

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, DC 20549

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): January 27, 2022

KIROMIC BIOPHARMA, INC.

(Exact name of registrant as specified in its charter)

Delaware	001-39619	46-4762913
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

7707 Fannin, Suite 140

Houston, TX, 77054

(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code **(832) 968-4888**

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of Each Class	Trading Symbol(s)	Name of Each Exchange on Which Registered
Common Stock, \$0.001 par value	KRBP	The Nasdaq Stock Market LLC

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 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers.

The information contained in Item 8.01 of this Form is hereby incorporated by reference into this Item 5.02.

At a meeting of the Board of Directors (the “Board”) of Kiromic BioPharma, Inc. (the “Company”), held on January 27, 2022, the Board approved the appointment of Mr. Francis (Frank) X. Tirelli as a director of the Company effective on January 28, 2022, the appointment of Dr. Karen Reeves as a director of the Company effective on February 14, 2022 and the appointment of Pietro Bersani as Interim Chief Executive Officer effective immediately.

Mr. Tirelli has served as Chairman of Professional Services at alliantgroup, LP since September 2018. Since September 2018, Mr. Tirelli has also served on the Strategic Advisory Board of alliantgroup LP. alliantgroup, LP is an international consulting firm that provides professional services to businesses and their professional advisor firms on methodologies to enhance their investments in innovation, research, development, technology, cyber security, and job creation. Mr. Tirelli has also served on the Strategic Advisory Board of Alliant Cybersecurity. Since January 2017, Mr. Tirelli has also served as Chief Executive Officer of Finaxstrure Associates LLC, a company that provides board of director advisory services and expert witness services. Mr. Tirelli has 30 years of experience with Deloitte, one of the world’s premier accounting firms, including service as Chairman and CEO of Deloitte Italy and Vice Chairman of Deloitte U.S. From 2000 to 2003, Mr. Tirelli served as the President and Chief Executive Officer of Herbalife International Inc., a publicly traded nutrition company that conducted business in 52 countries and generated \$2 billion in sales. Mr. Tirelli is a licensed CPA in Connecticut and California. He received a BS in Accounting from Boston College and an MBA from Babson College.

Dr. Reeves has served as President and Chief Medical Officer of AZTherapies, Inc. since September 2017. AZTherapies, Inc. is an advanced clinical-stage biopharmaceutical company. Dr. Reeves began her biopharma career at Pfizer and served in roles of increasing responsibility. She has more than 25 years of experience in clinical R&D, business development, regulatory, operational development, and management gained at small, medium, and large life science companies. She has also served as Global Head of Medical Science at Astellas Pharma Global Development, Inc. Dr. Reeves has worked across a variety of therapeutic areas including neuroscience, oncology, immunology, infectious diseases, cardiovascular, and urology, as well as early and late stages of drug development, and is experienced in successful regulatory filings with the FDA and global regulators. She has held faculty positions at Harvard University and Tufts Medical School. Dr. Reeves received her BA from Yale University and her MD degree from University of Vermont Medical School.

Mr. Bersani has served as a member of our Board since June 2020. Since April 2020, Mr. Bersani is a Partner with B2B CFO Partners, LLC, which provides strategic management advisory services to owners of privately held companies. From November 2019 to March 2020, he served as the President, and Chief Executive Officer of K.P. Diamond Eagle, Inc., a consulting firm specialized in development of innovative commercial and private aviation business models. He served as a Senior Director within Alvarez & Marsal’s Private Equity Performance Improvement Practice, LLP between August 2018 and October 2019. From October 2006 to July 2018, he served as President and Chief Executive Officer of K.P. Diamond Eagle, Inc. Prior to those professional experiences, Mr. Bersani served as the Chief Financial Officer of Fuel Systems Solutions, Inc. between April 2011 and October 2016. Mr. Bersani is a Certified Public Accountant and is also a Certified Public Auditor and a Chartered Certified Accountant in Italy where he

developed a significant knowledge of US GAAP and IFRS. Mr. Bersani earned a BA and MA in Business Economics from L. Bocconi University, Italy.

Mr. Bersani was designated as a director by certain holders of our Series B Preferred Stock. Except for the foregoing, there is no arrangement or understanding between any director or executive officer and any other person pursuant to which he or she was or is to be selected as a director.

None of Mr. Tirelli, Dr. Reeves, or Mr. Bersani has any family relationship with any of the executive officers or directors of the Company. There have been no transactions in the past two years to which the Company or any of its subsidiaries was or is to be a party, in which Mr. Tirelli, Dr. Reeves, or Mr. Bersani had, or will have, a direct or indirect material interest.

On February 2, 2022, we entered into an Executive Employment Agreement (the “Bersani Employment Agreement”) with Mr. Bersani, our Interim Chief Executive Officer. The term of the Bersani Employment Agreement commenced effective January 27, 2022 (the “Effective Date”) and will continue for a period of one year (the “Initial Term”) unless mutually extended by the Company and Mr. Bersani or until termination by either the Company or Mr. Bersani in accordance with the terms of the Bersani Employment Agreement. Pursuant to the Bersani Employment Agreement, Mr. Bersani’s current base compensation is \$550,000 per year. Pursuant to the Bersani Employment Agreement, Mr. Bersani received a sign-on bonus of \$50,000 and is eligible to receive a performance-based cash bonus for fiscal 2022 of up to 50% of his base salary to be determined by the Board in its good faith discretion based on the achievement of metrics or goals approved by the Board’s Compensation Committee. In the event that Mr. Bersani is employed for a minimum of five months during fiscal 2022, the minimum amount of Mr. Bersani’s performance-based bonus shall be \$150,000. Pursuant to the Bersani Employment Agreement, Mr. Bersani is also entitled to receive a grant of restricted stock units for the right to receive the number of shares of the Company’s common stock with an aggregate value of \$600,000 based on the fair market value of the Company’s common stock as of the Effective Date. During the Initial Term, one twelfth of the restricted stock units shall vest on each month anniversary of the Effective Date, provided that Mr. Bersani is employed on such vesting date. In addition, pursuant to the Bersani Employment Agreement, the Compensation Committee and Mr. Bersani will agree to an award of stock options to purchase the Company’s common stock, with an exercise price of fair market value at the time of the grant, based on the achievement of certain Company performance milestones. Mr. Bersani is also eligible to participate in the Company’s employee benefit plans as in effect from time to time on the same basis as generally made available to other senior executives of the Company in addition to other benefits provided to executives of the Company.

Concurrently with the execution of the Bersani Employment Agreement, the Company and Mr. Bersani entered into the Company’s standard Confidential Information, Inventions, Non-Solicitation and Non-Competition Agreement and the Company’s standard Indemnification Agreement.

Copies of the Bersani Employment Agreement, the Confidential Information, Inventions, Non-Solicitation and Non-Competition Agreement, and the Indemnification Agreement are filed as Exhibits 10.1, 10.2 and 10.3 and are incorporated herein by reference. The foregoing descriptions of the terms of the Bersani Employment Agreement, the Confidential Information, Inventions, Non-Solicitation and Non-Competition Agreement, and the Indemnification Agreement are qualified in their entirety by reference to such exhibits.

Item 8.01. Other Events.

On or about August 17 and 23, 2021, Tony Tontat, who at the time was the Chief Financial Officer and a member of the Board, submitted substantially identical reports (the “Complaints”) through the Company’s complaint hotline. These Complaints, alleged, among other topics, risks associated with the Company’s public disclosures in its securities filings and in statements made to the public, investors, and potential investors regarding (i) the anticipated timing of the U.S. Food and Drug Administration’s (“FDA”) authorization of its investigational new drug (“IND”) applications and (ii) the anticipated timing of human clinical trials. These Complaints were subsequently submitted to the Audit Committee of the Board.

After receiving the Complaints, the Audit Committee recommended that the Board form, and the Board did in turn form, a Special Committee comprised of three independent directors (Messrs. Americo Cicchetti, Michael Nagel, and Jerry Schneider (until his resignation from the Board on December 3, 2021 due to personal reasons)) (the “Special Committee”) to review the Complaints and other related issues (the “Internal Review”). The Special Committee retained Sidley Austin LLP as independent counsel to assist it in conducting the Internal Review, and Sidley Austin in turn engaged AlixPartners LLP to assist with the Internal Review.

On February 2, 2022, following the conclusion of the Internal Review, the Special Committee reported the results of its Internal Review to the Board. The Board approved certain actions to address the fact that the Company had received communications from the FDA on June 16 and June 17, 2021 that the FDA was placing the Company’s IND applications that the Company submitted to the FDA on May 14 and May 17, 2021 for the ALEXIS-PRO-1 and ALEXIS-ISO-1 product candidates, respectively, on clinical hold (the “June 16 and 17, 2021 FDA Communications”). On July 13, 2021, the Company received the FDA’s formal clinical hold letters, which asked the Company to address key components regarding the chemical, manufacturing, and control components of the IND applications. On July 16, 2021 the Company issued a press release disclosing that it had received comments from the FDA on its two INDs, but did not use the term “clinical hold.” On August 13, 2021, the Company issued a press release announcing that these INDs were placed on clinical hold. The Company did not disclose the June 16 and 17, 2021 FDA Communications in (i) its Registration Statement on Form S-1 (Registration No. 333-257427) that was filed on June 25, 2021 and declared effective on June 29, 2021, nor the final prospectus contained therein dated June 29, 2021 (collectively, the “Registration Statement”); or (ii) its Form 10-Q for its fiscal quarter ended June 30, 2021 that was filed with the Securities and Exchange Commission on August 13, 2021. The Company consummated a public offering of \$40 million of its common stock pursuant to the Registration Statement on July 2, 2021.

In the course of the Internal Review, the Special Committee also identified that Mr. Tontat submitted incorrect information regarding his educational background to the Company. Specifically, although Mr. Tontat represented to the Company that he held a BA in Economics from Harvard University, it was determined that he had actually received an ALB, a degree conferred by the Harvard Extension School. The Company has implemented changes to its vetting process for prospective director and officer candidates including the implementation of thorough background checks to verify background information provided by such candidates.

1. The Board approved the inclusion of the following Risk Factors for inclusion in its pending Quarterly Report on Form 10-Q for its fiscal quarter ended September 30, 2021:

We may be subject to securities laws claims regarding past disclosures.

We may be subject to claims for rescission (under which a successful claimant would have the right to receive the total amount paid for his or her shares, plus interest and less any income

earned on the shares, in exchange for surrender of the shares), damages (under which a successful claimant would have the right to receive the total amount paid for his or her shares, plus interest and less any income earned on the shares, in exchange for surrender of the shares) or other securities law claims resulting from our failure to timely disclose that the Company had received communications from the FDA on June 16 and June 17, 2021 that the FDA was placing the Company's IND applications that the Company submitted to the FDA on May 14 and May 17, 2021 for the ALEXIS-PRO-1 and ALEXIS-ISO-1 product candidates, respectively, on clinical hold (the "June 16 and 17, 2021 FDA Communications").

On July 2, 2021, we consummated a public offering of \$40 million of our common stock. Neither the Registration Statement on Form S-1 with respect to this offering that was filed on June 25, 2021 nor the final prospectus dated June 29, 2021 with respect to this offering contained any disclosure with respect to the June 16 and 17, 2021 FDA Communications. Our Form S-1 and final prospectus for the offering stated the following with respect to our ALEXIS-PRO-1 and ALEXIS-ISO-1 product candidates: "These products are in the pre-IND stage of the FDA clinical trial process. We are currently going through the IND enabling trials process for these product candidates and we expect that first in human dosing in Phase I of clinical trials will commence in the third quarter of 2021." Anyone who purchased shares of our common stock in the offering and anyone who purchased or sold shares of our common stock in the public market after June 16, 2021 could claim that they were misled by our failure to disclose the clinical hold on studies under the INDs for these product candidates and that they suffered damages. We are unable to predict the likelihood that claims might be made with regard to the foregoing or estimate any amounts for which we might be liable if any such claim was made.

Several class action plaintiff law firms have issued press releases announcing that the firms are investigating securities law claims on behalf of stockholders of the Company. These press releases were in response to an approximately 15% decline in the Company's stock price on July 16, 2021, the date we had first announced we had received comments from the FDA on our two INDs. If claims are ultimately made pursuant to these investigations or otherwise, we intend to defend ourselves vigorously, but are unable to predict the outcome of any such litigation. Even if we are successful, securities litigation is costly to defend and would likely divert management's attention away from the business.

We had ineffective disclosure controls and procedures during the third quarter of 2021 and earlier periods, which resulted in our failure to disclose certain information, which could result in our potential exposure to litigation and could adversely affect or ability to raise capital in the future.

We have determined that our disclosure controls and procedures were not effective as of September 30, 2021. Our disclosure controls and procedures were ineffective due to the existence of material weaknesses in our internal control over financial reporting described in Item 4. We had previously determined that our disclosure controls and procedures were not effective as of June 30, 2021 due to the existence of material weaknesses in our internal control over financial reporting.

We made the same determination in earlier periods as well. The term "disclosure controls and procedures," as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms.

In addition, there were deficiencies in our disclosure controls and procedures over the identification of information for disclosure during our second and third quarters of 2021. Specifically, there was a deficiency in the disclosure controls and procedures in place to ensure that information related to the June 16 and 17, 2021 FDA Communications was appropriately elevated and evaluated to allow timely decisions regarding required disclosure.

A Special Committee of our Board has made several recommendations to improve the effectiveness of the Company's disclosure controls and procedures, which recommendations were accepted and adopted by our Board. The recommendations that have been adopted include among other things: (i) the appointment of an interim CEO who has received training in appropriate disclosure controls and procedures and who will be responsible for supervising our disclosure controls and procedures, (ii) the establishment of a Disclosure Committee of our management, and (iii) the appointment of two additional independent directors to our Board. However, the fact that we experienced ineffective disclosure controls could result in our potential exposure to litigation and could adversely affect our ability to raise funds in the future.

2. On January 10, 2022, the Board approved the formation of a Disclosure Committee comprised of certain members of the Company's management including (i) its Chief Executive Officer; (ii) the executive in charge of overseeing submissions of any nature to the FDA; (iii) its Chief Financial Officer; (iv) its General Counsel, if any; (v) its Controller; (vi) any other finance executive overseeing financial disclosures; (vii) the executive in charge of investor relations, if any; and (viii) such other employees as the Chief Financial Officer, who serves as chairman of the Disclosure Committee, may invite from time to time. The Disclosure Committee shall be responsible for preparing and reviewing all corporate disclosures made by the Company to its security holders, the Securities and Exchange Commission and/or the broader investment community to ensure that such disclosures (i) shall be accurate and complete; (ii) shall fairly present, in all material respects, the Company's financial condition, results of operations and cash flows; and (iii) shall be made on a timely basis in accordance with all applicable requirements of (A) the Securities Exchange Act of 1934, as amended and the rules and regulations promulgated thereunder, (B) the Securities Act of 1933, as amended and the rules and regulations promulgated thereunder (C) the Nasdaq Stock Market or such other stock exchange on which the Company's securities may be traded and (D) any other applicable laws or legal requirements. The Board adopted and approved the Disclosure Committee Charter. The Disclosure Committee Charter is filed as Exhibit 99.1 hereto and is incorporated herein by reference. The foregoing description of the terms of the Disclosure Committee Charter is qualified in its entirety by reference to such exhibit.

3. The Board terminated Maurizio Chiriva-Internati as Chief Executive Officer for cause on January 27, 2022, after the Special Committee's Internal Review found evidence of conduct that the Board believed was inconsistent with the Company's policies. Under the terms of the Executive Employment Agreement between Dr. Chiriva and the Company effective as of July 1, 2020, as amended October 21, 2021, as the result of the termination of his employment, Dr. Chiriva also is deemed to have resigned as a Director on the Board effective as of January 27, 2022.

4. The Board named Pietro Bersani as Interim Chief Executive Officer, effective as of January 27, 2022. A search for a permanent Chief Executive Officer will be commenced with the assistance of an executive recruiter. Mr. Bersani has resigned from all Committees of the Board.

5. The Board named independent Director Michael Nagel as Chairperson of the Board, effective as of January 27, 2022.

6. The Board approved the appointment of Frank Tirelli as a member of the Board to fill a vacancy, effective as of January 28, 2022. The Board has determined that Mr. Tirelli is "independent" as that term is

defined under Nasdaq Listing Rule 5605(a)(2). Mr. Tirelli has been named Chairperson of the Audit Committee and is expected to be named to the Nominating and Corporate Governance Committee. Mr. Tirelli was nominated by the Company's Nominating and Corporate Governance Committee of the Board after a thorough review of all his background, relevant experience, and professional and personal reputations.

7. The Board approved the appointment of Karen Reeves as a member of the Board to fill a vacancy, effective as of February 14, 2022. The Board has determined that Dr. Reeves is "independent" as that term is defined under Nasdaq Listing Rule 5605(a)(2). Dr. Reeves is expected to be named to the Nominating and Corporate Governance Committee and the Compensation Committee upon joining the Board. Dr. Reeves was nominated by the Company's Nominating and Corporate Governance Committee of the Board after a thorough review of all her background, relevant experience, and professional and personal reputations.

The Board is assessing other personnel changes as a result of the Internal Review.

Item 9.01 Financial Statements and Exhibit

(d) Exhibits.

The following exhibits are filed with this Current Report on Form 8-K:

Exhibit Number	Description
10.1	<u>Executive Employment Agreement effective as of January 27, 2022 by and between Kiromic BioPharma, Inc. and Pietro Bersani</u>
10.2	<u>Confidential Information, Inventions, Non-Solicitation, and Non-Competition Agreement effective as of January 27, 2022 between Kiromic BioPharma, Inc. and Pietro Bersani</u>
10.3	<u>Indemnification Agreement effective as of January 27, 2022 by and between Kiromic BioPharma, Inc. and Pietro Bersani</u>
99.1	<u>Disclosure Committee Charter</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

SIGNATURES

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

Kiromic BioPharma, Inc.

Date: February 2, 2022

By: /s/ Daniel Clark

Daniel Clark

Interim Chief Financial Officer



EXECUTIVE EMPLOYMENT AGREEMENT

THIS EXECUTIVE EMPLOYMENT AGREEMENT (the “**Agreement**”), is effective as of January 27, 2022 (the “**Effective Date**”) by and between Kiromic Biopharma, Inc., a Delaware corporation (the “**Company**”), and Mr. Pietro Bersani (the “**Executive**”). Throughout the remainder of the Agreement, the Company and Executive may be individually referred to as a “**Party**” or collectively referred to as “the Parties.”

W I T N E S S E T H:

WHEREAS, the Company wishes to employ the Executive, and the Executive desires to accept employment with the Company, upon the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises herein, and of other good and valuable consideration, including the employment of the Executive by the Company and the compensation to be received by the Executive from the Company from time to time, and specifically the compensation to be received by the Executive pursuant to Section 4 below, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending legally to be bound, hereby agree as follows:

1. Employment. As of the Effective Date, the Company hereby employs the Executive and the Executive hereby accepts employment as the Interim Chief Executive Officer (“**iCEO**”) of the Company upon the terms and conditions of this Agreement. The Executive shall report to the Board of Directors of the Company (the “**Board**”). Prior to the Effective Date, Executive served as a member of the Board and, notwithstanding this Agreement, Executive shall continue to serve as a member of the Board.

2. Duties.

(a) The Executive shall faithfully perform all duties of the Company related to the position held by the Executive, including but not limited to all duties set forth in this Agreement and all additional duties that are prescribed from time to time by the Board and in all cases such duties shall be consistent with the position of a Chief Executive Officer of a publicly traded company having similar characteristics to the Company. The Executive shall devote substantially all of the Executive’s business time to the performance of the Executive’s duties and responsibilities on behalf of the Company, except, subject to the Executive’s obligations hereunder, Executive shall also be permitted to make personal investments, perform reasonable volunteer services and, with the written prior consent of the Company, serve on outside boards of

directors for non-profit or for profit corporations and engage in other business activities. In this regard, the Company hereby consents to Executive engaging in the following outside activities: (i) serve as an officer of 3World Capital, LLC and (ii) occasionally serve as a consultant to startup projects (e.g., pitch preparation, support for capital raise, etc.). The Executive shall comply in all material respects with all applicable written Company policies, standards, rules and regulations (the “**Company Policies**”) and all government laws, rules and regulations applicable to the Company’s business that are now or hereafter in effect. The Executive acknowledges receipt of copies of all written Company Policies that are in effect as of the date of this Agreement.

(b) Executive shall work remotely from Houston Texas (the company’s headquarters) and his residence in New York, New York, subject to reasonable business travel.

3. Term. Executive’s employment hereunder shall commence on the Effective Date and continue for a one-year period thereafter (the “**Initial Term**”), subject to earlier termination exclusively as provided for in Section 5 below. The Company and Executive may mutually agree to extend the Term prior to its expiration (such extension of the Initial Term being the “**Extended Term**”). As used herein, the “**Employment Period**” means the period of the Executive’s employment hereunder (regardless of whether such period ends prior to the end of the Term and regardless of the reason for the Executive’s termination of employment hereunder).

4. Compensation. During the Employment Period, as compensation for the services rendered by the Executive under this Agreement, the Executive shall be entitled to receive the following (all payments are subject to applicable withholdings and deductions):

(a) Base Salary. Executive shall be paid a gross base annual salary in the amount of \$550,000 which shall be payable in accordance with the then-current payroll schedule of the Company (the “**Base Salary**”). The payment to the Executive will be net of the Executive’s personal applicable withholdings and deductions.

(b) 2022 Performance Bonus. Executive shall be eligible to receive a performance-based cash bonus of up to 50% of the Base Salary to be determined by the Board in its good faith discretion based on the achievement of metrics or goals approved by the Board’s Compensation Committee (the “**Compensation Committee**”) for fiscal year 2022 (the “**Performance Bonus**”). The Performance Bonus shall be pro-rated for the portion of 2022 during which Executive is employed. If Executive is employed hereunder for at least five months, the minimum amount of the Performance Bonus shall be \$150,000. Any bonus earned hereunder shall be paid no later than 2.5 months after the end of the calendar year in which it is earned.

(c) Sign-On Bonus. Executive shall receive a sign-on, net of applicable withholdings and deductions, in the amount of \$50,000 bonus (the “**Sign-On Bonus**”). Such Sign-On Bonus shall be paid in a lump sum on the first payroll date that is practicable after the Parties’ full execution and delivery of this Agreement.

(d) Equity. Within 10 business days following the Effective Date, Executive shall receive a grant (the “**RSU Grant**”) of restricted stock units for the right to receive the

number of shares of the Company's common stock with an aggregate value of \$600,000 based on the fair market value of the Company's common stock as of the Effective Date ("RSUs"). During the Initial Term, one twelfth of the RSUs shall vest on each month anniversary of the Effective Date, provided Executive is employed on such vesting date. The RSUs shall vest pro-rata for such monthly period during which Executive's employment hereunder is terminated based on the portion of such monthly period Executive was employed by the Company. Within 15 days after the Parties' full execution of this Agreement, the Compensation Committee and Executive will agree to an award of stock options to purchase the Company's common stock, with an exercise price of fair market value at the time of the grant, based on the achievement of certain Company performance milestones (the "**Milestone Option Grants**"). The Milestone Option Grants will vest immediately upon the achievement of the milestones. The foregoing and any other equity awards by the Company to Executive shall be subject to the terms and conditions of any equity plan or program adopted or approved by the Board, and the applicable award agreement.

(e) Benefits. The Executive shall be entitled to receive those benefits provided from time to time to other executive employees of the Company, in accordance with the terms and conditions of the applicable plan documents; provided that the Executive meets the eligibility requirements thereof. All such benefits are subject to amendment or termination from time to time by the Company without the consent of the Executive or any other employee of the Company.

(f) Paid Time Off. The Executive shall be entitled to four weeks of annual paid time off ("PTO") to be taken in accordance with the Company's standard PTO policies.

(g) Business Expenses. The Company will reimburse Executive for reasonable travel, entertainment, and other expenses incurred by Executive in the furtherance of the performance of Executive's duties hereunder, in accordance with the Company's expense reimbursement policy for senior executives as in effect from time to time. In addition, Executive shall be entitled to reimbursement of (i) air travel between New York and Houston up to two weekends per month in business class or equivalent, (ii) related taxi or other ground transportation expenses, and (iii) reasonable hotel/lodging expenses for travel to locations other than New York, New York or Houston, Texas. Notwithstanding the foregoing, the Company will make a reimbursement only if the corresponding expense is incurred during the term of this Agreement. Each reimbursement shall be made in accordance with the Company's expense reimbursement policy. The Company shall lease or otherwise provide a corporate apartment in Houston, Texas for use by Executive.

(h) Reimbursement of Attorneys' Fees. The Company will reimburse Executive for his reasonable attorneys' fees incurred in connection with the negotiation of and entry into this Agreement. Additionally, to the extent that Executive reasonably incurs or is expected to reasonably incur attorneys' fees in connection with Executive's role as iCEO that are not otherwise reimbursable hereunder, under any indemnification agreement or provision, or otherwise, upon request by Executive, the Board will consider reimbursing, paying and/or advancing such attorneys' fees up to a reasonable amount approved by the Board. Any amount to be reimbursed or paid under this Section 4(h) shall be paid within thirty (30) days of Executive's

submission of acceptable documentation of such fees. Executive shall be solely responsible for all taxes, if any, associated with payments made under this Section 4(h).

5. Termination. This Agreement and the Executive's employment by the Company shall or may be terminated, as the case may be, as follows:

(a) Termination by the Executive. Prior the end of the Term, the Executive may terminate this Agreement and Executive's employment by the Company:

(i) for "Good Reason" (as defined herein). For purposes of this Agreement, "**Good Reason**" shall mean, the existence, without the consent of the Executive, of any of the following events: (A) the Executive's duties and responsibilities are substantially reduced or diminished; (B) the Executive's base salary is materially reduced from the level prior to such reduction, except for an across-the-board reduction in base salary for all executive officers, (C) the Company materially breaches its obligations under this Agreement; or (D) the Executive's place of employment is relocated outside of the Company's Houston headquarters. In addition to any requirements set forth above, in order for any of the above events to constitute "Good Reason", the Executive must (X) inform the Company in writing of the existence of the event within 90 days of the initial existence of the event, after which date the Company shall have no less than 30 days to cure the event which otherwise would constitute "Good Reason" hereunder and, if such event is uncured, (Y) the Executive must terminate employment with the Company for such "Good Reason," on at least 10 days' prior written notice, no later than 30 days after the end of the aforementioned 30-day cure period.

(ii) Other than for Good Reason 30 days after written notice to the Company.

(b) Termination by the Company. Prior to the end of the Term, the Company may terminate this Agreement and the Executive's employment by the Company upon notice to the Executive (or personal representative):

(i) at any time and for any reason with or without consent of Executive;

(ii) upon the death of the Executive, in which case this Agreement shall terminate immediately; provided that, such termination shall not prejudice any benefits payable to the Executive's spouse or beneficiaries which are fully vested as of the date of death;

(iii) if the Executive is "permanently disabled" (as defined herein), in which case this Agreement shall terminate immediately; provided that, such termination shall not prejudice any benefits payable to the Executive, the Executive's spouse or beneficiaries which are fully vested as of the date of the termination of this Agreement. For purposes of this Agreement, the Executive shall be considered "**permanently disabled**" when a qualified medical doctor mutually acceptable to the Company and the Executive or the Executive's personal representative shall have certified in writing that: (A) the Executive is unable, because of a medically determinable physical or mental disability, to perform substantially all of the Executive's duties, with or without a reasonable accommodation, for more than 180 calendar

days measured from the last full day of work; or (B) by reason of mental or physical disability, it is unlikely that the Executive will be able, within 180 calendar days, to resume substantially all business duties and responsibilities in which the Executive was previously engaged and otherwise discharge the Executive's duties under this Agreement; or

(iv) for cause" (as defined herein). "**For cause**" shall be determined by the Company and shall mean:

A. Any material breach of the terms of this Agreement by the Executive or the material and deliberate failure of the Executive to diligently perform the Executive's duties for the Company; provided, however, that, to the extent such grounds for cause are curable, the Company must first provide Executive with written notice of the grounds under this Section 5(b)(iv)A and a period of ten (10) business days in which to cure such grounds;

B. The Executive's unauthorized use of the Company's tangible or intangible property (excluding incidental use) that results (or would be reasonably likely to result) in material harm to the Company, or Executive's material breach of the Proprietary Information Agreement (as defined herein) or any other similar written agreement between Executive and the Company regarding confidentiality, intellectual property rights, non-competition or non-solicitation; provided, however, that, to the extent such grounds for cause are curable, the Company must first provide Executive with written notice of the grounds under this Section 5(b)(iv)B and a period of ten (10) business days in which to cure such grounds;

C. Any material failure to comply with applicable material Company Policies, government laws, rules and regulations applicable to the Company's business and/or directives of the Board consistent with Executive's position; provided, however, that, to the extent such grounds for cause are curable, the Company must first provide Executive with written notice of the grounds under this Section 5(b)(iv)C and a period of ten (10) business days in which to cure such grounds;

D. The Executive's use of illegal drugs or any illegal substance, or the Executive's use of alcohol, in any case, in any manner that materially interferes with the performance of the Executive's duties under this Agreement; provided, however, that, to the extent such grounds for cause are curable, the Company must first provide Executive with written notice of the grounds under this Section 5(b)(iv)D and a period of ten (10) business days in which to cure such grounds;

E. Any action taken by the Executive in bad faith which is materially detrimental to the interest and well-being of the Company, including, without limitation, material harm to its reputation; provided, however, that, to the extent such grounds for cause are curable, the Company must first provide Executive with written notice of the grounds under this Section 5(b)(iv)E and a period of ten (10) business days in which to cure such grounds; or

F. The Executive's failure to fully disclose any material conflict of interest that the Executive may have with the Company in a transaction between the

Company and any third Party which is materially detrimental to the interest and well-being of the Company; provided, however, that, to the extent such grounds for cause are curable, the Company must first provide Executive with written notice of the grounds under this Section 5(b)(iv)F and a period of ten (10) business days in which to cure such grounds.

(c) Obligations of the Company Upon Termination.

(i) Upon the termination of this Agreement: (A) by the Executive pursuant to Section 5(a)(ii) above; or (B) by the Company pursuant to Sections 5(b)(ii), 5(b)(iii) or 5(b)(iv) above the Company shall have no further obligations hereunder other than the payment of all compensation and other benefits payable to the Executive through the date of such termination (including the Performance Bonus), all of which shall be paid on or before the Company's next regularly scheduled payday unless such amount is not then-calculable, in which case payment shall be made on the first regularly scheduled payday after the amount is calculable (provided that in the case of a termination by the Company pursuant to Sections 5(b)(ii) or 5(b)(iii) above, then all unvested RSUs and stock options will all vest upon the Termination Date and the time for the Executive to exercise all options granted and vested shall be equal to the term of the option (the "**Termination Options**").

(ii) Upon termination of this Agreement: (A) by the Executive pursuant to Section 5(a)(i) above; or (B) by the Company pursuant to Section 5(b)(i) above and provided that the Executive first executes and does not revoke a release agreement within the time period then-specified by the Company but in any event no later than sixty (60) days after the date of termination (the "**Release**"): (1) the Company shall pay the Executive (less all applicable withholdings and deductions) an amount equal to Executive's then-current Base Salary for the Severance Period (defined below) payable in the form of salary continuation in accordance with the then-current generally applicable payroll schedule of the Company commencing on the first regularly scheduled pay date of the Company processed after Executive has executed, delivered to the Company the Release and the revocation period for the Release has expired without revocation (with the first payment to include a catchup for any amounts that would have been paid had the Release been effective on the termination date); (2) conditioned on Executive's proper and timely election to continue the Company's health insurance benefits under COBRA, or under applicable state law, reimbursement of the additional costs incurred by Executive for continuing such benefits at the same level in which Executive participated prior to the date Executive's employment terminated for the shorter of (a) eighteen (18) months from the date of termination or (b) until the Executive obtains reasonably comparable coverage, with such reimbursements to begin at the same time as severance pay set forth in this Section 5(c)(ii); (3) all unvested stock options, restricted stock units and other stock-based awards granted to Executive in connection with his employment hereunder, including the RSUs, shall become immediately vested and exercisable (if applicable) and with respect to restricted stock units and similar awards shall be settled within 30 days after the termination date; and (4) Executive shall be entitled to receive his annual bonus for the year of termination as determined by the Board pursuant to the terms of Section 4(b) above (to be paid at the same time such bonus would have been paid if no such termination had occurred). As used herein, the "**Severance Period**" means (i) six (6) months if Executive is employed hereunder for less than or equal to one month; (ii) five (5) months if Executive is employed hereunder for more than one month, but less than or

equal to two months; and (iii) four (4) months if Executive is employed hereunder for more than two months.

(d) Resignation as Officer and Director. Upon termination of this Agreement and the Executive's employment hereunder for any reason other than for Cause, the Executive shall be deemed to have resigned from all positions as an officer of the Company but not from his position as a director on the Board. If the Agreement is terminated by the Company for Cause, the Executive shall be deemed to have resigned from all offices and positions the Executive may hold with the Company at such time including without limitation Board membership and/or positions as an officer of the Company.

6. Proprietary Information Agreement. Employment hereunder is conditioned on the Parties entering into simultaneously herewith the Company's standard Proprietary Information, Inventions, Non-Competition and Non-Solicitation Agreement (the "**Proprietary Information Agreement**"), a copy of which is annexed hereto as Exhibit A. The terms of the Proprietary Information Agreement and any other similar agreement regarding confidentiality, intellectual property rights, non-competition or non-solicitation between the Company and the Executive, are hereby incorporated by reference and are a material part of this Agreement.

7. Representations and Warranties.

(a) The Executive represents and warrants to the Company that the Executive's performance of this Agreement and as an employee of the Company does not and will not breach any noncompetition agreement or any agreement to keep in confidence proprietary information acquired by the Executive in confidence or in trust prior to the Executive's employment by the Company. The Executive represents and warrants to the Company that the Executive has not entered into, and agrees not to enter into, any agreement that conflicts with or violates this Agreement.

(b) The Executive represents and warrants to the Company that the Executive has not brought and shall not bring with the Executive to the Company, or use in the performance of the Executive's responsibilities for the Company, any materials or documents of a former employer which are not generally available to the public or which did not belong to the Executive prior to the Executive's employment with the Company, unless the Executive has obtained written authorization from the former employer or other owner for their possession and use and provided the Company with a copy thereof.

8. Indemnification. Employment hereunder is conditioned on the Parties entering into simultaneously herewith the Indemnification Agreement that is annexed hereto as Exhibit B. Executive will be entitled to indemnification under the Company's Directors and Officers insurance policy during his employment with the Company and for the six (6) year period thereafter on terms no less favorable than any other officer of the Company.

9. Notices. All notices, requests, consents, approvals, and other communications to, upon, and between the Parties shall be in writing and shall be deemed to have been given, delivered, made, and received when: (a) personally delivered; (b) deposited for next day delivery by Federal Express, or other similar overnight courier services; (c) transmitted via

facsimile or other similar device to the attention of the Company President with receipt acknowledged; or (d) three days after being sent or mailed by certified mail, postage prepaid and return receipt requested, addressed

If to the Company,

Kiromic Biopharma, Inc.
7707 Fannin Street, Suite 140
Houston, TX 77054
Attn: CFO, COO

If to Executive:

Pietro Bersani
2061 Narragansett, Unit 2
Bronx, New York 10461
Email: pietrobbersani@b2bcfo.com

10. Effect. This Agreement may be assigned by the Company to its successors in interests. This Agreement shall be binding on and inure to the respective benefit of the Company and its successors and assigns and the Executive and Executive's personal representatives.

11. Entire Agreement. This Agreement and the Proprietary Information Agreement and any other similar agreement regarding confidentiality, intellectual property rights, non-competition or non-solicitation constitute the entire agreement between the Parties with respect to the matters set forth herein and supersede all prior agreements and understandings between the Parties with respect to the same.

12. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision.

13. Amendment and Waiver. A waiver of any breach of this Agreement shall not constitute a waiver of any other provision of this Agreement or any subsequent breach of this Agreement. No provision of this Agreement may be amended, modified, deleted, or waived in any manner except by a written agreement executed by the Parties.

14. Section 409A Matters. This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended and the Treasury Regulations and other applicable guidance thereunder ("**Section 409A**"). To the extent that there is any ambiguity as to whether this Agreement (or any of its provisions) contravenes one or more requirements of Section 409A, such provision shall be interpreted and applied in a matter that does not result in a Section 409A violation. Without limiting the generality of the above:

(a) For clarity, the severance benefits specified in this Agreement (the "**Severance Benefits**") are only payable upon a "separation from service" as defined in Section 409A. The Severance Benefits shall be deemed to be series of separate payments, with each installment being treated as a separate payment. The time and form of payment of any

compensation may not be deferred or accelerated to the extent it would result in an impermissible acceleration or deferral under Section 409A.

(b) To the extent this Agreement contains payments which are subject to Section 409A (as opposed to exempt from Section 409A), the Executive's rights to such payments are not subject to anticipation, alienation, sale, transfer, pledge, encumbrance, attachment or garnishment and, where applicable, may only be transferred by will or the laws of descent and distribution.

(c) To the extent the Severance Benefits are intended to be exempt from Section 409A as a result of an "involuntary separation from service" under Section 409A, if all conditions necessary to establish the Executive's entitlement to such Severance Benefits have been satisfied, all Severance Benefits shall be paid or provided in full no later than December 31st of the first calendar year following the calendar year in which the Executive's employment terminated unless another time period is applicable. To the extent required by Section 409A, any portion of the severance benefits payable to Executive under Section 5(c)(ii) above that are contingent on the Executive's execution and non-revocation of the Release and that could be paid in the calendar year in which Executive terminates employment or in the immediately following calendar year, depending on when the Release becomes effective shall be paid on the first payroll date in such immediately following calendar year to the extent required by Section 409A or such later date required by Section 5(c)(ii) above (with all remaining payments of such severance benefits to be paid as if no such delay had occurred).

(d) If the Executive is a "specified employee" (as defined in Section 409A) on the termination date and a delayed payment is required by Section 409A to avoid a prohibited distribution under Section 409A, then no Severance Benefits that constitute "non-qualified deferred compensation" under Section 409A shall be paid until the earlier of (i) the first day of the 7th month following the date of Employee's "separation from service" as defined in Section 409A, or (ii) the date of Employee's death. Upon the expiration of the applicable deferral period, all payments deferred under this clause shall be paid in a lump sum and any remaining severance benefits shall be paid per the schedule specified in this Agreement.

(e) The Company makes no representation that this Agreement will be exempt from or compliant with Section 409A and makes no affirmative undertaking to preclude Section 409A from applying.

15. Governing Law; Consent to Jurisdiction. This Agreement shall be construed, interpreted, and governed in accordance with and by Texas law and the applicable provisions of federal law ("Applicable Federal Law"). Any and all claims, controversies, and causes of action arising out of or relating to this Agreement, whether sounding in contract, tort, or statute, shall be governed by the laws of the state of Texas, including its statutes of limitations, except for Applicable Federal Law, without giving effect to any Texas conflict-of-laws rule that would result in the application of the laws of a different jurisdiction. Both Executive and the Company acknowledge and agree that the state or federal courts located in Houston, Texas have personal jurisdiction over them and over any dispute arising under this Agreement, and both Executive and the Company irrevocably consent to the jurisdiction of such courts.

16. Counterparts. This Agreement may be executed in more than one counterpart, each of which shall be deemed an original, and all of which shall be deemed a single agreement. Photographic copies, electronically scanned copies and other facsimiles of this Agreement (including signed counterparts) may be used in lieu of the originals for any purpose.

17. Headings. The headings herein are for convenience only and shall not affect the interpretation of this Agreement.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

PIETRO BERSANI

KIROMIC BIOPHARMA INC.

By: /s/ Pietro Bersani
Pietro Bersani

By: /s/ Michael Nagel
Name: Michael Nagel
Title: Chairperson of the Board of
Directors

[Signature page for Executive Employment Agreement.]

**CONFIDENTIAL INFORMATION, INVENTIONS, NON-SOLICITATION AND
NON-COMPETITION AGREEMENT**

In consideration of my employment by **Kiromic Biopharma Inc.**, and its subsidiaries, parents, affiliates, successors and assigns (together, "**Kiromic**" or the "**Company**") and the compensation now and later paid to me, I hereby enter into this Employee Confidential Information, Inventions, Non Solicitation and Non-Competition Agreement (the "**Agreement**") and agree as follows:

1. CONFIDENTIAL INFORMATION PROTECTIONS.

1.1 Recognition of Company's Rights; Nondisclosure. I understand and acknowledge that my employment by Company creates a relationship of confidence and trust with respect to Company's Confidential Information (as defined below) and that Company has a protectable interest therein. At all times during and after my employment, I will hold in confidence and will not disclose, use, lecture upon or publish any of Company's Confidential Information, except as such disclosure, use or publication may be required in connection with my work for Company, or unless an officer of Company expressly authorizes such disclosure in writing. I will obtain Company's written approval before publishing or submitting for publication any material (written, verbal, or otherwise) that discloses and/or incorporates any Confidential Information. I hereby assign to Kiromic any rights I may have or acquire in such Confidential Information and recognize that all Confidential Information shall be the sole and exclusive property of Kiromic and its assigns. I will take all reasonable precautions to prevent the inadvertent or accidental disclosure of Confidential Information. Notwithstanding the foregoing, pursuant to 18 U.S.C. Section 1833(b), I shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that: (1) is made in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (2) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

1.2 Confidential Information. The term "Confidential Information" shall mean any and all confidential knowledge, data or information of Company. By way of illustration but not limitation, "**Confidential Information**" includes (a) trade secrets, inventions, mask works, ideas, processes, formulas, software in source or object code versions, data, programs, other works of authorship, know how, improvements, discoveries, developments, designs and techniques and any other proprietary technology and all Intellectual Property Rights therein (collectively, "**Inventions**"); (b) information regarding research, development, new products, marketing and selling, business plans, budgets and unpublished financial statements, licenses, prices and costs, margins, discounts, credit terms, pricing and billing policies, quoting procedures, methods of obtaining business, forecasts, future plans and potential strategies, financial projections and business strategies, operational plans, financing and capital raising plans, activities and agreements, internal services and operational manuals, methods of conducting Company business, suppliers and supplier information, and purchasing; (c) information regarding customers and potential customers of Company, including customer lists, names, representatives, their needs or desires with respect to the types of products or services offered by Company,

proposals, bids, contracts and their contents and parties, the type and quantity of products and services provided or sought to be provided to customers and potential customers of Company and other non public information relating to customers and potential customers; (d) information regarding any of Company's business partners and their services, including names; representatives, proposals, bids, contracts and their contents and parties, the type and quantity of products and services received by Company, and other non public information relating to business partners; (e) information regarding personnel, employee lists, compensation, and employee skills; and (f) any other non public information which a competitor of Company could use to the competitive disadvantage of Company. Notwithstanding the foregoing, it is understood that, at all such times, I am free to use information which was known to me prior to employment with Company or which is generally known in the trade or industry through no breach of this Agreement or other act or omission by me. Notwithstanding the foregoing or anything to the contrary in this Agreement or any other agreement between Company and me, nothing in this Agreement shall limit my right to discuss my employment or report possible violations of law or regulation with the Equal Employment Opportunity Commission, United States Department of Labor, the National Labor Relations Board, the Securities and Exchange Commission, or other federal government agency or similar state or local agency or to discuss the terms and conditions of my employment with others to the extent expressly permitted by Section 7 of the National Labor Relations Act or to the extent that such disclosure is protected under the applicable provisions of law or regulation, including but not limited to "whistleblower" statutes or other similar provisions that protect such disclosure.

1.3 Third Party Information. I understand, in addition, that Company has received and in the future will receive from third parties their confidential and/or proprietary knowledge, data or information ("**Third Party Information**") subject to a duty on Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. During my employment and thereafter, I will hold Third Party Information in confidence and will not disclose to anyone (other than Company personnel who need to know such information in connection with their work for Company) or use, except in connection with my work for Company, Third Party Information unless expressly authorized by an officer of Company in writing.

1.4 Term of Nondisclosure Restrictions. I understand that Confidential Information and Third Party Information is never to be used or disclosed by me, as provided in this Section 1. If a temporal limitation on my obligation not to use or disclose such information is required under applicable law, and the Agreement or its restriction(s) cannot otherwise be enforced, I agree and Company agrees that the two (2) year period after the date my employment ends will be the temporal limitation relevant to the contested restriction, provided, however, that this sentence will not apply to trade secrets protected without temporal limitation under applicable law.

1.5 No Improper Use of Information of Prior Employers and Others. During my employment by Company, I will not improperly use or disclose confidential information or trade secrets, if any, of any former employer or any other person to whom I have an obligation of confidentiality, and I will not bring onto the premises of Company any unpublished documents or any property belonging to any former employer or any other person to whom I have an obligation of confidentiality unless consented to in writing by that former employer or person.

2. ASSIGNMENTS OF INVENTIONS

2.1 Definitions. As used in this Agreement, the term “**Intellectual Property Rights**” means all trade secrets, Copyrights, trademarks, mask work rights, patents and other intellectual property rights recognized by the laws of any jurisdiction or country; the term “**Copyright**” means the exclusive legal right to reproduce, perform, display, distribute and make derivative works of a work of authorship (as a literary, musical, or artistic work) recognized by the laws of any jurisdiction or country; and the term “**Moral Rights**” means all paternity, integrity, disclosure, withdrawal, special and any other similar rights recognized by the laws of any jurisdiction or country.

2.2 Excluded Inventions and Other Inventions. Attached hereto as **Exhibit A** is a list describing all existing Inventions, if any, that may relate to Company’s business or actual or demonstrably anticipated research or development and that were made by me or acquired by me prior to the commencement of my employment with, and which are not to be assigned to, Company (“**Excluded Inventions**”). If no such list is attached, I represent and agree that it is because I have no rights in any existing Inventions that may relate to Company’s business or actual or demonstrably anticipated research or development. For purposes of this Agreement, “**Other Inventions**” means Inventions in which I have or may have an interest, as of the commencement of my employment, other than Company Inventions (defined below) and Excluded Inventions. I acknowledge and agree that if I use any Excluded Inventions or any Other Inventions in the scope of my employment, or if I include any Excluded Inventions or Other Inventions in any product or service of Company, or if my rights in any Excluded Inventions or Other Inventions may block or interfere with, or may otherwise be required for, the exercise by Company of any rights assigned to Company under this Agreement, I will immediately so notify Company in writing. Unless Company and I agree otherwise in writing as to particular Excluded Inventions or Other Inventions, I hereby grant to Company, in such circumstances (whether or not I give Company notice as required above), a non exclusive, perpetual, transferable, fully paid and royalty free, irrevocable and worldwide license, with rights to sublicense through multiple levels of sublicensees, to reproduce, make derivative works of, distribute, publicly perform, and publicly display in any form or medium, whether now known or later developed, make, have made, use, sell, import, offer for sale, and exercise any and all present or future rights in, such Excluded Inventions and Other Inventions. To the extent that any third parties have rights in any such Other Inventions, I hereby represent and warrant that such third party or parties have validly and irrevocably granted to me the right to grant the license stated above.

2.3 Assignment of Company Inventions. Inventions assigned to Kiromic, or to a third party as directed by Kiromic pursuant to Section 2.6, are referred to in this Agreement as “**Company Inventions.**” Subject to Section 2.4 (Unassigned or Nonassignable Inventions) and except for Excluded Inventions set forth in **Exhibit A** and Other Inventions, I hereby assign to Kiromic all my right, title, and interest in and to any and all Inventions (and all Intellectual Property Rights with respect thereto) made, conceived, reduced to practice, or learned by me, either alone or with others, during the period of my employment by Company. To the extent required by applicable Copyright laws, I agree to assign in the future (when any copyrightable Inventions are first fixed in a tangible medium of expression) my Copyright rights in and to such Inventions. Any assignment of Company Inventions (and all Intellectual Property Rights with respect thereto) hereunder includes an assignment of all Moral Rights. To the extent such Moral

Rights cannot be assigned to Kiromic and to the extent the following is allowed by the laws in any country where Moral Rights exist, I hereby unconditionally and irrevocably waive the enforcement of such Moral Rights, and all claims and causes of action of any kind against Company or related to Company's customers, with respect to such rights. I further acknowledge and agree that neither my successors in interest nor legal heirs retain any Moral Rights in any Company Inventions (and any Intellectual Property Rights with respect thereto).

2.4 Unassigned or Nonassignable Inventions. I recognize that this Agreement will not be deemed to require assignment of any Invention that I developed entirely on my own time without using Company's equipment, supplies, facilities, trade secrets or Confidential Information, except for those Inventions that either (i) relate to Company's actual or anticipated business, research or development, or (ii) result from or are connected with work performed by me for Company. In addition, this Agreement does not apply to any Invention which qualifies fully for protection from assignment to Company under any specifically applicable state law, regulation, rule or public policy ("**Specific Inventions Law**").

2.5 Obligation to Keep Company Informed. During the period of my employment and for one (1) year after termination of my employment, I will promptly and fully disclose to Company in writing all Inventions authored, conceived, or reduced to practice by me, either alone or jointly with others. In addition, I will promptly disclose to Company all patent applications filed by me or on my behalf within one (1) year after termination of employment. At the time of each such disclosure, I will advise Company in writing of any Inventions that I believe fully qualify for protection under the provisions of any applicable Specific Inventions Law; and I will at that time provide to Company in writing all evidence necessary to substantiate that belief. Company will keep in confidence and will not use for any purpose or disclose to third parties without my consent any Confidential Information disclosed in writing to Company pursuant to this Agreement relating to Inventions that qualify fully for protection under a Specific Inventions Law. I will preserve the confidentiality of any Invention that does not fully qualify for protection under a Specific Inventions Law.

2.6 Government or Third Party. I agree that, as directed by Company, I will assign to a third party, including without limitation the United States, all my right, title, and interest in and to any particular Company Invention.

2.7 Ownership of Work Product.

(a) I acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of my employment and which are protectable by Copyright are "works made for hire," pursuant to United States Copyright Act (17 U.S.C., Section 101).

(b) I agree that Kiromic will exclusively own all work product that is made by me (solely or jointly with others) within the scope of my employment, and I hereby irrevocably and unconditionally assign to Kiromic all right, title, and interest worldwide in and to such work product. I understand and agree that I have no right to publish on, submit for publishing, or use for any publication any work product protected by this Section, except as necessary to perform services for Company.

2.8 Enforcement of Intellectual Property Rights and Assistance. I will assist Company in every proper way to obtain, and from time to time enforce, United States and foreign Intellectual Property Rights and Moral Rights relating to Company Inventions in any and all countries. To that end I will execute, verify and deliver such documents and perform such other acts (including appearances as a witness) as Company may reasonably request for use in applying for, obtaining, perfecting, evidencing, sustaining and enforcing such Intellectual Property Rights and the assignment thereof. In addition, I will execute, verify and deliver assignments of such Intellectual Property Rights to Kiromic or its designee, including the United States or any third party designated by Kiromic. My obligation to assist Company with respect to Intellectual Property Rights relating to such Company Inventions in any and all countries will continue beyond the termination of my employment, but Company will compensate me at a reasonable rate after my termination for the time actually spent by me at Company's request on such assistance. In the event Company is unable for any reason, after reasonable effort, to secure my signature on any document needed in connection with the actions specified in this paragraph, I hereby irrevocably designate and appoint Company and its duly authorized officers and agents as my agent and attorney in fact, which appointment is coupled with an interest, to act for and in my behalf to execute, verify and file any such documents and to do all other lawfully permitted acts to further the purposes of the preceding paragraph with the same legal force and effect as if executed by me. I hereby waive and quitclaim to Company any and all claims, of any nature whatsoever, which I now or may hereafter have for infringement of any Intellectual Property Rights assigned under this Agreement to Kiromic.

2.9 Incorporation of Software Code. I agree that I will not incorporate into any Company software or otherwise deliver to Company any software code licensed under the GNU General Public License or Lesser General Public License or any other license that, by its terms, requires or conditions the use or distribution of such code on the disclosure, licensing, or distribution of any source code owned or licensed by Company except in strict compliance with Company's policies regarding the use of such software.

3. RECORDS. I agree to keep and maintain adequate and current records (in the form of notes, sketches, drawings and in any other form that is required by Company) of all Confidential Information developed by me and all Company Inventions made by me during the period of my employment at Company, which records will be available to and remain the sole property of Company at all times.

4. DUTY OF LOYALTY DURING EMPLOYMENT. I agree that during the period of my employment by Company I will not, without Company's express written consent, directly or indirectly engage in any employment or business activity which is directly or indirectly competitive with, or would otherwise conflict with, my employment by Company.

5. NO SOLICITATION OF EMPLOYEES, CONSULTANTS, CONTRACTORS, OR CUSTOMERS OR POTENTIAL CUSTOMERS. I agree that during the period of my employment and for the one (1) year period after the date my employment ends for any reason, including but not limited to voluntary termination by me or involuntary termination by Company, I will not, as an officer, director, employee, consultant, owner, partner, or in any other capacity, either directly or through others, except on behalf of Company:

5.1 solicit, induce, encourage, or participate in soliciting, inducing or encouraging any person known to me to be an employee, consultant, or independent contractor of Company to terminate his or her relationship with Company, even if I did not initiate the discussion or seek out the contact;

5.2 solicit, induce, encourage, or participate in soliciting, inducing, or encouraging any person known to me to be an employee, consultant, or independent contractor of Company to terminate his or her relationship with Company to render services to me or any other person or entity that researches, develops, markets, sells, performs or provides or is preparing to develop, market, sell, perform or provide Conflicting Services (as defined in Section 6 below);

5.3 hire, employ, or engage in a business venture with as partners or owners or other joint capacity, or attempt to hire, employ, or engage in a business venture as partners or owners or other joint capacity, with any person then employed by Company or who has left the employment of Company within the preceding three (3) months to research, develop, market, sell, perform or provide Conflicting Services;

5.4 solicit, induce or attempt to induce any Customer or Potential Customer (as defined below), to terminate, diminish, or materially alter in a manner harmful to Company its relationship with Company;

5.5 solicit or assist in the solicitation of any Customer or Potential Customer to induce or attempt to induce such Customer or Potential Customer to purchase or contract for any Conflicting Services; or

5.6 perform, provide or attempt to perform or provide any Conflicting Services for a Customer or Potential Customer.

The parties agree that for purposes of this Agreement, a “**Customer or Potential Customer**” is any person or entity who or which, at any time during the one (1) year period prior to my contact with such person or entity as described in Sections 5.4 5.6 above if such contact occurs during my employment or, if such contact occurs following the termination of my employment, during the one (1) year period prior to the date my employment with Company ends: (i) contracted for, was billed for, or received from Company any product, service or process with which I worked directly or indirectly during my employment by Company or about which I acquired Confidential Information; or (ii) was in contact with me or in contact with any other employee, owner, or agent of Company, of which contact I was or should have been aware, concerning the sale or purchase of, or contract for, any product, service or process with which I worked directly or indirectly during my employment with Company or about which I acquired Confidential Information; or (iii) was solicited by Company in an effort in which I was involved or of which I was aware.

6. NON COMPETE PROVISION. I agree that for (i) the six (6) month period if I am employed by the Company for less than six (6) months or (ii) the one (1) year period if I am employed by the Company for six (6) months or longer, both after the date my employment ends for any reason, including but not limited to voluntary termination by me or involuntary termination by Company, I will not, directly or indirectly, as an officer, director, employee,

consultant, owner, partner, or in any other capacity solicit, perform, or provide, or attempt to perform or provide Conflicting Services anywhere in the Restricted Territory (as defined below), nor will I assist another person to solicit, perform or provide or attempt to perform or provide Conflicting Services anywhere in the Restricted Territory.

The parties agree that for purposes of this Agreement, “**Conflicting Services**” means any product, service, or process or the research and development thereof, of any person or organization other than Company that directly competes with a product, service, or process, including the research and development thereof, of Company with which I worked directly or indirectly during my employment by Company or about which I acquired Confidential Information during my employment by Company.

The parties agree that for purposes of this Agreement, “**Restricted Territory**” means the one hundred (100) mile radius of any of the following locations: (i) any Company business location at which I have worked on a regular or occasional basis during the preceding year; (ii) my home if I work from home on a regular or occasional basis; (iii) any potential business location of Company under active consideration by Company to which I have traveled in connection with the consideration of that location; (iv) the primary business location of a Customer or Potential Customer; or (v) any business location of a Customer or Potential Customer where representatives of the Customer or Potential Customer with whom I have been in contact in the preceding year are based.

7. REASONABLENESS OF RESTRICTIONS.

7.1 I agree that I have read this entire Agreement and understand it. I agree that this Agreement does not prevent me from earning a living or pursuing my career. I agree that the restrictions contained in this Agreement are reasonable, proper, and necessitated by Company’s legitimate business interests. I represent and agree that I am entering into this Agreement freely and with knowledge of its contents with the intent to be bound by the Agreement and the restrictions contained in it.

7.2 In the event that a court finds this Agreement, or any of its restrictions, to be ambiguous, unenforceable, or invalid, I and Company agree that the court will read the Agreement as a whole and interpret the restriction(s) at issue to be enforceable and valid to the maximum extent allowed by law.

7.3 If the court declines to enforce this Agreement in the manner provided in subsection 7.2, I and Company agree that this Agreement will be automatically modified to provide Company with the maximum protection of its business interests allowed by law and I agree to be bound by this Agreement as modified.

7.4 Furthermore, the parties agree that the market for Company’s products is the entire United States. If, however, after applying the provisions of subsections 7.2 and 7.3, a court still decides that this Agreement or any of its restrictions is unenforceable for lack of reasonable geographic limitation and the Agreement or restriction(s) cannot otherwise be enforced, the parties hereby agree that the fifty (50) mile radius from any location at which I worked for Company on either a regular or occasional basis during the one (1) year

immediately preceding termination of my employment with Company shall be the geographic limitation relevant to the contested restriction.

8. NO CONFLICTING AGREEMENT OR OBLIGATION. I represent that my performance of all the terms of this Agreement and as an employee of Company does not and will not breach any agreement to keep in confidence information acquired by me in confidence or in trust prior to my employment by Company. I have not entered into, and I agree I will not enter into, any agreement either written or oral in conflict with this Agreement.

9. RETURN OF COMPANY PROPERTY. When I leave the employ of Company, I will deliver to Company any and all drawings, notes, memoranda, specifications, devices, formulas and documents, together with all copies thereof, and any other material containing or disclosing any Company Inventions, Third Party Information or Confidential Information of Company. I agree that I will not copy, delete, or alter any information contained upon my Company computer or Company equipment before I return it to Company. In addition, if I have used any personal computer, server, or e mail system to receive, store, review, prepare or transmit any Company information, including but not limited to, Confidential Information, I agree to provide Company with a computer useable copy of all such Confidential Information and then permanently delete and expunge such Confidential Information from those systems; and I agree to provide Company access to my system as reasonably requested to verify that the necessary copying and/or deletion is completed. I further agree that any property situated on Company's premises and owned by Company, including disks and other storage media, filing cabinets or other work areas, is subject to inspection by Company's personnel at any time with or without notice. Prior to leaving, I will cooperate with Company in attending an exit interview and completing and signing Company's termination statement if required to do so by Company.

10. LEGAL AND EQUITABLE REMEDIES.

10.1 I agree that it may be impossible to assess the damages caused by my violation of this Agreement or any of its terms. I agree that any threatened or actual violation of this Agreement or any of its terms will constitute immediate and irreparable injury to Company and Company will have the right to enforce this Agreement and any of its provisions by injunction, specific performance or other equitable relief, without bond and without prejudice to any other rights and remedies that Company may have for a breach or threatened breach of this Agreement.

10.2 I agree that if Company is successful in whole or in part in any legal or equitable action against me under this Agreement, Company will be entitled to payment of all costs, including reasonable attorneys' fees, from me.

10.3 In the event Company enforces this Agreement through a court order, I agree that the restrictions of Sections 5 and 6 will remain in effect for a period of twelve (12) months from the effective date of the order enforcing the Agreement.

11. NOTICES. Any notices required or permitted under this Agreement will be given to Company at its headquarters location at the time notice is given, labeled "Attention Chief Operating Officer," and to me at my address as listed on Company payroll, or at such other address as Company or I may designate by written notice to the other. Notice will be effective

upon receipt or refusal of delivery. If delivered by certified or registered mail, notice will be considered to have been given five (5) business days after it was mailed, as evidenced by the postmark. If delivered by courier or express mail service, notice will be considered to have been given on the delivery date reflected by the courier or express mail service receipt.

12. PUBLICATION OF THIS AGREEMENT TO SUBSEQUENT EMPLOYER OR BUSINESS ASSOCIATES OF EMPLOYEE.

12.1 If I am offered employment or the opportunity to enter into any business venture as owner, partner, consultant or other capacity while the restrictions described in Sections 5 and 6 of this Agreement are in effect I agree to inform my potential employer, partner, co-owner and/or others involved in managing the business with which I have an opportunity to be associated of my obligations under this Agreement and also agree to provide such person or persons with a copy of this Agreement.

12.2 I agree to inform Company of all employment and business ventures which I enter into while the restrictions described in Sections 5 and 6 of this Agreement are in effect and I also authorize Company to provide copies of this Agreement to my employer, partner, co-owner and/or others involved in managing the business with which I am employed or associated and to make such persons aware of my obligations under this Agreement.

13. GENERAL PROVISIONS.

13.1 Governing Law; Consent to Personal Jurisdiction. This Agreement will be governed by and construed according to the laws of the State of Texas as such laws are applied to agreements entered into and to be performed entirely within Houston between Houston residents. I hereby expressly consent to the personal jurisdiction and venue of the state and federal courts located in Houston for any lawsuit filed there against me by Company arising from or related to this Agreement.

13.2 Severability. In case any one or more of the provisions, subsections, or sentences contained in this Agreement will, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect the other provisions of this Agreement, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement. If moreover, any one or more of the provisions contained in this Agreement will for any reason be held to be excessively broad as to duration, geographical scope, activity or subject, it will be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it will then appear.

13.3 Successors and Assigns. This Agreement is for my benefit and the benefit of Company, its successors, assigns, parent corporations, subsidiaries, affiliates, and purchasers, and will be binding upon my heirs, executors, administrators and other legal representatives.

13.4 Survival. The provisions of this Agreement will survive the termination of my employment, regardless of the reason, and the assignment of this Agreement by Company to any successor in interest or other assignee.

13.5 At-Will Employment; No Oral Agreements. The Company and I acknowledge and agree that this Agreement does not affect the ability of either party to terminate their employment relationship, which relationship, unless otherwise agreed to in writing signed by an authorized representative of the Company, may be terminated at any time, for any or no reason. No supervisor, manager or other Company representative has the authority to make any verbal promises, commitments, or statements of any kind regarding the Company's policies, procedures or any other issues or terms of employment that are legally binding on the Company.

13.6 Waiver. No waiver by Company of any breach of this Agreement will be a waiver of any preceding or succeeding breach. No waiver by Company of any right under this Agreement will be construed as a waiver of any other right. Company will not be required to give notice to enforce strict adherence to all terms of this Agreement.

13.7 Export. I agree not to export, re-export, or transfer, directly or indirectly, any U.S. technical data acquired from Company or any products utilizing such data, in violation of the United States export laws or regulations.

13.8 Advice of Counsel. I ACKNOWLEDGE THAT, IN EXECUTING THIS AGREEMENT, I HAVE HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT LEGAL COUNSEL, AND I HAVE READ AND UNDERSTOOD ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT. THIS AGREEMENT WILL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION OF THIS AGREEMENT.

13.9 Entire Agreement. The obligations pursuant to Sections 1 and 2 (except Subsections 2.4 and 2.7(a)) of this Agreement will apply to any time during which I was previously engaged, or am in the future engaged, by Company as a consultant if no other agreement governs nondisclosure and assignment of Inventions during such period. This Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matter of this Agreement and supersedes and merges all prior discussions between us. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing and signed by the party to be charged. Any subsequent change or changes in my duties, salary or compensation will not affect the validity or scope of this Agreement.

This Agreement will be effective as of January 27, 2022.

I HAVE READ THIS AGREEMENT CAREFULLY AND UNDERSTAND ITS TERMS.

/s/ Pietro Bersani
Pietro Bersani

ACCEPTED AND AGREED TO:
KIROMIC BIOPHARMA INC.

By: /s/ Michael Nagel
Name: Michael Nagel



KIROMIC BIOPHARMA, INC.

OFFICER INDEMNIFICATION AGREEMENT

This INDEMNIFICATION AGREEMENT (“Agreement”) is made as of January 27, 2022 by and between Kiromic Biopharma, Inc., a Delaware corporation (the “Company”), and Pietro Bersani (“Indemnitee”). This Agreement supersedes and replaces any and all previous agreements between the Company and Indemnitee covering the subject matter of this Agreement, except this Agreement does not affect any prior agreements regarding the subject matter of this Agreement entered into in connection with Indemnitee’s role as a member of the Company’s Board of Directors (collectively, “Director Indemnification Agreements”), which shall remain in full force and effect pursuant to their terms.

RECITALS

WHEREAS, highly competent persons have become more reluctant to serve publicly held corporations as directors or officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

WHEREAS, the Board of Directors of the Company (the “Board”) has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company from certain liabilities. The By-Laws (the “By-Laws”) of the Company and the Certificate of Incorporation of the Company (“the Certificate of Incorporation”) require indemnification of the officers and directors of the Company. Indemnitee may also be entitled to indemnification pursuant to the General Corporation Law of the State of Delaware (the “DGCL”). The By-Laws and the Certificate of Incorporation and the DGCL expressly provide that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and members of the board of directors, officers and other persons with respect to indemnification;

WHEREAS, the uncertainties relating to such insurance and to indemnification have increased the difficulty of attracting and retaining such persons;

WHEREAS, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company and its stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company to contractually obligate itself to indemnify, and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;

WHEREAS, this Agreement is a supplement to and in furtherance of the By-Laws and the Certificate of Incorporation and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnatee thereunder;

WHEREAS, Indemnatee does not regard the protection available under the By-Laws and insurance as adequate in the present circumstances, and may not be willing to serve as an officer or director without adequate protection, and the Company desires Indemnatee to serve in such capacity. Indemnatee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that he be so indemnified; and

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnatee do hereby covenant and agree as follows:

Section 1. Services to the Company. Indemnatee agrees to serve as an officer of the Company. Indemnatee may at any time and for any reason resign from such position (subject to any other contractual obligation or any obligation imposed by operation of law), in which event the Company shall have no obligation under this Agreement to keep Indemnatee in such position. This Agreement shall not be deemed an employment contract between the Company and Indemnatee. Indemnatee specifically acknowledges that Indemnatee's employment with the Company, if any, is at will, and the Indemnatee may be discharged at any time for any reason, with or without cause, except as may be otherwise provided in any written employment contract between Indemnatee and the Company, other applicable formal severance policies duly adopted by the Board, or, with respect to service as a director or officer of the Company, by the Certificate of Incorporation, the By-Laws, and the DGCL. The foregoing notwithstanding, this Agreement shall continue in force after Indemnatee has ceased to serve as an officer of the Company.

Section 2. Definitions. As used in this Agreement:

(a) References to "agent" shall mean any person who is or was a director, officer, or employee of the Company or other person authorized by the Company to act for the Company, to include such person serving in such capacity as a director, officer, employee, fiduciary or other official of another corporation, partnership, limited liability company, joint venture, trust or other Enterprise at the request of, for the convenience of, or to represent the interests of the Company.

(b) A "Change in Control" shall be deemed to occur upon the earliest to occur after the date of this Agreement of any of the following events:

(i) Acquisition of Stock by Third Party. Any Person (as defined below) is or becomes the Beneficial Owner (as defined below), directly or indirectly, of securities of the Company representing more than fifty percent (50%) or more of the combined voting power of the Company's then outstanding securities;

(ii) Change in Board. During any period of two (2) consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Board, and any new director (other than a director designated by a person who has entered into an agreement with the Company to effect a

transaction described in Sections 2(b)(i), 2(b)(iii) or 2(b)(iv)) whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority of the members of the Board;

(iii) Corporate Transactions. The effective date of a merger or consolidation of the Company with any other entity, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 51% of the combined voting power of the voting securities of the surviving entity outstanding immediately after such merger or consolidation and with the power to elect at least a majority of the board of directors or other governing body of such surviving entity;

(iv) Liquidation. The approval by the stockholders of the Company of a complete liquidation of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets; and

(v) Other Events. There occurs any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or a response to any similar item on any similar schedule or form) promulgated under the Exchange Act (as defined below), whether or not the Company is then subject to such reporting requirement.

For purposes of this Section 2(b), the following terms shall have the following meanings:

(A) "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended from time to time.

(B) "Person" shall have the meaning as set forth in Sections 13(d) and 14(d) of the Exchange Act; provided, however, that Person shall exclude (i) the Company, (ii) any trustee or other fiduciary holding securities under an employee benefit plan of the Company, and (iii) any corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company.

(C) "Beneficial Owner" shall have the meaning given to such term in Rule 13d-3 under the Exchange Act; provided, however, that Beneficial Owner shall exclude any Person otherwise becoming a Beneficial Owner by reason of the stockholders of the Company approving a merger of the Company with another entity.

(c) "Corporate Status" describes the status of a person who is or was a director, officer, employee or agent of the Company or of any other corporation, limited liability company, partnership or joint venture, trust, employee benefit plan or other enterprise which such person is or was serving at the request of the Company.

(d) "Disinterested Director" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(e) “Enterprise” shall mean the Company and any other corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise of which Indemnitee is or was serving at the request of the Company as a director, officer, employee, agent or fiduciary.

(f) “Expenses” shall include all reasonable attorneys’ fees, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, any federal, state, local or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, ERISA excise taxes and penalties, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, or otherwise participating in, a Proceeding. Expenses also shall include (i) Expenses incurred in connection with any appeal resulting from any Proceeding, including without limitation the premium, security for, and other costs relating to any cost bond or other appeal bond or its equivalent, and (ii) for purposes of Section 14(d) only, Expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee’s rights under this Agreement, by litigation or otherwise. The parties agree that for the purposes of any advancement of Expenses for which Indemnitee has made written demand to the Company in accordance with this Agreement, all Expenses included in such demand that are certified by affidavit of Indemnitee’s counsel as being reasonable shall be presumed conclusively to be reasonable. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(g) “Independent Counsel” means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning the Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder.

Notwithstanding the foregoing, the term “Independent Counsel” shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee’s rights under this Agreement. The Company agrees to pay the reasonable fees and expenses of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(h) The term “Proceeding” shall include any threatened, pending or completed action, suit, appeal, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought in the right of the Company or otherwise and whether of a civil, criminal, administrative legislative, or investigative (formal or informal) nature, including any appeal therefrom, in which Indemnitee was, is or will be involved as a party, potential party, non-party witness or otherwise by reason of the fact that Indemnitee is or was a director or officer of the Company, by reason of any action taken by him or of any action on his part while acting as director or officer of the

Company, or by reason of the fact that he is or was serving at the request of the Company, including prior to the date of this Agreement, as a director, officer, employee or agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, in each case whether or not serving in such capacity at the time any liability or expense is incurred for which indemnification, reimbursement, or advancement of expenses can be provided under this Agreement. If the Indemnitee believes in good faith that a given situation may lead to or culminate in the institution of a Proceeding, this shall be considered a Proceeding under this paragraph.

(i) Reference to “other enterprise” shall include employee benefit plans; references to “fines” shall include any excise tax assessed with respect to any employee benefit plan; references to “serving at the request of the Company” shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the Company” as referred to in this Agreement.

Section 3. Indemnity in Third-Party Proceedings. The Company shall indemnify Indemnitee in accordance with the provisions of this Section 3 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding, other than a Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 3, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by Indemnitee or on his behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company and, in the case of a criminal proceeding had no reasonable cause to believe that his conduct was unlawful. The parties hereto intend that this Agreement shall provide to the fullest extent permitted by law for indemnification in excess of that expressly permitted by statute, including, without limitation, any indemnification provided by the Certificate of Incorporation, the By-Laws, vote of the Company’s stockholders or disinterested directors or applicable law.

Section 4. Indemnity in Proceedings by or in the Right of the Company. The Company shall indemnify Indemnitee in accordance with the provisions of this Section 4 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 4, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses actually and reasonably incurred by him or on his behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company. No indemnification for Expenses shall be made under this Section 4 in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudged by a court to be liable to the Company, unless and only to the extent that the Delaware Court of Chancery or any court in which the Proceeding was brought shall determine upon application that, despite the adjudication

of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification.

Section 5. Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provisions of this Agreement, to the fullest extent permitted by applicable law and to the extent that Indemnitee is a party to (or a participant in) and is successful, on the merits or otherwise, in any Proceeding or in defense of any claim, issue or matter therein, in whole or in part, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him or on his behalf in connection with or related to each successfully resolved claim, issue or matter to the fullest extent permitted by law. For purposes of this Section 5 and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

Section 6. Indemnification For Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the fullest extent permitted by applicable law and to the extent that Indemnitee is, by reason of his Corporate Status, a witness or otherwise asked to participate in any Proceeding to which Indemnitee is not a party, he shall be indemnified against all Expenses actually and reasonably incurred by him or on his behalf in connection therewith.

Section 7. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of Expenses, actually and reasonably incurred by Indemnitee in the investigation, defense, settlement of a Proceeding, but is precluded by applicable law or the specific terms of this Agreement to indemnification for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

Section 8. Additional Indemnification.

(a) Notwithstanding any limitation in Sections 3, 4, or 5, the Company shall indemnify Indemnitee to the fullest extent permitted by applicable law if Indemnitee is a party to or threatened to be made a party to any Proceeding (including a Proceeding by or in the right of the Company to procure a judgment in its favor) against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by Indemnitee in connection with the Proceeding.

(b) For purposes of Section 8(a), the meaning of the phrase “to the fullest extent permitted by applicable law” shall include, but not be limited to:

(i) to the fullest extent permitted by the provision of the DGCL that authorizes or contemplates additional indemnification by agreement, or the corresponding provision of any amendment to or replacement of the DGCL, and

(ii) to the fullest extent authorized or permitted by any amendments to or replacements of the DGCL adopted after the date of this Agreement that increase the extent to which a corporation may indemnify its officers and directors.

Section 9. Exclusions. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnity in connection with any claim made against Indemnitee:

(a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision; or

(b) for (i) an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Exchange Act (as defined in Section 2(b) hereof) or similar provisions of state statutory law or common law, or (ii) any reimbursement of the Company by the Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by the Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the “Sarbanes-Oxley Act”), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act); or

(c) except as provided in Section 14(d) of this Agreement, in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees or other indemnitees, unless (i) the Board authorized the Proceeding (or any part of any Proceeding) prior to its initiation, or (ii) Indemnitee’s participation is required by applicable law, or (iii) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law, or except (iv) with respect to Proceedings brought to establish or enforce a right to indemnification under this Agreement or under any other agreement, provision in the By-laws or Certificate of Incorporation or applicable law.

Section 10. Advances of Expenses. In accordance with Section 3 of Article XI of the By-Laws, and notwithstanding any provision of this Agreement to the contrary, the Company shall advance, to the extent not prohibited by law, the Expenses incurred by Indemnitee in connection with any Proceeding, and such advancement shall be made within twenty (20) days after the receipt by the Company of a statement or statements requesting such advances from time to time, whether prior to or after final disposition of any Proceeding. Advances shall be unsecured and interest free. Advances shall be made without regard to Indemnitee’s ability to repay the Expenses and without regard to Indemnitee’s ultimate entitlement to indemnification under the other provisions of this Agreement. Advances shall include any and all reasonable Expenses incurred pursuing an action to enforce this right of advancement, including Expenses incurred preparing and forwarding statements to the Company to support the advances claimed. The right to advances under this Section shall continue until the final disposition of any Proceeding, including any appeal therein. The Indemnitee shall qualify for advances upon the

execution and delivery to the Company of this Agreement. This Section 10 shall not apply to any claim made by Indemnitee for which indemnity is excluded pursuant to Section 9.

Section 11. Procedure for Notification and Defense of Claim.

(a) Indemnitee shall notify the Company in writing of any matter with respect to which Indemnitee intends to seek indemnification or advancement of Expenses hereunder as soon as reasonably practicable following the receipt by Indemnitee of written notice thereof. The written notification to the Company shall include a description of the nature of the Proceeding and the facts underlying the Proceeding. To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of such action, suit or proceeding. The omission by Indemnitee to notify the Company hereunder will not relieve the Company from any liability which it may have to Indemnitee hereunder or otherwise than under this Agreement, and any delay in so notifying the Company shall not constitute a waiver by Indemnitee of any rights under this Agreement. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification.

(b) The Company will be entitled to participate in the Proceeding at its own expense.

Section 12. Procedure Upon Application for Indemnification.

(a) Upon written request by Indemnitee for indemnification pursuant to Section 11(a), a determination, if required by applicable law, with respect to Indemnitee's entitlement thereto shall be made by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee. Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any costs or Expenses (including attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom.

(b) The Independent Counsel shall be selected by Indemnitee, unless Indemnitee shall request that such selection be made by the Board, and Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. In either event, Indemnitee or the Company, as the case may be, may, within ten (10) days after such written notice of selection shall have been given, deliver to the Company or to Indemnitee, as the case may be, a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 2 of this Agreement, and the

objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If such written objection is so made and substantiated, the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. If, within twenty (20) days after the later of submission by Indemnitee of a written request for indemnification pursuant to Section 11(a) hereof and the final disposition of the Proceeding, no Independent Counsel shall have been selected and not objected to, either the Company or Indemnitee may petition a court of competent jurisdiction for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the Court or by such other person as the Court shall designate, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 12(a) hereof. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 14(a) of this Agreement, Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

Section 13. Presumptions and Effect of Certain Proceedings.

(a) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall, to the fullest extent not prohibited by law, presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 11(a) of this Agreement, and the Company shall, to the fullest extent not prohibited by law, have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption. Neither the failure of the Company (including by its directors or independent legal counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its directors or independent legal counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(b) If the person, persons or entity empowered or selected under Section 12 of this Agreement to determine whether Indemnitee is entitled to indemnification shall not have made a determination within sixty (60) days after receipt by the Company of the request therefore, the requisite determination of entitlement to indemnification shall, to the fullest extent not prohibited by law, be deemed to have been made and Indemnitee shall be entitled to such indemnification, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law; provided, however, that such 60-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making the determination with respect to entitlement to indemnification in good faith requires such additional time for the obtaining or evaluating of documentation and/or information relating thereto.

(c) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that his conduct was unlawful.

(d) Reliance as Safe Harbor. For purposes of any determination of good faith, Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise, including financial statements, or on information supplied to Indemnitee by the officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser or other expert selected with the reasonable care by the Enterprise. The provisions of this Section 13(d) shall not be deemed to be exclusive or to limit in any way the other circumstances in which the Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement.

(e) Actions of Others. The knowledge and/or actions, or failure to act, of any director, officer, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement.

Section 14. Remedies of Indemnitee.

(a) In the event that (i) a determination is made pursuant to Section 12 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 10 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 12(a) of this Agreement within ninety (90) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 5, 6 or 7 or the last sentence of Section 12(a) of this Agreement within ten (10) days after receipt by the Company of a written request therefor, (v) payment of indemnification pursuant to Section 3, 4 or 8 of this Agreement is not made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification, or (vi) in the event that the Company or any other person takes or threatens to take any action to declare this Agreement void or unenforceable, or institutes any litigation or other action or Proceeding designed to deny, or to recover from, the Indemnitee the benefits provided or intended to be provided to the Indemnitee hereunder, Indemnitee shall be entitled to an adjudication by a court of his entitlement to such indemnification or advancement of Expenses. Alternatively, Indemnitee, at his option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Indemnitee shall commence such proceeding seeking an adjudication or an award in arbitration within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 14(a); provided, however, that the foregoing clause shall not apply in respect of a proceeding brought by Indemnitee to enforce his rights under Section 5 of this Agreement. The Company shall not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) In the event that a determination shall have been made pursuant to Section 12(a) of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 14 shall be conducted in all respects as a de novo trial, or arbitration, on the merits and Indemnitee shall not be prejudiced by reason of that adverse determination. In any judicial proceeding or arbitration commenced pursuant to this Section 14 the Company shall have the burden of proving Indemnitee is not entitled to indemnification or advancement of Expenses, as the case may be.

(c) If a determination shall have been made pursuant to Section 12(a) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 14, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law.

(d) The Company shall, to the fullest extent not prohibited by law, be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 14 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement. It is the intent of the Company that, to the fullest extent permitted by law, the Indemnitee not be required to incur legal fees or other Expenses associated with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement by litigation or otherwise because the cost and expense thereof would substantially detract from the benefits intended to be extended to the Indemnitee hereunder. The Company shall, to the fullest extent permitted by law, indemnify Indemnitee against any and all Expenses and, if requested by Indemnitee, shall (within ten (10) days after receipt by the Company of a written request therefor) advance, to the extent not prohibited by law, such Expenses to Indemnitee, which are incurred by Indemnitee in connection with any action brought by Indemnitee for indemnification or advancement of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company if Indemnitee is wholly successful on the underlying claims; if Indemnitee is not wholly successful on the underlying claims, then such indemnification and advancement shall be only to the extent Indemnitee is successful on such underlying claims or otherwise as permitted by law, whichever is greater.

Section 15. Non-exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The rights of indemnification and to receive advancement of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Certificate of Incorporation, the By-Laws, any agreement, a vote of stockholders or a resolution of directors, or otherwise. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in Delaware law, whether by statute or judicial decision, permits greater indemnification or advancement of Expenses than would be afforded currently under the By-Laws, the Certificate of Incorporation and this Agreement, it is the intent of the parties hereto

that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

(b) The Company shall use its best efforts to maintain an insurance policy or policies providing liability insurance for directors and officers in effect at all times. To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise which such person serves at the request of the Company, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director, officer, employee or agent under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of such claim or of the commencement of a proceeding, as the case may be, to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policies.

(c) In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(d) The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable (or for which advancement is provided hereunder) hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

(e) The Company's obligation to indemnify or advance Expenses hereunder to Indemnitee who is or was serving at the request of the Company as a director, officer, employee or agent of any other corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise shall be reduced by any amount Indemnitee has actually received as indemnification or advancement of Expenses from such other corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise.

Section 16. Duration of Agreement. This Agreement shall continue until and terminate upon the later of: (a) ten (10) years after the date that Indemnitee shall have ceased to serve as an officer of the Company or (b) one (1) year after the final termination of any Proceeding then pending in respect of which Indemnitee is granted rights of indemnification or advancement of Expenses hereunder and of any proceeding commenced by Indemnitee pursuant to Section 14 of this Agreement relating thereto. This Agreement shall be binding upon the

Company and its successors and assigns and shall inure to the benefit of Indemnitee and his heirs, executors and administrators.

Section 17. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

Section 18. Enforcement.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to serve as a director or officer of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving as a director or officer of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof; provided, however, that this Agreement is a supplement to and in furtherance of the Certificate of Incorporation, the By-Laws and applicable law, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder.

Section 19. Modification and Waiver. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by the parties thereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions of this Agreement nor shall any waiver constitute a continuing waiver.

Section 20. Notice by Indemnitee. Indemnitee agrees promptly to notify the Company in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification or advancement of Expenses covered hereunder. The failure of Indemnitee to so notify the Company shall not relieve the Company of any obligation which it may have to the Indemnitee under this Agreement or otherwise.

Section 21. Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, (b) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed, (c) mailed by reputable overnight courier and

received for by the party to whom said notice or other communication shall have been directed or (d) sent by facsimile transmission, with receipt of oral confirmation that such transmission has been received:

(i) If to Indemnitee, at the address indicated on the signature page of this Agreement, or such other address as Indemnitee shall provide to the Company.

(ii) If to the Company to

Kiromic Biopharma, Inc.
7707 Fannin, Suite 140
Houston, TX 77054
Attention: Chief Operating Officer or Chief Financial Officer

or to any other address as may have been furnished to Indemnitee by the Company.

Section 22. Contribution. To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (a) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding; and/or (b) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

Section 23. Applicable Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. Except with respect to any arbitration commenced by Indemnitee pursuant to Section 14(a) of this Agreement, the Company and Indemnitee hereby irrevocably and unconditionally (a) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Chancery Court of the State of Delaware (the "Delaware Court"), and not in any other state or federal court in the United States of America or any court in any other country, (b) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (c) appoint, to the extent such party is not otherwise subject to service of process in the State of Delaware, irrevocably The Corporation Service Company, 2711 Centerville Road, City of Wilmington, County of New Castle, Delaware 19808 as its agent in the State of Delaware as such party's agent for acceptance of legal process in connection with any such action or proceeding against such party with the same legal force and validity as if served upon such party personally within the State of Delaware, (d) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court, and (e) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum.

Section 24. Identical Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

Section 25. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate. The headings of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the day and year first above written.

ACCEPTED AND AGREED TO:

KIROMIC BIOPHARMA INC.

/s/ Pietro Bersani

Pietro Bersani

By: /s/ Michael Nagel
Name: Michael Nagel
Title: Chairperson of the Board of
Directors

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KIROMIC BIOPHARMA, INC.
CHARTER OF THE DISCLOSURE COMMITTEE

Adopted as of January 10, 2022

This Disclosure Committee Charter (the “Charter”) has been adopted by Kiromic BioPharma, Inc. (the “Company”). From time to time, the Disclosure Committee (the “Committee”) shall review and reassess this Charter and recommend any proposed changes to the Audit Committee of the Board of Directors (the “Audit Committee”) for approval.

I. Purpose

It is the Company’s policy that all corporate disclosures made by the Company to its security holders, the Securities and Exchange Commission (“SEC”) and/or the broader investment community (i) shall be accurate and complete, and (ii) to the extent applicable, shall fairly present, in all material respects, the Company’s financial condition, results of operations and cash flows, and (iii) shall be made on a timely basis in accordance with all applicable requirements of (A) the Securities Exchange Act of 1934, as amended (the “Exchange Act”) and the rules and regulations promulgated thereunder, (B) the Securities Act of 1933, as amended (the “Securities Act”) and the rules and regulations promulgated thereunder, (C) the Nasdaq Stock Market or such other stock exchange on which the Company’s securities may be traded, and (D) any other applicable laws or legal requirements.

II. Membership

- A.** The Company’s Disclosure Committee (the “Committee”) shall initially consist of the following persons: (i) the Chief Executive Officer (the “CEO”); (ii) the executive in charge of overseeing submissions and other communications of any material nature to or with the Federal Drug Administration (the “FDA”); (iii) the Chief Financial Officer (the “CFO”); (iv) the General Counsel, if any; (v) the Controller; (vi) the executive in charge of managing investor relations and (vii) such other employees as the Committee Chair, as defined below, may invite from time to time. Such members may be replaced, or new members may be added on a permanent or ad hoc basis given the need for specific expertise, at any time and from time to time.
- B.** The Committee may from time to time designate two or more Committee members, (i) at least one of whom shall be knowledgeable of and experienced in SEC reporting requirements and SEC reporting, (ii) at least one of whom shall be knowledgeable as to the Company’s internal controls and (iii) at least one of whom shall be knowledgeable about FDA process and related disclosure matters, who can, acting together approve Disclosure Statements (as defined below) (other than periodic reports, as defined below) when time does not permit the full Committee to meet.

III. Meetings of Committee

- A.** The Committee will be chaired by the CFO (the “Committee Chair”). The Committee Chair shall be responsible for scheduling and presiding over meetings and preparing agendas.
- B.** The Committee shall meet from time to time, as frequently as necessary (but no less frequently than quarterly) to fulfill the Committee’s responsibilities set forth in this Charter, taking into account changes in and developments with respect to, among other things, the Company’s business, operations, management, organizational matters, regulatory matters, clinical trials, financial matters, financings, mergers and acquisitions activities, material contracts and other significant matters, and any change in economic or industry conditions.

KIROMIC CONFIDENTIAL INFORMATION

IV. Responsibilities

In carrying out its responsibilities, the Committee believes that the policies and procedures provided in this Charter should remain flexible, in order to react best to changing business, accounting and regulatory requirements. To fulfill its responsibilities and duties, the Committee shall be responsible for:

- A.** Considering information to be disclosed to the Company's security holders, the SEC, and the broader investment community and assessing applicable disclosure obligations and the scope of disclosure on a timely basis.
- B.** Designing and establishing disclosure controls and procedures, which may include procedures currently used by the Company, to ensure that (i) information required by the Company to be disclosed to the SEC and other information that the Company will disclose to its security holders or the investment community is recorded, processed, summarized and reported accurately and on a timely basis; and (ii) information is accumulated and communicated within the Committee, as appropriate to allow timely decisions regarding such required disclosure ("Disclosure Controls").
- C.** Monitoring the integrity, design and effectiveness of the Disclosure Controls.
- D.** Monitoring the Company's public financial disclosure, including assessing the accuracy and completeness of the Company's Annual Report on Form 10-K and each Quarterly Report on Form 10-Q (collectively, the "periodic reports"), as well as news releases reporting financial information and performance.
- E.** Assisting, as needed, in the process of determining whether Company information constitutes material information.
- F.** Overseeing the process and timing for public dissemination of material information, including approving the Company's quarterly earnings releases.
- G.** Supervising procedures to support the Company's CEO and CFO certification processes made in connection with the Company's periodic reports.
- H.** Reviewing and monitoring of the preparation and timing of the Company's (i) periodic reports and current reports, proxy statements, information statements, registration statements and any other information filed with the SEC; (ii) press releases, including without limitation those containing financial information, earnings guidance, information about material acquisitions or dispositions, information about clinical trials, manufacturing or regulatory matters, or other information material to the Company's security holders (iii) correspondence containing financial information broadly disseminated to security holders; (iv) presentations to rating agencies and lenders; (v) financial information displayed on the Company's corporate/investor relations website or through social media channels, and (vi) analyst or investor presentations and presentations to be used at industry conferences, (collectively, the "Disclosure Statements").
- I.** Reviewing prior Disclosure Statements for possible updates or corrections.
- J.** Discussing all relevant information with respect to the Committee's proceedings, and the preparation of the Disclosure Statements.
- K.** Forming positions, including seeking technical expertise as needed, as it related to various communications with security holders, analysts, the investment community, rating agencies and other third parties, and pre-clearance of investor meetings and presentations.

- L. The Committee and/or certain members of senior management shall provide certifications as may be requested by the Committee Chair in connection with the filing of the Company's periodic reports with the SEC.

The Company's Board of Directors shall, to the extent appropriate, direct the Company's executive officers to, apprise the Committee of all material changes and developments with respect to the Company and its business so that the Committee shall have access to the information that it will need to fulfill its obligations pursuant to this Charter, including determining the appropriateness and timing for public release of material information and determining whether, or to what extent, certain information should remain confidential. As a general matter, the Committee is not responsible for generating forecasts or plans and may rely on the information provided to it by the Company's Board or appropriate officers, as applicable, to be accurate.

In discharging its duties, the Committee shall have full access to all Company books, records, facilities, and personnel.

V. Other Responsibilities

The Committee shall have such other responsibilities, consistent with the Committee's purpose, as the Committee Chair may assign to it from time to time.

VI. Interpretation

Questions regarding, or requests for interpretation of, this Charter, or questions regarding the Committee's responsibilities or Disclosure Controls shall be determined by the Committee Chair, with recommendations made by the Committee as appropriate.