therein the number of shares of Preferred Stock to be converted and the name or names (with addresses) in which such Holder wishes the certificate or certificates for any shares of Common Stock to be delivered to be registered,

(2) surrender such shares of Preferred Stock, at the office of the conversion agent; and

(3) if required, furnish appropriate endorsements and transfer documents. The conversion agent shall notify the Corporation of any conversion pursuant to this Section 9 on the Conversion Date for such conversion.

The date on which a Holder complies with the procedures in this Section 9(b) is the "**Conversion Date**." If more than one share of Preferred Stock shall be surrendered for conversion at one time by the same Holder, the number of shares of Common Stock to be delivered upon conversion of such shares of Preferred Stock shall be computed on the basis of the aggregate number of shares of Preferred Stock so surrendered.

(c) Immediately prior to the close of business on the Conversion Date with respect to a conversion, a converting Holder of Preferred Stock shall be deemed to be the holder of record of the Common Stock issuable upon conversion of such Holder's Preferred Stock notwithstanding that the share register of the Corporation shall then be closed or that certificates representing such Common Stock shall not then be actually delivered to such Holder. On any Conversion Date, all rights with respect to the shares of Preferred Stock so converted, including the rights, if any, to receive notices, will terminate, excepting only the rights of holders thereof to:

(i) receive certificates for the number of whole shares of Common Stock into which such shares of Preferred Stock have been converted (with a cash payment in lieu of any fractional share of Common Stock in accordance with Section 12); and

(ii) exercise the rights to which they are thereafter entitled as holders of Common Stock.

(d) The Conversion Rate shall be adjusted, without duplication, upon the occurrence of any of the following events, except that the Corporation shall not make any adjustments to the Conversion Rate if Holders of the Preferred Stock may participate (other than in the case of (x) a share split or share combination or (y) a tender or exchange offer), at the same time and upon the same terms as holders of the Common Stock and solely as a result of holding the Preferred Stock, in any of the transactions described in this Section 9(d), without having to convert their Preferred Stock, as if they held a number of shares of Common Stock equal to the Conversion Rate, *multiplied by* the number of shares of Preferred Stock held by such Holder:

(i) If the Corporation exclusively issues shares of Common Stock as a dividend or distribution on all shares of its Common Stock, or if the Corporation effects a share split or share combination, the Conversion Rate shall be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the close of business on the Record Date for such dividend or distribution, or immediately prior to the open of business on the Effective Date of such share split or share combination, as the case may be;

CR_1 = the Conversion Rate in effect immediately after the close of business on the Record Date for such dividend or distribution, or immediately after the open of business on the Effective Date of such share split or share combination, as the case may be;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the close of business on the Record Date for such dividend or distribution, or immediately prior to the open of business on the Effective Date of such share split or share combination, as the case may be (in each case, before giving effect to any such dividend, distribution, split or combination); and

OS_1 = the number of shares of Common Stock outstanding immediately after giving effect to such dividend or distribution, or such share split or share combination, as the case may be.

Any adjustment made under this Section 9(d)(i) shall become effective immediately after the close of business on the Record Date for such dividend or distribution, or immediately after the open of business on the Effective Date for such share split or share combination, as the case may be. If any dividend or distribution of the type described in this Section 9(d)(i) is declared but not so paid or made, the Conversion Rate shall be immediately readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

(ii) If the Corporation distributes to all or substantially all holders of its Common Stock any rights, options or warrants entitling them, for a period expiring not more than 60 days immediately following the announcement date of such distribution, to purchase or subscribe for shares of its Common Stock at a price per share that is less than the average of the Closing Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the announcement date of such distribution, the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the close of business on the Record Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the close of business on the Record Date for such distribution;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the close of business on the Record Date for such distribution;

X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and

Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights, options or warrants, *divided by* the average of the Closing Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the announcement date of such distribution.

Any increase made under this Section 9(d)(ii) shall be made successively whenever any such rights, options or warrants are distributed and shall become effective immediately after the close of business on the Record Date for such distribution.

To the extent that shares of Common Stock are not delivered after the expiration of such rights, options or warrants, the Conversion Rate shall be readjusted, effective as of the date of such expiration, to the Conversion Rate that would then be in effect had the increase with respect to the distribution of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are not so distributed, the Conversion Rate shall be decreased, effective as of the date the Board of Directors determines not to make such distribution, to be the Conversion Rate that would then be in effect if such Record Date for such distribution had not occurred.

For purposes of this Section 9(d)(ii), in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of Common Stock at less than such average of the Closing Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the announcement date of such distribution, and in determining the aggregate offering

price of such shares of Common Stock, there shall be taken into account any consideration received by the Corporation for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Corporation.

(iii) If the Corporation distributes shares of its Capital Stock, evidences of its indebtedness or other assets, securities or property of the Corporation or rights, options or warrants to acquire its Capital Stock or other securities, to all or substantially all holders of Common Stock, excluding (a) dividends, distributions or issuances described in Section 9(d)(i) or Section 9(d)(ii), (b) dividends or distributions paid exclusively in cash as to which the provisions of Section 9(d)(iv) shall apply and (c) Spin-Offs as to which the provisions set forth below in this Section 9(d)(iii) shall apply (any of such shares of Capital Stock, evidences of indebtedness, other assets, securities or property or rights, options or warrants to acquire Capital Stock or other securities, the "**Distributed Property**"), then the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP_0}{SP_0 - FMV}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the close of business on the Record Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the close of business on the Record Date for such distribution;

SP_0 = the average of the Closing Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Date for such distribution; and

FMV = the fair market value as of the Record Date for such distribution (as determined by the Corporation) of the Distributed Property with respect to each outstanding share of the Common Stock.

Any increase made under the portion of this Section 9(d)(iii) above shall become effective immediately after the close of business on the Record Date for such distribution. If such distribution is not so paid or made, the Conversion Rate shall be decreased, effective as of the date the Board of Directors determines not to pay the distribution, to be the Conversion Rate that would then be in effect if such distribution had not been declared.

Notwithstanding the foregoing, if "FMV" (as defined above) is equal to or greater than "SP_0" (as defined above), in lieu of the foregoing increase, each Holder of Preferred Stock shall receive, for each share of Preferred Stock, at the same time and upon the same terms as holders of the Common Stock, the amount and kind of Distributed Property that such Holder would have received as if such Holder owned a number of shares of Common Stock equal to the Conversion Rate in effect on the Record Date for the distribution. If the Corporation determines the "FMV" (as defined above) of any distribution for purposes of this Section 9(d)(iii) by reference to the actual or when-issued trading market for any securities, it shall in doing so consider the prices in such market

over the same period used in computing the Closing Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Date for such distribution.

With respect to an adjustment pursuant to this Section 9(d)(iii) where there has been a payment of a dividend or other distribution on the Common Stock consisting solely of shares of Capital Stock of any class or series, or similar equity interests, of or relating to a Subsidiary or other business unit of the Corporation where such Capital Stock or similar equity interest is, or will be when issued, listed or admitted for trading on a U.S. national securities exchange (a "**Spin-Off**"), the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV + MP_0}{MP_0}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the close of business on the 10th Trading Day immediately following, and including, the Ex-Date for the Spin-Off;

CR_1 = the Conversion Rate in effect immediately after the close of business on the 10th Trading Day immediately following, and including, the Ex-Date for the Spin-Off;

FMV = the average of the Closing Sale Prices of the Capital Stock or similar equity interest distributed to holders of the Common Stock applicable to one share of Common Stock over the 10 consecutive Trading Day period immediately following, and including, the Ex-Date for the Spin-Off; and

MP_0 = the average of the Closing Sale Prices of the Common Stock over the 10 consecutive Trading Day period immediately following, and including, the Ex-Date for the Spin-Off.

The adjustment to the Conversion Rate under the preceding paragraph shall be calculated as of the close of business on the 10th Trading Day immediately following, and including, the Ex-Date for the Spin-Off, but will be given effect as of immediately after the open of business on the Ex-Date of such Spin-Off. Because the Corporation shall make the adjustment to the Conversion Rate with retroactive effect, the Corporation shall, and shall be permitted to, delay the settlement of any conversion of Preferred Stock where the relevant Conversion Date occurs during the 10 consecutive Trading Day period immediately following, and including, the Ex-Date for such Spin-Off until the second Business Day immediately after the last Trading Day of such period.

For purposes of this Section 9(d)(iii) (and subject in all respect to Section 9(j)), rights, options or warrants distributed by the Corporation to all holders of Common Stock entitling them to subscribe for or purchase shares of the Corporation's Capital Stock, including Common Stock (either initially or under certain circumstances), which rights, options or warrants, until the occurrence of a specified event or events ("**Trigger Event**"):

(i) are deemed to be transferred with such shares of the Common Stock,

(ii) are not exercisable and

(iii) are also issued in respect of future issuances of the Common Stock,

shall be deemed not to have been distributed for purposes of this Section 9(d)(iii) (and no adjustment to the Conversion Rate under this Section 9(d)(iii) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights, options or warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this Section 9(d)(iii).

If any such right, option or warrant, including any such existing rights, options or warrants distributed prior to the Issue Date, are subject to events, upon the occurrence of which such rights, options or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and Record Date with respect to new rights, options or warrants with such rights (in which case the existing rights, options or warrants shall be deemed to terminate and expire on such date without exercise by any of the holders thereof).

In addition, in the event of any distribution (or deemed distribution) of rights, options or warrants, or any Trigger Event or other event (of the type described in the immediately preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Rate under this Section 9(d)(iii) was made:

(1) in the case of any such rights, options or warrants that shall all have been redeemed or purchased without exercise by any holders thereof, upon such final redemption or purchase:

(x) the Conversion Rate shall be readjusted as if such rights, options or warrants had not been issued; and

(y) the Conversion Rate shall then again be readjusted to give effect to such distribution, deemed distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or purchase price received by a holder or holders of Common Stock with respect to such rights, options or warrants (assuming such holder had retained such rights, options or warrants), made to all holders of Common Stock as of the date of such redemption or purchase; and

(2) in the case of such rights, options or warrants that shall have expired or been terminated without exercise by any holders thereof, the Conversion Rate shall be readjusted as if such rights, options and warrants had not been issued.

For purposes of Section 9(d)(i), Section 9(d)(ii) and this Section 9(d)(iii), if any dividend or distribution to which this Section 9(d)(iii) is applicable also includes one or both of:

(A) a dividend or distribution of shares of Common Stock to which Section 9(d)(i) is applicable (the "**Clause A Distribution**"); or

(B) a dividend or distribution of rights, options or warrants to which Section 9(d)(ii) is applicable (the "**Clause B Distribution**"), then, in either case:

(1) such dividend or distribution, other than the Clause A Distribution and the Clause B Distribution, shall be deemed to be a dividend or distribution to which this Section 9(d)(iii) is applicable (the "**Clause C Distribution**") and any Conversion Rate adjustment required by this Section 9(d)(iii) with respect to such Clause C Distribution shall then be made; and

(2) the Clause A Distribution and Clause B Distribution shall be deemed to immediately follow the Clause C Distribution and any Conversion Rate adjustment required by Section 9(d)(i) and Section 9(d)(ii) with respect thereto shall then be made;

except that, if determined by the Corporation:

(I) the "Record Date" of the Clause A Distribution and the Clause B Distribution shall be deemed to be the Record Date of the Clause C Distribution; and

(II) any shares of Common Stock included in the Clause A Distribution or Clause B Distribution shall be deemed not to be "outstanding immediately prior to the close of business on the Record Date for such dividend or distribution, or immediately prior to the open of business on the Effective Date of such share split or share combination, as the case may be" within the meaning of Section 9(d)(i) or "outstanding immediately prior to the close of business on the Record Date for such distribution" within the meaning of Section 9(d)(ii).

(iv) If any cash dividend or distribution is made to all or substantially all holders of the Common Stock, the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP_0}{SP_0 - C}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the close of business on the Record Date for such dividend or distribution;

CR_1 = the Conversion Rate in effect immediately after the close of business on the Record Date for such dividend or distribution;

SP_0 = the average of the Closing Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Date for such dividend or distribution; and

C = the amount in cash per share of Common Stock the Corporation distributes to all or substantially all holders of its Common Stock.

Any increase pursuant to this Section 9(d)(iv) shall become effective immediately after the close of business on the Record Date for such dividend or distribution. If such dividend or distribution is not so paid, the Conversion Rate shall be decreased, effective as of the date the Board of Directors determines not to pay or make such dividend or distribution, to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

Notwithstanding the foregoing, if "C" (as defined above) is equal to or greater than "SP_0" (as defined above), in lieu of the foregoing increase, each Holder of Preferred Stock shall receive, for each share of Preferred Stock, at the same time and upon the same terms as holders of the Common Stock, the amount of cash that such Holder would have received as if such Holder owned a number of shares of Common Stock equal to the Conversion Rate on the Record Date for such cash dividend or distribution.

(v) If the Corporation or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for the Common Stock and the cash and value of any other consideration included in the payment per share of the Common Stock exceeds the average of the Closing Sale Price of the Common Stock over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer, the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP_1 \times OS_1)}{OS_0 \times SP_1}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the close of business on the last Trading Day of the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date such tender or exchange offer expires;

CR_1 = the Conversion Rate in effect immediately after the close of business on the last Trading Day of the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date such tender or exchange offer expires;

AC = the aggregate value of all cash and any other consideration (as determined by the Corporation) paid or payable for shares of Common Stock purchased in such tender or exchange offer;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the date such tender or exchange offer expires (prior to giving effect to the purchase of all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer);

OS_1 = the number of shares of Common Stock outstanding immediately after the date such tender or exchange offer expires (after giving effect to the purchase of all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer); and

SP_1 = the average of the Closing Sale Prices of the Common Stock over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date such tender or exchange offer expires.

The adjustment to the Conversion Rate under this Section 9(d)(v) shall be calculated as of the close of business on the last Trading Day of the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date on which the relevant tender or exchange offer expires, but will be given effect as of immediately after the time at which such tender or exchange offer expires. Because the Corporation shall make the adjustment to the Conversion Rate with retroactive effect, the Corporation shall, and shall be permitted to, delay the settlement of any conversion of Preferred Stock where the relevant Conversion Date occurs during the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date on which the relevant tender or exchange offer expires until the second Business Day after the last Trading Day of such period.

In the event that the Corporation or one of its Subsidiaries is obligated to purchase shares of Common Stock pursuant to any such tender offer or exchange offer, but the Corporation or such Subsidiary is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then the Conversion Rate shall be readjusted to be such Conversion Rate that would then be in effect if such tender offer or exchange offer had not been made.

(vi) All calculations and other determinations under this Section 9(d) shall be made by the Corporation and shall be made to the nearest one-ten thousandth (1/10,000th) of a share.

(vii) In addition to those adjustments required by clauses (i), (ii), (iii), (iv) and (v) of this Section 9(d), and to the extent permitted by applicable law and subject to the applicable rules of any exchange on which the Corporation's securities are then listed, the Corporation from time to time may increase the Conversion Rate by any amount for a period of at least 20 Business Days or any longer period permitted or required by law if the increase is irrevocable during that period and the Board of Directors determines that such increase would be in the Corporation's best interest. In addition, the Corporation may (but is not required to) increase the Conversion Rate to avoid or diminish any income tax to holders of Common Stock or rights to purchase Common Stock in connection with a dividend or distribution of shares (or rights to acquire shares) or similar event. Whenever the Conversion Rate is increased pursuant to any of the preceding two sentences, the Corporation shall mail to the Holder of each share of Preferred Stock at its last address appearing on the stock register of the Corporation a notice of the increase at least 15 days prior to the date the increased Conversion Rate takes effect, and such notice shall state the increased Conversion Rate and the period during which it will be in effect.

(viii) For purposes of this Section 9(d), the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Corporation so long as the Corporation does not pay any dividend or make any distribution on shares of

Common Stock held in the treasury of the Corporation, but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

(e) If the Corporation shall take a record of the holders of its Common Stock for the purpose of entitling them to receive a dividend or other distribution, and shall thereafter (and before the dividend or distribution has been paid or delivered to shareholders) legally abandon its plan to pay or deliver such dividend or distribution, then thereafter no adjustment in the Conversion Rate then in effect shall be required by reason of the taking of such record.

(f) Upon any increase in the Conversion Rate pursuant to Section 9(d), the Corporation promptly shall deliver to each Holder a certificate signed by an authorized officer of the Corporation, setting forth in reasonable detail the event requiring the adjustment and the method by which such adjustment was calculated and specifying the increased Conversion Rate then in effect following such adjustment.

(g) In the case of:

(i) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination),

(ii) any consolidation, merger or combination involving the Corporation,

(iii) any sale, lease or other transfer to a third party of the consolidated assets of the Corporation and the Corporation's Subsidiaries substantially as an entirety, or

(iv) any statutory share exchange,

in each case, as a result of which the Common Stock is converted into, or exchanged for, stock, other securities, other property or assets (including cash or any combination thereof) (any such transaction or event, a "**Reorganization Event**"), then, at and after the effective time of such Reorganization Event, the right to convert each share of Preferred Stock shall be changed into a right to convert such share into the kind and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) that a holder of a number of shares of Common Stock equal to the Conversion Rate immediately prior to such Reorganization Event would have owned or been entitled to receive upon such Reorganization Event (such stock, securities or other property or assets, the "**Reference Property**," with each "**unit of Reference Property**" meaning the kind and amount of Reference Property that a holder of one share of Common Stock is entitled to receive in the relevant Reorganization Event).

If the Reorganization Event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of shareholders election), then the Reference Property into which the Preferred Stock will be convertible shall be deemed to be the weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively make such an election. The Corporation shall notify Holders of such weighted average as soon as practicable after such determination is made. The Corporation shall not become a party to any Reorganization Event unless its terms are consistent with this Section 9(g).

None of the foregoing provisions shall affect the right of a Holder of Preferred Stock to convert its Preferred Stock into shares of Common Stock as set forth in Section 9(a) prior to the

effective time of such Reorganization Event. Notwithstanding Section 9(d), no adjustment to the Conversion Rate shall be made for any Reorganization Event to the extent stock, securities or other property or assets become the Reference Property receivable upon conversion of Preferred Stock.

If, in connection with any Reorganization Event, the relevant Reference Property is comprised, in whole or in part, of Common Equity, the Corporation shall provide, by amendment hereto effective upon any such Reorganization Event, for anti-dilution and other adjustments with respect to such Common Equity that shall be as nearly equivalent as is possible to the adjustments provided for in this Section 9. The provisions of this Section 9 shall apply to successive Reorganization Events.

In this Article III.D, if the Common Stock has been replaced by Reference Property as a result of any such Reorganization Event, references to the Common Stock are intended to refer to a unit of Reference Property.

(h) From and after the Shareholder Approval Date, the Corporation shall at all times reserve and keep available out of its authorized and unissued Common Stock or shares of Common Stock held in the treasury of the Corporation, solely for issuance upon the conversion of shares of Preferred Stock as herein provided, free from any preemptive or other similar rights, a number of shares of Common Stock equal to the maximum number of shares of Common Stock deliverable upon conversion of all shares of Preferred Stock. For purposes of this Section 9(h), the number of shares of Common Stock that shall be deliverable upon the conversion of all outstanding shares of Preferred Stock shall be computed as if at the time of computation all such outstanding shares were held by a single Holder.

(i) The issuance or delivery of certificates for Common Stock upon the conversion of shares of Preferred Stock shall be made without charge to the converting holder or recipient of shares of Preferred Stock for such certificates or for any tax in respect of the issuance or delivery of such certificates or the securities represented thereby, and such certificates shall be issued or delivered in the respective names of, or in such names as may be directed by, the holders of the shares of Preferred Stock converted; *provided*, *however*, that the Corporation shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any such certificate in a name other than that of the holder of the shares of the relevant Preferred Stock, and the Corporation shall not be required to issue or deliver such certificate unless or until the Person or Persons requesting the issuance or delivery thereof shall have paid to the Corporation the amount of such tax or shall have established to the reasonable satisfaction of the Corporation that such tax has been paid.

(j) Notwithstanding Sections 9(d)(ii) and 9(d)(iii), if the Corporation has a rights plan (including the distribution of rights pursuant thereto to all holders of the Common Stock) in effect while any shares of Preferred Stock remain outstanding, Holders of Preferred Stock will receive, upon conversion of Preferred Stock, in addition to the Common Stock to which he is entitled, a corresponding number of rights in accordance with the rights plan. If, prior to any conversion, such rights have separated from the shares of Common Stock in accordance with the provisions of the applicable rights plan, the Conversion Rate will be adjusted at the time of separation as if the Corporation had distributed to all holders of its Common Stock, shares of Capital Stock, evidences of indebtedness, assets, securities, property, rights, options or warrants

as described in Section 9(d)(iii) above, subject to readjustment in the event of the expiration, termination or redemption of such rights.

(k) Whenever any provision of this Article III.D requires the Corporation to calculate the Closing Sale Prices over a span of multiple days, the Corporation shall make appropriate adjustments to account for any adjustment to the Conversion Rate pursuant to Section 9(d) that becomes effective, or any event requiring an adjustment to the Conversion Rate where the Record Date, Ex-Date, Effective Date or expiration date, as the case may be, of the event occurs, at any time during the period when the Closing Sale Prices are to be calculated.

10. *Mandatory Conversion.*

(a) At any time on or after the date that is three years following the Issue Date, the Corporation shall have the right, at its option, to give notice of its election to cause all outstanding shares of Preferred Stock to be automatically converted into that number of whole shares of Common Stock for each $1,000 of Stated Value of each share of Preferred Stock equal to the Conversion Rate in effect on the Mandatory Conversion Date (subject to the last sentence of Section 9(a)), with cash in lieu of any fractional share pursuant to Section 12. The Corporation may exercise its right to cause a mandatory conversion pursuant to this Section 10 only if the Closing Sale Price of the Common Stock equals or exceeds $4.00 (subject to adjustment in the same manner and at the same time as the Conversion Price would be adjusted inversely to the Conversion Rate as set forth in Section 9(d)) for at least 20 Trading Days (whether or not consecutive) in a period of 30 consecutive Trading Days ending on, and including, the Trading Day immediately preceding the Business Day on which the Corporation issues a press release announcing the mandatory conversion as described in Section 10(b).

(b) To exercise the mandatory conversion right described in Section 10(a), the Corporation must give notice of its intention to convert the Preferred Stock to all Holders prior to the open of business on any Business Day following any date on which the condition described in Section 10(a) is met. In the case of Preferred Stock represented by Certificated Preferred Stock, such notice shall be by first class mail or, in the case of Preferred Stock represented by Global Preferred Stock, such notice shall be delivered in accordance with the applicable procedures of the Depository. Simultaneously with providing such notice, the Corporation shall publish such information on the Corporation's website or through such other public medium as the Corporation may use at that time. The date for mandatory conversion will be a date selected by the Corporation (the "**Mandatory Conversion Date**") and will be no later than 10 Business Days after the date on which the Corporation gives notice and publishes such information as described in this Section 10(b).

(c) In addition to any information required by applicable law or regulation, the notice of a mandatory conversion and the information published by the Corporation on its website or through another public medium described in Section 10(b) shall state, as appropriate:

(i) the Mandatory Conversion Date;

(ii) the number of shares of Common Stock to be issued upon conversion of each share of Preferred Stock; and

(iii) that dividends on the Preferred Stock to be converted will cease to accrue on the Mandatory Conversion Date.

(d) On and after the Mandatory Conversion Date, dividends shall cease to accrue on the Preferred Stock called for a mandatory conversion pursuant to Section 10 and all rights of Holders of such Preferred Stock shall terminate except for the right to receive the whole shares of Common Stock issuable upon conversion thereof with a cash payment in lieu of any fractional share of Common Stock in accordance with Section 12.

The full amount of any dividend payment with respect to the Preferred Stock called for a mandatory conversion pursuant to Section 10 on a date during the period beginning at the close of business on any Dividend Record Date and ending on the close of business on the corresponding Dividend Payment Date shall be payable on such Dividend Payment Date to the record holder of such share at the close of business on such Dividend Record Date if such share has been converted after such Dividend Record Date and prior to such Dividend Payment Date. Except as provided in the immediately preceding sentence and in Section 11, no payment or adjustment shall be made upon conversion of Preferred Stock for Accumulated Dividends or dividends with respect to the Common Stock issued upon such conversion thereof.

(e) The Corporation may not authorize, issue a press release or give notice of any mandatory conversion pursuant to Section 10 unless, prior to giving the mandatory conversion notice, all Accumulated Dividends on the Preferred Stock (whether or not declared) for all Dividend Periods ended prior to the date of such mandatory conversion notice shall have been paid.

11. *Additional Conversion Amount*. Upon any mandatory conversion of any outstanding share of Preferred Stock pursuant to Section 10 and notwithstanding anything herein, the Corporation shall pay in cash on the related settlement date in respect of such mandatory conversion to the Holder thereof all Accumulated Dividends thereon as of the related Mandatory Conversion Date, whether or not declared by the Board of Directors (the "**Additional Conversion Amount**"); *provided* that if upon the conversion of such shares of Preferred Stock the Corporation does not have sufficient funds legally available to pay in cash to the holder thereof all Accumulated Dividends thereon as of the related Mandatory Conversion Date the Corporation shall pay the portion of the Additional Conversion Amount it is so legally able to pay on the related settlement date and will pay such excess amount as soon as the Corporation has funds legally available therefor, and the amount of such unpaid dividends shall accrue interest at a rate equal to the Dividend Rate that would then be applicable in the absence of the mandatory conversion until paid.

12. *No Fractional Shares.* No fractional shares of Common Stock or securities representing fractional shares of Common Stock shall be delivered upon conversion, whether optional or mandatory, of the Preferred Stock. Instead, the Corporation will make a cash payment to each Holder that would otherwise be entitled to a fractional share based on the Closing Sale Price of the Common Stock on the relevant Conversion Date or Mandatory Conversion Date, as the case may be.

13. *Certificates.*

(a) *Form and Dating.* The Preferred Stock and the Transfer Agent's certificate of authentication shall be substantially in the form set forth in Exhibit A, which is hereby incorporated in and expressly made a part of this Article III.D. The Preferred Stock certificate may have notations, legends or endorsements required by law or stock exchange rules; *provided*

that any such notation, legend or endorsement is in a form acceptable to the Corporation. Each Preferred Stock certificate shall be dated the date of its authentication. The Preferred Stock will initially be issued in the form of Certificated Preferred Stock. Following the date on which a registration statement relating to the Preferred Stock has become or been declared effective under the Securities Act, the Preferred Stock in the form of Certificated Preferred Stock may be exchanged for Preferred Stock in the form of Global Preferred Stock representing a beneficial interest in a like number of shares of Preferred Stock. The aggregate number of shares of Preferred Stock represented by each stock certificate representing Global Preferred Stock may from time to time be increased or decreased by a notation by the Transfer Agent on Schedule I attached to the stock certificate.

(i) Global Preferred Stock. Preferred Stock issued in the form of one or more fully registered global certificates with the global securities legend set forth in Exhibit A hereto (the "**Global Preferred Stock**") shall be deposited on behalf of the purchasers represented thereby with the Transfer Agent, as custodian for DTC (or with such other custodian as DTC may direct), and registered in the name of Cede & Co. or other nominee of DTC, duly executed by the Corporation and authenticated by the Transfer Agent as hereinafter provided. The number of shares of Preferred Stock represented by Global Preferred Stock may from time to time be increased or decreased by adjustments made on the records of the Transfer Agent and DTC or its nominee as hereinafter provided. All shares of Common Stock issued in respect of shares of Preferred Stock on any Conversion Date or Mandatory Conversion Date shall be subject to restrictions on transfer set forth in the Securities Purchase Agreement.

(ii) Book-Entry Provisions. In the event Global Preferred Stock is deposited with or on behalf of DTC, the Corporation shall execute and the Transfer Agent shall authenticate and deliver initially one or more Global Preferred Stock certificates that:

(1) shall be registered in the name of Cede & Co. as nominee for DTC as depository for such Global Preferred Stock or the nominee of DTC; and

(2) shall be delivered by the Transfer Agent to DTC or pursuant to DTC's instructions or held by the Transfer Agent as custodian for DTC.

Members of, or participants in, DTC ("**Agent Members**") shall have no rights under this Article III.D with respect to any Global Preferred Stock held on their behalf by DTC or by the Transfer Agent as the custodian of DTC or under such Global Preferred Stock, and DTC may be treated by the Corporation, the Transfer Agent and any agent of the Corporation or the Transfer Agent as the absolute owner of such Global Preferred Stock for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Corporation, the Transfer Agent or any agent of the Corporation or the Transfer Agent from giving effect to any written certification, proxy or other authorization furnished by DTC or impair, as between DTC and its Agent Members, the operation of customary practices of DTC governing the exercise of the rights of a holder of a beneficial interest in any Global Preferred Stock.

(b) *Execution and Authentication.* The Chief Financial Officer and the Chief Legal Officer of the Corporation shall sign the Preferred Stock certificate for the Corporation by manual or facsimile signature.

If an Officer whose signature is on a Preferred Stock certificate no longer holds that office at the time the Transfer Agent authenticates the Preferred Stock certificate, the Preferred Stock certificate shall be valid nevertheless.

A Preferred Stock certificate shall not be valid until an authorized signatory of the Transfer Agent manually signs the certificate of authentication on the Preferred Stock certificate. The signature shall be conclusive evidence that the Preferred Stock certificate has been authenticated under this Article III.D.

The Transfer Agent shall authenticate and deliver certificates for up to 81,000 shares of Preferred Stock for original issue upon a written order of the Corporation signed by two Officers of the Corporation. Such order shall specify the number of shares of Preferred Stock to be authenticated and the date on which the original issue of the Preferred Stock is to be authenticated.

The Transfer Agent may appoint an authenticating agent reasonably acceptable to the Corporation to authenticate the certificates for the Preferred Stock. Unless limited by the terms of such appointment, an authenticating agent may authenticate certificates for the Preferred Stock whenever the Transfer Agent may do so. Each reference in this Article III.D to authentication by the Transfer Agent includes authentication by such agent. An authenticating agent has the same rights as the Transfer Agent or agent for service of notices and demands.

(c) *Transfer and Exchange*.

(i) Transfer and Exchange of Certificated Preferred Stock. When Certificated Preferred Stock is presented to the Transfer Agent with a request to register the transfer of such Certificated Preferred Stock or to exchange such Certificated Preferred Stock for an equal number of shares of Certificated Preferred Stock, the Transfer Agent shall register the transfer or make the exchange as requested if its reasonable requirements for such transaction are met; *provided* that the Certificated Preferred Stock surrendered for transfer or exchange shall be duly endorsed or accompanied by a written instrument of transfer in form reasonably satisfactory to the Corporation and the Transfer Agent, duly executed by the Holder thereof or its attorney duly authorized in writing.

(ii) Restrictions on Transfer of Certificated Preferred Stock for a Beneficial Interest in Global Preferred Stock. Certificated Preferred Stock may not be exchanged for a beneficial interest in Global Preferred Stock until the date on which a registration statement relating to the Preferred Stock has become or been declared effective under the Securities Act, at which time Certificated Preferred Stock may be so exchanged upon satisfaction of the requirements set forth below.

Upon receipt by the Transfer Agent of Certificated Preferred Stock, duly endorsed or accompanied by appropriate instruments of transfer, in form reasonably satisfactory to the Corporation and the Transfer Agent, together with written instructions directing the Transfer Agent to make, or to direct DTC to make, an adjustment on its books and records with respect to such Global Preferred Stock to reflect an increase in the number of shares of Preferred Stock represented by the Global Preferred Stock, then the Transfer Agent shall cancel such Certificated Preferred Stock and cause, or direct DTC to cause, in accordance with the standing instructions and procedures existing between DTC and the

Transfer Agent, the number of shares of Preferred Stock represented by the Global Preferred Stock to be increased accordingly. If no Global Preferred Stock is then outstanding, the Corporation shall issue and the Transfer Agent shall authenticate, upon written order of the Corporation in the form of an Officers' Certificate, a new Global Preferred Stock representing the appropriate number of shares.

(iii) Transfer and Exchange of Global Preferred Stock. The transfer and exchange of Global Preferred Stock or beneficial interests therein shall be effected through DTC, in accordance with this Article III.D (including applicable restrictions on transfer set forth herein, if any) and the procedures of DTC therefor.

(iv) Transfer of a Beneficial Interest in Global Preferred Stock for Certificated Preferred Stock.

(A) If at any time:

(1) DTC notifies the Corporation that DTC is unwilling or unable to continue as depository for the Global Preferred Stock and a successor depository for the Global Preferred Stock is not appointed by the Corporation within 90 days after delivery of such notice; or

(2) DTC ceases to be a clearing agency registered under the Exchange Act and a successor depository for the Global Preferred Stock is not appointed by the Corporation within 90 days,

then the Corporation shall execute, and the Transfer Agent, upon receipt of a written order of the Corporation signed by two Officers of the Corporation requesting the authentication and delivery of Certificated Preferred Stock to the Persons designated by the Corporation, shall authenticate and deliver Certificated Preferred Stock equal to the number of shares of Preferred Stock represented by the Global Preferred Stock, in exchange for such Global Preferred Stock.

(B) Certificated Preferred Stock issued in exchange for a beneficial interest in Global Preferred Stock pursuant to this Section 13(c)(iv) shall be registered in such names and in such authorized denominations as DTC, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Transfer Agent. The Transfer Agent shall deliver such Certificated Preferred Stock to the Persons in whose names such Preferred Stock are so registered in accordance with the instructions of DTC.

(v) Restrictions on Transfer of Global Preferred Stock. Notwithstanding any other provisions of this Article III.D (other than the provisions set forth in Section 13(c)(iv)), Global Preferred Stock may not be transferred as a whole except by DTC to a nominee of DTC or by a nominee of DTC to DTC or another nominee of DTC or by DTC or any such nominee to a successor depository or a nominee of such successor depository.

(vi) Cancellation or Adjustment of Global Preferred Stock. At such time as all beneficial interests in Global Preferred Stock have either been exchanged for Certificated Preferred Stock, converted or canceled, such Global Preferred Stock shall be returned to

DTC for cancellation or retained and canceled by the Transfer Agent. At any time prior to such cancellation, if any beneficial interest in Global Preferred Stock is exchanged for Certificated Preferred Stock, converted or canceled, the number of shares of Preferred Stock represented by such Global Preferred Stock shall be reduced and an adjustment shall be made on the books and records of the Transfer Agent with respect to such Global Preferred Stock, by the Transfer Agent or DTC, to reflect such reduction.

(vii) Obligations with Respect to Transfers and Exchanges of Preferred Stock.

(A) To permit registrations of transfers and exchanges, the Corporation shall execute and the Transfer Agent shall authenticate Certificated Preferred Stock and Global Preferred Stock as required pursuant to the provisions of this Section 13(c).

(B) All Certificated Preferred Stock and Global Preferred Stock issued upon any registration of transfer or exchange of Certificated Preferred Stock or Global Preferred Stock shall be the valid Capital Stock of the Corporation, entitled to the same benefits under this Article III.D as the Certificated Preferred Stock or Global Preferred Stock surrendered upon such registration of transfer or exchange.

(C) Prior to due presentment for registration of transfer of any shares of Preferred Stock, the Transfer Agent and the Corporation may deem and treat the Person in whose name such shares of Preferred Stock are registered as the absolute owner of such Preferred Stock and neither the Transfer Agent nor the Corporation shall be affected by notice to the contrary.

(D) No service charge shall be made to a Holder for any registration of transfer or exchange upon surrender of any Preferred Stock certificate or Common Stock certificate at the office of the Transfer Agent maintained for that purpose. However, the Corporation may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Preferred Stock certificates or Common Stock certificates.

(viii) No Obligation of the Transfer Agent.

(A) The Transfer Agent shall have no responsibility or obligation to any beneficial owner of Global Preferred Stock, a member of or a participant in, DTC or any other Person with respect to the accuracy of the records of DTC or its nominee or of any participant or member thereof, with respect to any ownership interest in the Preferred Stock or with respect to the delivery to any participant, member, beneficial owner or other Person (other than DTC) of any notice or the payment of any amount, under or with respect to such Global Preferred Stock. All notices and communications to be given to the Holders and all payments to be made to Holders under the Preferred Stock shall be given or made only to the Holders (which shall be DTC or its nominee in the case of the Global Preferred Stock).

The rights of beneficial owners in any Global Preferred Stock shall be exercised only through DTC subject to the applicable rules and procedures of DTC. The Transfer Agent may rely and shall be fully protected in relying upon information furnished by DTC with respect to its members, participants and any beneficial owners.

(B) The Transfer Agent shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Article III.D or under applicable law with respect to any transfer of any interest in any Preferred Stock (including any transfers between or among DTC participants, members or beneficial owners in any Global Preferred Stock) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Article III.D, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

(ix) *Transfer Rights.* Notwithstanding anything herein to the contrary, the shares of Preferred Stock may not be sold or otherwise transferred in violation of any terms of the Securities Purchase Agreement.

(d) *Replacement Certificates*. If any of the Preferred Stock certificates shall be mutilated, lost, stolen or destroyed, the Corporation shall issue, in exchange and in substitution for and upon cancellation of the mutilated Preferred Stock certificate, or in lieu of and substitution for the Preferred Stock certificate lost, stolen or destroyed, a new Preferred Stock certificate of like tenor and representing an equivalent number of shares of Preferred Stock, but only upon receipt of evidence of such loss, theft or destruction of such Convertible Preferred Stock certificate and indemnity, if requested, satisfactory to the Corporation and the Transfer Agent.

(e) *Temporary Certificates.* Until definitive Preferred Stock certificates are ready for delivery, the Corporation may prepare and the Transfer Agent shall authenticate temporary Preferred Stock certificates. Any temporary Preferred Stock certificates shall be substantially in the form of definitive Preferred Stock certificates but may have variations that the Corporation considers appropriate for temporary Preferred Stock certificates. Without unreasonable delay, the Corporation shall prepare and the Transfer Agent shall authenticate definitive Preferred Stock certificates and deliver them in exchange for temporary Preferred Stock certificates.

(f) *Cancellation.* In the event the Corporation shall purchase or otherwise acquire Certificated Preferred Stock, the same shall thereupon be delivered to the Transfer Agent for cancellation.

(i) At such time as all beneficial interests in Global Preferred Stock have either been exchanged for Certificated Preferred Stock, converted, repurchased or canceled, such Global Preferred Stock shall thereupon be delivered to the Transfer Agent for cancellation.

(ii) The Transfer Agent and no one else shall cancel and destroy all Preferred Stock certificates surrendered for transfer, exchange, replacement or cancellation and deliver a certificate of such destruction to the Corporation unless the Corporation directs

the Transfer Agent to deliver canceled Preferred Stock certificates to the Corporation. The Corporation may not issue new Preferred Stock certificates to replace Preferred Stock certificates to the extent they evidence Preferred Stock which the Corporation has purchased or otherwise acquired.

14. *Restricted Securities.*

(a) Every share of Preferred Stock, together with any Common Stock issued upon conversion of the Preferred Stock (collectively, the "**Restricted Securities**"), shall be subject to the restrictions on transfer set forth in this Section 14, unless such restrictions on transfer shall be eliminated or otherwise waived by written consent of the Corporation, and the Holder of each such Restricted Security, by such Holder's acceptance thereof, agrees to be bound by all such restrictions on transfer. As used in this Section 14, the term "transfer" encompasses any sale, pledge, transfer or other disposition whatsoever of any Restricted Security.

(b) Unless the Corporation otherwise agrees in writing, until the date (the "**Resale Restriction Termination Date**") that is the earlier of (x) if the Holder (in the case of Preferred Stock in the form of Certificated Preferred Stock) or the relevant owner of a beneficial interest therein (in the case of Preferred Stock in the form of Global Preferred Stock) is not an Affiliate of the Corporation and has not been an Affiliate of the Corporation during the 90 days immediately preceding, the later of (1) the date that is one year after the Issue Date, or such shorter period of time as permitted by Rule 144 or any successor provision thereto, and (2) such later date, if any, as may be required by applicable law, and (y) the date on which the relevant share of Preferred Stock has been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer or has been sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, in each case, to a Person that is not an Affiliate of the Corporation and has not been an Affiliate of the Corporation during the 90 days immediately preceding, any certificate evidencing the Preferred Stock (and all securities issued in exchange therefor or substitution thereof, other than Common Stock, if any, issued upon conversion thereof, which shall be subject to the restrictions on transfer referenced in Section 14(c) below) shall bear a legend in substantially the form set forth in the Form of Series A Preferred Stock Certificate. No transfer of any share of Preferred Stock prior to the Resale Restriction Termination Date will be registered by the Transfer Agent unless the applicable box on the Form of Assignment and Transfer has been checked. Any shares of Preferred Stock (or security issued in exchange or substitution therefor) (i) as to which such restrictions on transfer shall have expired in accordance with their terms, (ii) that has been transferred pursuant to a registration statement that has become effective or been declared effective under the Securities Act and that continues to be effective at the time of such transfer to a Person that is not an Affiliate of the Corporation and has not been an Affiliate of the Corporation during the 90 days immediately preceding or (iii) that has been sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act to a Person that is not an Affiliate of the Corporation and has not been an Affiliate of the Corporation during the 90 days immediately preceding, may, upon surrender of such shares of Preferred Stock for exchange to the Transfer Agent, be exchanged for new shares of Preferred Stock, of like tenor and aggregate number, which shall not be subject to the restrictions on transfer referenced in this Section 14(b). The Corporation shall be entitled to instruct the custodian for the Depository in writing to so surrender any Preferred Stock in the form of Global Preferred Stock as to which any of the conditions set forth in clause (i), (ii) or (iii) of the immediately preceding sentence

have been satisfied, and, upon such instruction, the custodian for the Depository shall so surrender such Global Preferred Stock for exchange; and any new Global Preferred Stock so exchanged therefor shall not bear a legend with the restrictions on transfer referenced in this Section 14(b).

(c) Unless the Corporation otherwise agrees in writing, until the Resale Restriction Termination Date, any stock certificate representing Common Stock issued upon conversion of the Preferred Stock shall be subject to substantially the same restrictions on transfer referenced in Section 14(b) above (unless (x) such Common Stock has been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, in each case, to a Person that is not an Affiliate of the Corporation and has not been an Affiliate of the Corporation during the 90 days immediately preceding, or (y) such Common Stock has been issued upon conversion of Preferred Stock that has been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, in each case, to a Person that is not an Affiliate of the Corporation and has not been an Affiliate of the Corporation during the 90 days immediately preceding). Any such Common Stock (i) as to which such restrictions on transfer shall have expired in accordance with their terms, (ii) that has been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer to a Person that is not an Affiliate of the Corporation and has not been an Affiliate of the Corporation during the 90 days immediately preceding or (iii) that has been sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act to a Person that is not an Affiliate of the Corporation and has not been an Affiliate of the Corporation during the 90 days immediately preceding, may, upon surrender of the certificates representing such shares of Common Stock for exchange in accordance with the procedures of the Transfer Agent for the Common Stock, be exchanged for a new certificate or certificates for a like aggregate number of shares of Common Stock, which shall not bear a legend with the restrictions on transfer referenced in this Section 14(c).

(d) The Preferred Stock is subject to restrictions on transfer set forth in the Securities Purchase Agreement.

15. *Other Provisions.*

(a) With respect to any notice to a Holder of shares of Preferred Stock required to be provided hereunder, neither failure to mail such notice, nor any defect therein or in the mailing thereof, to any particular Holder shall affect the sufficiency of the notice or the validity of the proceedings referred to in such notice with respect to the other Holders or affect the legality or validity of any distribution, rights, warrant, reclassification, consolidation, merger, conveyance, transfer, dissolution, liquidation or winding-up, or the vote upon any such action. Any notice which was mailed in the manner herein provided shall be conclusively presumed to have been duly given whether or not the Holder receives the notice.

(b) Shares of Preferred Stock that have been issued and reacquired in any manner, including shares of Preferred Stock that are purchased or exchanged or converted, shall (upon

compliance with any applicable provisions of the laws of Virginia) have the status of authorized but unissued shares of preferred stock of the Corporation undesignated as to series and may be designated or redesignated and issued or reissued, as the case may be, as part of any series of preferred stock of the Corporation; *provided* that any issuance of such shares as Preferred Stock must be in compliance with the terms hereof.

(c) The shares of Preferred Stock shall be issuable only in whole shares.

(d) All notice periods referred to herein shall commence on the date of the mailing of the applicable notice. Notice to any Holder shall be given to the registered address set forth in the Corporation's records for such Holder, or for Global Preferred Stock, to the Depository in accordance with its procedures.

(e) Any payment required to be made hereunder on any day that is not a Business Day shall be made on the next succeeding Business Day and no interest or dividends on such payment will accrue or accumulate, as the case may be, in respect of such delay.

[*Remainder of page intentionally blank*]

EXHIBIT A

[FORM OF FACE OF PREFERRED STOCK CERTIFICATE]

[INCLUDE FOR GLOBAL PREFERRED STOCK]

[UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO THE CORPORATION OR THE TRANSFER AGENT NAMED ON THE FACE OF THIS CERTIFICATE, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO., OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL IN AS MUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO. HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE STATEMENT WITH RESPECT TO SHARES. IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE TRANSFER AGENT NAMED ON THE FACE OF THIS CERTIFICATE SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.]

[INCLUDE FOR RESTRICTED SECURITIES]

[THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT WHILE A REGISTRATION STATEMENT RELATING THERETO IS IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS. THIS INSTRUMENT IS ISSUED PURSUANT TO AND SUBJECT TO THE RESTRICTIONS ON TRANSFER AND OTHER PROVISIONS OF A SECURITIES PURCHASE AGREEMENT, DATED DECEMBER 27, 2024, BETWEEN THE ISSUER OF THESE SECURITIES AND THE INVESTORS REFERRED TO THEREIN, A COPY OF WHICH IS ON FILE WITH THE ISSUER. THE SECURITIES REPRESENTED BY THIS INSTRUMENT MAY NOT BE SOLD OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE WITH SAID AGREEMENT. ANY SALE OR OTHER TRANSFER NOT IN COMPLIANCE WITH SAID AGREEMENT WILL BE VOID.]

Certificate Number [__]

[Initial][1] Number of Shares of Preferred Stock [_____]

PRECIGEN, INC.

8.00% Series A Convertible Perpetual Preferred Stock
(no par value)
($1,000 initial liquidation preference per share)

PRECIGEN, INC., a Virginia corporation (the "**Corporation**"), hereby certifies that [_____] (the "**Holder**"), is the registered owner of [_____][2][the number shown on Schedule I hereto of][3] fully paid and non-assessable shares of the Corporation's designated 8.00% Series A Convertible Perpetual Preferred Stock, with no par value per share and an initial liquidation preference of $1,000 per share (the "**Preferred Stock**"). The shares of Preferred Stock are transferable on the books and records of the Transfer Agent, in person or by a duly authorized attorney, upon surrender of this certificate duly endorsed and in proper form for transfer. The designations, rights, privileges, restrictions, preferences and other terms and provisions of the Preferred Stock represented hereby are and shall in all respects be subject to the provisions of the Amended and Restated Articles of Incorporation of the Corporation, as the same may be further amended from time to time (the "**Articles of Incorporation**"). Capitalized terms used herein but not defined shall have the meaning given them in the Articles of Incorporation. The Corporation will provide a copy of the Articles of Incorporation to the Holder without charge upon written request to the Corporation at its principal place of business. In the case of any conflict between this certificate and the Articles of Incorporation, the provisions of the Articles of Incorporation shall control and govern.

Cumulative dividends on each share of Preferred Stock shall be payable at the applicable rate provided in the Articles of Incorporation.

The shares of Preferred Stock shall be convertible in the manner and accordance with the terms set forth in the Articles of Incorporation.

The Corporation shall furnish without charge to each Holder who so requests a summary of the authority of the Board of Directors to determine variations for future series within a class of stock and the designations, limitations, preferences and relative, participating, optional or other special rights of each issued by the Corporation and the qualifications, limitations or restrictions of such preferences and/or rights.

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[1] **Insert for Global Preferred Stock.**

[2] **Insert for Certificated Preferred Stock.**

[3] **Insert for Global Preferred Stock.**

Upon receipt of this executed certificate, the Holder is bound by the Articles of Incorporation and is entitled to the benefits thereunder.

Unless the Transfer Agent has properly countersigned this certificate, these shares of Preferred Stock shall not be entitled to any benefit under the Articles of Incorporation or be valid for any purpose.

IN WITNESS WHEREOF, this certificate has been executed on behalf of the Corporation by two Officers of the Corporation this [__] of December 2024.

PRECIGEN, INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

COUNTERSIGNATURE

These are shares of Preferred Stock referred to in the within-mentioned Articles of Incorporation.

Dated: December [___], 2024

EQUINITI TRUST COMPANY, LLC,
as Transfer Agent

By: _____

Name:

Title:

Attachment 1

[FORM OF NOTICE OF CONVERSION]

(To be Executed by the Holder
in order to Convert the Preferred Stock)

The undersigned hereby irrevocably elects to convert (the "**Conversion**") 8.00% Series A Convertible Perpetual Preferred Stock (the "**Preferred Stock**") of Precigen, Inc. (hereinafter called the "**Corporation**"), represented by stock certificate No(s). [_____] (the "**Preferred Stock Certificates**"), into common stock, no par value per share, of the Corporation (the "**Common Stock**") according to the conditions of the Amended and Restated Articles of Incorporation of the Corporation (the "**Articles of Incorporation**"), as of the date written below. If Common Stock is to be issued in the name of a person other than the undersigned, the undersigned shall pay all transfer taxes payable with respect thereto, if any. Each Preferred Stock Certificate (or evidence of loss, theft or destruction thereof) is attached hereto.

Capitalized terms used but not defined herein shall have the meanings ascribed thereto in or pursuant to the Articles of Incorporation.

Date of Conversion: _____
Applicable Conversion Rate: _____
Shares of Preferred Stock to be Converted: _____
Shares of Common Stock to be Issued:* _____
Signature: _____
Name: _____
Address:** _____
Fax No.: _____

* The Company is not required to issue Common Stock until the original Preferred Stock Certificate(s) (or evidence of loss, theft or destruction thereof) to be converted are received by the Company or the Conversion Agent.

** Address where Common Stock and any other payments or certificates shall be sent by the Company.

[FORM OF FUNDAMENTAL CHANGE REPURCHASE NOTICE]

To: Equiniti Trust Company, LLC
55 Challenger Road, Ridgefield Park, NJ 07660

The undersigned Holder of these shares of Preferred Stock hereby acknowledges receipt of a notice from Precigen, Inc. (the "**Corporation**") as to the occurrence of a Fundamental Change with respect to the Corporation and specifying the Fundamental Change Repurchase Date and requests and instructs the Corporation to pay to the Holder hereof in accordance with Section 5(a) of Article III.D of the Articles of Incorporation referred to in these shares (1) 100% of the Stated Value of the aggregate number of these shares of Preferred Stock (that is a whole number of shares) below designated, and (2) Accumulated Dividends, if any, thereon to, but excluding, such Fundamental Change Repurchase Date (subject to Section 5(a) of Article III.D of the Articles of Incorporation). Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Articles of Incorporation.

In the case of Certificated Preferred Stock, the certificate numbers of the shares of Preferred Stock to be repurchased are as set forth below:

Dated: _____

_____
Signature(s)

_____
Social Security or Other Taxpayer
Identification Number

Number of shares to be repaid: _____

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Preferred Stock certificate(s) in every particular without alteration or enlargement or any change whatever.

[FORM OF ASSIGNMENT AND TRANSFER]

For value received _____ hereby sell(s), assign(s) and transfer(s) unto _____ (Please insert social security or Taxpayer Identification Number of assignee) the within shares of Preferred Stock, and hereby irrevocably constitutes and appoints _____ attorney to transfer the said shares of Preferred Stock on the books of the Corporation, with full power of substitution in the premises.

The undersigned confirms that the within shares of Preferred Stock are being transferred in compliance with the Securities Purchase Agreement, as defined in the Amended and Restated Articles of Incorporation of the Corporation governing such shares of Preferred Stock, and in connection with any transfer of such shares of Preferred Stock occurring prior to the Resale Restriction Termination Date, as defined in the Amended and Restated Articles of Incorporation of the Corporation governing such shares of Preferred Stock, the undersigned confirms that such shares of Preferred Stock are being transferred:

□ To Precigen, Inc. or a subsidiary thereof; or

□ Pursuant to a registration statement that has become or been declared effective under the Securities Act of 1933, as amended; or

□ Pursuant to and in compliance with Rule 144 under the Securities Act of 1933, as amended, or any other available exemption from the registration requirements of the Securities Act of 1933, as amended.

Dated: _____

_____

_____
Signature(s)

_____
Signature Guarantee

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if shares of Preferred Stock are to be delivered, other than to and in the name of the registered holder.

NOTICE: The signature on the assignment must correspond with the name as written upon the face of the Preferred Stock certificate in every particular without alteration or enlargement or any change whatever.

Schedule I[4]

Precigen, Inc.

Global Share of 8.00% Series A Convertible Perpetual Preferred Stock

Certificate Number: [__]

The number of shares of Preferred Stock initially represented by this share of Global Preferred Stock shall be [_____]. Thereafter the Transfer Agent shall note changes in the number of shares of Preferred Stock evidenced by this share of Global Preferred Stock in the table set forth below:

Date of Exchange	Amount of Decrease in Number of Shares Represented by this Share of Global Preferred Stock	Amount of Increase in Number of Shares Represented by this Share of Global Preferred Stock	Number of Shares Represented by this Share of Global Preferred Stock following Decrease or Increase	Signature of Authorized Officer of Transfer Agent

[4] **Attach Schedule I only to Global Preferred Stock.**

Exhibit 10.1

Execution Version

SECURITIES PURCHASE AGREEMENT

Dated December 27, 2024

between

PRECIGEN, INC.

and

THE INVESTORS PARTY HERETO

TABLE OF CONTENTS

LIST OF ANNEXES

INDEX OF DEFINED TERMS

SECURITIES PURCHASE AGREEMENT, dated December 27, 2024 (this *"Agreement"*), between Precigen, Inc., a Virginia corporation (the "*Company*"), and each of the investors listed on Schedule I hereto (each an "*Investor*" and collectively, the "*Investors*").

RECITALS:

A. The Company. As of the date hereof, the Company has 400,000,000 authorized shares of Common Stock, no par value per share (*"Common Stock"*) and 25,000,000 authorized shares of Preferred Stock, no par value per share ("*Preferred Stock*").

B. The Issuance. The Company intends to issue in a private placement 79,000 shares of its 8% Convertible Perpetual Preferred Stock, Series A (the "*Preferred Shares*") and warrants to purchase an aggregate of 52,666,669 shares of its Common Stock (the "*Warrants*" and, together with the Preferred Shares, the "*Purchased Securities*") and each Investor intends to purchase from the Company the Purchased Securities set forth on Schedule I hereto.

NOW, THEREFORE, in consideration of the premises, and of the representations, warranties, covenants and agreements set forth herein, the parties agree as follows:

Article I

PURCHASE; CLOSING

1.1 Purchase. On the terms and subject to the conditions set forth in this Agreement, the Company agrees to sell to each Investor, and each Investor, severally and not jointly, agrees to purchase from the Company, at the Closing (as hereinafter defined), the Purchased Securities set forth opposite such Investor's name in Schedule I hereto for the aggregate purchase price set forth in Schedule I hereto (as to each Investor, the *"Purchase"* and collectively the "*Purchases*").

1.2 Closing.

(a) On the terms and subject to the conditions set forth in this Agreement, the closing of the Purchase (the *"Closing"*) will take place at the offices of Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017, at 9:00 a.m., New York time, on or before December 30, 2024, or at such other place, time and date as shall be agreed between the Company and the Investors. The time and date on which the Closing occurs is referred to in this Agreement as the *"Closing Date*".

(b) Subject to the fulfillment or waiver of the conditions to the Closing in this Section 1.2, at the Closing, the Company will deliver the Preferred Shares and the Warrants to each Investor in the amounts specified in Schedule I hereto, in each case as evidenced by one or more certificates dated the Closing Date and bearing appropriate legends as hereinafter provided for, in exchange for payment in full from

each such Investor of the applicable aggregate purchase price therefor by wire transfer of immediately available United States funds to a bank account that has been designated by the Company on or before the Closing Date.

(c) The respective obligations of each of the Investors and of the Company to consummate the Purchase are subject to the fulfillment (or waiver by the Investors and the Company, as applicable) prior to the Closing of the condition that (i) any approvals or authorizations of all United States and other governmental or regulatory authorities (collectively, "*Governmental Entities*"), the absence of which would reasonably be expected to make the Purchase unlawful, shall have been obtained or made in form and substance reasonably satisfactory to each party and shall be in full force and effect and all waiting periods required by United States and other applicable law shall have expired and (ii) no provision of any applicable United States or other law and no judgment, injunction, order or decree of any Governmental Entity shall prohibit the purchase and sale of the Purchased Securities.

(d) The obligation of the Company to consummate the Closing is also subject to the fulfillment (or waiver by the Company) at or prior to the Closing of each of the following conditions:

(i) (A) the representations and warranties of each Investor set forth in this Agreement shall be true and correct as though made on and as of the Closing Date (other than representations and warranties that by their terms speak as of another date, which representations and warranties shall be true and correct as of such date), except to the extent that the failure of such representations and warranties to be so true and correct, individually or in the aggregate, does not have and would not be reasonably likely to have an Investor Material Adverse Effect and (B) each Investor shall have performed in all material respects all obligations required to be performed by such Investor under this Agreement at or prior to the Closing.

(e) The obligation of each Investor to consummate the Closing is also subject to the fulfillment (or waiver by such Investor) at or prior to the Closing of each of the following conditions:

(i) (A) the representations and warranties of the Company set forth in (x) Section 2.2(g) of this Agreement shall be true and correct in all respects as though made on and as of the Closing Date and (y) Section 2.2 (other than Section 2.2(g)) shall be true and correct as though made on and as of the Closing Date (other than representations and warranties that by their terms speak as of another date, which representations and warranties shall be true and correct as of such date), except to the extent that the failure of such representations and warranties referred to in this Section 1.2(i)(y) to be so true and correct, individually or in the aggregate, does not have and would not be reasonably likely to have a Material Adverse Effect and (B) the Company shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing;

(ii) the Company shall have duly adopted and filed with the Secretary of State of the Commonwealth of Virginia the Articles of Amendment in substantially the form attached hereto as Annex A (the "*Articles of Amendment*") and such filing shall have been accepted;

(iii) the Company shall have delivered the applicable Preferred Shares to such Investor or its designee(s);

(iv) the Company shall have duly executed and delivered a Warrant in substantially the form attached hereto as Annex B to such Investor or its designee(s); and

(v) the Company shall have duly executed and delivered to such Investor or its designee(s) a Registration Rights Agreement (the "*Registration Rights Agreement*") in substantially the form of Annex C.

1.3 Interpretation. When a reference is made in this Agreement to "Recitals," "Articles," "Sections" or "Annexes," such reference shall be to a Recital, Article or Section of, or Annex to, this Agreement unless otherwise indicated. The terms defined in the singular have a comparable meaning when used in the plural, and vice versa. References to "herein", "hereof", "hereunder" and the like refer to this Agreement as a whole and not to any particular section or provision, unless the context requires otherwise. The table of contents and headings contained in this Agreement are for reference purposes only and are not part of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed followed by the words "without limitation." No rule of construction against the draftsperson shall be applied in connection with the interpretation or enforcement of this Agreement, as this Agreement is the product of negotiation between sophisticated parties advised by counsel. All references to "$" or "dollars" mean the lawful currency of the United States of America. Except as expressly stated in this Agreement, all references to any statute, rule or regulation are to the statute, rule or regulation as amended, modified, supplemented or replaced from time to time (and, in the case of statutes, include any rules and regulations promulgated under the statute) and to any section of any statute, rule or regulation include any successor to the section. References to a "*business day*" shall mean a business day in the City of New York.

Article II

REPRESENTATIONS AND WARRANTIES

2.1 Disclosure.

(a) "*Material Adverse Effect*" means a material adverse effect on (i) the business, results of operation or financial condition of the Company and its consolidated subsidiaries taken as a whole; *provided*, *however*, that Material Adverse Effect shall not be deemed to include the effects of (A) any facts, circumstances, events, changes or occurrences generally affecting businesses, industries and markets in which the

Company operates, companies engaged in such businesses, industries or markets or the economy, including effects on such businesses, industries, markets or economy resulting from any regulatory or political conditions or developments, or any outbreak or escalation of hostilities, declared or undeclared acts of war or terrorism, (B) general economic, political, social, regulatory, legal or tax conditions in the United States or any other country or region, including changes in financial, credit, securities, commodity, currency or real estate markets (including changes in interest or exchange rates), (C) changes or proposed changes in generally accepted accounting principles in the United States (*"GAAP"*) or regulatory accounting requirements applicable to biopharmaceutical companies generally (or authoritative interpretations thereof), (D) changes or proposed changes in securities, banking and other laws of general applicability or related policies or interpretations of Governmental Entities (in the case of each of clause (A), (B), (C) and (D), other than facts, circumstances, events, changes, effects or occurrences that arise after the date of this Agreement but before the Closing to the extent that such facts, circumstances, events, changes, effects or occurrences have a materially disproportionate adverse effect on the Company and its consolidated subsidiaries relative to comparable U.S. biopharmaceutical companies), or (E) changes in the market price or trading volume of the Common Stock or any other equity, equity-related or debt securities of the Company (it being understood and agreed that the exception set forth in this clause (E) does not apply to the underlying reason giving rise to or contributing to any such change); or (ii) the ability of the Company timely to consummate the Purchase and the other transactions contemplated by the Transaction Documents.

(b) "*Previously Disclosed*" means information set forth or incorporated in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2023, as amended, or its other reports and forms filed with the Securities and Exchange Commission (the "*Commission*") under Sections 13(a), 14(a) or 15(d) of the Securities Exchange Act of 1934 (the *"Exchange Act"*) on or after January 1, 2024 (the "*SEC Reports*") and that are filed prior to the execution and delivery of this Agreement.

Each party acknowledges that it is not relying upon any representation or warranty not set forth in the Transaction Documents. Each Investor acknowledges that it has had an opportunity to conduct such review and analysis of the business, assets, condition, operations and prospects of the Company and its subsidiaries, including an opportunity to ask such questions of management (for which it has received such answers) and to review such information maintained by the Company, in each case as such Investor considers sufficient for the purpose of making the Purchase. Each Investor further acknowledges that it has had such an opportunity to consult with its own counsel, financial and tax advisers and other professional advisers as it believes is sufficient for purposes of the Purchase. For purposes of this Agreement, the term *"Transaction Documents*" refers collectively to this Agreement, the Articles of Amendment, the Warrants and the Registration Rights Agreement, in each case, as amended, modified or supplemented from time to time in accordance with their respective terms.

2.2 Representations and Warranties of the Company. Except as Previously Disclosed, the Company represents and warrants to each Investor that as of the date hereof and as of the Closing Date (or such other date specified herein):

(a) Organization, Authority and Significant Subsidiaries. The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the Commonwealth of Virginia, with corporate power and authority to own its properties and conduct its business in all material respects as currently conducted, and, except as has not had or would not be reasonably likely to have a Material Adverse Effect, has been duly qualified as a foreign corporation for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties, or conducts any business so as to require such qualification; each subsidiary of the Company, if any, that is a "significant subsidiary" within the meaning of Rule 1-02(w) of Regulation S-X under the Securities Act of 1933, as amended (the "*Securities Act*") (individually a "*Significant Subsidiary*" and collectively the "*Significant Subsidiaries*") has been duly organized and is validly existing in good standing under the laws of its jurisdiction of organization.

(b) Capitalization. The authorized capital stock of the Company consists of 400,000,000 shares of Common Stock of which, as of September 30, 2024 (the "*Common Stock Capitalization Date*"), 292,869,097 shares were issued and outstanding, and 25,000,000 shares of preferred stock, of which, as of the date hereof, all shares were undesignated. As of the Common Stock Capitalization Date, the Company had 3,804,057 restricted stock units ("*RSUs*") and performance stock units ("*PSUs"*) outstanding, of which no RSUs and PSUs were vested and 3,804,057 were unvested and 26,857,820 stock options outstanding, of which 15,508,975 were exercisable and 11,348,849 were non-exercisable. The outstanding shares of Common Stock have been duly authorized and are validly issued and outstanding, fully paid and nonassessable, and subject to no preemptive rights (and were not issued in violation of any preemptive rights). Except as set forth above, there are no shares of Common Stock reserved for issuance, the Company does not have outstanding any securities providing the holder the right to acquire Common Stock, and the Company does not have any commitment to authorize, issue or sell any Common Stock. Since the Common Stock Capitalization Date, the Company has not issued any shares of Common Stock, other than shares issued upon the exercise of stock options or delivered under RSUs or PSUs.

(c) Preferred Shares and Underlying Shares. The Preferred Shares have been duly and validly authorized, and, when issued and delivered pursuant to this Agreement, such Preferred Shares will be duly and validly issued and fully paid and non-assessable, and the shares of Common Stock issuable upon conversion of the Preferred Shares (the "*Underlying Shares*"), upon the Shareholder Approval (as defined herein), will have been duly authorized and reserved for issuance upon conversion of the Preferred Shares and when so issued will be validly issued, fully paid and non-assessable.

(d) The Warrants and Warrant Shares. The Warrants have been duly authorized and, when executed and delivered as contemplated hereby, will constitute valid and legally binding obligations of the Company in accordance with their terms, and the shares of Common Stock issuable upon exercise of the Warrants (the "*Warrant Shares*"), upon the Shareholder Approval, will have been duly authorized and reserved for issuance upon exercise of the Warrants and when so issued will be validly issued, fully paid and non-assessable.

(e) Authorization, Enforceability.

(i) The Company has the corporate power and authority to execute and deliver this Agreement and the other Transaction Documents and to carry out its obligations hereunder and thereunder (which includes the issuance of the Preferred Shares, Warrants and Warrant Shares). The execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of the Company and its stockholders, other than the Shareholder Approval and the filing of the Articles of Amendment, and no further approval or authorization is required on the part of the Company. This Agreement and the other Transaction Documents are or will be valid and binding obligations of the Company enforceable against the Company in accordance with their respective terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity (*"Bankruptcy Exceptions"*).

(ii) The execution, delivery and performance by the Company of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby and compliance by the Company with any of the provisions hereof and thereof, will not (i) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of termination or acceleration of, or result in the creation of, any lien, security interest, charge or encumbrance upon any of the properties or assets of the Company or any Significant Subsidiary under any of the terms, conditions or provisions of (A) its amended and restated articles of incorporation or amended and restated bylaws or (B) any note, bond, mortgage, indenture, deed of trust, license, lease, agreement or other instrument or obligation to which the Company or any Significant Subsidiary is a party or by which it or any Significant Subsidiary may be bound, or to which the Company or any Significant Subsidiary or any of the properties or assets of the Company or any Significant Subsidiary may be subject, or (ii) subject to compliance with the statutes and regulations referred to in the next paragraph, violate any statute, rule or regulation or any judgment, ruling, order, writ, injunction or decree applicable to the Company or any Significant Subsidiary or any of their respective properties or assets except, in the case of clauses (i)(B) and (ii), for those occurrences that,

individually or in the aggregate, have not had and would not be reasonably likely to have a Material Adverse Effect.

(iii) Other than the filing of the Articles of Amendment with the Secretary of State of the Commonwealth of Virginia, any current report on Form 8-K required to be filed with the SEC and such as have been made or obtained, no notice to, filing with, exemption or review by, or authorization, consent or approval of, any Governmental Entity is required to be made or obtained by the Company in connection with the consummation by the Company of each Purchase except for any such notices, filings, exemptions reviews, authorizations, consents and approvals the failure of which to make or obtain would not be reasonably likely to have a Material Adverse Effect.

(f) Company Financial Statements.

(i) The consolidated financial statements of the Company and its consolidated subsidiaries included or incorporated by reference in the SEC Reports filed prior to the Closing, present fairly in all material respects the consolidated financial position of the Company and its consolidated subsidiaries as of the dates indicated therein and the consolidated results of their operations for the periods specified therein; and except as stated therein, such financial statements were prepared in conformity with GAAP applied on a consistent basis (except as may be noted therein).

(ii) Deloitte & Touche LLP, who have certified certain financial statements of the Company and its subsidiaries, are independent public accountants as required by the Exchange Act and the rules and regulations of the Commission and the Public Company Accounting Oversight Board.

(g) No Material Adverse Effect. Since September 30, 2024, no fact, circumstance, event, change, occurrence, condition or development has occurred that, individually or in the aggregate, has had or would be reasonably likely to have a Material Adverse Effect.

(h) Reports.

(i) Since December 31, 2023, the Company has complied in all material respects with the filing requirements of Sections 13(a), 14(a) and 15(d) of the Exchange Act.

(ii) The SEC Reports filed by the Company prior to the Closing, when they became effective or were filed with the Commission, as the case may be, conformed in all material respects to the requirements of the Securities Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder, and none of such documents, when they became effective or were filed with the Commission, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

2.3 Representations and Warranties of the Investors. Each Investor hereby represents and warrants to the Company, severally and not jointly, that as of the date hereof and the Closing Date:

(a) Status. Such Investor has been duly organized and is validly existing as a corporation, limited liability company or limited partnership under the laws of Delaware.

(b) Authorization, Enforceability.

(i) Such Investor has the power and authority, corporate or otherwise, to execute and deliver this Agreement and the Registration Rights Agreement and to carry out its obligations hereunder and thereunder. The execution, delivery and performance by such Investor or its investment advisor of this Agreement and the Registration Rights Agreement and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of such Investor, and no further approval or authorization is required on the part of such Investor or any other party for such authorization to be effective. This Agreement and the Registration Rights Agreement are or will be valid and binding obligations of such Investor enforceable against such Investor in accordance with their respective terms, except as the same may be limited by Bankruptcy Exceptions.

(ii) The execution, delivery and performance by such Investor of this Agreement and the Registration Rights Agreement and the consummation of the transactions contemplated hereby and thereby and compliance by such Investor with any of the provisions hereof and thereof, will not (i) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of termination or acceleration of, or result in the creation of, any lien, security interest, charge or encumbrance upon any of the properties or assets of such Investor under any of the terms, conditions or provisions of (A) its organizational documents or (B) any note, bond, mortgage, indenture, deed of trust, license, lease, agreement or other instrument or obligation to which such Investor is a party or by which it may be bound, or to which such Investor or any of the properties or assets of such Investor may be subject, or (ii) subject to compliance with the statutes and regulations referred to in the next paragraph, violate any statute, rule or regulation or any judgment, ruling, order, writ, injunction or decree applicable to such Investor or any of its properties or assets except, in the case of clauses (i)(B) and (ii), for those occurrences that, individually or in the aggregate, have not had and would not be reasonably likely to have an Investor Material Adverse Effect. *"Investor Material Adverse Effect"* means, as to any Investor, a material adverse effect on the ability of such Investor to consummate the Purchase and the other transactions contemplated by this Agreement.

(iii) Other than such as have been made or obtained, no notice to, filing with, exemption or review by, or authorization, consent or approval of, any Governmental

Entity is required to be made or obtained by such Investor in connection with the consummation by such Investor of the Purchase except for any such notices, filings, exemptions, reviews, authorizations, consent and approvals the failure of which to make or obtain would not be reasonably likely to have an Investor Material Adverse Effect.

Article III

COVENANTS

3.1 Commercially Reasonable Efforts. Subject to the terms and conditions of this Agreement, all of the parties will use their commercially reasonable efforts in good faith to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or desirable, or advisable under applicable laws, so as to permit consummation of the Purchases as promptly as practicable and otherwise to enable consummation of the transactions contemplated hereby and shall use commercially reasonable efforts to cooperate with the other parties to that end.

3.2 Expenses. Unless otherwise provided in any Transaction Document executed by the Company and the Investors, each party hereto will bear and pay all costs and expenses incurred by it or on its behalf in connection with the transactions contemplated under the Transaction Documents, including fees and expenses of its own financial or other consultants, investment bankers, accountants and counsel.

3.3 Sufficiency of Authorized Common Stock. Except as set forth in this Section 3.3, during the period from the date of the Shareholder Approval until the date on which the Warrants have been fully exercised and all the Preferred Shares have been converted or are no longer outstanding, the Company shall at all times have reserved for issuance, free of preemptive or similar rights, a sufficient number of shares of authorized and unissued Warrant Shares to effectuate such exercise and a sufficient number of shares of authorized and unissued Underlying Shares to permit the conversion of all of the outstanding Preferred Shares up to the maximum amount of shares of Common Stock into which such Preferred Shares may be converted as set forth in the Articles of Amendment. Nothing in this Section 3.3 shall preclude the Company from satisfying its obligations in respect of the exercise of Warrants or the conversion of Preferred Shares by delivery of shares of Common Stock which are held in the treasury of the Company. As soon as practicable following the Closing, the Company shall, at its expense, cause the Warrant Shares and the Underlying Shares to be listed on the Nasdaq Global Select Market (*"Nasdaq"*), or such other U.S. national securities exchange on which the Common Stock is primarily listed and quoted for trading from time to time, at the time they become freely transferable in the public market under the Securities Act, subject to official notice of issuance, and shall maintain such listing on the Nasdaq for so long as any Common Stock is listed on the Nasdaq. Notwithstanding anything to the contrary in this Section 3.3, the Company shall reserve for issuance such Warrant Shares and such Underlying Shares only from the date on which (i) the Company obtains shareholder approval (x) to increase the number of authorized shares of Common Stock sufficient to permit the

exercise of the Warrants for the Warrant Shares and to permit the conversion of the Preferred Shares for the Underlying Shares and (y) any shareholder approval necessary under the rules of the Nasdaq Global Select Market (or other securities exchange on which the Common Stock is primarily listed and quoted for trading) in order to permit the transactions contemplated by this Agreement including the exercise of the Warrants and the conversion of the Preferred Shares and (ii) the filing with the Secretary of the Commonwealth of Virginia and effectiveness of an amendment to the Company's amended and restated articles of incorporation evidencing such shareholder approval (collectively, the "*Shareholder Approval*"). The Company will use its best efforts to hold a special meeting or an annual meeting of shareholders to vote on the Shareholder Approval no later than 180 days after the Closing Date; *provided* that if such Shareholder Approval is not obtained at the first such special meeting or annual meeting following the Closing Date, the Company shall use its best efforts to call a special meeting or annual meeting every 90 days following the date of the most recent such meeting to seek such approval until the earlier of the date such Shareholder Approval is obtained or the Warrants and the Preferred Shares are no longer outstanding.

3.4 Certain Notifications Until Closing. From the date of this Agreement until the Closing, each party shall promptly notify the other parties of (i) any fact, event or circumstance of which it is aware and which would be reasonably likely to cause any representation or warranty of such party contained in this Agreement to be untrue or inaccurate in any material respect or to cause any covenant or agreement of such party contained in this Agreement not to be complied with or satisfied in any material respect and (ii) except as Previously Disclosed, any fact, circumstance, event, change, occurrence, condition or development of which it is aware and which, individually or in the aggregate, has had or would be reasonably likely to have a Material Adverse Effect or an Investor Material Adverse Effect, as the case may be; *provided*, *however*, that delivery of any notice pursuant to this Section 3.4 shall not limit or affect any rights of or remedies available to the other parties.

3.5 Issuance of Certain Securities. The Company agrees to provide at least 5 days notice to each Investor and its Permitted Transferees holding Preferred Stock with an aggregate liquidation value of at least $10,000,000 of any proposed issuance of its preferred stock that is pari passu or junior to the Preferred Stock and an opportunity to participate on comparable terms.

Article IV

ADDITIONAL AGREEMENTS

4.1 Transfer Restrictions.

(a) Prior to the six months anniversary of the Closing Date, without the prior written consent of the Company, each Investor and its Permitted Transferees shall not (i) directly or indirectly transfer, sell, assign, pledge, convey, hypothecate or otherwise encumber or dispose of any of the Purchased Securities, or (ii) lend,

hypothecate or permit any custodian to lend or hypothecate any of the Purchased Securities or any Common Stock. Each transaction referenced in clauses (i) and (ii) is herein called a "*Transfer*". Exercises of the Warrant for Warrant Shares in accordance with the terms of the Warrant and conversion of Preferred Shares in accordance with the terms of the Articles of Amendment shall not be deemed Transfers.

(b) Each Investor and its Permitted Transferees (individually or collectively) may not Transfer any Warrant Shares or Underlying Shares other than (i) in a transaction that has been specifically approved by the Company in writing, (ii) in a public offering registered with the Commission or in a sale under Rule 144 under the Securities Act, where the Company has been offered the opportunity to designate a sole underwriter, broker or market maker, or (iii) in a private transaction or series of related transactions occurring on or after the six months anniversary of the Closing Date, and in any case consistent with applicable laws and regulations.

(c) Notwithstanding the foregoing, Section 4.1(a) and (b) shall not prevent an Investor and its Permitted Transferees from Transferring any or all of its Purchased Securities, Warrant Shares or Underlying Shares, at any time, to any direct or indirect subsidiary of such Investor where the Investor beneficially owns at least 80% of the equity interests (measured by both voting rights and value) of such subsidiary (each, a "*Permitted Transferee*"), but only if the Permitted Transferee agrees in writing for the benefit of the Company to be bound by the terms of this Agreement (including these transfer restrictions); *provided* that if such Investor ceases to beneficially own at least 80% of the equity interests (measured by both voting rights and value) of such Permitted Transferee, such Permitted Transferee shall be required to transfer such Purchased Securities, Warrant Shares or Underlying Shares to such Investor or a Permitted Transferee of such Investor (or in the case of the Warrant Shares or Underlying Shares, in accordance with Section 4.1(b)) immediately; *provided further* that no such Transfer shall relieve such Investor of its obligations under this Agreement. Each Investor shall cause each Permitted Transferee to comply with this Agreement as applicable to it.

(d) Prior to the six month anniversary of the Closing Date, without the prior written consent of the Company, each Investor and its Permitted Transferees may not engage in any Hedging Transaction with respect to any of the Purchased Securities, Warrant Shares or Underlying Shares. "*Hedging Transaction*" means any short sale (whether or not against the box) or any purchase, sale or grant of any right (including any put or call option, swap or other derivative transaction whether settled in cash or securities) to obtain a "short" or "put equivalent position" with respect to the Common Stock.

(e) The Purchased Securities are, and the Warrant Shares and Underlying Shares may be when issued, restricted securities under the Securities Act and may not be offered or sold except pursuant to an effective registration statement or an available exemption from registration under the Securities Act. Accordingly, each Investor shall not, directly or through others, offer or sell any Purchased Securities or any

Warrant Shares or Underlying Shares except pursuant to a registration statement or pursuant to Rule 144 or another exemption from registration under the Securities Act, if available. Prior to any Transfer of Purchased Securities, Warrant Shares or Underlying Shares other than pursuant to an effective registration statement, an Investor shall notify the Company of such Transfer and the Company may require such Investor to provide, prior to such Transfer, such evidence that the Transfer will comply with the Securities Act (including written representations and an opinion of counsel) as the Company may reasonably request. The Company may impose stop-transfer instructions with respect to any securities that are to be transferred in contravention of this Agreement.

4.2 Purchase for Investment. Each Investor acknowledges that the Purchased Securities, the Warrant Shares and the Underlying Shares have not been registered under the Securities Act or under any state securities laws. Each Investor (i) is acquiring the Purchased Securities pursuant to an exemption from registration under the Securities Act solely for investment with no present intention to distribute them to any person in violation of the Securities Act or any applicable U.S. state securities laws, (ii) will not sell or otherwise dispose of any of the Purchased Securities, the Warrant Shares or the Underlying Shares, except in compliance with the registration requirements or exemption provisions of the Securities Act and any applicable U.S. state securities laws, (iii) has such knowledge and experience in financial and business matters and in investments of this type that it is capable of evaluating the merits and risks of the Purchase and of making an informed investment decision, and has conducted a review of the business and affairs of the Company that it considers sufficient and reasonable for purposes of making the Purchase, (iv) is able to bear the economic risk of the Purchase and at the present time is able to afford a complete loss of such investment and (iv) is an "accredited investor" (as that term is defined by Rule 501 under the Securities Act).

4.3 Legend. The Investor agrees that all certificates or other instruments representing Purchased Securities, the Warrant Shares and the Underlying Shares will bear a legend substantially to the following effect to the extent applicable:

"THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT WHILE A REGISTRATION STATEMENT RELATING THERETO IS IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS. THIS INSTRUMENT IS ISSUED PURSUANT TO AND SUBJECT TO THE RESTRICTIONS ON TRANSFER AND OTHER PROVISIONS OF A SECURITIES PURCHASE AGREEMENT, DATED DECEMBER 27, 2024, BETWEEN THE ISSUER OF THESE SECURITIES AND THE INVESTORS REFERRED TO THEREIN, A COPY OF WHICH IS ON FILE WITH THE ISSUER. THE SECURITIES REPRESENTED BY THIS INSTRUMENT MAY NOT BE SOLD OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE

WITH SAID AGREEMENT. ANY SALE OR OTHER TRANSFER NOT IN COMPLIANCE WITH SAID AGREEMENT WILL BE VOID."

In the event that (i) any Purchased Securities, Warrant Shares or Underlying Shares become registered under the Securities Act or (ii) Purchased Securities, Warrant Shares or Underlying Shares are eligible to be transferred without restriction in accordance with Rule 144 under the Securities Act, the Company shall issue new certificates or other instruments representing such Purchased Securities, Warrant Shares or Underlying Shares, which shall not contain such portion of the above legend that is no longer applicable; *provided* that the applicable Investor surrenders to the Company the previously issued certificates or other instruments.

4.4 Information Rights. The Company will provide at least 15 days notice to each Investor prior to a voluntary or involuntary liquidation, dissolution or winding up of the Company's affairs. At the request of an Investor, from time to time upon reasonable notice, the Company shall make the Chief Financial Officer of the Company available to meet with such Investor for the purpose of discussing with such Investor the financial condition, business and results of operations of the Company. This right is non-transferable and terminates as to an Investor on the date that such Investor and its Permitted Transferees no longer collectively hold Preferred Stock with an aggregate liquidation value of at least 25% of the liquidation value represented by the Preferred Shares of such Investor set forth on Schedule I hereto.

Article V

MISCELLANEOUS

5.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by an Investor as to itself or the Company if the Closing shall not have occurred by the 30th calendar day following the date of this Agreement; *provided, however,* that in the event the Closing has not occurred by such 30th calendar day, the parties will consult in good faith to determine whether to extend the term of this Agreement, it being understood that the parties shall be required to consult only until the fifth day after such 30th calendar day and not be under any obligation to extend the term of this Agreement; *provided*, *further*, that the right to terminate this Agreement under this Section 5.1(a) shall not be available to any party whose breach of any representation or warranty or failure to perform any obligation under this Agreement shall have caused or resulted in the failure of the Closing to occur on or prior to such date; or

(b) by either an Investor as to itself or the Company in the event that any Governmental Entity shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement and such order, decree, ruling or other action shall have become final and nonappealable; or

(c) by the mutual written consent of an Investor as to itself and the Company.

In the event of termination of this Agreement as provided in this Section 5.1, this Agreement shall forthwith become void as to the particular Investor and the Company and there shall be no liability on the part of either party, except that nothing herein shall relieve either party from liability for any breach of this Agreement.

5.2 Amendment. No amendment of any provision of this Agreement will be effective as to any party unless made in writing and signed by an officer of a duly authorized representative of such party.

5.3 Waiver of Conditions. The conditions to each party's obligation to consummate the Purchase are for the sole benefit of such party and may be waived by such party in whole or in part to the extent permitted by applicable law. No waiver will be effective unless it is in a writing signed by a duly authorized officer of the waiving party that makes express reference to the provision or provisions subject to such waiver.

5.4 Counterparts and Facsimile. For the convenience of the parties hereto, this Agreement may be executed in any number of separate counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts will together constitute the same agreement. Executed signature pages to this Agreement may be delivered by facsimile and such facsimiles will be deemed as sufficient as if actual signature pages had been delivered.

5.5 Governing Law; Submission to Jurisdiction, Etc. This Agreement will be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed entirely within such State. Each of the parties hereto agrees (a) to submit to the non-exclusive personal jurisdiction of the State or Federal courts in the Borough of Manhattan, The City of New York, (b) that non-exclusive jurisdiction and venue shall lie in the State or Federal courts in the State of New York, and (c) that notice may be served upon such party at the address and in the manner set forth for such party in Section 5.6. To the extent permitted by applicable law, each of the parties hereto hereby unconditionally waives trial by jury in any legal action or proceeding relating to the Transaction Documents or the transactions contemplated hereby or thereby.

5.6 Notices. Any notice, request, instruction or other document to be given hereunder by any party to the other will be in writing and will be deemed to have been duly given (a) on the date of delivery if delivered personally, or by facsimile, upon confirmation of receipt, or (b) on the second business day following the date of dispatch if delivered by a recognized next day courier service. All notices hereunder shall be delivered as set forth below, or pursuant to such other instructions as may be designated in writing by the party to receive such notice.

(A) If to an Investor as set forth on Schedule I hereto:

(B) If to the Company:

Precigen, Inc.
20374 Seneca Meadows Parkway
Germantown, Maryland 20876
Attention: Chief Legal Officer
Facsimile: (301) 556-9902

with a copy to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attention: Deanna Kirkpatrick / Yasin Keshvargar
Facsimile: (212) 701-5135

5.7 Entire Agreement, Etc. This Agreement (including the Annexes hereto) and the other Transaction Documents constitute the entire agreement, and supersede all other prior agreements, understandings, representations and warranties, both written and oral, among the parties, with respect to the subject matter hereof.

5.8 Definitions of "subsidiary" and "Affiliate". (a) When a reference is made in this Agreement to a subsidiary of a person, the term "*subsidiary*" means those entities of which such person owns or controls more than 50% of the outstanding equity securities either directly or through an unbroken chain of entities as to each of which more than 50% of the outstanding equity securities is owned directly or indirectly by its parent.

(b) The term "*Affiliate*" means, with respect to any person, any person directly or indirectly controlling, controlled by or under common control with, such other person. For purposes of this definition, "control" when used with respect to any person, means the possession, directly or indirectly, of the power to cause the direction of management and/or policies of such person, whether through the ownership of voting securities by contract or otherwise.

5.9 Assignment. Neither this Agreement nor any right, remedy, obligation nor liability arising hereunder or by reason hereof shall be assignable by any party hereto without the prior written consent of the other parties, and any attempt to assign any right, remedy, obligation or liability hereunder without such consent shall be void, except (i) an assignment, in the case of a merger or consolidation where such party is not the surviving entity, or a sale of substantially all of its assets, to the entity which is the survivor of such merger or consolidation or the purchaser in such sale or (ii) an assignment by an Investor, upon one business day's notice to the Company, of any or all of its rights hereunder (including under any other Transaction Document) to one or more Permitted Transferees of such Investor prior to the Closing subject to the requirements and conditions set forth in Section 4.1(c) for a transfer of Purchased

Securities and applicable requirements and conditions in the other Transaction Documents. The actions of an Investor and/or any Permitted Transferee shall be aggregated for purposes of all thresholds and limitations herein and in the Registration Rights Agreement to the extent (i) such Investor transfers any or all of its rights hereunder to any Permitted Transferee prior to the Closing and/or (ii) such Investor or any Permitted Transferee transfers any Purchased Securities to any Permitted Transferee following the Closing.

5.10 Severability. If any provision of this Agreement or a Transaction Document, or the application thereof to any person or circumstance, is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to persons or circumstances other than those as to which it has been held invalid or unenforceable, will remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination, the parties shall negotiate in good faith in an effort to agree upon a suitable and equitable substitute provision to effect the original intent of the parties.

5.11 No Third Party Beneficiaries. Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person or entity other than the Company and each Investor (and any Permitted Transferee to which an assignment is made in accordance with this Agreement), any benefits, rights, or remedies.

* * *

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties hereto as of the date first herein above written.

PRECIGEN, INC.

By: /s/ Donald P. Lehr

Name: Donald P. Lehr

Title: Chief Legal Officer

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties hereto as of the date first herein above written.

RJ KIRK DECLARATION OF TRUST

By: /s/ Randal J. Kirk

Name: Randal J. Kirk

Title: Trustee

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties hereto as of the date first herein above written.

PATIENT CAPITAL MANAGEMENT, LLC

By: /s/ Milton Dodge

Name: Milton Dodge

Title: Chief Compliance Officer

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties hereto as of the date first herein above written.

William H. Miller III Living Trust dated April 17, 2017, as amended and restated

By: /s/ William H. Miller III

Name: William H. Miller III

Title: Trustee

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties hereto as of the date first herein above written.

HAROLD LEVY

By: /s/ Harold Levy

Name: Harold Levy

Title: Investor

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties hereto as of the date first herein above written.

IRIDIAN WASABI FUND, LP

By: /s/ Todd Raker

Name: Todd Raker

Title: CEO

Schedule I

Investor	Preferred Shares	Number of Common Stock underlying Warrants	Aggregate Purchase Price
RJ Kirk Declaration of Trust	25,000	16,666,667	$25,000,000
Patient Capital Management, LLC	26,000	17,333,334	$26,000,000
William H. Miller III Living Trust dated April 17, 2017, as amended and restated	25,000	16,666,667	$25,000,000
Harold Levy	2,000	1,333,334	$2,000,000
Iridian Asset Management	1,000	666,667	$1,000,000

Notices to Investors:

If to RJ Kirk Declaration of Trust:

Third Security, LLC
Attn: Legal Department
18881 Grove Avenue
Radford, Virginia 24141

If to Patient Capital Management, LLC:

Patient Capital Management, LLC
1 South Street, Suite 2550
Baltimore, Maryland 21202

If to William H. Miller III Living Trust dated April 17, 2017, as amended and restated:

APG LLC
1104 Kenilworth Drive
Towson, Maryland 21204

If to Harold Levy:

Harold Levy
1000 S Ocean Blvd
Apt 404
Boca Raton, Florida 33432

If to Iridian Asset Management:

Iridian Asset Management
120 Post Road West
Westport, Connecticut 06880

Annex A

Form of Articles of Amendment

(See attached)

Annex B

Form of Warrant

(See attached)

Annex C

Form of Registration Rights Agreement

(See attached)

Exhibit 10.2

Execution Version

REGISTRATION RIGHTS AGREEMENT

by and between

PRECIGEN, INC.

and

THE INVESTORS PARTY HERETO

Dated as of December 30, 2024

TABLE OF CONTENTS

THIS REGISTRATION RIGHTS AGREEMENT (this "Agreement"), is made and entered into as of December 30, 2024, by and between Precigen, Inc., a Virginia corporation (the "Company"), and each of the investors listed on Schedule I hereto (each an "Investor" and collectively, the "Investors").

WHEREAS, the Company and the Investors are parties to a Securities Purchase Agreement, dated December 27, 2024 (the "Purchase Agreement") pursuant to which the Investors are purchasing from the Company 79,000 shares of its 8% Convertible Perpetual Preferred Stock, Series A (the "Preferred Stock") and warrants (the "Warrants") to purchase an aggregate of 52,666,669 shares of its common stock, no par value per share (the "Common Stock"), subject to adjustment as provided in such Warrants;

WHEREAS, in connection with the consummation of the transactions contemplated by the Purchase Agreement, the parties desire to enter into this Agreement in order to create certain registration rights for the Investors as set forth below;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

Section 1. Certain Definitions.

In addition to the terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

"Affiliate" of any Person means any other Person which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlling," "controlled" and "under common control with") as used with respect to any Person means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

"Agreement" means this Registration Rights Agreement, including all amendments, modifications and supplements and any exhibits or schedules to any of the foregoing, and shall refer to this Registration Rights Agreement as the same may be in effect at the time such reference becomes operative.

"beneficially own" means, with respect to any Person, securities of which such Person or any of such Person's Affiliates, directly or indirectly, has "beneficial ownership" as determined pursuant to Rule 13d-3 and Rule 13d-5 of the Exchange Act, including securities beneficially owned by others with whom such Person or any of its Affiliates has agreed to act together for the purpose of acquiring, holding, voting or disposing of such securities; *provided* that a Person shall not be deemed to "beneficially own" (i) securities tendered pursuant to a tender or exchange offer made by such Person or any of such Person's Affiliates until such tendered securities

are accepted for payment, purchase or exchange, (ii) any security as a result of an oral or written agreement, arrangement or understanding to vote such security if such agreement, arrangement or understanding: (a) arises solely from a revocable proxy given in response to a public proxy or consent solicitation made pursuant to, and in accordance with, the applicable provisions of the Exchange Act, and (b) is not also then reportable by such Person on Schedule 13D under the Exchange Act (or any comparable or successor report). Without limiting the foregoing, a Person shall be deemed to be the beneficial owner of all Registrable Shares owned of record by any majority-owned subsidiary of such Person.

"Common Stock" has the meaning set forth in the first Recital hereto.

"Company" has the meaning set forth in the introductory paragraph.

"Demand Registration" has the meaning set forth in Section 2(a).

"Demand Registration Statement" has the meaning set forth in Section 2(a).

"Exchange Act" means the Securities Exchange Act of 1934.

"Exercise Shares" means the Underlying Shares and the Warrant Shares.

"FINRA" means the Financial Industry Regulatory Authority, Inc. or any successor organization.

"Form S-3" means a registration statement on Form S-3 under the Securities Act or such successor forms thereto permitting registration of securities under the Securities Act.

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

"Holdback Agreement" has the meaning set forth in Section 6.

"Holdback Period" has the meaning set forth in Section 6.

"Investors" means the Persons named as such in the first paragraph of this Agreement. References herein to the Investors shall apply to Permitted Transferees who become Investors pursuant to Section 11, provided that for purposes of all thresholds and limitations herein, the actions of the Permitted Transferees shall be aggregated.

"Minimum Amount" means $10,000,000.

"Permitted Transferee" shall have the meaning set forth in the Purchase Agreement.

"Person" means any individual, sole proprietorship, partnership, limited liability company, joint venture, trust, incorporated organization, association, corporation, institution, public benefit corporation, Governmental Entity or any other entity.

"Piggyback Registration" has the meaning set forth in Section 3(a).

"Preferred Stock" has the meaning set forth in the first Recital hereto.

"Prospectus" means the prospectus or prospectuses (whether preliminary or final) included in any Registration Statement and relating to Registrable Shares, as amended or supplemented and including all material incorporated by reference in such prospectus or prospectuses.

"Purchase Agreement" means the agreement specified in the first Recital hereto, as such agreement may be amended from time to time.

"Registrable Shares" means, at any time, (i) the Preferred Stock, (ii) the Exercise Shares, and (iii) any securities issued by the Company after the date hereof in respect of the Exercise Shares by way of a share dividend or share split or in connection with a combination of shares, recapitalization, merger, consolidation or other reorganization, but excluding (iv) any and all Preferred Stock and Exercise Shares and other securities referred to in clauses (i) through (iii) that at any time after the date hereof (a) have been sold pursuant to an effective registration statement or Rule 144 under the Securities Act, (b) have been sold in a transaction where a subsequent public distribution of such securities would not require registration under the Securities Act, (c) are eligible for sale pursuant to Rule 144 under the Securities Act without limitation thereunder on volume or manner of sale, (d) are not outstanding or (e) have been transferred in violation of Section 10 hereof or the provisions of the Purchase Agreement or to a Person that does not become an Investor pursuant to Section 11 hereof (or any combination of clauses (a), (b), (c), (d) and (e)). It is understood and agreed that, once a security of the kind described in clauses (i) through (iii) above becomes a security of the kind described in clause (iv) above, such security shall cease to be a Registrable Share for all purposes of this Agreement and the Company's obligations regarding Registrable Shares hereunder shall cease to apply with respect to such security.

"Registration Expenses" has the meaning set forth in Section 8(a).

"Registration Statement" means any registration statement of the Company which covers any of the Registrable Shares pursuant to the provisions of this Agreement, including the Prospectus, amendments and supplements to such Registration Statement, including post-effective amendments, all exhibits and all documents incorporated by reference in such Registration Statement.

"S-3 Shelf Registration" has the meaning set forth in Section 4(a).

"S-3 Shelf Registration Statement" has the meaning set forth in Section 4(a).

"SEC" means the Securities and Exchange Commission or any successor agency.

"Securities Act" means the Securities Act of 1933, as amended.

"Shares" means any shares of Common Stock. If at any time Registrable Shares include securities of the Company other than Common Stock, then, when referring to Shares other than Registrable Shares, "Shares" shall include the class or classes of such other securities of the Company.

"Shelf Takedown" has the meaning set forth in Section 4(b).

"Suspension Period" has the meaning set forth in Section 5(a).

"Termination Date" means the first date on which there are no Registrable Shares or there are no Investors.

"Third Party Holdback Period" means any Holdback Period imposed on the Investors pursuant to Section 6 in respect of an underwritten offering of Shares in which (i) the Investors elected not to participate or (ii) the Investors' participation was reduced or eliminated pursuant to Section 3(b) or 3(c).

"Underlying Shares" means the shares of Common Stock issuable upon conversion of the Preferred Stock.

"underwritten offering" means a registered offering in which securities of the Company are sold to one or more underwriters on a firm-commitment basis for reoffering to the public, and "underwritten Shelf Takedown" means an underwritten offering effected pursuant to an S-3 Shelf Registration.

"Warrants" has the meaning set forth in the first Recital hereto.

"Warrant Shares" means the shares of Common Stock issuable upon exercise of the Warrants.

In addition to the above definitions, unless the context requires otherwise:

(i) any reference to any statute, regulation, rule or form as of any time shall mean such statute, regulation, rule or form as amended or modified and shall also include any successor statute, regulation, rule or form from time to time;

(ii) "including" shall be construed as inclusive without limitation, in each case notwithstanding the absence of any express statement to such effect, or the presence of such express statement in some contexts and not in others;

(iii) references to "Section" are references to Sections of this Agreement;

(iv) words such as "herein", "hereof", "hereinafter" and "hereby" when used in this Agreement refer to this Agreement as a whole;

(v) references to "business day" mean any day except Saturday, Sunday and any day which shall be a legal holiday or a day on which banking institutions in the State of New York generally are authorized or required by law or other governmental action to close; and

(vi) the symbol "$" means U.S. dollars.

Section 2. Demand Registration.

(a) Right to Request Registration. Subject to the provisions hereof, until the Termination Date, one or more Investors may, from and after the date six months following the date hereof (and subject to the Company obtaining Shareholder Approval (as defined in the Purchase Agreement) in the case of Exercise Shares), request in writing registration for resale under the Securities Act of all or part of the Registrable Shares separate from an S-3 Shelf Registration (a "Demand Registration"); *provided*, *however*, that (based on the then-current market prices) the number of Registrable Shares included in the Demand Registration would, if fully sold, yield gross proceeds to the requesting Investors of at least the Minimum Amount. The Company shall, within ten (10) days of the Company's receipt of a request for a Demand Registration, notify, in writing, all other Investors of such demand, and each Investor who thereafter wishes to include all or a portion of such Investor's Registrable Securities in such Demand Registration shall so notify the Company, in writing, within five (5) days after the receipt by the Investor of the notice from the Company. Subject to Section 2(d) and Sections 5 and 7 below, the Company shall use reasonable best efforts (i) to file a Registration Statement registering for resale such number of Registrable Shares as requested to be so registered pursuant to this Section 2(a) (a "Demand Registration Statement") within 45 days after the Company's notification to all other Investors of the Demand Registration request and (ii) if necessary, to cause such Demand Registration Statement to be declared effective by the SEC as soon as practical thereafter. If permitted under the Securities Act, such Registration Statement shall be one that is automatically effective upon filing.

(b) Number of Demand Registrations. Subject to the limitations of Sections 2(a), 2(d) and 4(a), the Investors shall be entitled to request up to three Demand Registrations in the aggregate (regardless of the number of Permitted Transferees who may become Investors pursuant to Section 11). A Registration Statement shall not count as a permitted Demand Registration unless and until it has become effective.

(c) Priority on Demand Registrations. The Company may include Shares other than Registrable Shares in a Demand Registration for any accounts (including for the account of the Company) on the terms provided below; and if such Demand Registration is an underwritten offering, such Shares may be included only with the consent of the managing underwriters of such offering. If the managing underwriters of the requested Demand Registration advise the Company and the Investors requesting such Demand Registration that in their opinion the number of Shares

proposed to be included in the Demand Registration exceeds the number of Shares which can be sold in such underwritten offering without materially delaying or jeopardizing the success of the offering (including the price per share of the Shares proposed to be sold in such underwritten offering), the Company shall include in such Demand Registration (i) first, the number of Registrable Shares that the Investors propose to sell, and (ii) second, the number of Shares proposed to be included therein by any other Persons (including Shares to be sold for the account of the Company) allocated among such Persons in such manner as the Company may determine. If the number of Shares which can be sold is less than the number of Shares proposed to be registered pursuant to clause (i) above by the Investors, the amount of Shares to be sold shall be allocated to the Investors.

(d) Restrictions on Demand Registrations. No Investor shall be entitled to request a Demand Registration (i) within six months after any Investor has sold Shares in a Demand Registration or an underwritten Shelf Takedown requested pursuant to Section 4(b) or (ii) at any time when the Company is diligently pursuing a primary or secondary underwritten offering pursuant to a Piggyback Registration. Notwithstanding the foregoing, the Company shall not be obligated to proceed with a Demand Registration if the offering to be effected pursuant to such registration can be effected pursuant to an S-3 Shelf Registration and the Company, in accordance with Section 4, effects or has effected an S-3 Shelf Registration pursuant to which such offering can be effected.

(e) Underwritten Offerings. A majority-in-interest of requesting Investors shall be entitled to request an underwritten offering pursuant to a Demand Registration, but only if the number of Registrable Shares to be sold in the offering would reasonably be expected to yield gross proceeds to such requesting Investors of at least the Minimum Amount (based on then-current market prices) and only if the request is not made within six months after any Investor has sold Shares in an underwritten offering pursuant to (i) a Demand Registration or (ii) an S-3 Shelf Registration. If any of the Registrable Shares covered by a Demand Registration are to be sold in an underwritten offering, the Company shall have the right to select the managing underwriter or underwriters to lead the offering.

(f) Effective Period of Demand Registrations. Upon the date of effectiveness of any Demand Registration for an underwritten offering and if such offering is priced promptly on or after such date, the Company shall use reasonable best efforts to keep such Demand Registration Statement effective for a period equal to 60 days from such date or such shorter period which shall terminate when all of the Registrable Shares covered by such Demand Registration have been sold by the Investors. If the Company shall withdraw any Demand Registration pursuant to Section 5 before such 60 days end and before all of the Registrable Shares covered by such Demand Registration have been sold pursuant thereto, the Investors shall be entitled to a replacement Demand Registration which shall be subject to all of the provisions of this Agreement. A Demand Registration shall not count against the limit on the number of such registrations set forth in Section 2(b) if (i) after the applicable Registration Statement has become effective, such Registration Statement or the

related offer, sale or distribution of Registrable Shares thereunder becomes the subject of any stop order, injunction or other order or restriction imposed by the SEC or any other governmental agency or court for any reason not attributable to the Investors or their Affiliates (other than the Company and its controlled Affiliates) and such interference is not thereafter eliminated so as to permit the completion of the contemplated distribution of Registrable Shares or (ii) in the case of an underwritten offering, the conditions specified in the related underwriting agreement, if any, are not satisfied or waived for any reason not attributable to the Investors or their Affiliates (other than the Company and its controlled Affiliates), and as a result of any such circumstances described in clause (i) or (ii), less than 75% of the Registrable Shares covered by the Registration Statement are sold by the Investors pursuant to such Registration Statement.

Section 3. Piggyback Registrations.

(a) Right to Piggyback.

From and after the date six months following the date hereof (and subject to the Company obtaining Shareholder Approval (as defined in the Purchase Agreement) in the case of Exercise Shares), prior to the Termination Date, whenever the Company proposes to register any Shares under the Securities Act (other than on a registration statement on Form S-8 or S-4), whether for its own account or for the account of one or more holders of Shares (other than Investors), and the form of registration statement to be used may be used for any registration of Registrable Shares (a "Piggyback Registration"), the Company shall give written notice to the Investors of its intention to effect such a registration and, subject to Sections 3(b) and 3(c), shall include in such registration statement and in any offering of Shares to be made pursuant to that registration statement all Registrable Shares with respect to which the Company has received a written request for inclusion therein from an Investor within 10 days after the Investor's receipt of the Company's notice or, in the case of a primary offering, such shorter time as is reasonably specified by the Company in light of the circumstances (*provided* that only Registrable Shares of the same class or classes as the Shares being registered may be included). The Company shall have no obligation to proceed with any Piggyback Registration and may abandon, terminate and/or withdraw such registration for any reason at any time prior to the pricing thereof. If the Company or any other Person other than any Investor proposes to sell Shares in an underwritten offering pursuant to a registration statement on Form S-3 under the Securities Act, such offering shall be treated as a primary or secondary underwritten offering pursuant to a Piggyback Registration.

(b) Priority on Primary Piggyback Registrations. If a Piggyback Registration is initiated as a primary underwritten offering on behalf of the Company and the managing underwriters advise the Company and the Investors (if the Investors have elected to include Registrable Shares in such Piggyback Registration) that in their opinion the number of Shares proposed to be included in such offering exceeds the number of Shares (of any class) which can be sold in such offering without materially delaying or jeopardizing the success of the offering (including the price

per share of the Shares proposed to be sold in such offering), the Company shall include in such registration and offering (i) first, the number of Shares that the Company proposes to sell, and (ii) second, the number of Shares requested to be included therein by holders of Shares, including Investors (if Investors have elected to include Registrable Shares in such Piggyback Registration), pro rata among all such holders on the basis of the number of Shares requested to be included therein by all such holders or as such holders and the Company may otherwise agree (with allocations among different classes of Shares, if more than one are involved, to be determined by the Company).

(c) Priority on Secondary Piggyback Registrations. If a Piggyback Registration is initiated as an underwritten registration on behalf of a holder of Shares other than Investors, and the managing underwriters advise the Company that in their opinion the number of Shares proposed to be included in such registration exceeds the number of Shares (of any class) which can be sold in such offering without materially delaying or jeopardizing the success of the offering (including the price per share of the Shares to be sold in such offering), then the Company shall include in such registration (i) first, the number of Shares requested to be included therein by the holder(s) requesting such registration, (ii) second, the number of Shares requested to be included therein by other holders of Shares including Investors (if Investors have elected to include Registrable Shares in such Piggyback Registration) and (iii) third, the number of Shares that the Company proposes to sell, pro rata among such holders on the basis of the number of Shares requested to be included therein by such holders or as such holders and the Company may otherwise agree (with allocations among different classes of Shares, if more than one are involved, to be determined by the Company).

(d) Selection of Underwriters. If any Piggyback Registration is a primary or secondary underwritten offering, the Company shall have the right to select the managing underwriter or underwriters to administer any such offering.

(e) Basis of Participations. No Investor may sell Registrable Shares in any offering pursuant to a Piggyback Registration unless such Investor (a) agrees to sell such Shares on the same basis provided in the underwriting or other distribution arrangements approved by the Company and that apply to the Company and/or any other holders involved in such Piggyback Registration and (b) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements, lockups and other documents required under the terms of such arrangements.

Section 4. S-3 Shelf Registration.

(a) Right to Request Registration. Subject to the provisions hereof, after the date six months following the date hereof (and subject to the Company obtaining Shareholder Approval (as defined in the Purchase Agreement) in the case of Exercise Shares), at any time when the Company is eligible to use Form S-3 prior to the Termination Date, Investors shall be entitled to request on one occasion that the

Company file a Registration Statement on Form S-3 (or an amendment or supplement to an existing registration statement on Form S-3) for a public offering of all or such portion of the Registrable Shares designated by the Investors pursuant to Rule 415 promulgated under the Securities Act or otherwise (an "S-3 Shelf Registration"). A request for an S-3 Shelf Registration may not be made within six months after any Investor has sold Shares in a Demand Registration or at any time when an S-3 Shelf Registration is in effect or the Company is diligently pursuing a primary or secondary underwritten offering pursuant to a registration statement. Upon such request, and subject to Section 5, the Company shall use reasonable best efforts (i) to file a Registration Statement (or any amendment or supplement thereto) covering the number of Registrable Shares specified in such request under the Securities Act on Form S-3 (an "S-3 Shelf Registration Statement") for public sale in accordance with the method of disposition specified in such request within 30 days (in the case of a Registration Statement that is automatically effective upon filing) or 60 days (in the case of all other Registration Statements) after an Investor's written request therefor and (ii) if necessary, to cause such S-3 Shelf Registration Statement to become effective as soon as practical thereafter. If permitted under the Securities Act, such Registration Statement shall be one that is automatically effective upon filing. The right to request an S-3 Shelf Registration may be exercised no more than once in the aggregate, regardless of the number of Permitted Transferees who may become Investors pursuant to Section 11.

(b) Right to Effect Shelf Takedowns. Investors shall be entitled, at any time and from time to time when an S-3 Shelf Registration Statement is effective and until the Termination Date, to sell such Registrable Shares as are then registered pursuant to such Registration Statement (each, a "Shelf Takedown"), but only upon not less than ten business days' prior written notice to the Company (if such takedown is to be underwritten). Investors shall be entitled to request that a Shelf Takedown be an underwritten offering; *provided*, *however*, that (based on the then-current market prices) the number of Registrable Shares included in each such underwritten Shelf Takedown would reasonably be expected to yield gross proceeds to the Investors of at least the Minimum Amount, and *provided further* that no Investor shall be entitled to request any underwritten Shelf Takedown (i) within six months after any Investor has sold Shares in an underwritten offering effected pursuant to (x) a Demand Registration or (y) an S-3 Shelf Registration or (ii) at any time when the Company is diligently pursuing a primary or secondary underwritten offering of Shares pursuant to a registration statement. All Investors shall give the Company prompt written notice of the consummation of each Shelf Takedown (whether or not underwritten).

(c) Priority on Underwritten Shelf Takedowns. The Company may include Shares other than Registrable Shares in an underwritten Shelf Takedown for any accounts on the terms provided below, but only with the consent of the managing underwriters of such offering and the participating Investors (such consent not to be unreasonably withheld). If the managing underwriters of the requested underwritten Shelf Takedown advise the Company and the participating Investors that in their opinion the number of Shares proposed to be included in the underwritten Shelf Takedown exceeds the number of Shares which can be sold in such offering without materially

delaying or jeopardizing the success of the offering (including the price per share of the Shares proposed to be sold in such offering), the Company shall include in such underwritten Shelf Takedown (i) first, the number of Shares that the Investors propose to sell, and (ii) second, the number of Shares proposed to be included therein by any other Persons (including Shares to be sold for the account of the Company) allocated among such Persons in such manner as the Company may determine. If the number of Shares which can be sold is less than the number of Registrable Shares proposed to be included in the underwritten Shelf Takedown pursuant to clause (i) above, the amount of Shares to be so sold shall be allocated to the participating Investors. The provisions of this paragraph (c) apply only to a Shelf Takedown that Investors have requested be an underwritten offering.

(d) Selection of Underwriters. If any of the Registrable Shares are to be sold in an underwritten Shelf Takedown initiated by Investors, the Company shall have the right to select the managing underwriter or underwriters to lead the offering.

(e) Effective Period of S-3 Shelf Registrations. The Company shall use reasonable best efforts to keep any S-3 Shelf Registration Statement effective for a period of 90 days after the effective date of such registration statement, *provided* that such 90 day period shall be extended by the number of days in any Suspension Period commenced pursuant to Section 5 during such period (as it may be so extended) and by the number of days in any Third Party Holdback Period commenced during such period (as it may be so extended). Notwithstanding the foregoing, the Company shall not be obligated to keep any such registration statement effective, or to permit Registrable Shares to be registered, offered or sold thereunder, at any time on or after the Termination Date.

Section 5. Suspension Periods.

(a) Suspension Periods. The Company may (i) delay the filing or effectiveness of a Registration Statement in conjunction with a Demand Registration or an S-3 Shelf Registration or (ii) prior to the pricing of any underwritten offering or other offering of Registrable Shares pursuant to a Demand Registration or an S-3 Shelf Registration, delay such underwritten or other offering (and, if it so chooses, withdraw any registration statement that has been filed), but in each case described in clauses (i) and (ii) only if the Company determines in its sole discretion (x) that proceeding with such an offering would require the Company to disclose material information that would not otherwise be required to be disclosed at that time and that the disclosure of such information at that time would not be in the Company's best interests, or (y) that the registration or offering to be delayed would, if not delayed, materially adversely affect the Company and its subsidiaries taken as a whole or materially interfere with, or jeopardize the success of, any pending or proposed material transaction, including any debt or equity financing, any acquisition or disposition, any recapitalization or reorganization or any other material transaction, whether due to commercial reasons, a desire to avoid premature disclosure of information or any other reason. Any period during which the Company has delayed a filing, an effective date or an offering pursuant to this Section 5 is herein called a

"Suspension Period". If pursuant to this Section 5 the Company delays or withdraws a Demand Registration or S-3 Shelf Registration requested by Investors, the requesting Investors shall be entitled to withdraw such request and, if they do so, such request shall not count against the limitation on the number of such registrations set forth in Section 2 or 4. The Company shall provide prompt written notice to the Investors of the commencement and termination of any Suspension Period (and any withdrawal of a registration statement pursuant to this Section 5), but shall not be obligated under this Agreement to disclose the reasons therefor. The Investors shall keep the existence of each Suspension Period confidential and refrain from making offers and sales of Registrable Shares (and direct any other Persons making such offers and sales to refrain from doing so) during each Suspension Period. In no event (i) may the Company deliver notice of a Suspension Period to the Investors more than three times in any calendar year and (ii) shall a Suspension Period or Suspension Periods be in effect for an aggregate of 180 days or more in any calendar year.

(b) Other Lockups. Notwithstanding any other provision of this Agreement, the Company shall not be obligated to take any action hereunder that would violate any lockup or similar restriction binding on the Company in connection with a prior or pending registration or underwritten offering.

(c) Purchase Agreement Restrictions. Nothing in this Agreement shall affect the restrictions on transfers of Shares and other provisions of the Purchase Agreement, which shall apply independently hereof in accordance with the terms thereof.

Section 6. Holdback Agreements.

The restrictions in this Section 6 shall apply for as long as the Investors are the beneficial owners of any Registrable Shares. If the Company sells Shares or other securities convertible into or exchangeable for (or otherwise representing a right to acquire) Shares in a primary underwritten offering pursuant to any registration statement under the Securities Act (but only if the Investors are provided their piggyback rights, if any, in accordance with Sections 3(a) and 3(b)), or if any other Person sells Shares in a secondary underwritten offering pursuant to a Piggyback Registration in accordance with Sections 3(a) and 3(b), and if the managing underwriters for such offering advise the Company (in which case the Company promptly shall notify the Investors) that a public sale or distribution of Shares outside such offering would materially adversely affect such offering, then, if requested by the Company, the Investors shall agree, as contemplated in this Section 6, not to (and to cause its majority-controlled Affiliates not to) sell, transfer, pledge, issue, grant or otherwise dispose of, directly or indirectly (including by means of any short sale), or request the registration of, any Registrable Shares (or any securities of any Person that are convertible into or exchangeable for, or otherwise represent a right to acquire, any Registrable Shares) for a period (each such period, a "Holdback Period") beginning on the 10th day before the pricing date for the underwritten offering and extending through the earlier of (i) the 90th day after such pricing date (subject to customary automatic extension in the event of the release of earnings results of or material news relating to the Company) and (ii) such earlier day (if any)

as may be designated for this purpose by the managing underwriters for such offering (each such agreement of an Investor, a "Holdback Agreement"). Each Holdback Agreement shall be in writing in form and substance satisfactory to the Company and the managing underwriters. Notwithstanding the foregoing, an Investor shall not be obligated to enter into a Holdback Agreement unless the Company and each selling shareholder in such offering also execute agreements substantially similar to such Holdback Agreement. A Holdback Agreement shall not apply to (i) the exercise of any warrants or options to purchase shares of the Company (*provided* that such restrictions shall apply with respect to the securities issuable upon such exercise), (ii) any Shares included in the underwritten offering giving rise to the application of this Section 6, or (iii) any Shares of the Company's capital stock owned or held by any employee benefit plan of an Investor or its majority-controlled Affiliates.

Section 7. Registration Procedures.

(a) Whenever an Investor requests that any Registrable Shares be registered pursuant to this Agreement, the Company shall use reasonable best efforts notify the other Investors of such request and to effect, as soon as practical as provided herein, the registration and the sale of such Registrable Shares in accordance with the intended methods of disposition thereof, and, pursuant thereto, the Company shall, as soon as practical as provided herein:

(i) subject to the other provisions of this Agreement, use reasonable best efforts to prepare and file with the SEC a Registration Statement with respect to such Registrable Shares and cause such Registration Statement to become effective (unless it is automatically effective upon filing);

(ii) use reasonable best efforts to prepare and file with the SEC such amendments and supplements to such Registration Statement and the Prospectus used in connection therewith as may be necessary to comply with the applicable requirements of the Securities Act and to keep such Registration Statement effective for the relevant period required hereunder, but no longer than is necessary to complete the distribution of the Registrable Shares covered by such Registration Statement, and to comply with the applicable requirements of the Securities Act with respect to the disposition of all the Registrable Shares covered by such Registration Statement during such period in accordance with the intended methods of disposition set forth in such Registration Statement;

(iii) use reasonable best efforts to obtain the withdrawal of any order suspending the effectiveness of any Registration Statement, or the lifting of any suspension of the qualification or exemption from qualification of any Registrable Shares for sale in any jurisdiction in the United States;

(iv) deliver, without charge, such number of copies of the preliminary and final Prospectus and any supplement thereto as the participating Investors may reasonably request in order to facilitate the disposition of the Registrable Shares of the Investors

covered by such Registration Statement in conformity with the requirements of the Securities Act;

(v) use reasonable best efforts to register or qualify such Registrable Shares under such other securities or blue sky laws of such U.S. jurisdictions as the participating Investors reasonably request and continue such registration or qualification in effect in such jurisdictions for as long as the applicable Registration Statement may be required to be kept effective under this Agreement (*provided* that the Company will not be required to qualify generally to do business in any jurisdiction where it would not otherwise be required to (I) qualify but for this subparagraph (v), (II) subject itself to taxation in any such jurisdiction or (III) consent to general service of process in any such jurisdiction);

(vi) notify the Investors and each distributor of such Registrable Shares identified by the Investors, at any time when a Prospectus relating thereto would be required under the Securities Act to be delivered by such distributor, of the occurrence of any event as a result of which the Prospectus included in such Registration Statement contains an untrue statement of a material fact or omits a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and, at the request of the Investors, the Company shall use reasonable best efforts to prepare, as soon as practical, a supplement or amendment to such Prospectus so that, as thereafter delivered to any prospective purchasers of such Registrable Shares, such Prospectus shall not contain an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(vii) in the case of an underwritten offering in which an Investor participates pursuant to a Demand Registration, a Piggyback Registration or an S-3 Shelf Registration, enter into an underwriting agreement in substantially the form used by the Company or companies of comparable market capitalization for offerings of that kind, with appropriate modification, containing such provisions (including provisions for indemnification, lockups, opinions of counsel and comfort letters), and take all such other customary and reasonable actions as the managing underwriters of such offering may request in order to facilitate the disposition of such Registrable Shares (including, making members of senior management of the Company available at reasonable times and places to participate in "road- shows" that the managing underwriter determines are necessary to effect the offering);

(viii) in the case of an underwritten offering in which an Investor participates pursuant to a Demand Registration, a Piggyback Registration or an S-3 Shelf Registration, and to the extent not prohibited by applicable law, (A) make reasonably available, for inspection by the managing underwriters of such offering and one attorney and accountant acting for such managing underwriters, pertinent corporate documents and financial and other records of the Company and its subsidiaries and controlled Affiliates, (B) cause the Company's officers and employees to supply information reasonably requested by such managing underwriters or attorney in connection with such offering, (C) make the Company's independent accountants

available for any such managing underwriters' due diligence and have them provide customary comfort letters to such underwriters in connection therewith; and (D) cause the Company's counsel to furnish customary legal opinions to such underwriters in connection therewith; *provided*, however, that such records and other information shall be subject to such confidential treatment as is customary for underwriters' due diligence reviews;

(ix) use reasonable best efforts to cause all such Registrable Shares to be listed on each primary securities exchange (if any) on which securities of the same class issued by the Company are then listed;

(x) provide a transfer agent and registrar for all such Registrable Shares not later than the effective date of such Registration Statement and, a reasonable time before any proposed sale of Registrable Shares pursuant to a Registration Statement, provide the transfer agent with printed certificates for the Registrable Shares to be sold, subject to the provisions of Section 11;

(xi) make generally available to its shareholders a consolidated earnings statement (which need not be audited) for a period of 12 months beginning after the effective date of the Registration Statement as soon as reasonably practicable after the end of such period, which earnings statement shall satisfy the requirements of an earning statement under Section 11(a) of the Securities Act and Rule 158 thereunder; and

(xii) promptly notify the Investors and the managing underwriters of any underwritten offering, if any:

(1) when the Registration Statement, any pre-effective amendment, the Prospectus or any Prospectus supplement or any post-effective amendment to the Registration Statement has been filed and, with respect to the Registration Statement or any post-effective amendment, when the same has become effective;

(2) of any request by the SEC for amendments or supplements to the Registration Statement or the Prospectus or for any additional information regarding the Investors;

(3) of the notification to the Company by the SEC of its initiation of any proceeding with respect to the issuance by the SEC of any stop order suspending the effectiveness of the Registration Statement; and

(4) of the receipt by the Company of any notification with respect to the suspension of the qualification of any Registrable Shares for sale under the applicable securities or blue sky laws of any jurisdiction.

For the avoidance of doubt, the provisions of clauses (vii), (viii), (xi) and (xii) of this Section 7(a) shall apply only in respect of an underwritten offering and only if (based on market prices at the time the offering is requested by the Investors) the number of Registrable Shares to be sold in the offering would reasonably be expected to yield gross proceeds to the Investors of at least the Minimum Amount.

(b) No Registration Statement (including any amendments thereto) shall contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein not misleading, and no Prospectus (including any supplements thereto) shall contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, in each case, except for any untrue statement or alleged untrue statement of a material fact or omission or alleged omission of a material fact made in reliance on and in conformity with written information furnished to the Company by or on behalf of Investors, any selling securityholder or any underwriter or other distributor specifically for use therein.

(c) At all times after the Company has filed a registration statement with the SEC pursuant to the requirements of the Securities Act and until the Termination Date, the Company shall use reasonable best efforts to continuously maintain in effect the registration of Common Stock under Section 12 of the Exchange Act and to use reasonable best efforts to file all reports required to be filed by it under the Securities Act and the Exchange Act and the rules and regulations adopted by the SEC thereunder, all to the extent required to enable the Investors to be eligible to sell Registrable Shares (if any) pursuant to Rule 144 under the Securities Act.

(d) The Company may require the Investors and each distributor of Registrable Shares as to which any registration is being effected to furnish to the Company information regarding such Person and the distribution of such securities as the Company may from time to time reasonably request in connection with such registration.

(e) Each Investor agrees by having its shares of Common Stock treated as Registrable Shares hereunder that, upon being advised in writing by the Company of the occurrence of an event pursuant to Section 7(a)(vi), such Investor will immediately discontinue (and direct any other Persons making offers and sales of Registrable Shares to immediately discontinue) offers and sales of Registrable Shares pursuant to any Registration Statement (other than those pursuant to a plan that is in effect prior to such time and that complies with Rule 10b5-1 under the Exchange Act) until it is advised in writing by the Company that the use of the Prospectus may be resumed and is furnished with a supplemented or amended Prospectus as contemplated by Section 7(a)(vi), and, if so directed by the Company, each Investor will deliver to the Company all copies, other than permanent file copies then in such Investor's possession, of the Prospectus covering such Registrable Shares current at the time of receipt of such notice.

(f) The Company may prepare and deliver a free writing prospectus (as such term is defined in Rule 405 under the Securities Act) in lieu of any supplement to a Prospectus, and references herein to any "supplement" to a Prospectus shall include any such free writing prospectus. No Investor nor any other seller of Registrable Shares may use a free writing prospectus to offer or sell any such shares without the Company's prior written consent.

(g) It is understood and agreed that any failure of the Company to file a registration statement or any amendment or supplement thereto or to cause any such document to become or remain effective or usable within or for any particular period of time as provided in Section 2, 4 or 7 or otherwise in this Agreement, due to reasons that are not reasonably within its control, or due to any refusal of the SEC to permit a registration statement or prospectus to become or remain effective or to be used because of unresolved SEC comments thereon (or on any documents incorporated therein by reference) despite the Company's good faith and reasonable best efforts to resolve those comments, shall not be a breach of this Agreement.

(h) It is further understood and agreed that the Company shall not have any obligations under this Section 7 at any time on or after the Termination Date, unless an underwritten offering in which the Investors participate has been priced but not completed prior to the Termination Date, in which event the Company's obligations under this Section 7 shall continue with respect to such offering until it is so completed (but not more than 60 days after the commencement of the offering).

(i) Notwithstanding anything to the contrary in this Agreement, the Company shall not be required to file a Registration Statement or include Registrable Shares in a Registration Statement unless it has received from the Investors, at least five days prior to the anticipated filing date of the Registration Statement, requested information required to be provided by the Investors for inclusion therein.

Section 8. Registration Expenses.

(a) All expenses incident to the Company's performance of or compliance with this Agreement, including all registration and filing fees, fees and expenses of compliance with securities or blue sky laws, FINRA fees, listing application fees, printing expenses, transfer agent's and registrar's fees, cost of distributing Prospectuses in preliminary and final form as well as any supplements thereto, and fees and disbursements of counsel for the Company and all independent certified public accountants and other Persons retained by the Company (all such expenses being herein called "Registration Expenses") (but not including any underwriting discounts or commissions attributable to the sale of Registrable Shares or fees and expenses of counsel and any other advisor representing any underwriters or other distributors), shall be borne by the Company. The Investors shall bear the cost of all underwriting discounts and commissions associated with any sale of Registrable Shares and shall pay all of their own costs and expenses, including all fees and expenses of any counsel (and any other advisers) representing the Investors and any stock transfer taxes.

(b) The obligation of the Company to bear the expenses described in Section 8(a) shall apply irrespective of whether a registration, once properly demanded or requested becomes effective or is withdrawn or suspended; *provided*, *however*, that Registration Expenses for any Registration Statement withdrawn solely at the request of Investors (unless withdrawn following commencement of a Suspension Period pursuant to Section 5) shall be borne by the Investors.

Section 9. Indemnification.

(a) The Company shall indemnify, to the fullest extent permitted by law, each Investor and each Person who controls an Investor (within the meaning of the Securities Act) against all losses, claims, damages, liabilities, judgments, costs (including reasonable costs of investigation) and expenses (including reasonable attorneys' fees) arising out of or based upon any untrue or alleged untrue statement of a material fact contained in any Registration Statement or Prospectus or any amendment thereof or supplement thereto or arising out of or based upon any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as the same are made in reliance and in conformity with information furnished in writing to the Company by Investors expressly for use therein. In connection with an underwritten offering in which Investors participate conducted pursuant to a registration effected hereunder, the Company shall indemnify each participating underwriter and each Person who controls such underwriter (within the meaning of the Securities Act) to the same extent as provided above with respect to the indemnification of Investors.

(b) In connection with any Registration Statement in which an Investor is participating, such Investor shall furnish to the Company in writing such information as the Company reasonably requests for use in connection with any such Registration Statement or Prospectus, or amendment or supplement thereto, and shall indemnify, to the fullest extent permitted by law, (i) the Company, its officers and directors and each Person who controls the Company (within the meaning of the Securities Act) and (ii) each participating underwriter, if any, and each Person who controls such underwriter (within the meaning of the Securities Act) against all losses, claims, damages, liabilities, judgments, costs (including reasonable costs of investigation) and expenses (including reasonable attorneys' fees) arising out of or based upon any untrue or alleged untrue statement of material fact contained in the Registration Statement or Prospectus, or any amendment or supplement thereto, or arising out of or based upon any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, but only to the extent that the same are made in reliance and in conformity with information furnished in writing to the Company by or on behalf of such Investor expressly for use therein.

(c) Any Person entitled to indemnification hereunder shall (i) give prompt written notice to the indemnifying Person of any claim with respect to which it seeks indemnification and (ii) permit such indemnifying Person to assume the defense of such claim with counsel reasonably satisfactory to the indemnified Person. Failure so to notify the indemnifying Person shall not relieve it from any liability that it may have to an indemnified Person except to the extent that the indemnifying Person is materially and adversely prejudiced thereby. The indemnifying Person shall not be subject to any liability for any settlement made by the indemnified Person without its consent (but such consent will not be unreasonably withheld). An indemnifying Person who is entitled to, and elects to, assume the defense of a claim shall not be obligated to pay the fees and expenses of more than one counsel (in addition to one

local counsel) for all Persons indemnified (hereunder or otherwise) by such indemnifying Person with respect to such claim (and all other claims arising out of the same circumstances), unless in the reasonable judgment of any indemnified Person there may be one or more legal or equitable defenses available to such indemnified Person which are in addition to or may conflict with those available to another indemnified Person with respect to such claim, in which case such maximum number of counsel for all indemnified Persons shall be two rather than one). If an indemnifying Person is entitled to, and elects to, assume the defense of a claim, the indemnified Person shall continue to be entitled to participate in the defense thereof, with counsel of its own choice, but, except as set forth above, the indemnifying Person shall not be obligated to reimburse the indemnified Person for the costs thereof. The indemnifying Person shall not consent to the entry of any judgment or enter into or agree to any settlement relating to a claim or action for which any indemnified Person would be entitled to indemnification by any indemnified Person hereunder unless such judgment or settlement imposes no ongoing obligations on any such indemnified Person and includes as an unconditional term the giving, by all relevant claimants and plaintiffs to such indemnified Person, a release, satisfactory in form and substance to such indemnified Person, from all liabilities in respect of such claim or action for which such indemnified Person would be entitled to such indemnification. The indemnifying Person shall not be liable hereunder for any amount paid or payable or incurred pursuant to or in connection with any judgment entered or settlement effected with the consent of an indemnified Person unless the indemnifying Person has also consented to such judgment or settlement.

(d) The indemnification provided for under this Agreement shall remain in full force and effect regardless of any investigation made by or on behalf of the indemnified Person or any officer, director or controlling Person of such indemnified Person and shall survive the transfer of securities and the Termination Date but only with respect to offers and sales of Registrable Shares made before the Termination Date or during the period following the Termination Date referred to in Section 7(h).

(e) If the indemnification provided for in or pursuant to this Section 9 is due in accordance with the terms hereof, but is held by a court to be unavailable or unenforceable in respect of any losses, claims, damages, liabilities or expenses referred to herein, then each applicable indemnifying Person, in lieu of indemnifying such indemnified Person, shall contribute to the amount paid or payable by such indemnified Person as a result of such losses, claims, damages, liabilities or expenses in such proportion as is appropriate to reflect the relative fault of the indemnifying Person on the one hand and of the indemnified Person on the other in connection with the statements or omissions which result in such losses, claims, damages, liabilities or expenses as well as any other relevant equitable considerations. The relative fault of the indemnifying Person on the one hand and of the indemnified Person on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the indemnifying Person or by the indemnified Person, and by such Person’s relative intent, knowledge, access to information and opportunity to correct or prevent such

statement or omission. In no event shall the liability of the indemnifying Person be greater in amount than the amount for which such indemnifying Person would have been obligated to pay by way of indemnification if the indemnification provided for under Section 9(a) or 9(b) hereof had been available under the circumstances.

Section 10. Securities Act Restrictions.

The Registrable Shares are restricted securities under the Securities Act and may not be offered or sold except pursuant to an effective registration statement or an available exemption from registration under the Securities Act. Accordingly, no Investor shall, directly or through others, offer or sell any Registrable Shares except pursuant to a Registration Statement as contemplated herein or pursuant to Rule 144 or another exemption from registration under the Securities Act, if available. Prior to any transfer of Registrable Shares other than pursuant to an effective registration statement, Investors shall notify the Company of such transfer and the Company may require such Investors to provide, prior to such transfer, such evidence that the transfer will comply with the Securities Act (including written representations or an opinion of counsel) as the Company may reasonably request. The Company may impose stop-transfer instructions with respect to any Registrable Shares that are to be transferred in contravention of this Agreement. Any certificates representing the Registrable Shares may bear a legend (and the Company's share registry may bear a notation) referencing the restrictions on transfer contained in this Agreement (and the Purchase Agreement), until such time as such securities have ceased to be (or are to be transferred in a manner that results in their ceasing to be) Registrable Shares. Subject to the provisions of this Section 10, the Company will replace any such legended certificates with unlegended certificates promptly upon surrender of the legended certificates to the Company or its designee and cause shares that cease to be Registrable Shares to bear a general unrestricted CUSIP number, in order to facilitate a lawful transfer or at any time after such shares cease to be Registrable Shares.

Section 11. Transfers of Rights.

(a) If an Investor transfers any rights to a Permitted Transferee in accordance with the Purchase Agreement, such Permitted Transferee shall, together with all other such Permitted Transferees and Investors, also have the rights of the Investors under this Agreement, but only if the Permitted Transferee signs and delivers to the Company a written acknowledgment (in form and substance satisfactory to the Company) that it has joined with the Investors and the other Permitted Transferees as a party to this Agreement and has assumed the rights and obligations of an Investor hereunder with respect to the rights transferred to it by an Investor. Each such transfer shall be effective when (but only when) the Permitted Transferee has signed and delivered the written acknowledgment to the Company. Upon any such effective transfer, the Permitted Transferee shall automatically have the rights so transferred, and the Investor's obligations under this Agreement, and the rights not so transferred, shall continue, *provided* that under no circumstances shall the Company be required to provide (i) more than three Demand Registrations and (ii) more than one S-3 Shelf Registration. Notwithstanding any other provision of this Agreement, no Person who

acquires securities transferred in violation of this Agreement or the Purchase Agreement, or who acquires securities that are not or upon acquisition cease to be Registrable Shares, shall have any rights under this Agreement with respect to such securities, and such securities shall not have the benefits afforded hereunder to Registrable Shares.

Section 12. Miscellaneous.

(a) Notices. Any notice, request, instruction or other document to be given hereunder by any party to the other will be in writing and will be deemed to have been duly given (a) on the date of delivery if delivered personally upon confirmation of receipt, or (b) on the second business day following the date of dispatch if delivered by a nationally recognized next day courier service. All notices hereunder shall be delivered as set forth below, or pursuant to such other instructions as may be designated in writing by the party to receive such notice.

If to the Company:

Precigen, Inc.
20374 Seneca Meadows Parkway
Germantown, Maryland 20876
Attention: Chief Legal Officer
Facsimile: (301) 556-9902

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

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attention: Deanna Kirkpatrick / Yasin Keshvargar
Facsimile: (212) 701-5135

If to the Investors as set forth on Schedule I hereto.

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

(c) Assignment. Neither this Agreement nor any right, remedy, obligation nor liability arising hereunder or by reason hereof shall be assignable by any party hereto without the prior written consent of the other parties, and any attempt to assign any right, remedy, obligation or liability hereunder without such consent shall be void, except (i) an assignment, in the case of a merger or consolidation where such party is not the surviving entity, or a sale of substantially all of its assets, to the entity which is the survivor of such merger or consolidation or the purchaser in such sale or (ii) an

assignment by an Investor to a Permitted Transferee in accordance with the terms hereof.

(d) No Third-Party Beneficiaries. Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person or entity other than the Company and the Investors (and any Permitted Transferee to which an assignment is made in accordance with this Agreement), any benefits, rights, or remedies (except as specified in Section 9 hereof).

(e) Governing Law; Submission to Jurisdiction; Waiver of Jury Trial, Etc. This Agreement will be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed entirely within such State. Each of the parties hereto agrees (a) to submit to the non-exclusive personal jurisdiction of the State or Federal courts in the Borough of Manhattan, The City of New York, (b) that non-exclusive jurisdiction and venue shall lie in the State or Federal courts in the State of New York, and (c) that notice may be served upon such party at the address and in the manner set forth for such party in Section 12(a). To the extent permitted by applicable law, each of the parties hereto hereby unconditionally waives trial by jury in any legal action or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

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

(g) Entire Agreement. This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes and replaces all other prior agreements, written or oral, among the parties hereto with respect to the subject matter hereof.

(h) Captions. The headings and other captions in this Agreement are for convenience and reference only and shall not be used in interpreting, construing or enforcing any provision of this Agreement.

(i) Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such a determination, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an

acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

(j) Other Registration Rights. The Company agrees that it shall not grant any registration rights to any third party (i) unless such rights are expressly made subject to the rights of the Investors in a manner consistent with this Agreement or (ii) if such registration rights are senior to, or take priority over, the registration rights granted to the Investors under this Agreement.

(k) Amendments. Upon the written consent of the Company and the Investors of at least a majority in interest of the Registrable Securities at the time in question, compliance with any of the provisions, covenants and conditions set forth in this Agreement may be waived, or any of such provisions, covenants or conditions may be amended or modified; provided, however, that notwithstanding the foregoing, any amendment hereto or waiver hereof that adversely affects one Investor, solely in his, her or its capacity as an Investor, in a manner that is materially different from the other Investors (in such capacity) shall require the consent of the Investor so affected. No course of dealing between any Investor or the Company and any other party hereto or any failure or delay on the part of a Investor or the Company in exercising any rights or remedies under this Agreement shall operate as a waiver of any rights or remedies of any Investor or the Company. No single or partial exercise of any rights or remedies under this Agreement by a party shall operate as a waiver or preclude the exercise of any other rights or remedies hereunder or thereunder by such party.

[Execution Page Follows]

IN WITNESS WHEREOF, this Registration Rights Agreement has been duly executed by each of the parties hereto as of the date first written above.

PRECIGEN, INC.

By: /s/ Donald P. Lehr

Name: Donald P. Lehr

Title: Chief Legal Officer

IN WITNESS WHEREOF, this Registration Rights Agreement has been duly executed by each of the parties hereto as of the date first written above.

RJ KIRK DECLARATION OF TRUST

By: /s/ Randal J. Kirk

Name: Randal J. Kirk

Title: Trustee

IN WITNESS WHEREOF, this Registration Rights Agreement has been duly executed by each of the parties hereto as of the date first written above.

PATIENT CAPITAL MANAGEMENT, LLC

By: /s/ Milton Dodge

Name: Milton Dodge

Title: Chief Compliance Officer

IN WITNESS WHEREOF, this Registration Rights Agreement has been duly executed by each of the parties hereto as of the date first written above.

WILLIAM H. MILLER III LIVING TRUST DATED APRIL 17, 2017, AS AMENDED AND RESTATED

By: /s/ William H. Miller III

Name: William H. Miller III

Title: Trustee

IN WITNESS WHEREOF, this Registration Rights Agreement has been duly executed by each of the parties hereto as of the date first written above.

HAROLD LEVY

By: /s/ Harold Levy

Name: Harold Levy

Title: Investor

IN WITNESS WHEREOF, this Registration Rights Agreement has been duly executed by each of the parties hereto as of the date first written above.

IRIDIAN WASABI FUND, LP

By: /s/ Todd Raker

Name: Todd Raker

Title: CEO

Investor	Preferred Shares	Number of Common Stock underlying Warrants	Aggregate Purchase Price
RJ Kirk Declaration of Trust	25,000	16,666,667	$25,000,000
Patient Capital Management, LLC	26,000	17,333,334	$26,000,000
William H. Miller III Living Trust dated April 17, 2017, as amended and restated	25,000	16,666,667	$25,000,000
Harold Levy	2,000	1,333,334	$2,000,000
Iridian Asset Management	1,000	666,667	$1,000,000

Notices to Investors:

If to RJ Kirk Declaration of Trust:

Third Security, LLC
Attn: Legal Department
18881 Grove Avenue
Radford, Virginia 24141

If to Patient Capital Management, LLC:

Patient Capital Management, LLC
1 South Street, Suite 2550
Baltimore, Maryland 21202

If to William H. Miller III Living Trust dated April 17, 2017, as amended and restated:

APG LLC
1104 Kenilworth Drive
Towson, Maryland 21204

If to Harold Levy:

Harold Levy
1000 S Ocean Blvd
Apt 404
Boca Raton, Florida 33432

If to Iridian Asset Management:

Iridian Asset Management
120 Post Road West
Westport, Connecticut 06880

Exhibit 10.3

FORM OF COMMON STOCK PURCHASE WARRANT

THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT WHILE A REGISTRATION STATEMENT RELATING THERETO IS IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS. THIS INSTRUMENT IS ISSUED PURSUANT TO AND SUBJECT TO THE RESTRICTIONS ON TRANSFER AND OTHER PROVISIONS OF A SECURITIES PURCHASE AGREEMENT, DATED AS OF DECEMBER 27, 2024, BETWEEN THE ISSUER OF THESE SECURITIES AND THE INVESTORS REFERRED TO THEREIN, A COPY OF WHICH IS ON FILE WITH THE ISSUER. THE SECURITIES REPRESENTED BY THIS INSTRUMENT MAY NOT BE SOLD OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE WITH SAID AGREEMENT. ANY SALE OR OTHER TRANSFER NOT IN COMPLIANCE WITH SAID AGREEMENT WILL BE VOID.

PRECIGEN, INC.

Warrant Number: _____

Warrant Shares: _____ Original Issue Date: December 30, 2024

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, _____ or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the date of the filing and effectiveness of a charter amendment with the Secretary of the Commonwealth of Virginia (the "Charter Amendment") evidencing the Shareholder Approval (as defined in Section 5(d)) (the "Initial Exercise Date") and on or prior to 5:00 p.m. (New York City time) on December 30, 2034 (the "Termination Date") but not thereafter, to subscribe for and purchase from Precigen, Inc., a Virginia corporation (the "Company"), up to _____ shares (as subject to adjustment hereunder, the "Warrant Shares") of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. Unless the context otherwise requires, when used herein the following terms shall have the meanings indicated.

"Acquired Preferred Stock" means _____ shares of the Company's 8.00% Series A Perpetual Convertible Preferred Stock issued pursuant to the Securities Purchase Agreement.

"Business Day" means any day except Saturday, Sunday and any day which shall be a legal holiday or a day on which banking institutions in the State of New York generally are authorized or required by law or other governmental actions to close.

"Commission" means the U.S. Securities and Exchange Commission.

"Common Stock" means the Company's Common Stock, no par value per share.

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

"Original Issue Date" means December 30, 2024.

"Principal Trading Market" means the U.S. national securities exchange on which the Common Stock is primarily listed on and quoted for trading, which, as of the Original Issue Date, shall be the Nasdaq Global Select Market.

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

"Securities Purchase Agreement" means the Securities Purchase Agreement, dated as of December 27, 2024, as amended from time to time, between the Company and each of investors party thereto, including all schedules and exhibits thereto.

"Subsidiary" of a person means those entities of which such person owns or controls more than 50% of the outstanding equity securities either directly or through an unbroken chain of entities as to each of which more than 50% of the outstanding equity securities is owned directly or indirectly by its parent.

"Trading Day" means any weekday on which the Principal Trading Market is normally open for trading.

"Transfer Agent" means Equiniti Trust Company, LLC, the Company's transfer agent and registrar for the Common Stock, and any successor appointed in such capacity.

"Warrantholders" means the Holder of this Warrant and each other holder of outstanding Warrants.

"Warrants" means this Warrant and each other outstanding Common Stock purchase warrant substantially similar to this Warrant issued pursuant to the terms of the Securities Purchase Agreement.

Section 2. Exercise.

a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company of a duly executed PDF copy submitted by e-mail (or e-mail attachment) of the Notice of Exercise in the form annexed hereto (the "Notice of Exercise"). Within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(d)(i) herein) following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the Warrant Shares specified in the applicable Notice of Exercise by wire transfer or cashier's check drawn on a United States bank unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. No ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise be required. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation as soon as reasonably practicable (but within three (3) Trading Days) of the date on which the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Business Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

b) Exercise Price. The exercise price per share of Common Stock under this Warrant shall be $0.75, subject to adjustment hereunder (the "Exercise Price").

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

(A) = as applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise if such Notice of Exercise is delivered pursuant to Section 2(a) hereof on (1) a day that is not a Trading Day or (2) a Trading Day during or prior to the opening of "regular trading hours" (as defined in Rule 600(b) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, or (ii) the VWAP on the date of the applicable Notice of Exercise if such Notice of Exercise is delivered pursuant to Section 2(a) hereof on a Trading Day after the close of "regular trading hours" on such Trading Day;

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

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

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

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

d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's or its designee's balance account with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) this Warrant is being exercised via cashless exercise, and otherwise by physical delivery of a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the Holder in the Notice of Exercise by the date that is the earliest of (i) two (2) Trading Days after the delivery to the Company of the Notice of Exercise and (ii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company of the Notice of Exercise, but in no event prior to one (1) Trading Day after delivery of the aggregate Exercise Price to the Company is cash exercise is applicable (such date, the "Warrant Share Delivery Date"). Upon delivery of the Notice of Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, *provided* that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period following delivery of the Notice of Exercise. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as this Warrant remains outstanding and exercisable. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's Principal Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Exercise.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased

Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

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

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

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

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

Section 3. Certain Adjustments. The Exercise Price and the number of Warrant Shares shall be adjusted from time to time as follows:

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

b) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company (or any Subsidiary), directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of the consolidated assets of the Company and its Subsidiaries substantially as an entirety in one or a series of related transactions or (iii) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange, in each case, pursuant to which the Common Stock is effectively converted into or exchanged for other securities or other property or assets (including cash or any combination thereof) (each a "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, the amount and kind of shares of other securities or other property or assets (including cash or any combination thereof) (the "Alternate

Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (with each "unit of Alternate Consideration" meaning the amount and kind of Alternate Consideration that a holder of one share of Common Stock is entitled to receive in such Fundamental Transaction). If holders of Common Stock are given any choice as to the type of consideration to be received in a Fundamental Transaction, then (x) the Alternate Consideration shall be deemed to be the weighted average of the types and amounts of consideration actually received by the holders of Common Stock in the Fundamental Transaction and (y) a unit of Alternate Consideration shall refer to the consideration referred to in clause (x) attributable to one share of Common Stock. The Company shall not consummate any Fundamental Transaction unless the Company first shall have made appropriate provision to ensure that the applicable provisions of this Warrant shall immediately after giving effect to such Fundamental Transaction be assumed by and binding on the successor or acquiring Person (if not the Company) pursuant to an assumption agreement. Any such assumption agreement shall also include any amendments to this Warrant that the Company shall in good faith reasonably consider necessary to effect the changes to the terms of this Warrant described in this Section 3(b) and preserve the intent of the provisions of this Warrant. The provisions of this Section 3(b) shall similarly apply to successive Fundamental Transactions.

c) Accumulated PIK Dividend Amount. Subject to the Company obtaining Shareholder Approval, on each PIK Dividend Payment Date (as defined in the Company's Articles of Amendment to the Amended and Restated Articles of Incorporation effective on December 30, 2024, (the "Articles of Amendment")), the number of Warrant Shares issuable under this Warrant shall increase in an amount equal to 50% of the Accumulated PIK Dividend Amount (as defined in the Articles of Amendment), multiplied by the number of shares of Acquired Preferred Stock, divided by the Exercise Price.

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

e) Notice to Holder.

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

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company (or any of its Subsidiaries) is a party, any sale or transfer of all or substantially all of its assets, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be delivered by email to the Holder at its last email address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; *provided* that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice; and *provided further* that in no event shall the Company be required to provide such notice prior to the public announcement of the applicable event. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

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

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

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

Section 5. Miscellaneous.

a) No Rights as Stockholder Until Exercise; No Settlement in Cash. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i), except as expressly set forth in Section 3.

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it, and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

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

d) Authorized Shares.

As of the Original Issue Date, the Company does not have a sufficient number of authorized shares of Common Stock to allow the exercise of the outstanding Warrants for shares of Common Stock. The Company covenants that it will, upon both (i) receipt of shareholder approval (x) effectively increasing the number of shares of Common Stock available for issuance and thereby allowing for a sufficient number of shares of Common Stock to be reserved for the exercise of the Warrants and (y) any shareholder approval necessary under the rules of the Principal Trading Market in order to permit the transactions contemplated by the Securities Purchase Agreement including the exercise of the Warrants and the conversion of the Convertible Perpetual Preferred stock issued pursuant thereto and (ii) the filing and effectiveness of the Charter Amendment evidencing the same (collectively, the "Shareholder Approval"), and at all times thereafter while Warrants are outstanding, reserve and keep available out of the aggregate of its authorized but unissued and otherwise unreserved Common Stock, for the purpose of enabling it to issue Warrant Shares upon exercise of Warrants in accordance with their terms, the number of Warrant Shares that are initially issuable and deliverable upon the exercise of this entire Warrant and any other Warrants outstanding, free from preemptive rights or any other contingent purchase rights of persons other than the Holder (taking into account the adjustments and restrictions of Section 3). The Company covenants that all Warrant Shares so issuable and deliverable shall, upon issuance and the payment of the applicable Exercise Price in accordance with the terms hereof, be duly and validly authorized, issued and fully paid and non-assessable. The Company will take all actions as may be reasonably necessary to assure that such shares of Common Stock may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of any securities exchange or trading market upon which the Common Stock may be listed or quoted.

The Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be governed by, and construed in accordance with, the laws of the State of New York, without giving effect to the conflicts of law principles thereof.

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

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

h) Notices. Notices or demands authorized by this Warrant to be given or made (i) by the Holder to or on the Company, (ii) by the Company to the Holder shall be deemed given (a) on the date delivered, if delivered personally, (b) on the first Business Day following the deposit thereof with Federal Express or another recognized overnight courier, if sent by Federal Express or another recognized overnight courier, (c) on the fourth Business Day following the mailing thereof with postage prepaid, if mailed by registered or certified mail (return receipt requested), and (d) the time of transmission, if such notice or communication is delivered via facsimile or email attachment at or prior to 5:30 p.m. (New York City time) on a Business Day and (e) the next Business Day after the date of transmission, if such notice or communication is delivered via facsimile or email attachment on a day that is not a Business Day or later than 5:30 p.m. (New York City time) on any Business Day, in each case to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

If to the Company, to:
Precigen, Inc.
20374 Seneca Meadows Parkway
Germantown, Maryland 20876
P: +1 (301) 556-9900
Attention: Chief Legal Officer
Facsimile: (301) 556-9902

For any notice delivered by email to be deemed given or made, such notice must be followed by notice sent by overnight courier service to be delivered on the next Business Day following such email, unless the recipient of such email has acknowledged via return email receipt of such email.

(c) **If to the Holder, to**: the address of such Holder as shown on the registry books of the Company.

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

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

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

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder (it being agreed that the Holder shall provide such consent if beneficial owners of a majority of the interests represented hereby shall have provided such consent, except that any amendment to increase the Exercise Price or decrease the number of Warrant Shares shall require consent of 100% of such beneficial owners); *provided* that the Company may from time to time supplement or amend this Warrant without the approval of the Holder in order to cure any ambiguity, manifest error or other mistake in this Warrant, or to correct or supplement any provision contained herein that may be defective or inconsistent with any other provision herein, or to make any other provisions in regard to matters or questions arising hereunder that the Company may deem necessary or desirable and that shall not adversely affect, alter or change the interests of the Holder in any material respect (including as contemplated by Section 3(b)).

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

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

****

(Signature Page Follows)

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

PRECIGEN, INC.

By: _____

Name:

Title:

EXHIBIT A

NOTICE OF EXERCISE

TO: PRECIGEN, INC.

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

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

[ ] in lawful money of the United States; or

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

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

_____

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

_____

_____

_____

[SIGNATURE OF HOLDER]

_____
Name of Investing Entity:

_____
Signature of Authorized Signatory of Investing Entity:

_____
Name of Authorized Signatory:

_____
Title of Authorized Signatory:

_____
Date:

EXHIBIT B

ASSIGNMENT FORM

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

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

Name: _____
(Please Print)

Address: _____
(Please Print)

Phone Number: _____

Email Address: _____

Dated: _____ __, _____

Holder's Signature: _____

Holder's Address: _____

Exhibit 99.1

Precigen Announces $79.0 Million Private Placement Offering of Convertible Preferred Stock

GERMANTOWN, Md., December 27, 2024 /PRNewswire/ -- Precigen, Inc. (Nasdaq: PGEN), a biopharmaceutical company specializing in the development of innovative gene and cell therapies to improve the lives of patients, today announced that it has entered into a securities purchase agreement for the sale of its 8.00% Series A Convertible Perpetual Preferred Stock (Preferred Stock) in a private placement. Precigen anticipates gross proceeds from the private placement of $79.0 million before deducting offering expenses. In addition, the investors will have rights to exercise warrants to purchase 52,666,669 shares of Precigen's common stock at an exercise price of $0.75 per share (Warrants). The offering is expected to close on or before December 30, 2024, subject to customary closing conditions.

The private placement was led by affiliates of Patient Capital Management, with participation from Bill Miller, Randal J. Kirk, executive chairman of the board of directors of Precigen, and certain other investors.

The net proceeds of the offering shall be used for working capital and general corporate purposes. Based on its current operating assumptions, Precigen expects this financing, together with Precigen's cash on hand, will extend its cash runway well into 2026, beyond the anticipated commercial launch of PRGN-2012 in the second half of 2025, if approved.

Dividends on the Preferred Stock will be paid annually in cash when, as and if declared by the board of directors of Precigen, except that for the first two years following the issue date of the Preferred Stock, such dividends will be paid in kind in the form of an increase to the liquidation preference of the Preferred Stock by the amount of such dividends, together with warrants to acquire a number of additional shares of common stock equal to 50% of the amount of such dividends divided by the exercise price, subject to shareholder approval (as defined in the securities purchase agreement).

The Preferred Stock will be redeemable, in whole or in part, for cash at Precigen's option at any time on or after the issue date for an amount equal to the liquidation preference at such time, plus accumulated and unpaid dividends.

The Preferred Stock will be convertible into Precigen's common stock at the option of the holders thereof at any time on or after the later of the six month anniversary of the issue date and the date on which Precigen has, among other things, obtained shareholder approval. The Warrants are exercisable for shares of Precigen's common stock at any time after such shareholder approval.

The Preferred Stock is convertible into shares of Precigen's common stock at an initial conversion price of approximately $1.125, which is 150% of the exercise price of the warrants. The conversion price is subject to upward adjustment based on the valuation of the common stock from time to time.

Additional information regarding the Preferred Stock and Warrants will be included in a Current Report on Form 8-K to be filed with the U.S. Securities and Exchange Commission.

The securities being issued and sold in the private placement have not been registered under the Securities Act of 1933, as amended (the Securities Act), or any state's securities laws, and are being issued and sold in reliance on Section 4(a)(2) of the Securities Act. The securities may not be offered or sold in the United States, except pursuant to an effective registration statement or an applicable exemption from the registration requirements of the Securities Act.

The Preferred Stock and Warrants were offered directly to the Investors without a placement agent, underwriter, broker or dealer.

Precigen has agreed to grant the Investors certain registration rights with respect to the Preferred Stock, the common stock issuable upon conversion of the Preferred Stock and the common stock issuable upon exercise of the Warrants.

This press release shall not constitute an offer to sell or a solicitation of an offer to buy the Preferred Stock, Warrants or Precigen's common stock, nor shall there be any sale of the Preferred Stock or Warrants in any state or jurisdiction in which such offer, solicitation or sale would be unlawful under the securities laws of any such state or jurisdiction.

About Precigen
Precigen (Nasdaq: PGEN) is a dedicated discovery and clinical stage biopharmaceutical company advancing the next generation of gene and cell therapies using precision technology to target the most urgent and intractable diseases in our core therapeutic areas of immuno-oncology, autoimmune disorders, and infectious diseases. Our technologies are designed to enable us to find innovative solutions for affordable biotherapeutics in a controlled manner. Precigen operates as an innovation engine progressing a preclinical and clinical pipeline of well-differentiated therapies toward clinical proof-of-concept and commercialization.

Cautionary Statement Regarding Forward-Looking Statements
Some of the statements made in this press release are forward-looking statements. These forward-looking statements are based upon Precigen's current expectations and projections about future events, including the closing of the private placement, and the intended use of proceeds of the private placement, anticipated timing of commercialization of PRGN 2012 and expected cash runway. Various factors may cause differences between Precigen's expectations and actual results. These risks and uncertainties include, without limitation, risks and uncertainties related to satisfaction of customary closing conditions related to the private placement, as well as that we have broad discretion in the use of proceeds. There can be no assurance that Precigen will be able to complete the private placement on the anticipated terms, or at all. For further information on potential risks and uncertainties, and other important factors, any of which could cause Precigen's actual results to differ from those contained in the forward-looking statements, see the section entitled "Risk Factors" in Precigen's most recent Annual Report on Form 10-K and subsequent reports filed with the Securities and Exchange Commission.

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EXHIBIT 99.2

Precigen Completes Submission of BLA with Request for Priority Review to the FDA for PRGN-2012 for the Treatment of Adults with Recurrent Respiratory Papillomatosis

– *PRGN-2012 has the potential to be the first FDA-approved therapeutic for the treatment of adults with RRP, a rare and devastating chronic disease for which the current standard-of-care is repeated surgeries* –

– *PRGN-2012 received Breakthrough Therapy Designation from the FDA and Orphan Drug Designation from the FDA and the European Commission* –

– *The BLA, under an accelerated approval pathway, is supported by data from the Phase 1/2 pivotal study in which more than 50% of patients achieved Complete Response and more than 85% of patients had a decrease in surgical interventions in the year after PRGN-2012 treatment compared to the year prior to treatment* –

– *PRGN-2012 was well-tolerated with no dose-limiting toxicities and no treatment-related adverse events greater than Grade 2* –

Germantown, MD, December 30, 2024 – Precigen, Inc. (Nasdaq: PGEN), a biopharmaceutical company specializing in the development of innovative gene and cell therapies to improve the lives of patients, today announced the completion of the rolling submission for a biologics license application (BLA) to the US Food and Drug Administration (FDA) for PRGN-2012 (INN: zopapogene imadenovec†) for the treatment of adult patients with recurrent respiratory papillomatosis (RRP). The submission is in the initial 60 day review period, during which time the FDA will decide whether to accept the BLA for further review and set the Prescription Drug User Fee Act (PDUFA) action date. The BLA included a request for priority review, which, if granted, would reduce the review timeline from the standard 10-month to a priority 6-month review from the date the submission is accepted by the FDA.

PRGN-2012 is an investigational AdenoVerse® gene therapy designed to elicit immune responses directed against cells infected with human papillomavirus (HPV) 6 or HPV 11. PRGN-2012 received Breakthrough Therapy Designation, Orphan Drug Designation, and an accelerated approval pathway from the US Food and Drug Administration (FDA), and Orphan Drug Designation from the European Commission.

PRGN-2012 has the potential to be the first FDA-approved therapeutic for the treatment of adults with RRP. RRP is a rare, difficult-to-treat, lifelong neoplastic disease of the upper and lower respiratory tracts caused by infection with HPV 6 or HPV 11 that can be fatal. Currently, there is no cure for RRP and the current standard-of-care is repeated surgeries, which do not address the underlying cause of disease and are associated with significant morbidity. As a result, the cycle of recurrences and surgeries continues and patients can require hundreds of lifetime surgeries.[1-7]

The BLA is supported by data from the pivotal Phase 1/2 clinical study of PRGN-2012 for the treatment of RRP (NCT04724980), which evaluated the safety and efficacy of PRGN-2012 in adult RRP patients. Of the 38 total patients enrolled in the study, three patients received four administrations of PRGN-2012 at 1x 10^{11} particle units (PU)/dose and 35 patients received four administrations of PRGN-2012 at the recommended phase 2 dose (RP2D) of 5 x 10^{11} PU/dose over a 12 week treatment period via subcutaneous injection. Primary endpoints included safety and Complete Response rate defined as the percentage of patients who require no RRP surgeries in the 12-month period after PRGN-2012 treatment completion. Key secondary endpoints included HPV-specific immune responses, extent of papilloma growth as measured by Derkay scoring, and quality of life as measured by Vocal Handicap Index-10 (VHI-10). As reported in the groundbreaking results from the pivotal study presented at the 2024 American Society of Clinical Oncology (ASCO) annual meeting, the primary safety and efficacy endpoints were met.

“The impact of this debilitating disease on patients, families, and their caregivers has been overlooked for more than half a century. There is currently no approved therapy for RRP patients and the submission of our BLA is an extremely important step in bringing the first therapy to fight this devastating disease,” said Helen Sabzevari, PhD, President and CEO of Precigen. “We look forward to working closely with the FDA on next steps now that we have completed the BLA submission and we are excited by the potential to bring PRGN-2012 to RRP patients as quickly as possible. With our most recent financial transactions announced last week to enhance our balance sheet, we have extended our cash runway into 2026, well beyond potential commercial launch in the second half of 2025.”

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AdenoVerse®
Precigen's AdenoVerse platform utilizes a library of proprietary adenovectors for the efficient gene delivery of therapeutic effectors, immunomodulators, and vaccine antigens designed to modulate the immune system. Precigen's gorilla adenovectors, part of the AdenoVerse library, have potentially superior performance characteristics as compared to current competition. AdenoVerse gene therapies have been shown to generate high-level and durable antigen-specific T-cell immune responses as well as an ability to boost these responses via repeat administration. Superior performance characteristics and high yield manufacturing of AdenoVerse vectors leveraging UltraVector® technology allows Precigen to engineer cutting-edge investigational gene therapies to treat complex diseases.

Precigen: Advancing Medicine with Precision™
Precigen (Nasdaq: PGEN) is a dedicated discovery and clinical stage biopharmaceutical company advancing the next generation of gene and cell therapies using precision technology to target the most urgent and intractable diseases in our core therapeutic areas of immuno-oncology, autoimmune disorders, and infectious diseases. Our technologies enable us to find innovative solutions for affordable biotherapeutics in a controlled manner. Precigen operates as an innovation engine progressing a preclinical and clinical pipeline of well-differentiated therapies toward clinical proof-of-concept and commercialization. For more information about Precigen, visit www.precigen.com or follow us on LinkedIn or YouTube.

Trademarks
Precigen, AdenoVerse, UltraVector and Advancing Medicine with Precision are trademarks of Precigen and/or its affiliates. Other names may be trademarks of their respective owners.

Cautionary Statement Regarding Forward-Looking Statements
Some of the statements made in this press release are forward-looking statements. These forward-looking statements are based upon the Company's current expectations and projections about future events and generally relate to plans, objectives, and expectations for the development of the Company's business, including the timing and progress of preclinical studies, clinical trials, regulatory approvals, commercial launches and related milestones, the promise of the Company's portfolio of therapies, and in particular its CAR-T and AdenoVerse therapies. Although management believes that the plans and objectives reflected in or suggested by these forward-looking statements are reasonable, all forward-looking statements involve risks and uncertainties and actual future results may be materially different from the plans, objectives and expectations expressed in this press release. The Company has no obligation to provide any updates to these forward-looking statements even if its expectations change. All forward-looking statements are expressly qualified in their entirety by this cautionary statement. For further information on potential risks and uncertainties, and other important factors, any of which could cause the Company's actual results to differ from those contained in the forward-looking statements, see the section entitled “Risk Factors“ in the Company's most recent Annual Report on Form 10-K and subsequent reports filed with the Securities and Exchange Commission.

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†zopapogene imadenovec is the international nonproprietary name (INN) for the investigational therapeutic known as PRGN-2012. Zopapogene imadenovec has not been approved by any health authority in any country for any indication.

References

[1] Mounts, P et al. (1982). "Viral etiology of juvenile- and adult-onset squamous papilloma of the larynx." Proc Natl Acad Sci U S A 79(17): 5425-5429.
Smith, E et al. (1993). "Human papillomavirus infection in papillomas and nondiseased respiratory sites of patients with recurrent respiratory papillomatosis using the polymerase chain reaction." Arch Otolaryngol Head Neck Surg 119(5): 554-557.
[3] Derkay, CS et al. (2008). "Recurrent respiratory papillomatosis: a review." Laryngoscope 118(7): 1236-1247.
[4] Derkay, CS et al. (2019). "Update on Recurrent Respiratory Papillomatosis." Otolaryngol Clin North Am 52(4): 669-679.
[5] Seedat, RY (2020). "Juvenile-Onset Recurrent Respiratory Papillomatosis Diagnosis and Management - A Developing Country Review." Pediatric Health Med Ther 11: 39-46.
[6] Dedo, HH et al. (2001). "CO(2) laser treatment in 244 patients with respiratory papillomas." Laryngoscope 111(9): 1639-1644.
[7] Silver, RD et al. (2003). "Diagnosis and management of pulmonary metastasis from recurrent respiratory papillomatosis." Otolaryngol Head Neck Surg 129(6): 622-629.