

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

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): **August 31, 2020**

KINTARA THERAPEUTICS, INC.
(Exact name of registrant as specified in its charter)

Nevada
(State or other jurisdiction
of incorporation)

001-37823
(Commission
File Number)

99-0360497
(IRS Employer
Identification No.)

12707 High Bluff Dr., Suite 200
San Diego, CA 92130
(Address of principal executive offices)

Registrant's telephone number, including area code: **(858) 350-4364**

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- 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	KTRA	The Nasdaq Capital Market

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

Emerging growth company

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

Explanatory Note

As previously disclosed in the Current Report on Form 8-K filed by Kintara Therapeutics, Inc., a Nevada corporation (“Kintara” or the “Company”) (formerly DelMar Pharmaceuticals, Inc. (“DelMar”)), with the Securities and Exchange Commission (the “SEC”) on August 21, 2020, DelMar completed its previously announced merger (the “Merger”) with Adgero Biopharmaceuticals Holdings, Inc., a Delaware corporation, on August 19, 2020. Immediately following the consummation of the Merger, DelMar changed its name to “Kintara Therapeutics, Inc.”

As a condition to the closing of the Merger, the Company conducted a private placement offering through a placement agent for shares of its newly designated convertible preferred stock (the “Investment Shares”), at a purchase price of \$1,000 per share (the “Private Placement”), pursuant to which the Company was required to sell an aggregate of a minimum of 10,000 Investment Shares, for an aggregate purchase price of at least \$10 million. The Company has the right to sell up to 20,000 Investment Shares, for an aggregate purchase price of \$20 million, with an option to sell an additional 10,000 Investment Shares, for an aggregate amount of \$30 million.

The Investment Shares will be convertible into a number of shares of Common Stock (“the “Conversion Shares”) based on the respective conversion price, which will be determined at the time of each round of the Private Placement. The Investment Shares may be issued in multiple classes of Series C Preferred Stock. Each class of Series C Preferred Stock shall have identical terms, except for the conversion price of the particular class of Series C Preferred Stock, which conversion price shall be determined in accordance with Nasdaq Listing Rule 5635(d) and equal to the lesser of (i) the closing price of the Common Stock on The Nasdaq Capital Market (“Nasdaq”) on the date immediately preceding the signing of the applicable binding agreements for the applicable round of the Private Placement for which the Investment Shares are issued or (ii) the average closing price of the Common Stock on Nasdaq for the five trading days immediately preceding the signing of the applicable binding agreements for the applicable round of the Private Placement for which the Investment Shares are issued, rounded up to the nearest whole cent (the “Conversion Price”).

In connection with the Private Placement, the placement agent is entitled to receive warrants exercisable for Investment Shares in an amount equal to ten percent of the number of Investment Shares sold in the Private Placement. In addition, at each closing of the Private Placement, the placement agent is entitled to a cash fee equal to 10% of the gross proceeds from the sale of the Investment Shares consummated at such closing, and a non-accountable expense allowance equal to 3% of the aggregate purchase price of the Investment Shares sold at such closing.

Item 1.01 Entry into a Material Definitive Agreement

On August 31, 2020, the Company entered into definitive agreements with certain accredited investors (the “Investors”) in the third and final closing of the Private Placement with respect to the sale of an aggregate of 3,256 shares (the “Shares”) of the Company’s Series C-3 Preferred Stock (the “Series C-3 Preferred Stock”), at a purchase price of \$1,000 per Share, pursuant to the terms of separate Subscription Agreements (the “Subscription Agreements”) entered into by and among the Company and the Investors. The Series C-3 Preferred Stock is convertible at a price of \$1.15 per share, for an aggregate of 2,831,304 shares of Common Stock.

The total aggregate gross proceeds of the Private Placement, including the gross proceeds from the closing of the offering of Series C-1 Preferred Stock and Series C-2 Preferred Stock (as reported in the Company’s Current Reports on Form 8-K filed with the SEC on August 21, 2020 and August 25, 2020, respectively), was approximately \$25 million.

The Company and the Investors also entered into a registration rights agreement (the “Registration Rights Agreement”), pursuant to which the Company agreed to file a registration statement covering the resale of shares of Common Stock issuable (i) upon conversion of the Series C-3 Preferred Stock and (ii) as dividends payable on the Series C-3 Preferred Stock, within sixty days after the date of the final closing of the Private Placement.

In connection with the Private Placement, the Company entered into a Placement Agency Agreement (the "Placement Agency Agreement"), with Aegis Capital Corp., which acted as the Company's exclusive placement agent (the "Placement Agent") for the Private Placement. Pursuant to the terms of the Placement Agency Agreement, in connection with the final closing of the Private Placement, the Company paid the Placement Agent an aggregate cash fee of \$305,600, a non-accountable expense allowance of \$91,680 and will issue to the Placement Agent or its designees warrants to purchase 326 shares of Series C-3 Preferred Stock (the "Placement Agent Warrants"). The Placement Agent Warrants have an exercise price of \$1,000 per share, provide for a cashless exercise feature and are exercisable for a period of four years from the date of the initial closing of the Private Placement. The Series C-3 Preferred Stock issuable upon exercise of the Placement Agent Warrants will be convertible into shares of Common Stock (the "Placement Agent Warrant Shares") and will be entitled to the same dividend rights as the outstanding Series C-3 Preferred Stock.

On August 31, 2020, the Company issued Placement Agent Warrants to purchase 1,959 shares of the Company's Series C-1 Preferred Stock, 219 shares of the Company's Series C-2 Preferred Stock and 326 shares of Series C-3 Preferred Stock.

The Subscription Agreements contain representations and warranties that the parties made to, and solely for the benefit of, the others in the context of all of the terms and conditions of that agreement and in the context of the specific relationship between the parties. The provisions of such agreements, including the representations and warranties contained therein, are not for the benefit of any party other than the parties to such agreement and are not intended as documents for investors and the public to obtain factual information about the current state of affairs of the parties to that agreement. Rather, investors and the public should look to other disclosures contained in the Company's filings with the U.S. Securities and Exchange Commission.

The forgoing descriptions of the Placement Agent Warrants, Subscription Agreements, the Registration Rights Agreement and the Placement Agency Agreement, are qualified by reference to the full text of these documents. Copies of the form of Subscription Agreement, the form of Registration Rights Agreement and the Placement Agency Agreement were previously filed as Exhibits 10.5, 10.3, and 10.4, respectively, to the Company's Current Report on Form 8-K filed with the SEC on August 21, 2020 and are incorporated herein by reference. A copy of the form of Placement Agent Warrant is attached hereto as Exhibit 4.1 and incorporated herein by reference.

Item 3.02 Unregistered Sales of Equity Securities

The information set forth in Item 1.01 of this Current Report on Form 8-K with respect to the Private Placement is incorporated by reference into this Item 3.02.

The securities issued in the Private Placement, the Placement Agent Warrants and Placement Agent Warrant Shares are exempt from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act") pursuant to Section 4(a)(2) of the Securities Act and/or Rule 506(b) of Regulation D promulgated thereunder because, among other things, the transaction did not involve a public offering, the investors are accredited investors, the investors are taking the securities for investment and not resale and the Company took appropriate measures to restrict the transfer of the securities. The securities have not been registered under the Securities Act and may not be sold in the United States absent registration or an exemption from registration. This Current Report on Form 8-K shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction.

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

Series C-3 Preferred Stock

On August 31, 2020, the Company completed a closing of the Private Placement, and on August 31, 2020 the Company filed a Certificate of Designation of Preferences, Rights and Limitations of Series C-3 Preferred Stock (the "Certificate of Designation") with the Secretary of State of the State of Nevada that became effective immediately. Pursuant to the Certificate of Designation, the Company designated 3,700 shares of the Company's previously undesignated preferred stock as Series C-3 Preferred Stock. Each class of Series C Preferred Stock issued in the Private Placement shall have identical terms, except for the Conversion Price of the particular class of Series C Preferred Stock. The Series C-3 Preferred Stock has a conversion price of \$1.15 per share and otherwise has the terms as set forth below.

Dividends. The Series C Preferred Stock will be entitled to receive dividends, payable in shares of Common Stock at a rate of 10%, 15%, 20% and 25% of the number of shares of Common Stock issuable upon conversion of the Series C Preferred Stock, on the 12th, 24th, 36th and 48th month, anniversary of the initial closing of the Private Placement which occurred on August 19, 2020. Dividends will be payable in shares of Common Stock and will only be payable to those holders that continue to hold the Series C Preferred Stock on the respective anniversary dates of August 19, 2020. The dividends set forth above shall be accelerated and paid (to the extent not previously paid) upon the consummation of a Fundamental Transaction (as defined in the Certificate of Designation) and upon the Mandatory Conversion Date (as defined in the Certificate of Designation), to the extent accrued as of the Mandatory Conversion Date and not previously paid as of such date. In addition, each holder of Series C Preferred Stock will be entitled to receive dividends equal, on an as-converted to shares of Common Stock basis, to and in the same form as dividends actually paid on shares of Common Stock when, as, and if such dividends are paid on shares of Common Stock.

Rank. The Series C Preferred Stock will rank on parity with the shares of the Company's Series A Preferred Stock and Series B Preferred Stock.

Liquidation. Upon any dissolution, liquidation or winding up, whether voluntary or involuntary, holders of Series C Preferred Stock, together with the Series A Preferred Stock and Series B Preferred Stock, will be entitled to receive distributions out of the Company's assets in an amount per share equal to \$1,000 with respect to the Series C Preferred Stock (and \$1.00 and \$8.00 per share, respectively, for the Series A Preferred Stock and Series B Preferred Stock) plus all accrued and unpaid dividends, whether capital or surplus before any distributions shall be made on any shares of Common Stock.

Conversion. Upon the earlier of (i) the four year anniversary of the initial closing of the Private Placement which occurred on August 19, 2020 or (ii) the consent to conversion by holders of at least 50.1% of all of the then-outstanding shares of Series C Preferred Stock, without any action on the part of the holder, each share of Series C Preferred Stock will automatically convert into shares of Common Stock at the Conversion Price. In addition, each share of Series C Preferred Stock will be convertible, at any time and from time to time at the option of the holder, into that number of shares of Common Stock at the Conversion Price, subject to adjustment. The Conversion Price of the Series C Preferred Stock, will equal the lesser of (i) the closing price of the Common Stock on Nasdaq on the date immediately preceding the signing of the applicable binding agreements for the applicable round of the Private Placement for which the Series C Preferred Stock is issued or (ii) the average closing price of the Common Stock on Nasdaq for the five trading days immediately preceding the signing of the applicable binding agreements for the applicable round of the Private Placement for which the Series C Preferred Stock is issued, subject to adjustment. The Conversion Prices for the Series C-1 Preferred Stock, Series C-2 Preferred Stock and Series C-3 Preferred Stock are \$1.16, \$1.214 and \$1.15, respectively.

Conversion Price Adjustment.

Stock Dividends and Stock Splits. If the Company pays a stock dividend or otherwise makes a distribution payable in shares of Common Stock on shares of Common Stock or any other common stock equivalents, subdivides or combines outstanding Common Stock or reclassifies Common Stock, the Conversion Price will be adjusted by multiplying the then conversion price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately before such event, and the denominator of which shall be the number of shares outstanding immediately after such event.

Fundamental Transaction. If the Company effects a fundamental transaction, then upon any subsequent conversion of Series C Preferred Stock, the holder thereof shall have the right to receive, for each share of Common Stock that would have been issuable upon such conversion immediately prior to the occurrence of such fundamental transaction, the number of shares of the successor's or acquiring corporation's common stock or of Common Stock, if the Company is the surviving corporation, and any additional consideration receivable as a result of such fundamental transaction by a holder of the number of shares of Common Stock into which Series C Preferred Stock is convertible immediately prior to such fundamental transaction. A fundamental transaction means: (i) a merger or consolidation with or into another entity, (ii) any sale of all or substantially all of our assets in one transaction or a series of related transactions, or (iii) any reclassification of Common Stock or any compulsory share exchange by which Common Stock is effectively converted into or exchanged for other securities, cash or property.

Voting Rights. Except as otherwise provided in the Certificate of Designation or required by law, Series C Preferred Stock shall have no separate class voting rights. The Certificate of Designation provides that each share of Series C Preferred Stock will entitle its holder to vote with the Common Stock on an as-converted basis. Notwithstanding certain protections in the certificate of designation, Nevada law also provides holders of preferred stock with certain rights. The holders of the outstanding shares of Series C Preferred Stock generally will be entitled to vote as a class upon a proposed amendment to the Company's Articles of Incorporation if the amendment would:

- increase or decrease the aggregate number of authorized shares of Series C Preferred Stock;
- increase or decrease the par value of the shares of Series C Preferred Stock;
- authorize or issue an additional class or series of capital stock that ranks senior to the Series C Preferred Stock with respect to dividends, redemption or distribution of assets upon liquidation, dissolution or winding up of the Company or entering into any agreement with respect to the foregoing; or
- alter or change the powers, preferences, or special rights of the shares of Series C Preferred Stock so as to affect them adversely.

Fractional Shares. No fractional shares of Common Stock will be issued upon conversion of Series C Preferred Stock. Rather, the Company will round up to the next whole share.

The foregoing description of the terms of the Series C-3 Preferred Stock does not purport to be complete and is qualified in its entirety by reference to the complete text of the Certificate of Designation which is filed herewith as Exhibit 3.1, and incorporated herein by reference.

Item 7.01 Regulation FD.

In connection with the pricing and closing of the Private Placement for the Series C-3 Preferred Stock, the Company issued a press release on September 1, 2020, a copy of which is attached hereto as Exhibit 99.1.

The information in this Current Report on Form 8-K under Item 7.01, including the information contained in Exhibit 99.1, is being furnished to the Securities and Exchange Commission, and shall not be deemed to be "filed" for the purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that section, and shall not be deemed to be incorporated by reference into any filing under the Securities Act of 1933 or the Securities Exchange Act of 1934, except as shall be expressly set forth by a specific reference in such filing.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Exhibit
3.1	Certificate of Designation of Preferences, Rights and Limitations of Series C-3 Preferred Stock.
4.1	Form of Placement Agent Warrant.
10.1	Form of Registration Rights Agreement (incorporated by reference to Exhibit 10.43 to Amendment No. 1 to the Company's Registration Statement on Form S-4 filed with the SEC on July 2, 2020).
10.2	Placement Agency Agreement, dated as of June 24, 2020, by and among DelMar Pharmaceuticals, Inc. and Aegis Capital Corp. (incorporated by reference to Exhibit 10.4 to the Company's Current Report on Form 8-K filed with the SEC on August 21, 2020).
10.3	Form of Subscription Agreement (incorporated by reference to Exhibit 10.5 to the Company's Current Report on Form 8-K filed with the SEC on August 21, 2020).
99.1	Press Release dated September 1, 2020.

SIGNATURE

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

Kintara Therapeutics, Inc.
a Nevada corporation
(Registrant)

Date: September 1, 2020

By: /s/ Scott Prail
Name: Scott Prail
Title: Chief Financial Officer

**CERTIFICATE OF DESIGNATION OF PREFERENCES,
RIGHTS AND LIMITATIONS
OF
SERIES C-3 PREFERRED STOCK

OF
KINTARA THERAPEUTICS, INC.**

It is hereby certified that:

1. The name of the Company (hereinafter called the “Company”) is Kintara Therapeutics, Inc., a Nevada corporation.

2. The Certificate of Incorporation of the Company authorizes the issuance of five Million (5,000,000) shares of preferred stock, \$0.001 par value per share, of which 278,530 has been designated as Series A Preferred Stock, 1,000,000 has been designated as Series B Preferred Stock, 22,000 have been designated as Series C-1 Preferred Stock (the “Series C-1 Preferred Stock”) and 2,700 have been designated as Series C-2 Preferred Stock (the “Series C-2 Preferred Stock”), and expressly vests in the Board of Directors of the Company the authority to issue any or all of said shares in one (1) or more series and by resolution or resolutions to establish the designation and number and to fix the relative rights and preferences of each series to be issued.

3. The Board of Directors of the Company, pursuant to the authority expressly vested in it as aforesaid, has adopted the following resolutions creating a Series C-3 issue of Preferred Stock:

RESOLVED, that three thousand seven hundred (3,700) of the Five Million (5,000,000) authorized shares of Preferred Stock of the Company shall be designated Series C-3 Preferred Stock, and shall possess the rights and preferences set forth below:

Section 1. Definitions. For the purposes hereof, the following terms shall have the following meanings:

“**Affiliate**” means any person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 of the Securities Act. A Person shall be regarded as in control of the Company if the Company owns or directly or indirectly controls more than fifty percent (50%) of the voting stock or other ownership interest of the other person, or if it possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such person.

“**Alternate Consideration**” shall have the meaning set forth in Section 7(d).

“**Attribution Parties**” shall have the meaning set forth in Section 6(e).

“**Beneficial Ownership Limitation**” shall have the meaning set forth in Section 6(e).

“**Business Day**” means any day except Saturday, Sunday, and any day which shall be a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close. Whenever any payment or other obligation hereunder shall be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.

“**Buy-In**” shall have the meaning set forth in Section 6(d)(iv) hereto.

“**Certificate of Designations**” means this Certificate of Designation of Preferences, Rights and Limitations of Series C-3 Preferred Stock.

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

“**Common Stock**” means the Company’s common stock, par value \$0.001 per share, and stock of any other class of securities into which such securities may hereafter be reclassified or changed into.

“**Common Stock Equivalents**” means any securities of the Company or the Subsidiaries of the Company, whether or not vested or otherwise convertible or exercisable into shares of Common Stock at the time of such issuance, which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock, and excluding shares of Common Stock issuable upon conversion of the Series C-3 Preferred Stock.

“**Company Conversion Notice**” means a notice delivered by the Company to effect a Mandatory Conversion of all the outstanding Series C-3 Preferred Stock, provided that the effective date of such Mandatory Conversion shall be no less than ten (10) Business Days following the date that such notice is deemed to have been given.

“**Control Limitation**” shall have the meaning set forth in Section 6(f).

“**Conversion Amount**” means the Stated Value at issue.

“**Conversion Date**” shall have the meaning set forth in Section 6(b).

“**Conversion Price**” means \$1.15, subject to adjustment as set forth in Section 7.

“**Conversion Shares**” means the shares of Common Stock issuable upon conversion of the shares of Series C-3 Preferred Stock in accordance with the terms hereof.

“**Dividend**” shall have the meaning set forth in Section 3.

“**Dividend Shares**” shall have the meaning set forth in Section 3.

“**Effective Date**” means the date that the Certificate of Designation of Preferences, Rights and Limitations of Series C-1 Preferred Stock is filed with the Secretary of State of Nevada.

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

“**First Anniversary**” shall have the meaning set forth in Section 3.

“**Fourth Anniversary**” shall have the meaning set forth in Section 3.

“**Fundamental Transaction**” shall have the meaning set forth in Section 7(d).

“**Holder**” shall mean an owner of shares of Series C-3 Preferred Stock.

“**Junior Securities**” shall be the Common Stock and any other class or series of capital stock of the Company hereafter created which does not expressly rank pari passu with or senior to the Series C-3 Preferred Stock.

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

“**Mandatory Conversion**” shall have the meaning set forth in Section 6(b).

“**Mandatory Conversion Date**” shall have the meaning set forth in Section 6(b).

“**Mandatory Conversion Determination**” shall have the meaning set forth in Section 6(b).

“**Nevada Courts**” shall have the meaning set forth in Section 8(d).

“**New York Courts**” shall have the meaning set forth in Section 8(d).

“**Notice of Conversion**” shall have the meaning set forth in Section 6(a).

“**Optional Conversion Date**” shall have the meaning set forth in Section 6(a).

“**Original Issue Date**” means the date of the first issuance of any shares of Series C-3 Preferred Stock regardless of the number of transfers of any particular shares of Series C-3 Preferred Stock and regardless of the number of certificates which may be issued, if any, to evidence such Series C-3 Preferred Stock.

“**Parity Securities**” means the Series A Preferred Stock, the Series B Preferred Stock, the Series C-1 Preferred Stock, the Series C-2 Preferred Stock and any other class or series of capital stock of the Company hereinafter created that expressly ranks pari passu with the Series C-3 Preferred Stock.

“**Person**” means an individual, entity, corporation, partnership, association, limited liability company, limited liability partnership, joint-stock company, trust or unincorporated organization.

“**PIK Shares**” shall have the meaning set forth in Section 3.

“**Preferred Stock**” means the Company’s preferred stock, par value \$0.001 per share, and stock of any other class of securities into which such securities may hereafter be reclassified or changed into.

“**Purchase Rights**” shall have the meaning set forth in Section 7(b).

“**Second Anniversary**” shall have the meaning set forth in Section 3.

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

“**Senior Securities**” shall be any class or series of capital stock of the Company hereafter created which expressly ranks senior to the Series C-3 Preferred Stock.

“**Series A Preferred Stock**” means the Company’s Series A Preferred Stock, par value \$0.001 per share.

“**Series B Preferred Stock**” means the Company’s Series B Preferred Stock, par value \$0.001 per share.

“**Series C Preferred Stock**” means the one or more series of the Company’s preferred stock, par value \$0.001 per share, offered and sold in connection with the Placement Agency Agreement dated June 24, 2020, between the Company and Aegis Capital Corp.

“**Series C-3 Preferred Stock**” shall have the meaning set forth in Section 2.

“**Share Delivery Date**” shall have the meaning set forth in Section 6(d).

“**Stated Value**” means \$1,000.00 per share of Series C-3 Preferred Stock.

“**Subsidiary**” means any subsidiary of the Company as set forth on Exhibit 21.1 to the Company’s Annual Report on Form 10-K most recently filed with the Commission, and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the Effective Date.

“**Third Anniversary**” shall have the meaning set forth in Section 3.

“**Trading Day**” means a day on which the principal Trading Market is open for business.

“**Trading Market**” means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, OTCQB or OTCQX (or any successors to any of the foregoing).

“**Transfer Agent**” means Mountain Share Transfer, Inc., the current transfer agent of the Company, with a mailing address of 2030 Powers Ferry Road SE, Suite #212, Atlanta, GA 30339, a facsimile number of (404) 816-8830 and an email address of esn@mountainsharetransfer.com, and any successor transfer agent of the Company.

Section 2. Designation and Authorized Shares. The series of Preferred Stock designated by this Certificate of Designations shall be designated as the Company’s Series C-3 Convertible Preferred Stock (the “**Series C-3 Preferred Stock**”) and the number of shares so designated shall be three thousand seven hundred (3,700). So long as any of the Series C-3 Preferred Stock are issued and outstanding, the Company shall not issue any shares of its preferred stock that are senior to the Series C-3 Preferred Stock in Liquidation without the approval of the Holders of a majority of the issued and outstanding shares of Series C-3 Preferred Stock. The Series C-3 Preferred Stock shall not be redeemed for cash and under no circumstances shall the Company be required to net cash settle the Series C-3 Preferred Stock.

Section 3. Dividends. Holders of shares of Series C-3 Preferred Stock will be entitled to receive: (a) dividends (the “**Dividends**”) payable as follows: (i) a number of shares of Common Stock equal to ten percent (10%) of the number of shares of Common Stock issuable upon conversion of the Series C-3 Preferred Stock then held by such Holder on the 12-month anniversary of the Effective Date (the “**First Anniversary**”), (ii) a number of shares of Common Stock equal to fifteen percent (15%) of the number of shares of Common Stock issuable upon conversion of the Series C-3 Preferred Stock then held by such Holder on the 24-month anniversary of the Effective Date (the “**Second Anniversary**”), (iii) a number of shares of Common Stock equal to twenty percent (20%) of the shares of Common Stock issuable upon conversion of the Series C-3 Preferred Stock then held by such Holder on the 36-month anniversary of the Effective Date (the “**Third Anniversary**”) and (iv) a number of shares of Common Stock equal to twenty five percent (25%) of the shares of Common Stock issuable upon conversion of the Series C-3 Preferred Stock then held by such Holder on the 48-month anniversary of the Effective Date (the “**Fourth Anniversary**”) (collectively, the “**PIK Shares**”); and (b) dividends equal, on an as-if-converted to shares of Common Stock basis, to and in the same form as dividends actually paid on shares of the Common Stock when, as, and if such dividends are paid on shares of the Common Stock. The Dividends set forth in clause (a) of this Section 3 will be satisfied solely by delivery of shares of Common Stock. The Dividends set forth in clause (a) shall be accelerated and paid (to the extent not previously paid) upon the consummation of a Fundamental Transaction. The Dividends set forth in clause (a) shall be paid upon the Mandatory Conversion Date, to the extent accrued as of the Mandatory Conversion Date and not previously paid as of such date. Notwithstanding the foregoing, to the extent that a Holder’s right to participate in any dividend of PIK Shares or any stock dividend declared on the Common Stock to which such Holder is entitled to pursuant to clause (b) of this Section 3 (“**Dividend Shares**”) would result in such Holder exceeding the Beneficial Ownership Limitation or the Control Limitation, then such Holder shall not be entitled to participate in any such dividend to such extent (or in the beneficial ownership of any PIK Shares or Dividend Shares as a result of such dividend to such extent) and the portion of such PIK Shares and/or Dividend Shares that would cause such Holder to exceed the Beneficial Ownership Limitation or the Control Limitation shall be held in abeyance by the Company for the benefit of such Holder (which shall not give the Holder any power to vote or dispose of such Dividend Shares) until such time, if ever, as such Holder’s beneficial ownership thereof would not result in such Holder exceeding the Beneficial Ownership Limitation or the Control Limitation. For the avoidance of doubt, at any time during which there is no effective registration statement for the issuance or resale of the PIK Shares or Dividend Shares, the Company may pay such dividends with unregistered Common Stock.

Section 4. Voting Rights. On any matter presented to the stockholders of the Company for their action or consideration at any meeting of stockholders of the Company (or by written consent of stockholders in lieu of meeting), and subject to the Beneficial Ownership Limitation set forth in Section 6(e) and the Control Limitation set forth in Section 6(f), each Holder of outstanding shares of Series C-3 Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Series C-3 Preferred Stock held by such holder are convertible, subject to the Beneficial Ownership Limitation set forth in Section 6(e) and the Control Limitation set forth in Section 6(f), as of the record date for determining stockholders entitled to vote on such matter. Except as provided by law or by the other provisions of the Certificate of Incorporation, Holders of Series C-3 Preferred Stock shall vote together with the holders of Common Stock as a single class. The Holders shall be entitled to the same notice of any regular or special meeting of the stockholders as may or shall be given to holders of Common Stock entitled to vote at such meetings. As long as any shares of Series C-3 Preferred Stock are outstanding, the Company may not, without the affirmative vote of the Holders of the majority of the then outstanding shares of the Series C-3 Preferred Stock voting as a separate class, (a) alter or change adversely the powers, preferences or rights given to the Series C-3 Preferred Stock or alter or amend this Certificate of Designation, (b) alter or change adversely the powers, preferences or rights given to the Series C-1 Preferred Stock or alter or amend the Certificate of Designation of the Series C-1 Preferred Stock to provide for greater rights than the Series C-3 Preferred Stock, (c) alter or change adversely the powers, preferences or rights given to the Series C-2 Preferred Stock or alter or amend the Certificate of Designation of the Series C-2 Preferred Stock to provide for greater rights than the Series C-3 Preferred Stock, (d) authorize or create any class of stock ranking as to dividends, redemption or distribution of assets upon a liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, that is senior to the Series C-3 Preferred Stock, (e) amend its certificate of incorporation or other charter documents in any manner that adversely affects any rights of the Holders, (f) increase the number of authorized shares of Series C-3 Preferred Stock, or (g) enter into any agreement with respect to any of the foregoing. Notwithstanding anything contained herein to the contrary, no holder of Series C-3 Preferred Stock shall be entitled to vote on any matter presented to the Company's stockholders relating to approving the conversion of such holder's Series C-3 Preferred Stock into an amount in excess of the Control Limitation.

Section 5. Liquidation.

(a) The Series C-3 Preferred Stock shall, with respect to distributions of assets and rights upon the occurrence of any liquidation, dissolution or winding-up of the Company ("**Liquidation**"), rank: (i) junior to the Senior Securities, (ii) pari passu with the Parity Securities; and (iii) senior to the Junior Securities of the Company. Upon any Liquidation, after the satisfaction in full of the debts of the Company and payment of the liquidation preference to the Senior Securities, the Holders of shares of Series C-3 Preferred Stock shall be entitled to be paid, on a pari passu basis with the payment of any liquidation preference afforded to holders of any Parity Securities, for each share of Series C-3 Preferred Stock held thereby, out of (but only to the extent) the assets of the Company are legally available for distribution to its stockholders, an amount equal to the Stated Value per share (as adjusted for stock splits, stock dividends, combinations or other recapitalizations of the Series C-3 Preferred Stock), plus any accrued but unpaid dividends before any distribution or payment may be made to the holders of any Junior Securities. If the assets of the Company available for distribution to Holders of shares of Series C-3 Preferred Stock shall be insufficient to permit payment in full to such Holders of the sums which such Holders are entitled to receive in such case and of any liquidation preference afforded to holders of any Parity Securities, then all of the assets available for distribution to holders of the Series C-3 Preferred Stock and the Parity Securities shall be distributed among and paid to such holders ratably in proportion to the amounts that would be payable to such holders if such assets were sufficient to permit payment in full.

(b) After the Holders of all shares of Series C-3 Preferred Stock shall have been paid in full the amounts to which they are entitled pursuant to paragraph 5(a), the shares of Series C-3 Preferred Stock shall not be entitled to any further participation in any distribution of assets of the Company.

Section 6 Conversion.

(a) Conversions at Option of Holder. Each share of Series C-3 Preferred Stock (or fraction thereof) shall be convertible, at any time and from time to time, from and after the Original Issue Date at the option of the Holder thereof into that number of shares of Common Stock (subject to the Beneficial Ownership Limitation set forth in Section 6(e) and the Control Limitation set forth in Section 6(f)) determined by dividing the Stated Value by the Conversion Price then in effect. Holders shall effect conversions by providing the Company and the Transfer Agent, with the form of conversion notice attached hereto as Annex A (a "**Notice of Conversion**"). Each Notice of Conversion shall specify the number of shares of Series C-3 Preferred Stock to be converted, the number of shares of Series C-3 Preferred Stock owned prior to such conversion, the number of shares of Series C-3 Preferred Stock owned subsequent to such conversion and the date on which such conversion is to be effected, which date may not be prior to the date the applicable Holder delivers such Notice of Conversion to the Company pursuant to Section 6 and in accordance with Section 9 (such date, the "**Optional Conversion Date**"). Such Holder shall be deemed for all corporate purposes to have become the holder of record of the Conversion Shares with respect to which the shares of Series C-3 Preferred Stock have been converted as of the Optional Conversion Date. If no Optional Conversion Date is specified in a Notice of Conversion, the Optional Conversion Date shall be the date that such Notice of Conversion and Cancellation Request are deemed delivered to the Company in accordance with Section 9. The calculations and entries set forth in the Notice of Conversion shall control in the absence of manifest or mathematical error. No ink-original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required. To effect conversions of shares of Series C-3 Preferred Stock, a Holder shall not be required to surrender any Certificated Series C-3 Preferred Stock to the Company unless all of the shares of Series C-3 Preferred Stock represented by any such certificate are so converted, in which case such Holder shall deliver the Certificated Series C-3 Preferred Stock promptly following the Optional Conversion Date. To the extent that the Beneficial Ownership Limitation contained in Section 6(e) or the Control Limitation contained in Section 6(f) applies to the converting Holder, the determination of whether the Series C-3 Preferred Stock is convertible (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and of how many shares of Series C-3 Preferred Stock are convertible shall be in the sole discretion of such Holder, and the submission of a Notice of Conversion shall be deemed to be such Holder's determination of whether the shares of Series C-3 Preferred Stock may be converted (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and how many shares of the Series C-3 Preferred Stock are convertible, in each case subject to the Beneficial Ownership Limitation or the Control Limitation. To ensure compliance with this restriction, each Holder will be deemed to represent to the Company each time it delivers a Notice of Conversion that such Notice of Conversion has not violated the restrictions set forth in this Section and the Company shall have no obligation to verify or confirm the accuracy of such determination.

(b) Mandatory Conversion. On the earliest to occur of: (i) the effective date of such conversion set forth in the Company Conversion Notice, provided that the Company may not deliver the Company Conversion Notice unless Holders of at least 50.1% of all outstanding shares of Series C Preferred Stock consented to such conversion prior to the delivery of the Company Conversion Notice; or (ii) the Fourth Anniversary (the earlier to occur of the foregoing, the "**Mandatory Conversion Date**") and together with an Optional Conversion Date, the "**Conversion Date**"), each outstanding share of Series C-3 Preferred Stock will automatically convert (subject to the Beneficial Ownership Limitation set forth in Section 6(e) and the Control Limitation contained in Section 6(f)) into such number of fully paid and non-assessable shares of Common Stock as is determined by dividing the Stated Value by the Conversion Price in effect on the Mandatory Conversion Date (a "**Mandatory Conversion**"). Within two Trading Days of (x) the Mandatory Conversion Date, if the shares of Series C-3 Preferred Stock are held in book entry form, or (y) such Holder's surrender of Certificated Series C-3 Preferred Stock (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and an indemnity or security reasonably acceptable to the Company (which shall not include the posting of any bond) to indemnify the Company against any claim that may be made against the Company on account of the alleged loss, theft or destruction of such certificate), the Company shall deliver: (I) to each Holder, the Conversion Shares issuable upon conversion of such Holder's Series C-3 Preferred Stock via the Certificated Preferred Stock, and (II) the PIK Shares issuable upon Mandatory Conversion under Section 3, to Holders as of the Mandatory Conversion Date; provided that, any failure by the Holder to return Certificated Series C-3 Preferred Stock, if any, will have no effect on the Mandatory Conversion pursuant to this Section 6(b), which Mandatory Conversion will be deemed to occur on the Mandatory Conversion Date. To the extent that the Beneficial Ownership Limitation contained in Section 6(e) or the Control Limitation contained in Section 6(f) applies to any Holder, such Holder shall within five Business Days of such Holder's receipt of the Company Conversion Notice, provide the Company with a written determination (a "**Mandatory Conversion Determination**"), delivered in accordance with Section 9, of whether such Holder's Series C-3 Preferred Stock is convertible (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and of how many shares of Series C-3 Preferred Stock are convertible, and the submission of a Mandatory Conversion Determination shall be deemed to be such Holder's determination of the maximum number of shares of Series C-3 Preferred Stock that may be converted, subject to the Beneficial Ownership Limitation or the Control Limitation and the portion of the shares of Common Stock issuable upon such Mandatory Conversion hereunder that would cause such Holder to exceed the Beneficial Ownership Limitation or the Control Limitation shall be held in abeyance by the Company for the benefit of such Holder (which shall not give the Holder any power to vote or dispose of such shares during such abeyance period) until such time, if ever, as such Holder's beneficial ownership thereof would not result in such Holder exceeding the Beneficial Ownership Limitation or the Control Limitation. To ensure compliance with this restriction, each Holder will be deemed to represent to the Company each time it delivers a Mandatory Conversion Determination that such determination has not violated the restrictions set forth in Section 6(e) or Section 6(f) and the Company shall have no obligation to verify or confirm the accuracy of such determination.

(c) Conversion Shares. The aggregate number of Conversion Shares which the Company shall issue upon conversion of the Series C-3 Preferred Stock (whether pursuant to Section 6(a) or 6(b)) will be equal to the number of shares of Series C-3 Preferred Stock to be converted, multiplied by the Stated Value, divided by the Conversion Price in effect at the time of the conversion. For the avoidance of doubt, at any time during which there is no effective registration statement for the issuance or resale of the Conversion Shares, the Company may settle a conversion of the Series C-3 Preferred Stock (whether pursuant to Section 6(a) or 6(b)) with unregistered Common Stock.

(d) Mechanics of Conversion.

(i) Delivery of Conversion Shares upon Conversion. Promptly after the applicable Conversion Date, but in any case within the earlier of (i) two (2) Trading Days and (ii) the Standard Settlement Period (as defined below) thereof (the "**Share Delivery Date**"), the Company shall deliver, or cause to be delivered, to the converting Holder the number of Conversion Shares being acquired upon the conversion of the Series C-3 Preferred Stock pursuant to Section 6(a) or 6(b), as applicable, any PIK Shares to which the Holder is entitled pursuant to Section 3 that have not been previously issued, if any, and a wire transfer of immediately available funds in the amount of accrued and unpaid cash dividends, if any. Conversion Shares issuable hereunder shall be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's or its designee's balance account with DTC through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and otherwise by physical delivery of a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Conversion Shares and PIK Shares, if any, to which the Holder is entitled pursuant to such conversion to the address specified by the Holder in the Notice of Conversion or the Company Conversion Notice, as the case may be. The Company shall (A) deliver (or cause to be delivered) to the converting Holder who has converted less than all of such Holder's Certificated Series C-3 Preferred Stock (1) a certificate or certificates, of like tenor, for the number of shares of Series C-3 Preferred Stock evidenced by any surrendered certificate or certificates less the number of shares of Series C-3 Preferred Stock converted. The Company agrees to maintain a transfer agent that is a participant in the DTC's FAST program so long as any shares of Series C-3 Preferred Stock remain outstanding. As used herein, "**Standard Settlement Period**" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Conversion.

(ii) Failure to Deliver Conversion Shares upon an Optional Conversion If, in the case of any Notice of Conversion, such Conversion Shares are not delivered to or as directed by the applicable Holder by the Share Delivery Date, in addition to any other rights herein, the Holder shall be entitled to elect by written notice to the Transfer Agent, on behalf of the Company, at any time on or before its receipt of such Conversion Shares, to rescind such Conversion, in which event the Company shall promptly return to the Holder any Certificated Series C-3 Preferred Stock delivered to the Company and the Holder shall promptly return to the Company the Conversion Shares issued to such Holder pursuant to the rescinded Notice of Conversion.

(iii) Obligation Absolute: Partial Liquidated Damages. The Company's obligation to issue and deliver the Conversion Shares upon conversion of Series C-3 Preferred Stock in accordance with the terms hereof are absolute and unconditional, irrespective of any action or inaction by a Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by such Holder or any other Person of any obligation to the Company or any violation or alleged violation of law by such Holder or any other person, and irrespective of any other circumstance which might otherwise limit such obligation of the Company to such Holder in connection with the issuance of such Conversion Shares; provided, however, that such delivery shall not operate as a waiver by the Company of any such action that the Company may have against such Holder. In the event a Holder shall elect to convert any or all of its Series C-3 Preferred Stock, the Company may not refuse conversion based on any claim that such Holder or any one associated or affiliated with such Holder has been engaged in any violation of law, agreement or for any other reason, unless an injunction from a court, on notice to Holder, restraining and/or enjoining conversion of all or part of the Series C-3 Preferred Stock of such Holder shall have been sought and obtained, and the Company posts a surety bond for the benefit of such Holder in the amount of 150% of the Stated Value of Series C-3 Preferred Stock which is subject to the injunction, which bond shall remain in effect until the completion of arbitration/litigation of the underlying dispute and the proceeds of which shall be payable to such Holder to the extent it obtains judgment. In the absence of such injunction, the Company shall issue Conversion Shares upon a properly noticed conversion. If the Company fails to deliver to a Holder such Conversion Shares pursuant to Section 6(d)(i) on the Share Delivery Date applicable to such conversion, the Company shall pay to such Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Stated Value of the Series C-3 Preferred Stock being converted, \$10 per Trading Day (increasing to \$20 per Trading Day on the fifth Trading Day after such damages begin to accrue) for each Trading Day after the Share Delivery Date until such Conversion Shares are delivered or Holder rescinds such conversion. Nothing herein shall limit a Holder's right to pursue actual damages for the Company's failure to deliver Conversion Shares within the period specified herein and such Holder shall have the right to pursue all remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief. The exercise of any such rights shall not prohibit a Holder from seeking to enforce damages pursuant to any other Section hereof or under applicable law.

(iv) Compensation for Buy-In on Failure to Timely Deliver Conversion Shares Upon Conversion. In addition to any other rights available to the Holder, if the Company fails for any reason to deliver to a Holder the applicable Conversion Shares by the Share Delivery Date pursuant to Section 6(d)(i), and if after such Share Delivery Date such Holder is required by its brokerage firm to purchase (in an open market transaction or otherwise), or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by such Holder of the Conversion Shares which such Holder was entitled to receive upon the conversion relating to such Share Delivery Date (a "Buy-In"), then the Company shall (A) pay in cash to such Holder (in addition to any other remedies available to or elected by such Holder) the amount, if any, by which (x) such Holder's total purchase price (including any brokerage commissions) for the Common Stock so purchased exceeds (y) the product of (1) the aggregate number of Conversion Shares that such Holder was entitled to receive from the conversion at issue multiplied by (2) the actual sale price at which the sell order giving rise to such purchase obligation was executed (including any brokerage commissions) and (B) (I) in the case of an Optional Conversion either (a) reissue (if surrendered) the shares of Series C-3 Preferred Stock equal to the number of shares of Series C-3 Preferred Stock submitted for conversion (in which case, such conversion shall be deemed rescinded) or (b) deliver to such Holder the number of shares of Common Stock that would have been issued if the Company had timely complied with its delivery requirements under Section 6(d)(i) and (II) in the case of a Mandatory Conversion, deliver to such Holder the number of shares of Common Stock that would have been issued if the Company had timely complied with its delivery requirements under Section 6(d)(i). For example, if a Holder purchases shares of Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted conversion of shares of Series C-3 Preferred Stock with respect to which the actual sale price of the Conversion Shares (including any brokerage commissions) giving rise to such purchase obligation was a total of \$10,000 under clause (A) of the immediately preceding sentence, the Company shall be required to pay such Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to such Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver the Conversion Shares upon conversion of the shares of Series C-3 Preferred Stock as required pursuant to the terms hereof.

(v) Reservation of Shares Issuable Upon Conversion. The Company covenants that it will at all times reserve and keep available out of its authorized and unissued shares of Common Stock, free from preemptive rights or any other actual contingent purchase rights of Persons other than the Holders of the Series C-3 Preferred Stock, not less than such aggregate number of shares of the Common Stock as shall be issuable (i) upon the conversion of all outstanding shares of Series C-3 Preferred Stock (taking into account the adjustments and restrictions of Section 7) and (ii) in respect of the PIK Shares. The Company covenants that all Conversion Shares and PIK Shares shall, when issued, be duly authorized, validly issued, fully paid and nonassessable.

(vi) Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of or as dividends on the Series C-3 Preferred Stock. As to any fraction of a share which a Holder would otherwise be entitled to upon such conversion or in respect of any such dividend, the Company shall round up to the next whole share of Common Stock.

(vii) Transfer Taxes and Expenses. The issuance of Conversion Shares on conversion of this Series C-3 Preferred Stock shall be made without charge to any Holder for any Transfer Agent fees, documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such Conversion Shares, provided that the Company shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such Conversion Shares upon conversion in a name other than that of the Holders of such shares of Series C-3 Preferred Stock and the Company shall not be required to issue or deliver such Conversion Shares and shall not be responsible for partial liquidated damages under Section 6(d)(iii) or penalties under Section 6(d)(iv) unless or until the Person or Persons requesting the issuance thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

(e) Beneficial Ownership Limitation. The Company shall not effect any conversion of the Series C-3 Preferred Stock, including, without limitation, a Mandatory Conversion, and a Holder shall not have the right to receive Dividend Shares hereunder or convert any portion of the Series C-3 Preferred Stock, to the extent that, after giving effect to the receipt of dividends hereunder or conversion set forth on the applicable Notice of Conversion, such Holder (together with such Holder's Affiliates, and any Persons acting as a group together with such Holder or any of such Holder's Affiliates (such Persons, "Attribution Parties")) would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by such Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock received as Dividend Shares or issuable upon conversion of the Series C-3 Preferred Stock with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which are issuable upon (i) conversion of the remaining, unconverted Series C-3 Preferred Stock beneficially owned by such Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company subject to a limitation on conversion or exercise analogous to the limitation contained herein (including, without limitation, the Series C-3 Preferred Stock) beneficially owned by such Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 6(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith (other than as it relates to a Holder relying on the number of shares issued and outstanding as provided by the Company pursuant to this Section). In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 6(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as stated in the most recent of the following: (i) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (ii) a more recent public announcement by the Company or (iii) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request (which may be via email) of a Holder, the Company shall within one Trading Day confirm orally and in writing to such Holder the number of shares of Common Stock then outstanding. The "Beneficial Ownership Limitation" shall be 4.99% (or, at the written election of any Holder delivered to the Company pursuant to the terms of Section 9 prior to the issuance of any shares of Series C-3 Preferred Stock, 9.99%) of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of Series C-3 Preferred Stock held by the applicable Holder and/or the issuance of the Dividend Shares. A Holder, upon at least sixty-one (61) days advance written notice to the Company, may terminate, increase or decrease the Beneficial Ownership Limitation provisions of this Section 6(e); provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of this Series C-3 Preferred Stock held by the Holder and/or the issuance of the Dividend Shares, and the provisions of this Section 6(e) shall continue to apply. The limitations contained in this Section 6(e) shall apply to a successor holder of Series C-3 Preferred Stock. The limitations contained in this Section 6(e) and Section 7(b) shall terminate immediately at any time at which the Common Stock ceases to be an "equity security" as defined in Rule 13d-1(i) promulgated under the Exchange Act (or any successor rule).

(f) **Control Limitation.** Unless the Company obtains the approval of its stockholders for issuances of Common Stock in excess of such amount, the Company shall not effect any conversion of the Series C-3 Preferred Stock, including, without limitation, a Mandatory Conversion, and a Holder shall not have the right to receive dividends hereunder or convert any portion of the Series C-3 Preferred Stock, to the extent that, after giving effect to the receipt of dividends hereunder or conversion set forth on the applicable Notice of Conversion, the Holder, together with the Attribution Parties, would beneficially own in excess of the Control Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by such Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock received as dividends or issuable upon conversion of the Series C-3 Preferred Stock with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which are issuable upon (i) conversion of the remaining, unconverted Series C-3 Preferred Stock beneficially owned by such Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company subject to a limitation on conversion or exercise analogous to the limitation contained herein (including, without limitation, the Series C-3 Preferred Stock) beneficially owned by such Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 6(f), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith (other than as it relates to a Holder relying on the number of shares issued and outstanding as provided by the Company pursuant to this Section). For purposes of this Section 6(f), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as stated in the most recent of the following: (i) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (ii) a more recent public announcement by the Company or (iii) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request (which may be via email) of a Holder, the Company shall within one Trading Day confirm orally and in writing to such Holder the number of shares of Common Stock then outstanding. The "**Control Limitation**" shall be 19.99% of the number of shares of the Common Stock outstanding immediately before giving effect to the issuance of shares of Common Stock issuable upon conversion of the Series C-3 Preferred Stock and/or the issuance of the Dividend Shares. The limitations contained in this paragraph shall apply to a successor holder of the Series C-3 Preferred Stock.

Section 7. Certain Adjustments.

(a) **Stock Dividends and Stock Splits.** If the Company, at any time while the Series C-3 Preferred Stock is outstanding: (A) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any other Common Stock Equivalents (which, for avoidance of doubt, will not include any shares of Common Stock issued by the Company upon conversion of this Series C-3 Preferred Stock or payment of a dividend on this Series C-3 Preferred Stock); (B) subdivides outstanding shares of Common Stock into a larger number of shares; (C) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares; or (D) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Company, then the Conversion Price will be multiplied by a fraction of which the numerator will be the number of shares of Common Stock (excluding any treasury shares of the Company) outstanding immediately before such event and of which the denominator will be the number of shares of Common Stock, or in the event that clause (D) of this Section 7(a) will apply shares of reclassified capital stock, outstanding immediately after such event. Any adjustment made pursuant to this Section 7(a) will become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and will become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

(b) **Subsequent Rights Offerings.** In addition to any adjustments pursuant to Section 7(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "**Purchase Rights**"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of such Holder's Series C-3 Preferred Stock (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation or the Control Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance by the Company for the Holder (which shall not give the Holder any power to vote or dispose of such Purchase Rights) until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation or the Control Limitation).

(c) Pro Rata Distributions. During such time as this Series C-3 Preferred Stock is outstanding, if the Company declares or makes any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "**Distribution**"), at any time after the issuance of this Series C-3 Preferred Stock, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Series C-3 Preferred Stock (without regard to any limitations on conversion hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation or the Control Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance by the Company for the benefit of the Holder (which shall not give the Holder any power to vote or dispose of such shares) until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation or the Control Limitation).

(d) Fundamental Transaction. If, at any time while the Series C-3 Preferred Stock is outstanding, (A) the Company effects any merger or consolidation of the Company with or into another Person, (B) the Company effects any sale of all or substantially all of its assets in one transaction or a series of related transactions, or (C) the Company effects any reclassification of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property (in any such case, a "**Fundamental Transaction**"), then, upon any subsequent conversion of the Series C-3 Preferred Stock, the Holders shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction, the same kind and amount of securities, cash or property as it would have been entitled to receive upon the occurrence of such Fundamental Transaction if it had been, immediately prior to such Fundamental Transaction, the holder of one share of Common Stock (the "**Alternate Consideration**"). For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall adjust the Conversion Price in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holders shall be given the same choice as to the Alternate Consideration they receive upon any conversion of the Series C-3 Preferred Stock following such Fundamental Transaction. To the extent necessary to effectuate the foregoing provisions, any successor to the Company or surviving entity in such Fundamental Transaction shall file a new Certificate of Designation with the same terms and conditions and issue to the Holders new preferred stock consistent with the foregoing provisions and evidencing the Holders' right to convert such preferred stock into Alternate Consideration. The terms of any agreement pursuant to which a Fundamental Transaction is effected shall include terms requiring any such successor or surviving entity to comply with the provisions of this Section 7(d) and insuring that the Series C-3 Preferred Stock (or any such replacement security) will be similarly adjusted upon any subsequent transaction analogous to a Fundamental Transaction.

(e) Calculations. All calculations under this Section 7 will be made to the nearest cent or the nearest 1/100th of a share, as the case may be.

(f) Notice to the Holders.

(i) Adjustment to Conversion Price. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 7, the Company shall promptly deliver to each Holder a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

(ii) Notice to Allow Conversion by Holder. If (A) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property or (B) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be filed at each office or agency maintained for the purpose of conversion of the Series C-3 Preferred Stock, and shall cause to be delivered to each Holder pursuant to Section 9, at least twenty (20) calendar days prior to the applicable record or effective date hereinafter specified, a written notice stating (x) the date on which a record is to be taken for the purpose of seeking such stockholder approval or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to convert such Holder's Series C-3 Preferred Stock pursuant to Section 6(a) (subject to the Beneficial Ownership Limitation or the Control Limitation) during the 20-day period commencing on the date of such notice through the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 8. Miscellaneous.

(a) Notices. Any and all notices or other communications or deliveries to be provided to the Holders, the Company or the Transfer Agent hereunder, including, without limitation, any Notice of Conversion or Company Conversion Notice, shall be in writing and delivered personally, by facsimile, by e-mail, or sent by a nationally recognized overnight courier service (i) if to the Holders, at the Holder's address set forth in the book and records of the Company or to another address of such Holder as may be specified by such Holder to the Company in a written notice delivered in accordance with this Section, or (ii) if to the Company, at 12707 High Bluff Dr., Suite 200, San Diego, CA 92130, email: sprail@delmarpharma.com or to another address as the Company may specify for such purposes by written notice to the Holders delivered in accordance with this Section. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or via e-mail at the e-mail address set forth in this Section prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or via e-mail at the e-mail address set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given. To the extent that any notice provided pursuant to this Certificate of Designations constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K.

(b) Absolute Obligation. Except as expressly provided herein, no provision of this Certificate of Designations shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay liquidated damages and accrued dividends, as applicable, on the shares of Series C-3 Preferred Stock at the time, place, and rate, and in the coin or currency, herein prescribed.

(c) Lost or Mutilated Series C-3 Preferred Stock Certificate. If a Holder alleges that such Holder's Series C-3 Preferred Stock certificate has been lost, stolen or destroyed, the Company will only be obligated to issue a replacement certificate if the Holder delivers to the transfer agent, or the Company, as applicable: (i) a lost certificate affidavit; (ii) an indemnity bond in a form acceptable to the Company's transfer agent, or if the Company acts as its own transfer agent, an agreement reasonably acceptable to the Company to indemnify the Company against any claim that may be made against the Company on account of the alleged loss, theft or destruction of such certificate; and (iii) any other documentation that the transfer agent or the Company, if the Company acts as its own transfer agent, may reasonably require.

(d) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Certificate of Designations shall be governed by and construed and enforced in accordance with the internal laws of the State of Nevada, without regard to the principles of conflict of laws thereof. Each party agrees that all legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated by this Certificate of Designations (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in either (i) a state court located within the State of Nevada (or, if no state court located within the State of Nevada has jurisdiction, the federal district court for the District of Nevada) (the "**Nevada Courts**") or (ii) the state and federal courts sitting in the City of New York, Borough of Manhattan (the "**New York Courts**"). Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the Nevada Courts and the New York Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such Nevada Courts or New York Courts, or such Nevada Courts or New York Courts are improper or inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Certificate of Designations and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Certificate of Designations or the transactions contemplated hereby. If any party shall commence an action or proceeding to enforce any provisions of this Certificate of Designation, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys' fees and other costs and expenses incurred in the investigation, preparation and prosecution of such action or proceeding.

(e) Waiver. Any waiver by the Company or a Holder of a breach of any provision of this Certificate of Designations shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Certificate of Designations or a waiver by any other Holders. The failure of the Company or a Holder to insist upon strict adherence to any term of this Certificate of Designations on one or more occasions shall not be considered a waiver or deprive that party (or any other Holder) of the right thereafter to insist upon strict adherence to that term or any other term of this Certificate of Designation. Any waiver by the Company or a Holder must be in writing.

(f) Severability. If any provision of this Certificate of Designations is invalid, illegal or unenforceable, the balance of this Certificate of Designations shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any dividend or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law.

(g) Next Business Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.

(h) Headings. The headings contained herein are for convenience only, do not constitute a part of this Certificate of Designations and shall not be deemed to limit or affect any of the provisions hereof.

(i) Status of Converted Series C-3 Preferred Stock. If any shares of Series C-3 Preferred Stock shall be converted or reacquired by the Company, such shares shall resume the status of authorized but unissued shares of preferred stock and shall no longer be designated as Series C-3 Convertible Preferred Stock.

[Signature page follows.]

IN WITNESS WHEREOF, this Certificate of Designations has been executed by a duly authorized officer of the Company as of this 31 day of August, 2020.

/s/ Saiid Zarrabian

Name: Saiid Zarrabian
Title: Chief Executive Officer

ANNEX A

NOTICE OF CONVERSION

(TO BE EXECUTED BY THE REGISTERED HOLDER IN ORDER TO CONVERT SHARES OF SERIES C-3 PREFERRED STOCK)

The undersigned hereby elects to convert the number of shares of Series C-3 Convertible Preferred Stock indicated below into shares of common stock, \$0.001 par value per share (the "Common Stock"), of Kintara Therapeutics, Inc., a Nevada corporation (the "Corporation"), according to the conditions hereof, as of the date written below. If shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto. No fee will be charged to the Holders for any conversion, except for any such transfer taxes.

Conversion calculations:

Date to Effect Conversion: _____

Number of shares of Series C-3 Preferred Stock owned prior to Conversion: _____

Number of shares of Series C-3 Preferred Stock to be Converted: _____

Stated Value of shares of Series C-3 Preferred Stock to be Converted: _____

Number of shares of Common Stock to be Issued: _____

Applicable Conversion Price: _____

Number of shares of Series C-3 Preferred Stock subsequent to Conversion: _____

Address for Delivery: _____

Or

DWAC Instructions:

Broker no: _____

Account no: _____

[Holder]

By: _____
Name: _____
Title: _____

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS, OR AN OPINION OF COUNSEL, IN A FORM ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR APPLICABLE STATE SECURITIES LAWS OR UNLESS SOLD PURSUANT TO RULE 144 UNDER SAID ACT.

KINTARA THERAPEUTICS, INC.

WARRANT TO PURCHASE SERIES C PREFERRED STOCK

Warrant No. _____

Dated: August __, 2020

Kintara Therapeutics, Inc., a Nevada corporation (the "Company"), hereby certifies that, for value received, Aegis Capital Corp. or its Permitted Transferees (as hereinafter defined) (the "Holder"), is entitled to purchase from the Company up to a total of _____ shares of Series C Preferred Stock, par value \$0.001 per share (the "Series C Preferred Stock"), of the Company (each such share, a "Warrant Share" and all such shares issuable under the warrants, the "Warrant Shares") at an exercise price of \$1,000 per share (as adjusted from time to time as provided in Section 9, the "Exercise Price"), at any time and from the date hereof and through August __, 2024 (the "Expiration Date"), and subject to the following terms and conditions.

This Warrant is being issued pursuant to that certain Placement Agency Agreement dated June 24, 2020, as amended, among the Company and Aegis Capital Corp. (the "Placement Agency Agreement") and in connection with the Company's private offering to accredited investors of Series C Preferred Stock in accordance with, and subject to, the terms and conditions described in that certain Confidential Private Placement Memorandum, dated June 24, 2020, as the same may be amended and supplemented from time to time (the "Private Placement Memorandum"). All warrants that are issued to the Placement Agent and its designees are referred to herein, collectively, as the "Warrants" and the holders of the Warrants (as well as any subsequent Permitted Transferees) along with the Holder named herein, the "Holders."

1. Definitions. In addition to the terms defined elsewhere in this Warrant, capitalized terms that are not otherwise defined herein have the meanings given to such terms in the Placement Agency Agreement.

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

3. Registration of Transfers. The Company shall register the transfer and/or assignment of any portion of this Warrant (a "Permitted Transferee") in the Warrant Register, upon surrender of this Warrant, with the Form of Assignment attached hereto duly completed and signed, to the Company's transfer agent or to the Company at its address specified herein. Upon any such registration or transfer, a new warrant to purchase Series C Preferred Stock, in substantially the form of this Warrant (any such new warrant, a "New Warrant"), evidencing the portion of this Warrant so transferred shall be issued to the Permitted Transferee, the portion so transferred shall be cancelled, and a New Warrant evidencing the remaining portion of this Warrant not so transferred, if any, shall be issued to the transferring Holder. The acceptance of the New Warrant by the Permitted Transferee thereof shall be deemed the acceptance by such Permitted Transferee of all of the rights and obligations of a holder of a Warrant.

4. Exercise and Duration of Warrants.

(a) This Warrant shall be exercisable by the registered Holder at any time and from time to time on or after the date hereof to and including the Expiration Date. At 5:00 p.m., (New York City time) on the Expiration Date, the portion of this Warrant not exercised prior thereto shall be and become void and of no value and this Warrant shall be terminated and no longer be outstanding.

(b) The Holder may exercise this Warrant by delivering to the Company (i) an exercise notice, in the form attached hereto (the "Exercise Notice"), appropriately completed and duly signed, and (ii) payment of the Exercise Price for the number of Warrant Shares as to which this Warrant is being exercised (which may take the form of a "Cashless Exercise" if so indicated in the Exercise Notice pursuant to Section 10 below), and the date such items are delivered to the Company (as determined in accordance with the notice provisions hereof) is an "Exercise Date."

(c) Exercise Disputes. In the case of any dispute with respect to the number of shares to be issued upon exercise of this Warrant, the Company shall promptly issue such number of shares of Series C Preferred Stock that is not disputed and shall submit the disputed determinations or arithmetic calculations to the Holder via fax (or, if the Holder has not provided the Company with a fax number, by overnight courier) within five (5) Business Days of receipt of the Holder's election to purchase Warrant Shares. If the Holder and the Company are unable to agree as to the determination of the Exercise Price within five (5) Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall in accordance with this Section, submit via facsimile the disputed determination to its independent auditor. The Company shall cause its independent auditor to perform the determinations or calculations and notify the Company and the Holder of the results promptly, in writing and in sufficient detail to give the Holder and the Company a clear understanding of the issue. The determination by the Company's independent auditor shall be binding upon all parties absent manifest error. The Company shall then on the next Business Day instruct its transfer agent to issue certificate(s) representing the appropriate number of Warrant Shares in accordance with the independent auditor's determination and this Section. The prevailing party shall be entitled to reimbursement of all reasonable fees and expenses of such determination and calculation.

5. Delivery of Warrant Shares.

(a) Upon exercise of this Warrant, the Company shall promptly (but in no event later than two (2) Trading Days after the Exercise Date) issue or cause to be issued and cause to be delivered to or upon the written order of the Holder and in such name or names as the Holder may designate, a certificate for the Warrant Shares to which the Holder is entitled upon such exercise, free of restrictive legends unless the Warrant Shares (including the common stock of the Company issuable upon conversion of the Warrant Shares (the "Common Stock")) are not freely transferable pursuant to Rule 144 under the Securities Act. To the extent the Warrant Shares (inclusive of Common Stock) may be issued free of restrictive legends as set forth above, upon request of the Holder, the Company shall use its best efforts to deliver Warrant Shares (inclusive of Common Stock) hereunder electronically through the Depository Trust Corporation or another established clearing corporation performing similar functions. For the purposes hereof, the term "Trading Day" means (a) any day on which the Series C Preferred Stock (inclusive of Common Stock) is listed or quoted and traded on its primary trading market and/or quotation system, as the case may be, (b) if the Series C Preferred Stock (inclusive of Common Stock) is not then listed or quoted and traded on any trading market, then a day on which trading occurs on the Nasdaq Global Market (or any successor thereto), or (c) if trading ceases to occur on the Nasdaq Global Market (or any successor thereto), any Business Day.

(b) This Warrant is exercisable, either in its entirety or, from time to time, for a portion of the number of Warrant Shares. Upon surrender of this Warrant following one or more partial exercises, the Company shall issue or cause to be issued, at its expense, a New Warrant evidencing the right to purchase the remaining number of Warrant Shares.

(c) The Company's obligations to issue and deliver Warrant Shares in accordance with the terms hereof are absolute and unconditional, irrespective of any action or inaction by the Holder to enforce the same, the recovery of any judgment against any individual or entity (collectively, a "Person") or any action to enforce the same, or any setoff, counterclaim or recoupment against the Holder, or any breach or alleged breach by the Holder or any other Person of any other obligation to the Company or any violation or alleged violation of law by the Holder or any other Person, and irrespective of any other circumstance which might otherwise limit such obligation of the Company to the Holder in connection with the issuance of Warrant Shares.

6. Charges, Taxes and Expenses. Issuance and delivery of certificates for shares of Series C Preferred Stock upon exercise of this Warrant shall be made without charge to the Holder for any issue or transfer tax, withholding tax, transfer agent fee or other incidental tax or expense in respect of the issuance of such certificates, all of which taxes and expenses shall be paid by the Company; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the registration of any certificates for Warrant Shares or Warrants in a name other than that of the Holder. The Holder shall be responsible for all other tax liability that may arise as a result of holding or transferring this Warrant or receiving Warrant Shares upon exercise hereof.

7. Replacement of Warrant. If this Warrant is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation hereof, or in lieu of and substitution for this Warrant, a New Warrant, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction, or surrender of any mutilated Warrant.

8. Reservation of Warrant Shares. The Company covenants that it will at all times reserve and keep available out of the aggregate of its authorized but unissued and otherwise unreserved Series C Preferred Stock, solely for the purpose of enabling it to issue Warrant Shares upon exercise of this Warrant as herein provided, the number of Warrant Shares which are then issuable and deliverable upon the exercise of this entire Warrant, free from preemptive rights or any other contingent purchase rights of persons other than the Holder (after giving effect to the adjustments and restrictions of Section 9, if any). The Company covenants that all Warrant Shares so issuable and deliverable shall, upon issuance and the payment of the applicable Exercise Price in accordance with the terms hereof, be duly and validly authorized, issued and fully paid and nonassessable. The Company will take all such action as may be necessary to assure that such shares of Series C Preferred Stock may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of any securities exchange or automated quotation system upon which the Series C Preferred Stock may be listed.

9. Certain Adjustments. The Exercise Price and number of Warrant Shares issuable upon exercise of this Warrant are subject to adjustment from time to time as set forth in this Section 9.

(a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding, (i) pays a stock dividend on its Series C Preferred Stock or otherwise makes a distribution on any class of capital stock that is payable in shares of Series C Preferred Stock, (ii) subdivides outstanding shares of Series C Preferred Stock into a larger number of shares, or (iii) combines outstanding shares of Series C Preferred Stock into a smaller number of shares, then in each such case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Series C Preferred Stock outstanding immediately before such event and of which the denominator shall be the number of shares of Series C Preferred Stock outstanding immediately after such event. Any adjustment made pursuant to clause (i) of this paragraph shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution, and any adjustment pursuant to clause (ii) or (iii) of this paragraph shall become effective immediately after the effective date of such subdivision or combination. In addition, the dividends that holders of Series C Preferred are entitled to receive as set forth in Section 3 of the Certificate of Designation of Preferences, Rights And Limitations of Series C-1 Preferred Stock of the Company ("Certificate of Designation") shall commence to accrue to the Holder upon issuance of this Warrant and shall continue to accrue as long as this Warrant (or underlying Series C Preferred Stock) is held, and subject to payment upon the conversion events as set forth in the Certificate of Designation or upon exercise of this Warrant. For clarification, the Holder is not required to exercise this Warrant to be entitled to the accrual of dividends on the Warrant Shares and such dividends shall be payable at the time of conversion or upon such exercise.

(b) Intentionally Omitted.

(c) Fundamental Transactions. If at any time after the date on which this Warrant may be exercised: the Company proposes to engage in a "Fundamental Transaction" (as hereinafter defined) then, and in any one or more of such cases, the Company will give to the Holder at least 10 days' prior written notice of the date on which the books of the Company will close or a record will be taken for determining rights to vote with respect to such Fundamental Transaction. Such notice will describe the nature of the Fundamental Transaction and will also specify the date on which the holders of the Warrant Shares will be entitled to exchange their securities for securities or other property deliverable upon the consummation of the Fundamental Transaction. The Holder shall have the right to exercise the Warrants concurrent with the closing of the Fundamental Transaction and receive the same amount and kind of securities, cash or property as it would have been entitled to receive upon the occurrence of such Fundamental Transaction if it had been, immediately prior to the occurrence of such Fundamental Transaction, the holder of the number of Warrant Shares then issuable upon exercise in full of the Warrants. A "Fundamental Transaction" is any (i) merger or consolidation of the Company with or into (whether or not the Company is the surviving corporation) another individual or any corporation, partnership, trust, limited liability company or other entity or organization of any kind ("Person") (ii) any sale, assignment, transfer, conveyance or other disposition by the Company of all or substantially all of its assets in one or a series of related transactions; provided, however, that for avoidance of doubt, the granting of a lien on all or substantially all of the Company's assets as collateral shall not be deemed a Fundamental Transaction hereunder, (iii) purchase, tender or exchange offer by the Company (or to which the Company is a party) that will be for more than 50% of the outstanding shares of Common Stock of the Company (not including any shares of Common Stock of the Company held by the Person or Persons making or party to, or associated or affiliated with the Persons making or party to, such purchase, tender or exchange offer), (iv) business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) requiring shareholder approval with another Person whereby such other Person acquires more than the 50% of the outstanding shares of Common Stock of the Company (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock purchase agreement or other business combination), or (v) reclassification of the Warrant Shares or any compulsory share exchange pursuant to which the Warrant Shares are effectively converted into or exchanged for other securities, cash or property.

Subject to the next sentence, if any Fundamental Transaction shall be effected, then, as a condition of such transaction, lawful and adequate provision shall be made whereby the Holder of this Warrant shall thereafter have the right to purchase and receive on exercise of this Warrant upon the basis and upon the terms and conditions specified in this Warrant and in lieu of the Warrant Shares immediately theretofore purchasable and receivable upon the exercise of this Warrant at the time of the closing of the Fundamental Transaction, such shares of stock, securities or assets as may be issued or payable with respect to or in exchange for a number of outstanding Warrant Shares equal to the number of Warrant Shares immediately theretofore purchasable and receivable upon the exercise of this Warrant had such Fundamental Transaction not taken place, and in any such case appropriate provision shall be made with respect to the rights and interests of the Holder of this Warrant to the end that the provisions of this Warrant (including, without limitation, provision for adjustment of the number of shares issuable upon the exercise of this Warrant) shall thereafter be applicable as nearly as may be possible in relation to any shares of stock, securities, or assets thereafter deliverable upon exercise of Warrant. Notwithstanding the foregoing, in the event of a Fundamental Transaction in which the holders of Warrant Shares receive in exchange, conversion or other transfer or disposition of their Warrant Shares solely for cash, this Warrant will automatically be deemed to be exercised in full in the manner set forth in Section 10, without any further action on behalf of the Holder immediately prior to the closing of such Fundamental Transaction and the Holder shall be entitled solely to the cash price per share for each Warrant Share held following such exercise. For the avoidance of doubt, except as expressly set forth in this Section 9(c), in no event does this agreement result in the Company having an obligation to issue cash or other assets to the Warrants holder.

(d) No Avoidance. The Company will not by reorganization, transfer of assets, consolidation, merger, dissolution, or otherwise, avoid or seek to avoid observance or performance of any of the terms of this Section 9, but will at all times in good faith assist in the carrying out and performance of all provisions of this Section 9 in order to protect the rights of the Holder against impairment.

(e) Number of Warrant Shares. Simultaneously with any adjustment to the Exercise Price pursuant to paragraph (a) of this Section 9, the number of Warrant Shares that may be purchased upon exercise of this Warrant shall be increased or decreased proportionately, as applicable, so that after such adjustment the aggregate Exercise Price payable hereunder for the increased or decreased, as applicable, number of Warrant Shares shall be the same as the aggregate Exercise Price in effect immediately prior to such adjustment.

(f) Calculations. All calculations under this Section 9 shall be made to the nearest cent or the nearest share, as applicable. The number of shares of Series C Preferred Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company, and the disposition of any such shares shall be considered an issue or sale of Series C Preferred Stock.

(g) Notice of Adjustments. Upon the occurrence of each adjustment pursuant to this Section 9, the Company at its expense will promptly compute such adjustment in accordance with the terms of this Warrant and prepare a certificate setting forth such adjustment, including a statement of the adjusted Exercise Price and adjusted number or type of Warrant Shares or other securities issuable upon exercise of this Warrant (as applicable), describing the transactions giving rise to such adjustments and showing in detail the facts upon which such adjustment is based. Upon written request, the Company will promptly deliver a copy of each such certificate to the Holder and to the Company's Transfer Agent.

(h) Notice of Corporate Events. If the Company (i) declares a dividend or any other distribution of cash, securities or other property in respect of its Series C Preferred Stock, including without limitation any granting of rights or warrants to subscribe for or purchase any capital stock of the Company or any Subsidiary, (ii) authorizes or approves, or enters into any agreement contemplating or solicits stockholder approval for any Fundamental Transaction or (iii) authorizes the voluntary dissolution, liquidation or winding up of the affairs of the Company, then the Company shall deliver to the Holder a notice describing the material terms and conditions of such transaction, at least ten calendar days prior to the applicable record or effective date on which a Person would need to hold Series C Preferred Stock in order to participate in or vote with respect to such transaction, and the Company will take all steps reasonably necessary in order to insure that the Holder is given the practical opportunity to exercise this Warrant prior to such time so as to participate in or vote with respect to such transaction; provided, however, that the failure to deliver such notice or any defect therein shall not affect the validity of the corporate action required to be described in such notice.

10. Payment of Exercise Price. The Holder shall pay the Exercise Price in immediately available funds (a "Cash Exercise"); or the Holder may satisfy its obligation to pay the Exercise Price through a "Cashless Exercise," in which event the Company shall issue to the Holder the number of Warrant Shares determined as follows:

$$X = \frac{Y(A - B)}{A}$$

where:

X = the number of Warrant Shares to be issued to the Holder.

Y = the number of Warrant Shares that Holder would otherwise have been entitled to purchase hereunder pursuant to a cash exercise (or such lesser number of Warrant Shares as the Holder may designate in the case of a partial exercise of this Warrant).

A = the Fair Market Value of one share of the Company's Series C Preferred Stock (at the date of such Cashless Exercise).

B = the Exercise Price.

For the avoidance of doubt, there is no circumstance that would require the Company to net cash settle the Warrants. For the avoidance of doubt, the Company may settle a cash exercise of the Warrant with unregistered shares of common stock.

For purposes of this Section 10, "Fair Market Value" of one share of the Company's Series C Preferred Stock shall mean:

- (i) If the Common Stock is traded Over-The-Counter or Nasdaq or on any other exchange, the per share Fair Market Value for the Series C Preferred Stock will be the average of the closing bid and asked prices of the Common Stock quoted in the Over-The-Counter Market or the closing price quoted on Nasdaq or any other exchange on which the Common Stock is listed, whichever is applicable, as published in The Wall Street Journal for the immediately preceding trading day prior to the date of determination of Fair Market Value multiplied by the number of shares of Common Stock into which each share of Series C Preferred Stock is then convertible; or

- (ii) In the event of an exercise in connection with a merger, acquisition or other consolidation in which the Company is not the surviving entity, the per share Fair Market Value for the Series C Preferred Stock shall be the value to be received per share of Series C Preferred Stock by all holders of the Series C Preferred Stock in such transaction as determined by the Board of Directors; or
- (iii) In any other instance, the per share Fair Market Value for the Series C Preferred Stock shall be as determined in good faith by the Company's Board of Directors based on relevant facts and circumstances at the time of the Cashless Exercise.

For purposes of Rule 144 promulgated under the Securities Act, it is intended, understood and acknowledged that the Warrant Shares issued in a cashless exercise transaction shall be deemed to have been acquired by the Holder, and the holding period for the Warrant Shares shall be deemed to have commenced, on the date this Warrant was originally issued to the Holder (provided the U.S. Securities and Exchange Commission continues to take the position that such treatment is proper at the time of such exercise).

11. Intentionally Omitted.

12. Fractional Shares. The Company shall not be required to issue or cause to be issued fractional Warrant Shares on the exercise of this Warrant. In lieu of any fractional shares which would otherwise be issuable, the Company shall have the option to either (a) pay the Holder entitled to such fractional Warrant Share a sum in cash equal to such fraction (calculated to the nearest 1/100th of a Warrant Share) multiplied by the then effective Exercise Price or (b) round up to the next whole share of Series C Preferred Stock..

13. Notices. Any and all notices or other communications or deliveries hereunder (including without limitation any Exercise Notice or Form of Assignment) shall be in writing and shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number specified in the Placement Agency Agreement prior to 5:00 p.m. (New York City time) on a Trading Day, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number specified in the Placement Agency Agreement on a day that is not a Trading Day or later than 5:00 p.m. (New York City time) on any Trading Day, (iii) the Trading Day following the date of mailing if sent by nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given. The address for such notices or communications shall be as set forth in the Placement Agency Agreement.

14. Warrant Agent. The Company shall serve as warrant agent under this Warrant. Upon thirty (30) days' notice to the Holder, the Company may appoint a new warrant agent. Any corporation and/or other entity into which the Company or any new warrant agent may be merged or any corporation resulting from any consolidation to which the Company or any new warrant agent shall be a party shall be a successor warrant agent under this Warrant without any further act. Any such successor warrant agent shall promptly cause notice of its succession as warrant agent to be mailed (by first class mail, postage prepaid) to the Holder at the Holder's last address as shown on the Warrant Register.

15. Miscellaneous.

(a) Transfer or Assignment of Warrants. Subject to the restrictions on transfer set forth on the first page hereof, this Warrant may be transferred or assigned by the Holder to a Permitted Transferee pursuant to Section 3, provided that, among other things, the Permitted Transferee covenants to be bound by the terms hereof. This Warrant may not be assigned by the Company, except to a successor or assignee in the event of a Fundamental Transaction. This Warrant shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns. Subject to the preceding sentence, nothing in this Warrant shall be construed to give to any Person other than the Company and the Holder any legal or equitable right, remedy or cause of action under this Warrant. Notwithstanding anything contained herein, the Company shall, upon written instructions from the Holder to be delivered to the Company within ninety (90) calendar days following the date of the issuance of this Warrant, transfer all or a portion of this Warrant to officers, directors, employees and other associated persons of the Holder and other registered dealers, agents and finders (collectively, "Permitted Designees"). Such transfer shall be effective upon delivery of this Warrant and the form of assignment attached hereto.

(b) No Dilution or Other Impairment. The Company will not, by amendment of its governing documents or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, seek to call or redeem this Warrant or avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the Holder against dilution or other impairment. Without limiting the generality of the foregoing, the Company (i) will not increase the par value of any Warrant Shares above the amount payable therefor on such exercise, (ii) will take all such action as may be reasonably necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares, free from all taxes, liens, security interests, encumbrances, preemptive or similar rights and charges of stockholders (other than those imposed by the Holders) on the exercise of the Warrant, and (iii) will not close its stockholder books or records in any manner which interferes with the timely exercise of this Warrant.

(c) Remedies: Specific Performance. The Company acknowledges and agrees that there would be no adequate remedy at law to the Holder of this Warrant in the event of any default or threatened default by the Company in the performance of or compliance with any of the terms of this Warrant and accordingly, the Company agrees that, in addition to any other remedy to which the Holder may be entitled at law or in equity, the Holder shall be entitled to seek to compel specific performance of the obligations of the Company under this Warrant, without the posting of any bond, in accordance with the terms and conditions of this Warrant and if any action should be brought in equity to enforce any of the provisions of this Warrant, the Company shall not raise the defense that there is an adequate remedy at law. Except as otherwise provided by law, a delay or omission by the Holder hereof in exercising any right or remedy accruing upon any such breach shall not impair the right or remedy or constitute a waiver of or acquiescence in any such breach. No remedy shall be exclusive of any other remedy. All available remedies shall be cumulative.

(d) Amendments and Waivers. The Company may, without the consent of the Holders (but with written notice to the Holders), by supplemental agreement or otherwise, (i) make any changes or corrections in this Warrant that are required to cure any ambiguity or to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein or (ii) add to the covenants and agreements of the Company for the benefit of the Holders (including, without limitation, reduce the Exercise Price or extend the Expiration Date), or surrender any rights or power reserved to or conferred upon the Company in this Warrant; provided that, in the case of (i) or (ii), such changes or corrections shall not adversely affect the interests of Holders of then outstanding Warrants in any material respect. This Warrant may also be amended or waived with the consent of the Company and the Holder. Further, the Company may, with the consent, in writing or at a meeting, of the Holders of the then outstanding Warrants exercisable for at least fifty one (51%) percent of the Series C Preferred Stock issuable upon exercise of such Warrants (the "Required Holders"), amend in any way, by supplemental agreement or otherwise, this Warrant and/or all of the outstanding Warrants; provided, however, that (i) no such amendment by its express terms shall adversely affect any Holder differently than it affects all other Holders, unless such Holder consents thereto, and (ii) no such amendment concerning the number of Warrant Shares or Exercise Price shall be made unless any Holder who will be affected by such amendment consents thereto.

(e) Governing Law; Venue; Waiver of Jury Trial. This Warrant shall be governed by and construed exclusively in accordance with the internal laws of the State of New York without regard to the conflicts of laws principles thereof. The parties hereto hereby expressly and irrevocably agree that any suit or proceeding arising directly and/or indirectly pursuant to, arising out of or under this Warrant, shall be brought solely and exclusively in a federal or state court located in New York. By its execution hereof, the parties hereby expressly covenant and irrevocably submit to the in personam jurisdiction of the federal and state courts located in New York and agree that any process in any such action may be served upon any of them personally, or by certified mail or registered mail upon them or their agent, return receipt requested, with the same full force and effect as if personally served upon them in New York. The parties hereto expressly and irrevocably waive any claim that any such jurisdiction is not a convenient forum for any such suit or proceeding and any defense or lack of in personam jurisdiction with respect thereto. In the event of any such action or proceeding (including, but not limited to, any motions made), the party prevailing therein shall be entitled to payment from the other party hereto of its reasonable counsel fees and disbursements. The Company and Holders hereby waive all rights to a trial by jury.

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

(g) Partial Invalidity. In case any one or more of the provisions of this Warrant shall be invalid or unenforceable in any respect, the validity and enforceability of the remaining terms and provisions of this Warrant shall not in any way be affected or impaired thereby and the parties will attempt in good faith to agree upon a valid and enforceable provision which shall be a commercially reasonable substitute therefor, and upon so agreeing, shall incorporate such substitute provision in this Warrant.

(h) Rights as Stockholder. The Holder shall have no rights as a stockholder of the Company with respect to any Warrant Shares prior to the exercise of this Warrant, and then only with respect to those shares of Series C Preferred Stock actually acquired upon such due and proper exercise.

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

KINTARA THERAPEUTICS, INC.

By: _____

Name: Scott Prail

Title: Chief Financial Officer

FORM OF EXERCISE NOTICE

(To be executed by the Holder to exercise the right to purchase shares of Series C Preferred Stock under the foregoing Warrant)

To: KINTARA THERAPEUTICS, INC.

The undersigned is the Holder of Warrant No. _____ (the "Warrant") issued by Kintara Therapeutics, Inc., a Delaware corporation (the "Company"). Capitalized terms used herein and not otherwise defined have the respective meanings set forth in the Warrant.

- (a) The Warrant is currently exercisable to purchase a total of _____ Warrant Shares.
- (b) The undersigned Holder hereby exercises its right to purchase _____ Warrant Shares pursuant to the Warrant.
- (c) The holder shall make payment of the Exercise Price as follows (check one):
_____ "Cash Exercise" under Section 10.
_____ "Cashless Exercise" under Section 10.
- (d) If the holder is making a Cash Exercise, the holder shall pay the sum of \$ _____ to the Company in immediately available funds in accordance with the terms of the Warrant.
- (e) Pursuant to this exercise, the Company shall deliver to the holder _____ Warrant Shares in accordance with the terms of the Warrant.
- (f) Following this exercise, the Warrant shall be exercisable to purchase a total of _____ Warrant Shares.
- (g) The Holder represents that, as of the date of exercise:
 - i. the Warrant Shares being purchased pursuant to this Exercise Notice are being acquired solely for the Holder's own account and not as a nominee for any other party, for investment, and not with a view toward distribution or resale; and
 - ii. the Holder is an "accredited investor" as such term is defined in Rule 501(a)(1) of Regulation D promulgated by the U.S. Securities and Exchange Commission under the Securities Act.
- (h) If the Holder cannot make the representations required in Section (h)(ii) above because it is factually incorrect, it shall be a condition to the exercise of the Warrant that the Company receive such other representations as the Company considers necessary, acting reasonably, to assure the Company that the issuance of securities upon exercise of this Warrant shall not violate any United States or other applicable securities laws.

Dated: _____, _____

Name of Holder: _____
(Print)

By: _____
Name: _____
Title: _____
(Signature must conform in all respects to name of holder as specified on the face of the Warrant)

FORM OF ASSIGNMENT

[To be completed and signed only upon transfer of Warrant]

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ the right represented by the within Warrant to purchase _____ shares of Series C Preferred Stock of Kintara Therapeutics, Inc. to which the within Warrant relates and appoints _____ attorney to transfer said right on the books of Kintara Therapeutics, Inc. with full power of substitution in the premises.

The undersigned transferee agrees to be bound by the covenants of the Warrant Holder during the term of the Warrant.

The undersigned transferee agrees represents and warrants that:

- i. the Warrant Shares being purchased pursuant to this Assignment are being acquired solely for the transferee's own account and not as a nominee for any other party, for investment, and not with a view toward distribution or resale; and
- ii. the undersigned transferee is an "**accredited investor**" as such term is defined in Rule 501(a)(1) of Regulation D promulgated by the Securities and Exchange Commission under the Securities Act.

If the undersigned transferee cannot make the representations required in clause (ii) above because it is factually incorrect, it shall be a condition to the transfer of the Warrant that the Company receive such other representations as the Company considers necessary, acting reasonably, to assure the Company that the transfer of this Warrant shall not violate any United States or other applicable securities laws.

Dated: _____, _____

(Signature must conform in all respects to name of holder as specified on the face of the Warrant)

Address of Transferee

Signature of Transferee

In the presence of: _____

Kintara Therapeutics Completes Final Closing of Previously Announced Private Placement For an Aggregate of \$25 Million

- Launches Strategic Growth Initiative of Expanded Late-stage Oncology Pipeline -

SAN DIEGO, Sept 1, 2020 /PRNewswire/ -- Kintara Therapeutics, Inc. ("Kintara" or the "Company") (Nasdaq: KTRA) announced today the final closing of its previously announced private placement of Series C Convertible Preferred Stock (the "Preferred Stock") to accredited investors. Including the previously announced closings, Kintara received aggregate gross proceeds of approximately \$25 million before deducting placement agent fees and other offering expenses payable by the Company.

The capital raised from existing and new investors is expected to facilitate Kintara's strategic initiative to become a recognized leader in developing therapies for rare and difficult to treat oncology indications. The Company intends to use the net proceeds from the offering primarily to fund the previously announced registration study for VAL-083 in newly diagnosed and recurrent glioblastoma multiforme (GBM) and the 15-patient REM-001 confirmatory lead-in study that is designed to seamlessly transition into a Phase 3 pivotal study for cutaneous metastatic breast cancer (CMBC) as well as for working capital. As previously disclosed, the VAL-083 GBM registration study will be executed through the Company's partnership with Global Coalition for Adaptive Research (GCAR) through the Glioblastoma Adaptive Global Innovative Learning Environment (GBM AGILE) Study, the world's first global adaptive clinical trial platform for GBM with regulatory support as a registrational study.

"This is a transformational event for the Company as we believe it validates the combined portfolio of assets from the recently completed acquisition of Adgero," commented Saiid Zarrabian, President and Chief Executive Officer of Kintara. "Furthermore, and perhaps most importantly, we believe this financing provides sufficient capital to achieve meaningful value generating milestones for multiple clinical stage programs over the next 12-24 months. We look forward to enrolling the first patient into the VAL-083 arm of the GBM AGILE study in the fourth quarter of 2020 and plan to initiate the 15 patient REM-001 confirmatory study in the second quarter of 2021, with planned data results from this study as early as the fourth quarter of 2021."

The private placement offering consisted of the issuance of an aggregate of 25,028 shares of the Company's Series C Convertible Preferred Stock (the "Preferred Stock") at a purchase price of \$1,000 per share priced at-the-market under the rules of the Nasdaq Stock Market. The Preferred Stock was issued in three separate series, 19,587 shares of Series C-1 Preferred Stock, which are convertible into 16,885,345 shares of the Company's common stock at a conversion price of \$1.16 per share, 2,185 shares of Series C-2 Preferred Stock, which are convertible into 1,799,835 shares of the Company's common stock at a conversion price of \$1.214 per share and 3,256 shares of Series C-3 Preferred Stock, which are convertible into 2,831,304 shares of the Company's common stock at a conversion price of \$1.15 per share. The Preferred Stock also accrues dividends as previously disclosed.

“The strong investor response to this private placement is confirmation of the attractiveness of Kintara’s unique corporate profile and diversified late-stage oncology product pipeline targeting rare, unmet medical needs,” commented Adam Stern, Chief Executive Officer of SternAegis Ventures. “With the addition of new capital, the Company is now in a strong position to expedite the advancement of two potential therapeutic candidates into late-stage clinical trials.”

SternAegis Ventures acted as the exclusive placement agent for the private placement.

The shares of Preferred Stock described above were offered in a private placement pursuant to an applicable exemption from the registration requirements of the Securities Act of 1933, as amended (the "Act"), and, along with the common shares issuable upon their conversion or payable as dividends pursuant to the Preferred Stock, have not been registered under the Act, and may not be offered or sold in the United States absent registration with the SEC or an applicable exemption from such registration requirements.

This press release shall not constitute an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. No offering of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended.

About Kintara

Located in San Diego, California, Kintara is dedicated to the development of novel cancer therapies for patients with unmet medical needs.

Kintara is developing two late-stage, Phase 3-ready therapeutics for clear unmet medical needs with reduced risk development programs. The two programs are VAL-083 for GBM and REM-001 for CMBC.

VAL-083 is a "first-in-class", small-molecule chemotherapeutic with a novel mechanism of action that has demonstrated clinical activity against a range of cancers, including central nervous system, ovarian and other solid tumors (e.g. NSCLC, bladder cancer, head and neck) in U.S. clinical trials sponsored by the National Cancer Institute (NCI). Based on Kintara's internal research programs and these prior NCI-sponsored clinical studies, Kintara is currently conducting clinical trials to support the development and commercialization of VAL-083 in GBM.

Kintara is also advancing its proprietary late stage photodynamic therapy (PDT) platform that holds promise as a localized cutaneous or visceral tumor treatment as well as in other potential indications. REM-001 therapy, has been previously studied in four Phase 2/3 clinical trials in patients with CMBC, who had previously received chemotherapy and/or failed radiation therapy. With clinical efficacy to date of 80% complete responses of CMBC evaluable lesions and with an existing robust safety database of approximately 1,100 patients across multiple indications, Kintara is advancing the REM-001 CMBC program to late stage pivotal testing.

About SternAegis Ventures

SternAegis Ventures is the management team within Aegis Capital Corp. that is responsible for venture capital and private equity financing. www.sternaegis.com

Forward-Looking Statements

This press release contains "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995 based upon Kintara's current expectations. Forward-looking statements are identified by terminology such as "may," "should," "expects," "plans," "anticipates," "could," "intends," "target," "projects," "contemplates," "believes," "estimates," "predicts," "potential" or "continue" or the negative of these terms or other similar words. These statements are only predictions. Kintara has based these forward-looking statements largely on its then-current expectations and projections about future events, as well as the beliefs and assumptions of management. Forward-looking statements are subject to a number of risks and uncertainties, many of which involve factors or circumstances that are beyond Kintara's control, and actual results could differ materially from those stated or implied in forward-looking statements due to a number of factors, including but not limited to: (i) risks associated with the impact of the COVID-19 pandemic, (ii) risks and uncertainties relating to Kintara's ability to develop, market and sell products based on its technology; the expected benefits and efficacy of Kintara's products and technology; the availability of substantial additional funding for Kintara to continue its operations and to conduct research and development, clinical studies and future product commercialization; and, Kintara's business, research, product development, regulatory approval, marketing and distribution plans and strategies, (iii) whether the recently closed acquisition of Adgero Biopharmaceuticals Holdings, Inc. will be successful, and (iv) those risks detailed in Kintara's most recent Annual Report on Form 10-K and subsequent reports filed with the SEC, as well as other documents that may be filed by Kintara from time to time with the SEC. Accordingly, you should not rely upon forward-looking statements as predictions of future events. Kintara cannot assure you that the events and circumstances reflected in the forward-looking statements will be achieved or occur, and actual results could differ materially from those projected in the forward-looking statements. The forward-looking statements made in this communication relate only to events as of the date on which the statements are made. Except as required by applicable law or regulation, Kintara undertakes no obligation to update any forward-looking statement to reflect events or circumstances after the date on which the statement is made or to reflect the occurrence of unanticipated events. Investors should not assume that any lack of update to a previously issued "forward-looking statement" constitutes a reaffirmation of that statement.

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