

THERANOS, INC.  
MINUTES OF A MEETING  
OF THE BOARD OF DIRECTORS

Tuesday, January 20, 2015

Pursuant to notice duly given or waived, a regular meeting of the Board of Directors (the "Board") of Theranos, Inc., a Delaware corporation (the "Company"), was held on Tuesday, January 20, 2015, beginning at 10:00 a.m. (Pacific Time) at the Company Offices located at 1701 Page Mill Road, Palo Alto, California. Present at all or parts of the meeting in person were Directors Sunny Balwani, Riley Bechtel, William Foege, William Frist, Elizabeth Holmes, Henry A. Kissinger, Richard M. Kovacevich, James N. Mattis, Samuel Nunn, William J. Perry, Gary Roughead and George P. Shultz. Also present was Company counsel David Boies. Mr. Balwani was appointed to act as secretary of the meeting.

After stating that a quorum of the Board was present and that the meeting had been duly noticed and convened, Ms. Holmes called the meeting to order.

Strategic Update

Ms. Holmes provided the Board with an overview of the structure of the Company and the efforts to structure the Company for the long-term through anchor shareholders, shareholder consolidation, and careful selection of shareholders and third-party investments. The Board resolved to approve amendments to the Company's Series C-2 Stock Purchase Agreement and Articles of Incorporation to allow for the issuance of up to an additional \$800 million of Series C-2 shares. Ms. Holmes discussed with the Board the Company's 2015 strategic plan, including its continued focus on promoting from within, scaling the Company's operations, and continuing to develop and implement the



Company's next generation technologies. Questions were asked, and a full discussion ensued among the Directors regarding this strategic update.

*Commercial and Operations Update*

Ms. Holmes then gave the Board an update of the Company's commercial operations, including its contracts and focal areas in retail and hospital and physician groups. Ms. Holmes provided the Board with an overview of the Company's retail performance, pricing approaches and market feedback. Ms. Holmes discussed with the Board the Company's strategic alliance with the Cleveland Clinic as well as other contracts. Ms. Holmes described to the Board the Company's communications initiatives and in that context discussed certain information disclosed to Directors the Company needed to continue to keep confidential.

Ms. Holmes then updated the Board on the reaction in the market place to the Company's work, including the competitive response from other laboratories. The Board then had a detailed discussion regarding the strong competitive response to the Company's work, as well as the provision of appropriate security measures to protect Ms. Holmes. Ms. Holmes reviewed the Company's infectious disease work, including with respect to Ebola and associated operational developments and impact. Ms. Holmes also reviewed with the Board the Company's product pipeline and its development approach to its products. Questions were asked, and a full discussion ensued among the Directors regarding this commercial update.



*Finance and Governance Update*

Ms. Holmes reviewed with the Board the Company's historical financial statements, its plan for 2015 and the Company's capitalization table. Ms. Holmes also discussed with the Board the Company's work with auditors. The Board then reviewed and agreed that the shares reserved for the Safeway option to purchase a convertible note in the December 2013 unanimous written consent of the Board was an administrative oversight.

The Board then discussed the Board committees, including the Executive Committee, the Rights Administration Committee and the Governance and Compensation Committee. The Rights Administration Committee provided an update to the Board regarding pending transfers.

The Board then resolved to approve the amendment to the Investors' Rights Agreement attached hereto as Exhibit A.

The Board then reviewed and approved the charter of the Governance and Compensation Committee attached hereto as Exhibit B. The Board then approved a modification to such charter to rename such committee the "Compensation Committee." The Board further approved that the Compensation Committee would have the authority to address such special matters as delegated to it by Ms. Holmes. The Board appointed Messrs. Bechtel, Mattis and Shultz to the Compensation Committee. The Board then discussed that the Audit Committee was the only remaining committee of the Board certain matters of whose would continue to be addressed by the full Board rather than in committee, and discussed the status of ongoing engagement with its auditors.



The Board also had a general discussion regarding the approach of the Company to its compliance policies and programs.

*Determination of Fair Market Value*

The Board then reviewed the fair market value of a share of the Company's common stock. The Board reviewed the independent valuation report by Aranca dated December 15, 2014 as well as prior reports, analyzing the fair market value of the Company's common stock pursuant to Section 409A of the Internal Revenue Code, which fair market value was determined to be \$1.44 per share (the "*Independent Valuation Report*"). The Independent Valuation Report was discussed by the Board, and the Board, having considered all available information material to the valuation of the Company's common stock, including the Independent Valuation Report, determined in good faith that the fair market value of one share of the Company's common stock was \$1.44 as of the date of this meeting, and currently expects the fair market value to remain at \$1.44 through the next material event vis-à-vis the Company, around which time another fair market value analysis would be performed. In considering the current fair market value of the Company's common stock, the Board determined in good faith that no material events affecting the Company have occurred since the valuation date set forth in the Independent Valuation Report. The Board also considered all of the available information it considered to be relevant in valuing the common stock of the Company, including, but not limited to, (i) the value of the Company's tangible and intangible assets, (ii) the present value of anticipated future cash flows, (iii) the fair market value of similar companies engaged in a substantially similar business, particularly those which are at similar stages of development, (iv) recent arm's length transactions involving the Company's common





stock (of which there have been none), and (v) all other factors and considerations the Board deemed relevant. Based on the above considerations, the Board determined that the fair market value of one share of the Company's common stock was \$1.44 per share as of the date of this meeting, and currently expects the fair market value to remain at \$1.44 through the next material event vis-à-vis the Company.

The Board then approved the delegation of its authority to the Executive Committee to approve future independent valuation reports and to make stock option grants.

*Legal and Operational Update*

Ms. Holmes then provided the Board with a description of the Company's work to reduce Medicare reimbursement rates in Arizona and California. Ms. Holmes also described the Company's work on the development of a direct testing bill and associated legislation. Ms. Holmes further discussed with the Board the Company's performance in its CLIA audits and proficiency testing and audit scores. Finally, Ms. Holmes reviewed the Company's model and plans for decentralization of its technology infrastructure, and associated developments.

Ms. Holmes and Mr. Boies then discussed with the Board the Company's corporate and governance structure. Ms. Holmes also reviewed with the Board the Company's intellectual property portfolio and the strategy for its continued development. Questions were asked and a full discussion ensued among the Directors regarding this legal update.

*Adjournment*

There being no further business to come before the Board, the meeting was duly adjourned.



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Sunny Balwani, Secretary

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Exhibit A

(See attached)

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Theranos, Inc.

**THERANOS, INC.**

**AMENDMENT NO. 1 TO AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT**

This Amendment No. 1 to the Amended and Restated Investors' Rights Agreement (the "Amendment") is entered into as of ~~January~~<sup>February, 6</sup> 2015 by and among Theranos, Inc., a Delaware corporation (the "Company"), and certain of the holders of stock in the Company listed on Exhibit A and Exhibit B (the "Investors") of the Amended and Restated Investors' Rights Agreement, dated February 7, 2014, by and among the Company, the Investors, and Elizabeth Holmes (the "Agreement"). Capitalized terms used in this Amendment and not otherwise defined herein shall have the meanings given to them in the Agreement.

**RECITALS**

WHEREAS, the Company, the Investors and Elizabeth Holmes are parties to the Agreement;

WHEREAS, Section 5.1 of the Agreement provides that the Agreement may be amended by a written instrument referencing the Agreement and signed by (i) the Company and (ii) Holders (as defined in the Agreement) holding at least a majority of the combined voting power of the (A) outstanding shares of Registrable Securities (as defined in the Agreement) on an as-converted to Class A Common Stock basis and (B) Class B Common Stock, voting together as a single class (such Holders, a "Requisite Majority"); and

WHEREAS, the undersigned Investors, constituting a Requisite Majority, and the Company desire to amend the Agreement as set forth below.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree to amend the Agreement as follows:

1. Section 4.1 of the Agreement is hereby amended to add the following subsection:

"(j) Confidentiality. The Company's actions pursuant to this Section 4.1 shall be confidential, and the Company shall not be required to disclose any information related to its receipt of any Transfer Notice or its exercise, failure to exercise or assignment of the Right of First Refusal except as otherwise required by this Section 4.1."

2. Section 5.2 ("Notices") of the Agreement is hereby amended in its entirety to read as follows:

"5.2 Notices.





(a) Any notices and other communications required pursuant to Section 4.1 hereof shall be in writing and shall be mailed by registered or certified mail, postage prepaid or otherwise delivered by hand or by messenger, or sent by electronic mail.

(b) All other notices and other communications required or permitted hereunder shall be in writing and shall be mailed by registered or certified mail, postage prepaid or otherwise delivered by hand or by messenger.

(c) Any notice delivered pursuant to this Agreement shall be directed as follows:

(i) if to an Investor, to the Investor's address or email address as shown in the Company's records, as may be updated in accordance with the provisions hereof;

(ii) if to any Holder, to such address or email address as shown in the Company's records, or, until any such holder so furnishes an address to the Company, then to the address or email address of the last holder of such shares for which the Company has contact information in its records;

(iii) if to the Company, to Elizabeth Holmes at Theranos, Inc., 1701 Page Mill Road, Palo Alto, CA 94304, [ehoffice@theranos.com](mailto:ehoffice@theranos.com); [shareholderinfo@theranos.com](mailto:shareholderinfo@theranos.com); or at such other address as the Company shall have furnished to the Investors, with copies to Katharine A. Martin, Esq. at Wilson Sonsini Goodrich & Rosati, P.C., 650 Page Mill Road, Palo Alto, California 94304 or [kmartin@wsgr.com](mailto:kmartin@wsgr.com).

(d) Each such notice or other communication shall for all purposes of this Agreement be treated as effective or having been given when delivered if delivered personally or by electronic mail, or, if sent by mail, at the earlier of its receipt or four days after the same has been deposited in a regularly maintained receptacle for the deposit of the United States mail, addressed and mailed as aforesaid.

### 3. Miscellaneous.

(a) Entire Agreement. This Amendment constitutes the full and entire agreement between the parties with regard to the subjects hereof and may not be further amended or modified except in accordance with the provisions of Section 5.1 of the Agreement.

(b) Governing Law. This Amendment will be governed by and construed under the laws of the State of Delaware in all respects as such laws are applied to agreements among Delaware residents entered into and performed entirely in Delaware, without giving effect to conflict of law principles thereof.

(c) Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one instrument.

*(Signature Pages Follow)*



IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to the Amended and Restated Investors' Rights Agreement as of the date first set forth above.

**COMPANY:**

**THERANOS, INC.**  
a Delaware corporation

By: \_\_\_\_\_ 

Print Name: Elizabeth Holmes

Title: Chairman & CEO

*(Signature Page to Amendment No. 1 to the Amended and Restated Investors' Rights Agreement)*



IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to the Amended and Restated Investors' Rights Agreement as of the date first set forth above.

**INVESTOR:**

\_\_\_\_\_  
*(Print investor name)*

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Print name of signatory, if signing for an entity)*

\_\_\_\_\_  
*(Print title of signatory, if signing for an entity)*

*(Signature Page to Amendment No. 1 to the Amended and Restated Investors' Rights Agreement)*



Exhibit B

(See attached)

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