As filed with the Securities and Exchange Commission on July 31, 2024

Registration No. 333-280013

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

AMENDMENT NO. 2 TO

FORM S-3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

SEMLER SCIENTIFIC, INC.

(Exact name of registrant as specified in its charter)

Delaware	**26-1367393**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

2340-2348 Walsh Ave, Suite 2344
Santa Clara, California 95051
(877) 774-4211

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Douglas Murphy-Chutorian, M.D.
President and Chief Executive Officer
Semler Scientific, Inc.
2340-2348 Walsh Avenue, Suite 2344
Santa Clara, California 95051
(877) 774-4211

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

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Renae Cormier
Chief Financial Officer
Semler Scientific, Inc.
2340-2348 Walsh Ave, Suite 2344
Santa Clara, California 95051
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Approximate date of commencement of proposed sale to the public: From time to time after this registration statement becomes effective.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. ☐

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. ☒

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. ☐

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒	Smaller reporting company	☒
		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 7(a)(2)(B) of the Securities Act. ☐

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933, AS AMENDED, OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION ACTING PURSUANT TO SAID SECTION 8(a), MAY DETERMINE.

EXPLANATORY NOTE

This registration statement contains:

- a base prospectus covering the offering, issuance and sale by the registrant of the registrant's debt securities, common stock, units and/or warrants from time to time in one or more offerings with a total value up to $150,000,000; and
- an "at the market offering" prospectus covering the offering, issuance and sale by the registrant of up to $50,000,000 of the registrant's common stock that may be issued and sold from time to time under the Controlled Equity Offering[SM] Sales Agreement, or the sales agreement, with Cantor Fitzgerald & Co.

The base prospectus immediately follows this explanatory note. The specific terms of any securities to be offered pursuant to the base prospectus will be specified in a prospectus supplement to the base prospectus. The at the market offering prospectus immediately follows the base prospectus. Upon termination of the sales agreement or suspension or termination of the at the market offering prospectus, any amounts included in that prospectus that remain unsold will be available for sale in other offerings pursuant to the base prospectus and a corresponding prospectus supplement, and if no shares are sold under the sales agreement, the full $50,000,000 of securities may be sold in other offerings pursuant to the base prospectus and a corresponding prospectus supplement.

SUBJECT TO COMPLETION, DATED JULY 31, 2024

PROSPECTUS

Semler Scientific®

$150,000,000
Debt Securities
Common Stock
Units
Warrants

We may offer and sell securities from time to time in one or more offerings, up to an aggregate value of $150,000,000. This prospectus describes the general terms of these securities and the general manner in which these securities will be offered. We will provide the specific terms of these securities in supplements to this prospectus. The prospectus supplements will also describe the specific manner in which these securities will be offered and may also supplement, update or amend information contained or incorporated by reference in this document. You should read this prospectus, the applicable prospectus supplement and any related free writing prospectus, as well as the documents incorporated by reference herein and therein, carefully before you invest.

We may offer and sell these securities in amounts, at prices and on terms determined at the time of offering and which will be set forth in a prospectus supplement to this prospectus and any related free writing prospectus. The securities may be sold directly to you, through agents, or through underwriters and dealers. If agents, underwriters or dealers are used to sell the securities, we will name them and describe their compensation in a prospectus supplement.

Our common stock is listed on The Nasdaq Capital Market under the symbol "SMLR." Our stock price has been volatile, and may continue to be volatile. As a result of this volatility you may not be able to sell your common stock at a price per share higher than the price you paid for such share, if at all. On July 31, 2023, the closing price of our common stock was $24.55 per share. In 2024 through July 30, 2024, the closing price of our common stock has been as high as $51.54 per share on February 15, 2024, and as low as $21.03 per share on May 8, 2024. We believe this recent volatility is primarily due to reporting first quarter 2024 revenues and net profits on May 7, 2024 that were lower than securities analyst expectations (and the reduction in price recommendation that followed), as well as our May 28, 2024, announcement of our new bitcoin strategy rather than a change in our financial condition or results of operations. On July 30, 2024, the closing price for our common stock, as reported on The Nasdaq Capital Market, was $34.35 per share.

Investing in these securities involves significant risks. See "Risk Factors" included in any accompanying prospectus supplement and in the documents incorporated by reference in this prospectus for a discussion of the factors you should carefully consider before deciding to purchase these securities.

We may amend or supplement this prospectus from time to time by filing amendments or supplements as required. We urge you to read the entire prospectus, any amendments or supplements, any free writing prospectuses, and any documents incorporated by reference carefully before you make your investment decision.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is , 2024

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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, which we refer to as the "SEC," utilizing a "shelf" registration process. Under this shelf registration process, we may from time to time sell any combination of the securities described in this prospectus in one or more offerings for an aggregate offering amount of up to $150,000,000.

This prospectus provides you with a general description of the securities we may offer. Each time we sell securities, we will provide one or more prospectus supplements that will contain specific information about the terms of the offering. We may also authorize one or more free writing prospectuses to be provided to you that may contain material information relating to these offerings. The prospectus supplement may also add, update or change information contained in this prospectus or in any documents that we have incorporated by reference into this prospectus and, accordingly, to the extent inconsistent, information in this prospectus is superseded by the information in the prospectus supplement or any related free writing prospectus. You should read both this prospectus and the accompanying prospectus supplement together with the additional information described under the heading "Where You Can Find More Information" of this prospectus.

We have not authorized anyone to provide you with any information other than that contained or incorporated by reference in this prospectus or any accompanying prospectus supplement or free writing prospectus to which we have referred you. We take no responsibility for, and can provide no assurance as to the reliability of, any other information others may give you. This prospectus and any accompanying prospectus supplement do not constitute an offer to sell or the solicitation of an offer to buy any securities other than the securities described in this prospectus or such accompanying prospectus supplement or an offer to sell or the solicitation of an offer to buy such securities in any circumstances in which such offer or solicitation is unlawful. You should assume that the information appearing in this prospectus, any prospectus supplement, the documents incorporated by reference and any related free writing prospectus is accurate only as of their respective dates. Our business, financial condition, results of operations and prospects may have changed materially since those dates.

No offer of these securities will be made in any jurisdiction where the offer is not permitted.

Unless the context otherwise indicates, references in this prospectus to "we," "our," "us" and "our company" refers to Semler Scientific, Inc., a Delaware corporation.

RISK FACTORS

Investing in our securities involves a high degree of risk. You should carefully consider the risks and uncertainties described under "Risk Factors" in our most recent annual report on Form 10-K as supplemented or updated in our most recent quarterly report on Form 10-Q, any current report on Form 8-K including Exhibit 99.1 to the registration statement of which this prospectus forms a part, as well as any accompanying prospectus supplement, together with all of the other information included or incorporated by reference in this prospectus and in any accompanying prospectus supplement, including our financial statements and related notes, before deciding whether to purchase our securities.

Our business, financial condition and results of operations could be materially and adversely affected by any or all of these risks or by additional risks and uncertainties not presently known to us or that we currently deem immaterial that may adversely affect us in the future.

The price of our common stock has been and may continue to be volatile and fluctuate substantially, which could result in substantial losses for purchasers of our common stock.

Our stock price has been and is likely to continue to be volatile. On July 31, 2023, the closing price of our common stock was $24.55 per share. In 2024 through July 30, 2024, the closing price of our common stock has been as high as $51.54 per share on February 15, 2024, and as low as $21.03 per share on May 8, 2024. We believe this recent volatility is primarily due to reporting first quarter 2024 revenues and net profits on May 7, 2024 that were lower than securities analyst expectations, as well as our May 28, 2024, announcement of our new bitcoin strategy rather than a change in our financial condition or results of operations. In addition, the stock market in general and the market for smaller medical device companies in particular have experienced extreme volatility that has often been unrelated to the operating performance of particular companies. As a result of this volatility, you may not be able to sell your common stock at a price per share higher than you paid for such share, if at all. The market price for our common stock has been, and may continue to be influenced by many factors, including:

- the success of competitive products, services or technologies;
- the adoption of new business strategies or goals, such as our recently announced bitcoin strategy;
- regulatory or legal developments in the United States and other countries (such as the CMS rate announcement);
- developments or disputes concerning patent applications, issued patents or other proprietary rights;
- the recruitment or departure of key personnel;
- actual or anticipated changes in estimates as to financial results, development timelines or recommendations by securities analysts (including changes in price targets, such as the reduction in price recommendation following announcement of our first quarter 2024 results);
- variations in our financial results or those of companies that are perceived to be similar to us;
- changes in the structure of healthcare payment systems;
- market conditions in the medical device sector;
- general economic, industry and market conditions; and
- the other factors described in the "Risk Factors" section of our other SEC filings, including our most recent annual report on Form 10-K and in Exhibit 99.1 to the registration statement of which this prospectus forms a part.

In the past, following periods of volatility in the market price of a company's securities, securities class action litigation has often been brought against that company. Due to the potential volatility of our stock price, we may be the target of securities litigation in the future. Securities litigation could result in substantial costs and divert management's attention and resources from our business.

Our management may invest or spend the proceeds of this offering in ways with which you may not agree or in ways that may not yield a return.

Our management will have broad discretion in the application of the net proceeds from this offering and could spend the proceeds in ways that do not improve our results of operations or enhance the value of our common stock. The failure by our management to apply these funds effectively could result in financial losses that could cause the price of our common stock to decline and delay the development of additional products and services our pursuit of our new bitcoin strategy. Pending their use, we may invest the net proceeds from this offering in a manner that does not produce income or that loses value.

We may use the net proceeds from this offering to purchase additional bitcoin, the price of which has been, and will likely continue to be, highly volatile.

We may use the net proceeds from this offering to purchase additional bitcoin. Bitcoin is a highly volatile asset that has traded below $26,000 per bitcoin and above $70,000 per bitcoin on Coinbase in the 12 months preceding the date of this prospectus. In addition, bitcoin does not pay interest or other returns and so ability to generate a return on investment from the net proceeds from this offering will depend on whether there is appreciation in the value of bitcoin following our purchases of bitcoin with the net proceeds from this offering. Future fluctuations in bitcoin trading prices may result in our converting bitcoin purchased with the net proceeds from this offering into cash with a value substantially below the net proceeds from this offering.

Bitcoin and other digital assets are novel assets, and are subject to significant legal, commercial, regulatory and technical uncertainty.

Bitcoin and other digital assets are relatively novel and are subject to significant uncertainty, which could adversely impact their price. The application of state and federal securities laws and other laws and regulations to digital assets is unclear in certain respects, and it is possible that regulators in the United States or foreign countries may interpret or apply existing laws and regulations in a manner that adversely affects the price of bitcoin.

The U.S. federal government, states, regulatory agencies, and foreign countries may also enact new laws and regulations, or pursue regulatory, legislative, enforcement or judicial actions, that could materially impact the price of bitcoin or the ability of individuals or institutions such as us to own or transfer bitcoin. For example, the U.S. executive branch, the SEC, the European Union's Markets in Crypto Assets Regulation, among others have been active in recent years, and in the U.K., the Financial Services and Markets Act 2023, or FSMA 2023, became law. It is not possible to predict whether, or when, any of these developments will lead to Congress granting additional authorities to the SEC or other regulators, or whether, or when, any other federal, state or foreign legislative bodies will take any similar actions. It is also not possible to predict the nature of any such additional authorities, how additional legislation or regulatory oversight might impact the ability of digital asset markets to function or the willingness of financial and other institutions to continue to provide services to the digital assets industry, nor how any new regulations or changes to existing regulations might impact the value of digital assets generally and bitcoin specifically. The consequences of increased regulation of digital assets and digital asset activities could adversely affect the market price of bitcoin and in turn adversely affect the market price of our common stock.

Moreover, the risks of engaging in a bitcoin treasury strategy are relatively novel and have created, and could continue to create, complications due to the lack of experience that third parties have with companies engaging in such a strategy, such as increased costs of director and officer liability insurance or the potential inability to obtain such coverage on acceptable terms in the future.

The growth of the digital assets industry in general, and the use and acceptance of bitcoin in particular, may also impact the price of bitcoin and is subject to a high degree of uncertainty. The pace of worldwide growth in the adoption and use of bitcoin may depend, for instance, on public familiarity with digital assets, ease of buying, accessing or gaining exposure to bitcoin, institutional demand for bitcoin as an investment asset, the participation of traditional financial institutions in the digital assets industry, consumer demand for bitcoin as a means of payment, and the availability and popularity of alternatives to bitcoin. Even if growth in bitcoin adoption occurs in the near or medium-term, there is no assurance that bitcoin usage will continue to grow over the long-term.

Because bitcoin has no physical existence beyond the record of transactions on the bitcoin blockchain, a variety of technical factors related to the bitcoin blockchain could also impact the price of bitcoin. For example, malicious attacks by miners, inadequate mining fees to incentivize validating of bitcoin transactions, hard "forks" of the bitcoin blockchain into multiple blockchains, and advances in digital computing, algebraic geometry, and quantum computing could undercut the integrity of the bitcoin blockchain and negatively affect the price of bitcoin. The liquidity of bitcoin may also be reduced and damage to the public perception of bitcoin may occur, if financial institutions were to deny or limit banking services to businesses that hold bitcoin, provide bitcoin-related services or accept bitcoin as payment, which could also decrease the price of bitcoin. Similarly, the open-source nature of the bitcoin blockchain means the contributors and developers of the bitcoin blockchain are generally not directly compensated for their contributions in maintaining and developing the blockchain, and any failure to properly monitor and upgrade the bitcoin blockchain could adversely affect the bitcoin blockchain and negatively affect the price of bitcoin.

Recent actions by U.S. banking regulators have reduced the ability of bitcoin-related services providers to gain access to banking services and liquidity of bitcoin may also be impacted to the extent that changes in applicable laws and regulatory requirements negatively impact the ability of exchanges and trading venues to provide services for bitcoin and other digital assets.

Regulatory change reclassifying bitcoin as a security could lead to our classification as an "investment company" under the Investment Company Act of 1940, as amended, or the 1940 Act, and could adversely affect the market price of bitcoin and the market price of our common stock.

Under Sections 3(a)(1)(A) and (C) of the 1940 Act, a company generally will be deemed to be an "investment company" for purposes of the 1940 Act if (1) it is, or holds itself out as being, engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities or (2) it engages, or proposes to engage, in the business of investing, reinvesting, owning, holding or trading in securities and it owns or proposes to acquire investment securities having a value exceeding 40% of the value of its total assets (exclusive of U.S. government securities and cash items) on an unconsolidated basis. We do not believe that we are an "investment company," as such term is defined in the 1940 Act, and are not registered as an "investment company" under the 1940 Act as of the date of this prospectus.

While senior SEC officials have stated their view that bitcoin is not a "security" for purposes of the federal securities laws, a contrary determination by the SEC could lead to our classification as an "investment company" under the 1940 Act, if the portion of our assets consists of investments in bitcoins exceeds 40% safe harbor limits prescribed in the 1940 Act, which would subject us to significant additional regulatory controls that could have a material adverse effect on our business and operations and may also require us to change the manner in which we conduct our business.

We monitor our assets and income for compliance under the 1940 Act and seek to conduct our business activities in a manner such that we do not fall within its definitions of "investment company" or that we qualify under one of the exemptions or exclusions provided by the 1940 Act and corresponding SEC regulations. If bitcoin is determined to constitute a security for purposes of the federal securities laws, we would take steps to reduce the percentage of bitcoins that constitute investment assets under the 1940 Act. These steps may include, among others, selling bitcoins that we might otherwise hold for the long term and deploying our cash in non-investment assets, and we may be forced to sell our bitcoins at unattractive prices. We may also seek to acquire additional non-investment assets to maintain compliance with the 1940 Act, and we may need to incur debt, issue additional equity or enter into other financing arrangements that are not otherwise attractive to our business. Any of these actions could have a material adverse effect on our results of operations and financial condition. Moreover, we can make no assurance that we would successfully be able to take the necessary steps to avoid being deemed to be an investment company in accordance with the safe harbor. If we were unsuccessful, and if bitcoin is determined to constitute a security for purposes of the federal securities laws, then we would have to register as an investment company, and the additional regulatory restrictions imposed by 1940 Act could adversely affect the market price of bitcoin and in turn adversely affect the market price of our common stock.

We may be subject to regulatory developments related to crypto assets and crypto asset markets, which could adversely affect our business, financial condition, and results of operations.

As bitcoin and other digital assets are relatively novel and the application of state and federal securities laws and other laws and regulations to digital assets is unclear in certain respects, and it is possible that

regulators in the United States or foreign countries may interpret or apply existing laws and regulations in a manner that adversely affects the price of bitcoin. The U.S. federal government, states, regulatory agencies, and foreign countries may also enact new laws and regulations, or pursue regulatory, legislative, enforcement or judicial actions, that could materially impact the price of bitcoin or the ability of individuals or institutions such as us to own or transfer bitcoin. For examples, see "— Bitcoin and other digital assets are novel assets, and are subject to significant legal, commercial, regulatory and technical uncertainty" above.

If bitcoin is determined to constitute a security for purposes of the federal securities laws, the additional regulatory restrictions imposed by such a determination could adversely affect the market price of bitcoin and in turn adversely affect the market price of our common stock. See "— Regulatory change reclassifying bitcoin as a security could lead to our classification as an "investment company" under the 1940 Act, and could adversely affect the market price of bitcoin and the market price of our common stock" above. Moreover, the risks of us engaging in a bitcoin treasury strategy have created, and could continue to create, complications due to the lack of experience that third parties have with companies engaging in such a strategy, such as increased costs of director and officer liability insurance or the potential inability to obtain such coverage on acceptable terms in the future.

Our bitcoin holdings are less liquid than our existing cash and cash equivalents and may not be able to serve as a source of liquidity for us to the same extent as cash and cash equivalents.

Historically, the bitcoin markets have been characterized by significant volatility in price, limited liquidity and trading volumes compared to sovereign currencies markets, relative anonymity, a developing regulatory landscape, potential susceptibility to market abuse and manipulation, compliance and internal control failures at exchanges, and various other risks inherent in its entirely electronic, virtual form and decentralized network. During times of market instability, we may not be able to sell our bitcoin at favorable prices or at all. For example, a number of bitcoin trading venues temporarily halted deposits and withdrawals in 2022. As a result, our bitcoin holdings may not be able to serve as a source of liquidity for us to the same extent as cash and cash equivalents. Further, bitcoin we hold with our custodians and transact with our trade execution partners does not enjoy the same protections as are available to cash or securities deposited with or transacted by institutions subject to regulation by the Federal Deposit Insurance Corporation or the Securities Investor Protection Corporation. Additionally, we may be unable to enter into term loans or other capital raising transactions collateralized by our unencumbered bitcoin or otherwise generate funds using our bitcoin holdings, including in particular during times of market instability or when the price of bitcoin has declined significantly. If we are unable to sell our bitcoin, enter into additional capital raising transactions using bitcoin as collateral, or otherwise generate funds using our bitcoin holdings, or if we are forced to sell our bitcoin at a significant loss, in order to meet our working capital requirements, our business and financial condition could be negatively impacted.

If we or our third-party service providers experience a security breach or cyberattack and unauthorized parties obtain access to our bitcoin, or if our private keys are lost or destroyed, or other similar circumstances or events occur, we may lose some or all of our bitcoin and our financial condition and results of operations could be materially adversely affected.

Substantially all of the bitcoin we own is held in custody accounts at U.S.-based institutional-grade digital asset custodians. Security breaches and cyberattacks are of particular concern with respect to our bitcoin. Bitcoin and other blockchain-based cryptocurrencies and the entities that provide services to participants in the bitcoin ecosystem have been, and may in the future be, subject to security breaches, cyberattacks, or other malicious activities. For example, in October 2021 it was reported that hackers exploited a flaw in the account recovery process and stole from the accounts of at least 6,000 customers of the Coinbase exchange, although the flaw was subsequently fixed and Coinbase reimbursed affected customers. Similarly, in November 2022, hackers exploited weaknesses in the security architecture of the FTX Trading digital asset exchange and reportedly stole over $400 million in digital assets from customers. A successful security breach or cyberattack could result in:

- a partial or total loss of our bitcoin in a manner that may not be covered by insurance or the liability provisions of the custody agreements with the custodians who hold our bitcoin;
- harm to our reputation and brand;

- improper disclosure of data and violations of applicable data privacy and other laws; or
- significant regulatory scrutiny, investigations, fines, penalties, and other legal, regulatory, contractual and financial exposure.

Further, any actual or perceived data security breach or cybersecurity attack directed at other companies with digital assets or companies that operate digital asset networks, regardless of whether we are directly impacted, could lead to a general loss of confidence in the broader bitcoin blockchain ecosystem or in the use of the bitcoin network to conduct financial transactions, which could negatively impact us.

Attacks upon systems across a variety of industries, including industries related to bitcoin, are increasing in frequency, persistence, and sophistication, and, in many cases, are being conducted by sophisticated, well-funded and organized groups and individuals, including state actors. The techniques used to obtain unauthorized, improper or illegal access to systems and information (including personal data and digital assets), disable or degrade services, or sabotage systems are constantly evolving, may be difficult to detect quickly, and often are not recognized or detected until after they have been launched against a target. These attacks may occur on our systems or those of our third-party service providers or partners. We may experience breaches of our security measures due to human error, malfeasance, insider threats, system errors or vulnerabilities or other irregularities. In particular, we expect that unauthorized parties will attempt, to gain access to our systems and facilities, as well as those of our partners and third-party service providers, through various means, such as hacking, social engineering, phishing and fraud. Threats can come from a variety of sources, including criminal hackers, hacktivists, state-sponsored intrusions, industrial espionage, and insiders. In addition, certain types of attacks could harm us even if our systems are left undisturbed. For example, certain threats are designed to remain dormant or undetectable, sometimes for extended periods of time, or until launched against a target and we may not be able to implement adequate preventative measures. Further, there has been an increase in such activities due to the increase in work-from-home arrangements. The risk of cyberattacks could also be increased by cyberwarfare in connection with the ongoing Russia-Ukraine and Israel-Hamas conflicts, or other future conflicts, including potential proliferation of malware into systems unrelated to such conflicts. Any future breach of our operations or those of others in the bitcoin industry, including third-party services on which we rely, could materially and adversely affect our financial condition and results of operations.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. Our SEC filings are available to the public over the Internet at the SEC's website at http://www.sec.gov. Copies of certain information filed by us with the SEC are also available on our website at http://www.semlerscientific.com. Our website is not a part of this prospectus and information contained on, or that can be accessed through our website, is not incorporated by reference in this prospectus.

This prospectus is part of a registration statement we filed with the SEC. This prospectus omits some information contained in the registration statement in accordance with SEC rules and regulations. You should review the information and exhibits in the registration statement for further information about us and the securities we are offering. Statements in this prospectus concerning any document we filed as an exhibit to the registration statement or that we otherwise filed with the SEC are not intended to be comprehensive and are qualified by reference to these filings and the exhibits attached thereto. You should review the complete document to evaluate these statements. You can obtain a copy of the registration statement from the SEC's website.

INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The SEC allows us to incorporate by reference much of the information we file with the SEC, which means that we can disclose important information to you by referring you to those publicly available documents. The information that we incorporate by reference in this prospectus is considered to be part of this prospectus. Because we are incorporating by reference future filings with the SEC, this prospectus is continually updated and those future filings may modify or supersede some of the information included or incorporated in this prospectus. This means that you must look at all of the SEC filings that we incorporate by reference to determine if any of the statements in this prospectus or in any document previously incorporated by reference have been modified or superseded. This prospectus incorporates by reference the documents listed below (File No. 001-36305) and any future filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, or the Exchange Act (in each case, other than those documents or the portions of those documents not deemed to be filed) until the offering of the securities under the registration statement is terminated or completed:

- annual report on Form 10-K for the fiscal year ended December 31, 2023 filed on March 7, 2024;
- quarterly report on Form 10-Q for the quarter ended March 31, 2024 filed on May 8, 2024;
- current reports on Form 8-K filed on January 22, 2024, May 28, 2024, June 6, 2024, and July 11, 2024 (as amended on July 31, 2024); and
- the description of our common stock contained in our registration statement on Form 8-A filed on September 27, 2021, as the description therein has been updated and superseded by the description of our capital stock contained in Exhibit 4.2 to our annual report on Form 10-K for the fiscal year ended December 31, 2022, and including any amendments and reports filed for the purpose of updating such description.

You may request a copy of these filings, at no cost, by writing or calling us at the following address or telephone number:

Semler Scientific, Inc.
2340-2348 Walsh Ave, Suite 2344
Santa Clara, California 95051
Attn: Investor Relations
(877) 774-4211

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS AND INDUSTRY DATA

This prospectus and the documents incorporated by reference in this prospectus include "forward-looking statements" within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. All statements, other than statements of historical fact, contained or incorporated by reference in this prospectus, including statements regarding our strategy, future operations, future financial position, future revenue, projected costs, prospects, plans and objectives of management, are forward-looking statements. The words "anticipate," "believe," "estimate," "expect," "intend," "may," "might," "plan," "predict," "project," "target," "potential," "would," "could," "should," "continue" and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words.

We may not actually achieve the plans, intentions or expectations disclosed in our forward-looking statements, and you should not place undue reliance on our forward-looking statements. Actual results or events could differ materially from the plans, intentions and expectations disclosed in the forward-looking statements we make. We have included important factors in the cautionary statements included, or incorporated by reference, in this prospectus, particularly in the "Risk Factors" section, that we believe could cause actual results or events to differ materially from the forward-looking statements that we make. You should also carefully review the risk factors and cautionary statements described in the other documents we file from time to time with the SEC, specifically our most recent Annual Report on Form 10-K, our Quarterly Reports on Form 10-Q and our Current Reports on Form 8-K. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures or investments we may make.

You should read this prospectus, the documents incorporated by reference in this prospectus and the documents that we have filed as exhibits to the registration statement of which this prospectus is a part completely and with the understanding that our actual future results may be materially different from what we expect. The forward-looking statements contained in this prospectus and incorporated by reference herein are made as of the date hereof, and we do not assume any obligation to update any forward-looking statements except as required by applicable law.

This prospectus includes or incorporates by reference certain statistical and other industry and market data that we obtained from industry publications and research, surveys and studies conducted by third parties as well as our own estimates of potential market opportunities. Industry publications and third-party research, surveys and studies generally indicate that their information has been obtained from sources believed to be reliable, although they do not guarantee the accuracy or completeness of such information. Our estimates of the potential market opportunities for our product candidates include several key assumptions based on our industry knowledge, industry publications, third-party research and other surveys, which may be based on a small sample size and may fail to accurately reflect market opportunities. While we believe that our internal assumptions are reasonable, no independent source has verified such assumptions.

ABOUT SEMLER SCIENTIFIC, INC.

Overview

We are a company providing technology solutions to improve the clinical effectiveness and efficiency of healthcare providers. Our mission is to develop, manufacture and market innovative products and services that assist our customers in evaluating and treating chronic diseases. Our patented and U.S. Food and Drug Administration, or FDA, cleared product, QuantaFlo, measures arterial blood flow in the extremities to aid in the diagnosis of cardiovascular diseases, such as peripheral arterial disease, or PAD.

We are currently seeking a new 510(k) clearance from the FDA for the expanded use of QuantaFlo, which is intended to enable expanded labeling as an aid in the diagnosis of other cardiovascular diseases in addition to PAD. We continue to develop additional complementary proprietary products in-house and seek out other arrangements for additional products and services that we believe will bring value to our customers and to our company. We believe our current products and services, and any future products or services that we may offer, position us to provide valuable information to our customer base, which in turn permits them to better guide patient care.

Recent Developments

WE ARE NOT REGISTERED AS AN INVESTMENT COMPANY UNDER THE INVESTMENT COMPANY ACT OF 1940 AND STOCKHOLDERS DO NOT HAVE THE PROTECTIONS ASSOCIATED WITH OWNERSHIP OF SHARES IN A REGISTERED INVESTMENT COMPANY NOR THE PROTECTIONS AFFORDED BY THE COMMODITIES EXCHANGE ACT.

Our Bitcoin Treasury Strategy

On May 28, 2024, we announced that our board of directors adopted bitcoin as our primary treasury reserve asset on an ongoing basis, subject to market conditions and our anticipated cash needs, and that we purchased 581 bitcoins for an aggregate amount of $40.0 million, inclusive of fees and expenses. As of June 6, 2024, we held a total of 828 bitcoins, which we acquired for an aggregate amount of $57.0 million, inclusive of fees and expenses.

We view bitcoin as a reliable store of value and a compelling investment. We believe it has unique characteristics as a scarce and finite asset that can serve as a reasonable inflation hedge and safe haven amid global instability. Bitcoin is often compared to gold, which has been viewed as a dependable store of value throughout history. Gold's value has appreciated substantially over time. For example, 25 years ago, the price of gold was approximately $500 per ounce. In 2024, the price of gold has traded higher than $2,400 per ounce. As of July 2024, the total market capitalization of gold was approximately $16.1 trillion compared to approximately $1.1 trillion for bitcoin. Bitcoin is a highly volatile asset that has traded below $26,000 per bitcoin and above $70,000 per bitcoin on Coinbase in the 12 months preceding the date of this prospectus. While highly volatile, bitcoin's price has also appreciated significantly since bitcoin's inception in January 2009 (at zero per bitcoin). We believe that a substantial portion of bitcoin's appreciation is attributable to the view that bitcoin is or will become a reliable store of value. Like gold, bitcoin is also viewed as a scarce asset; the ultimate supply of bitcoin is limited to 21 million coins and approximately 94% of its supply already exists. We believe that bitcoin's finite, digital and decentralized nature as well as its architectural resilience make it preferable to gold, which, as noted above, has a market capitalization 16 times higher than the market capitalization of bitcoin as of July 2024. Given our belief that bitcoin is a comparable and possibly better store of value than gold, we believe that bitcoin has the potential to approach or exceed the value of gold over time. Given the substantial gap in value between gold and bitcoin based on current market capitalization, we believe that bitcoin has the potential to generate outsize returns as it gains increasing acceptance as "digital gold." We believe that the growing global acceptance and "institutionalization" of bitcoin supports our view that bitcoin is a reliable store of value. We believe that bitcoin's unique attributes discussed above not only differentiate it from fiat money, but also from other cryptocurrency assets, and for that reason, we have no plans to purchase cryptocurrency assets other than bitcoin.

Execution of Bitcoin Transactions

We have purchased bitcoin through multiple bitcoin trade execution, or liquidity, providers, who may also serve as custodians of our bitcoin, and expect to continue to do so in the future. We may also in the future acquire or dispose of bitcoin via trade orders executed on exchanges such as Coinbase. Our liquidity providers and custodians, or our BTC Service Providers, are regulated and licensed entities that operate under high security, regulatory, audit and governance standards. We transact with multiple BTC Service Providers for both trade execution and custodial services to spread our risk and to limit our exposure to any single service provider or counterparty.

In selecting our liquidity providers, we evaluate regulatory status, pricing, annual trading volume, security and customer service. We also leverage the due diligence we conduct in connection with our custodial arrangements when conducting due diligence on our liquidity providers. Our current agreements with our liquidity providers are non-exclusive, may be terminated by us at any time, do not impose any requirements for minimum purchases or volumes with such providers, and generally provide that we are responsible for the costs associated with transfers of bitcoin.

To date, our liquidity providers, acting as our agents, have executed trades of bitcoin on our behalf using time-weighted average price over a prearranged time period, or TWAP, pricing and purchasing methodology, and we expect them to continue to do so in the future. The prearranged periods over which trades may be executed vary in length depending on the amount of bitcoin to be purchased and other factors, and are selected because they are expected to have lower price volatility and higher market liquidity, thereby limiting cost and pricing risks. Our liquidity providers use TWAP in their trading algorithms to execute large orders of bitcoin, without significantly affecting market price, by breaking large orders into several smaller orders that are independently traded at different time intervals in a generally linear fashion across different trading venues our liquidity providers select. Our liquidity providers execute trades based on the best possible terms reasonably available, taking into consideration all relevant facts and circumstances. As our agents, our liquidity providers use their discretion to select the counterparties to the transactions as well as the trading venues and platforms on which they execute trades on our behalf, and they may execute trades via cryptocurrency exchanges or in over-the-counter transactions. Our liquidity providers may calculate time-weighted average price using any number of resources, including various trading platforms. Our liquidity providers have policies and procedures pursuant to which they conduct trades with institutions that possess licenses or registrations to the extent required by their activities and have been AML/KYC approved pursuant to our liquidity providers' internal programs. We may in the future utilize TWAP pricing or another pricing methodology in connection with the execution of our bitcoin trades.

Custody of our Bitcoin

We currently hold and intend to continue to hold all of our bitcoin in custodial accounts at U.S.-based, institutional-grade custodians (who may hold our bitcoin in the United States or other territories) that have demonstrated records of regulatory compliance and information security. Our custodians may also serve as liquidity providers. As of July 31, 2024, we have entered into custodial agreements with Coinbase Custody Trust Company, LLC, or Coinbase Custody, a subsidiary of Coinbase Global, Inc., or Coinbase, and NYDIG Trust Company LLC, or NYDIG, a subsidiary of New York Digital Investment Group LLC. Our agreements with these custodians are filed as exhibits to the registration statement of which this prospectus forms a part. As we further execute on our strategy, we intend to include additional custodians.

We carefully select our custodians after undertaking a due diligence process pursuant to which we evaluate, among other things, the quality of their security protocols, including the multifactor and other authentication procedures designed to safekeep our bitcoin that they may employ, as well as other security, regulatory, audit and governance standards. Our custodians are required to hold our bitcoin in trust for our benefit in segregated accounts which are not commingled with their assets or the assets of their affiliates or other clients. Should we enter into custodial agreements with additional custodians, such agreements may not prohibit such custodians from commingling our bitcoin with the digital assets of others. Our custodial agreement with NYDIG provides that NYDIG will store our bitcoin in offline, or "cold" storage, and our custodial agreement with Coinbase Custody provides that Coinbase Custody will hold our bitcoin in an online "hot" wallet until it receives an instruction from us to effectuate a transfer of our bitcoin into cold storage.

Cold storage is designed to mitigate risks that a system may be susceptible to when connected to the internet, including the risks associated with unauthorized network access and cyberattacks.

Our custodians have access to the private key information associated with our bitcoin, or private keys, and they deploy security measures to secure our bitcoin holdings such as advanced encryption technologies, multi-factor identification, and a policy of storing our private keys in redundant, secure and geographically dispersed facilities. We never store, view or directly access our private keys. The operational procedures of our custodians are reviewed periodically by third-party advisors. All movement of our bitcoin by our custodians is coordinated, monitored and audited. Our custodians' procedures to prove control over the digital assets they hold in custody are also examined by their auditors. Additionally, we periodically verify our bitcoin holdings by reconciling our custodial service ledgers to the public blockchain. Our custodial agreements are terminable by us at any time, for any or no reason, upon advance notice given to the custodian.

Risk Mitigation Practices Related to Our Liquidity and Custodial Arrangements

We believe that our primary counterparty risk with respect to our bitcoin holdings is performance obligations under our various custody arrangements. We intend to custody our bitcoin with multiple custodians to diversify our potential risk exposure to any one custodian. Our custodial services contracts do not restrict our ability to reallocate our bitcoin among our custodians or require us to hold a minimum amount of bitcoin with any particular custodian. Our bitcoin holdings may be concentrated with a single custodian from time to time, particularly as we negotiate new arrangements or move our assets among our various service providers.

As regulated entities, our BTC Service Providers have policies, procedures and controls designed to comply with the Bank Secrecy Act, as amended by the USA PATRIOT Act, the implementing regulations of the U.S. Treasury Department's FinCEN, the Executive Orders and economic sanctions regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control, or OFAC, as well as state Anti-Money Laundering, or AML laws. Pursuant to these policies, procedures and controls, our BTC Service Providers use information systems developed in-house and by third-party vendors to conduct know your customer, or KYC, identification verification, background checks and other due diligence on counterparties and customers, and on the affiliates, related persons and authorized representatives of their customers, and to screen these parties against published sanctions lists. These checks may, where appropriate, assess financial strength, reputation, trading capabilities and other risks that may be associated with a given customer or counterparty. Our BTC Service Providers perform these checks and screenings during initial onboarding or in advance of a transaction, as applicable, and periodically thereafter, particularly when the sanctions lists that they monitor are updated. Our BTC Service Providers also utilize systems that monitor and screen blockchain transactions and digital wallet addresses in their efforts to detect and report suspicious or unlawful activity.

Our due diligence process when selecting BTC service providers involves giving consideration to their reputation and security level, confirming their internal compliance with applicable laws and regulations and ensuring their undertakings of contractual obligations on compliance. With respect to our custodians, we also conduct due diligence reviews during the custodial relationship to monitor the safekeeping of our bitcoin. As part of our process, we obtain and review our custodians' services organization controls reports if available. We are also contractually entitled to review our custodians' relevant internal controls through a variety of methods. We have in the past conducted, and expect to conduct in the future, supplemental due diligence when we believe it is warranted by market circumstances or otherwise. For example, we obtained supporting documentation to verify certain factual information, including documentation and analysis regarding financial solvency, exposure to troubled exchanges, regulatory compliance, security protocols and our ownership of our bitcoin.

We negotiate liability provisions in our custodial contracts pursuant to which our custodians are held liable for their failure to safekeep our bitcoin. For example, our custodial agreement with Coinbase Custody provides that Coinbase Custody will be liable to us for up to an amount equal to the greater of the aggregate amount of fees paid in the 12 month period preceding a liability event or the value, at the time of a liability event, of the supported digital assets in our vault account that are directly affected by the liability event, in either case subject to a cap of $100 million. Our custodial agreement with NYDIG provides that NYDIG will be liable to us for up to an amount equal to the greater of the fair market value of the custodied assets at the time the events giving rise to such liability occurred and the fair market value of the custodied assets at the

time we are notified or otherwise have actual knowledge of the events giving rise to such liability. In addition to custodial arrangements, we also intend to utilize affiliates of our bitcoin custodians to execute bitcoin acquisition and disposition transactions on our behalf (who may be our liquidity providers discussed elsewhere).

We also negotiate specific contractual terms and conditions with our custodians that we believe will help establish, under existing law, that our property interest in the bitcoin held by our custodians is not subject to the claims of the custodian's creditors in the event the custodian enters bankruptcy, receivership or similar insolvency proceedings. Our current custodians, and intended future custodians, are U.S.-based and are subject to U.S. regulatory regimes intended to protect customers in the event that a custodian enters bankruptcy, receivership or similar insolvency proceedings. Our custodians are required to comply with the Bank Secrecy Act, as amended by the USA PATRIOT Act, the implementing regulations of the U.S. Treasury Department's FinCEN, the Executive Orders and economic sanctions regulations administered by the OFAC, as well as state AML laws. However, applicable insolvency law is not fully developed with respect to the holding of digital assets in custodial accounts. If our custodially-held bitcoin were nevertheless considered to be the property of our custodians' estates in the event that any such custodians were to enter bankruptcy, receivership or similar insolvency proceedings, we could be treated as a general unsecured creditor of such custodians, inhibiting our ability to exercise ownership rights with respect to such bitcoin and this may ultimately result in the loss of the value related to some or all of such bitcoin. Even if we are able to prevent our bitcoin from being considered the property of a custodian's bankruptcy estate as part of an insolvency proceeding, it is possible that we would still be delayed or may otherwise experience difficulty in accessing our bitcoin held by the affected custodian during the pendency of the insolvency proceedings. Additionally, the bitcoin we hold with our custodians and transact with our trade execution partners does not enjoy the same protections as are available to cash or securities deposited with or transacted by institutions subject to regulation by the Federal Deposit Insurance Corporation or the Securities Investor Protection Corporation.

Regardless of efforts we have made to securely store and safeguard assets, there can be no assurance that our crypto assets will not be subject to loss or other misappropriation. Although our custodians carry insurance policies with policy limits ranging from $320 million to $500 million to cover losses for commercial crimes such as asset theft and other covered losses, such policy limits would be shared among all of their affected customers and subject to various limitations and exclusions (such as if a loss arises due to our failure to protect our login credentials and devices). As such, the insurance that covers losses of our bitcoin holdings may cover only a small fraction of the value of the entirety of our bitcoin holdings, and there can be no guarantee that our custodians will maintain such insurance policies or that such policies will cover any or all of our losses with respect to our bitcoin.

Please also see Exhibit 99.1 to our Form 8-K filed on July 11, 2024, as amended on July 31, 2024, for additional information relating to our bitcoin strategy, which is incorporated by reference into this prospectus, and is also filed as Exhibit 99.1 to the registration statement of which this prospectus forms a part.

CMS Rate Notice

In late March 2023, the Centers for Medicare and Medicaid Services, or CMS, issued the final 2024 rate announcement with payment changes for the Medicare Advantage and Part D prescription drug programs. Essentially, CMS is phasing in a new Medicare Advantage risk adjustment model (V28 model) from the previous model (V24 model) over a three-year period. The V28 model does not include risk adjusted payments for PAD without complications, which payments many health insurers, including our customers, relied upon for their Medicare Advantage patients in the V24 model. 2024 marks the first year the changes will be phased in as follows: in calendar year 2023, full payment under the V24 model; in calendar year 2024, 67% of the V24 model; in calendar year 2025, 33% of the V24 model.

Corporate Information

We were incorporated in the State of Oregon in August 2007, established C-corporation status in 2012, and reincorporated as a Delaware corporation in September 2013 under the name Semler Scientific, Inc. Our principal executive offices are located at 2340-2348 Walsh Avenue, Suite 2344, Santa Clara, California 95051, and our telephone number is (877) 774-4211. Our website address is http://www.semlerscientific.com. The

information contained on, or that can be accessed through, our website is not a part of this prospectus. We have included our website address in this prospectus solely as an inactive textual reference.

We own or have rights, or have applied for, to trademarks, service marks and trade names that we use in connection with the operation of our business, including our corporate name, logos and website names. Other trademarks, service marks and trade names appearing in this prospectus are the property of their respective owners. Solely for convenience, some of the trademarks, service marks and trade names referred to in this prospectus are listed without the ® and ™ and SM symbols, but we will assert, to the fullest extent under applicable law, our rights to our trademarks, service marks and trade names.

USE OF PROCEEDS

We intend to use the net proceeds from the sale of any securities offered under this prospectus primarily for general corporate purposes, including the acquisition of bitcoin, unless otherwise indicated in the applicable prospectus supplement. General corporate purposes may include working capital and capital expenditures, research and development expenses, general and administrative expenses and potential acquisition of, or investment in, companies, technologies, products or assets that complement our business, as well as the acquisition of bitcoin. We have not determined the amount of net proceeds to be used specifically for such purposes. As a result, management will retain broad discretion over the allocation of the net proceeds of any offering.

DESCRIPTION OF DEBT SECURITIES

We may offer debt securities, which may be senior or subordinated. We refer to the senior debt securities and the subordinated debt securities collectively as debt securities. Each series of debt securities may have different terms. The following description summarizes the general terms and provisions of the debt securities. We will describe the specific terms of the debt securities and the extent, if any, to which the general provisions summarized below apply to any series of debt securities in the prospectus supplement relating to the series and any applicable free writing prospectus that we authorize to be delivered. When we refer to "the Company," "we," "our," and "us" in this section, we mean Semler Scientific, Inc.

We may issue senior debt securities from time to time, in one or more series under a senior indenture to be entered into between us and a senior trustee to be named in a prospectus supplement, which we refer to as the senior trustee. We may issue subordinated debt securities from time to time, in one or more series, under a subordinated indenture to be entered into between us and a subordinated trustee to be named in a prospectus supplement, which we refer to as the subordinated trustee. The forms of senior indenture and subordinated indenture are filed as exhibits to the registration statement of which this prospectus forms a part. Together, the senior indenture and the subordinated indenture are referred to as the indentures and, together, the senior trustee and the subordinated trustee are referred to as the trustees. This prospectus briefly outlines some of the provisions of the indentures. The following summary of the material provisions of the indentures is qualified in its entirety by the provisions of the indentures, including definitions of certain terms used in the indentures. Wherever we refer to particular sections or defined terms of the indentures, those sections or defined terms are incorporated by reference in this prospectus or the applicable prospectus supplement. You should review the indentures that are filed as exhibits to the registration statement of which this prospectus forms a part for additional information. As used in this prospectus, the term "debt securities" includes the debt securities being offered by this prospectus and all other debt securities issued by us under the indentures.

General

The indentures:

- do not limit the amount of debt securities that we may issue;
- allow us to issue debt securities in one or more series;
- do not require us to issue all of the debt securities of a series at the same time; and
- allow us to reopen a series to issue additional debt securities without the consent of the holders of the debt securities of such series.

Unless otherwise provided in the applicable prospectus supplement, the senior debt securities will be unsubordinated obligations and will rank equally with all of our other unsecured and unsubordinated indebtedness. Payments on the subordinated debt securities will be subordinated to the prior payment in full of all of our senior indebtedness, as described under "— Subordination" and in the applicable prospectus supplement.

Each indenture provides that we may, but need not, designate more than one trustee under an indenture. Any trustee under an indenture may resign or be removed and a successor trustee may be appointed to act with respect to the series of debt securities administered by the resigning or removed trustee. If two or more persons are acting as trustee with respect to different series of debt securities, each trustee shall be a trustee of a trust under the applicable indenture separate and apart from the trust administered by any other trustee. Except as otherwise indicated in this prospectus, any action described in this prospectus to be taken by each trustee may be taken by each trustee with respect to, and only with respect to, the one or more series of debt securities for which it is trustee under the applicable indenture.

The prospectus supplement for each offering will provide the following terms, where applicable:

- the title of the debt securities and whether they are senior or subordinated;
- any limit upon the aggregate principal amount of the debt securities of that series;
- the date or dates on which the principal of the debt securities of the series is payable;

- the price at which the debt securities will be issued, expressed as a percentage of the principal and, if other than the principal amount thereof, the portion of the principal amount thereof payable upon declaration of acceleration of the maturity thereof or, if applicable, the portion of the principal amount of such debt securities that is convertible into another security of ours or the method by which any such portion shall be determined;
- the rate or rates at which the debt securities of the series shall bear interest or the manner of calculation of such rate or rates, if any;
- the date or dates from which interest will accrue, the interest payment dates on which such interest will be payable or the manner of determination of such interest payment dates, the place(s) of payment, and the record date for the determination of holders to whom interest is payable on any such interest payment dates or the manner of determination of such record dates;
- the right, if any, to extend the interest payment periods and the duration of such extension;
- the period or periods within which, the price or prices at which and the terms and conditions upon which debt securities of the series may be redeemed, converted or exchanged, in whole or in part;
- our obligation, if any, to redeem or purchase debt securities of the series pursuant to any sinking fund, mandatory redemption, or analogous provisions (including payments made in cash in satisfaction of future sinking fund obligations) or at the option of a holder thereof and the period or periods within which, the price or prices at which, and the terms and conditions upon which, debt securities of the series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;
- the form of the debt securities of the series including the form of the Certificate of Authentication for such series;
- if other than minimum denominations of one thousand U.S. dollars ($1,000) or any integral multiple of $1,000 thereof, the denominations in which the debt securities of the series shall be issuable;
- whether the debt securities of the series shall be issued in whole or in part in the form of a global debt security or global debt securities; the terms and conditions, if any, upon which such global debt security or global debt securities may be exchanged in whole or in part for other individual debt securities; and the depositary for such global debt security or global debt securities;
- whether the debt securities will be convertible into or exchangeable for common stock or other securities of ours or any other Person and, if so, the terms and conditions upon which such debt securities will be so convertible or exchangeable, including the conversion or exchange price, as applicable, or how it will be calculated and may be adjusted, any mandatory or optional (at our option or the holders' option) conversion or exchange features, and the applicable conversion or exchange period;
- any additional or alternative events of default to those set forth in the indenture;
- any additional or alternative covenants to those set forth in the indenture;
- the currency or currencies including composite currencies, in which payment of the principal of (and premium, if any) and interest, if any, on such debt securities shall be payable (if other than the currency of the United States of America), which unless otherwise specified shall be the currency of the United States of America as at the time of payment is legal tender for payment of public or private debts;
- if the principal of (and premium, if any), or interest, if any, on such debt securities is to be payable, at our election or at the election of any holder thereof, in a coin or currency other than that in which such debt securities are stated to be payable, then the period or periods within which, and the terms and conditions upon which, such election may be made;
- whether interest will be payable in cash or additional debt securities at our or the holders' option and the terms and conditions upon which the election may be made;
- the terms and conditions, if any, upon which we will pay amounts in addition to the stated interest, premium, if any and principal amounts of the debt securities of the series to any holder that is not a "United States person" for federal tax purposes;
- additional or alternative provisions, if any, related to defeasance and discharge of the offered debt securities than those set forth in the indenture;

- the applicability of any guarantees;
- any restrictions on transfer, sale or assignment of the debt securities of the series; and
- any other terms of the debt securities (which may supplement, modify or delete any provision of the indenture insofar as it applies to such series).

We may issue debt securities that provide for less than the entire principal amount thereof to be payable upon declaration of acceleration of the maturity of the debt securities. We refer to any such debt securities throughout this prospectus as "original issue discount securities."

We will provide you with more information in the applicable prospectus supplement regarding any deletions, modifications, or additions to the events of default or covenants that are described below, including any addition of a covenant or other provision providing event risk or similar protection.

Payment

Unless otherwise provided in the applicable prospectus supplement, the principal of, and any premium or make-whole amount, and interest on, any series of the debt securities will be payable by mailing a check to the address of the person entitled to it as it appears in the applicable register for the debt securities or by wire transfer of funds to that person at an account maintained within the United States.

All monies that we pay to a paying agent or a trustee for the payment of the principal of, and any premium, or interest on, any debt security will be repaid to us if unclaimed at the end of two years after the obligation underlying payment becomes due and payable. After funds have been returned to us, the holder of the debt security may look only to us for payment, without payment of interest for the period which we hold the funds.

Merger, Consolidation or Sale of Assets

The indentures provide that we may, without the consent of the holders of any outstanding debt securities, (i) consolidate with, (ii) sell, lease or convey all or substantially all of our assets to, or (iii) merge with or into, any other entity provided that:

- either we are the continuing entity, or the successor entity, if other than us, assumes the obligations (a) to pay the principal of, and any premium, and interest on, all of the debt securities and (b) to duly perform and observe all of the covenants and conditions contained in the applicable indenture; and in the event the debt securities are convertible into or exchangeable for common stock or other securities of ours, such successor entity will, by such supplemental indenture, make provision so that the holders of debt securities of that series shall thereafter be entitled to receive upon conversion or exchange of such debt securities the number of securities or property to which a holder of the number of common stock or other securities of ours deliverable upon conversion or exchange of those debt securities would have been entitled had such conversion or exchange occurred immediately prior to such consolidation, merger, sale, conveyance, transfer or other disposition; and
- an officers' certificate and legal opinion covering such conditions are delivered to each applicable trustee.

Events of Default, Notice and Waiver

Unless the applicable prospectus supplement states otherwise, when we refer to "events of default" as defined in the indentures with respect to any series of debt securities, we mean:

- default in the payment of any installment of interest on any debt security of such series continuing for 90 days unless such date has been extended or deferred;
- default in the payment of principal of, or any premium on, any debt security of such series when due and payable unless such date has been extended or deferred;
- default in the performance or breach of any covenant or warranty in the debt securities or in the indenture by us continuing for 90 days after written notice described below;

- bankruptcy, insolvency or reorganization, or court appointment of a receiver, liquidator or trustee of us; and
- any other event of default provided with respect to a particular series of debt securities.

If an event of default (other than an event of default described in the fourth bullet point above) occurs and is continuing with respect to debt securities of any series outstanding, then the applicable trustee or the holders of 25% or more in principal amount of the debt securities of that series will have the right to declare the principal amount of, and accrued interest on, all the debt securities of that series to be due and payable. If an event of default described in the fourth bullet point above occurs, the principal amount of, and accrued interest on, all the debt securities of that series will automatically become and will be immediately due and payable without any declaration or other act on the part of the trustee or the holders of the debt securities. However, at any time after such a declaration of acceleration has been made, but before a judgment or decree for payment of the money due has been obtained by the applicable trustee, the holders of at least a majority in principal amount of outstanding debt securities of such series or of all debt securities then outstanding under the applicable indenture may rescind and annul such declaration and its consequences if:

- we have deposited with the applicable trustee all required payments of the principal, any premium, interest and, to the extent permitted by law, interest on overdue installment of interest, plus applicable fees, expenses, disbursements and advances of the applicable trustee; and
- all events of default, other than the non-payment of accelerated principal, or a specified portion thereof, and any premium, have been cured or waived.

The indentures provide that holders of debt securities of any series may not institute any proceedings, judicial or otherwise, with respect to such indenture or for any remedy under the indenture, unless the trustee fails to act for a period of 90 days after the trustee has received a written request to institute proceedings in respect of an event of default from the holders of 25% or more in principal amount of the outstanding debt securities of such series, as well as an offer of indemnity reasonably satisfactory to the trustee. However, this provision will not prevent any holder of debt securities from instituting suit for the enforcement of payment of the principal of, and any premium, and interest on, such debt securities at the respective due dates thereof.

The indentures provide that, subject to provisions in each indenture relating to its duties in the case of a default, a trustee has no obligation to exercise any of its rights or powers at the request or direction of any holders of any series of debt securities then outstanding under the indenture, unless the holders have offered to the trustee reasonable security or indemnity. The holders of at least a majority in principal amount of the outstanding debt securities of any series or of all debt securities then outstanding under an indenture shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the applicable trustee, or of exercising any trust or power conferred upon such trustee. However, a trustee may refuse to follow any direction which:

- is in conflict with any law or the applicable indenture;
- may involve the trustee in personal liability; or
- may be unduly prejudicial to the holders of debt securities of the series not joining the proceeding.

Within 120 days after the close of each fiscal year, we will be required to deliver to each trustee a certificate, signed by one of our several specified officers, stating whether or not that officer has knowledge of any event of default under the applicable indenture. If the officer has knowledge of any event of default, the notice must specify the nature and status of the default.

Modification of the Indentures

Subject to certain exceptions, the indentures may be amended with the consent of the holders of a majority in aggregate principal amount of the outstanding debt securities of all series affected by such amendment (including consents obtained in connection with a tender offer or exchange for the debt securities of such series).

However, subject to the terms of the indenture for any series of debt securities that we may issue or as otherwise provided in the prospectus supplement or free writing prospectus applicable to a particular series of

debt securities, we and the trustee may make the following changes only with the consent of each holder of any outstanding debt securities affected:

- extending the stated maturity of the series of debt securities;
- reducing the principal amount, reducing the rate of or extending the time of payment of interest, or reducing any premium payable upon the redemption or repurchase of any debt securities; or
- reducing the percentage of debt securities, the holders of which are required to consent to any amendment, supplement, modification or waiver.

We and the applicable trustee may make modifications and amendments of an indenture without the consent of any holder of debt securities for any of the following purposes:

- to cure any ambiguity, defect, or inconsistency in the applicable indenture or in the Securities of any series;
- to comply with the covenant described above under "— Merger, Consolidation or Sale of Assets";
- to provide for uncertificated debt securities in addition to or in place of certificated debt securities;
- to add the covenants, restrictions, conditions or provisions relating to us for the benefit of the holders of all or any series of debt securities (and if such covenants, restrictions, conditions or provisions are to be for the benefit of less than all series of debt securities, stating that such covenants, restrictions, conditions or provisions are expressly being included solely for the benefit of such series), to make the occurrence, or the occurrence and the continuance, of a default in any such additional covenants, restrictions, conditions or provisions an event of default, or to surrender any right or power in the applicable indenture conferred upon us;
- to add to, delete from, or revise the conditions, limitations, and restrictions on the authorized amount, terms, or purposes of issue, authentication, and delivery of debt securities, as set forth in the applicable indenture;
- to make any change that does not adversely affect the rights of any holder of notes under the applicable indenture in any material respect;
- to provide for the issuance of and establish the form and terms and conditions of the debt securities of any series as provided in the applicable indenture, to establish the form of any certifications required to be furnished pursuant to the terms of the applicable indenture or any series of debt securities under the applicable indenture, or to add to the rights of the holders of any series of debt securities;
- to evidence and provide for the acceptance of appointment under the applicable indenture by a successor trustee or to appoint a separate trustee with respect to any series; or
- to comply with any requirements of the SEC or any successor in connection with the qualification of the indenture under the Trust Indenture Act of 1939, as amended, or the Trust Indenture Act.

Subordination

Payment by us of the principal of, premium, if any, and interest on any series of subordinated debt securities issued under the subordinated indenture will be subordinated to the extent set forth in an indenture supplemental to the subordinated indenture relating to such series.

Discharge, Defeasance and Covenant Defeasance

Unless otherwise provided in the applicable prospectus supplement, the indentures allow us to discharge our obligations (except for certain specified obligations) to holders of any series of debt securities issued under any indenture when:

- either (i) all securities of such series have already been delivered to the applicable trustee for cancellation; or (ii) all securities of such series have not already been delivered to the applicable trustee for cancellation but (a) have become due and payable, (b) will become due and payable within one year, or (c) if redeemable at our option, are to be redeemed within one year, and we have irrevocably

deposited with the applicable trustee, in trust, funds in such currency or currencies, or governmental obligations in an amount sufficient to pay the entire indebtedness on such debt securities in respect of principal and any premium, and interest to the date of such deposit if such debt securities have become due and payable or, if they have not, to the stated maturity or redemption date; and

- we have paid or caused to be paid all other sums payable.

Unless otherwise provided in the applicable prospectus supplement, the indentures provide that, upon our irrevocable deposit with the applicable trustee, in trust, of an amount, in such currency or currencies in which such debt securities are payable at stated maturity, or government obligations, or both, applicable to such debt securities, which through the scheduled payment of principal and interest in accordance with their terms will provide money in an amount sufficient to pay the principal of, and any premium or make-whole amount, and interest on, such debt securities, and any mandatory sinking fund or analogous payments thereon, on the scheduled due dates therefor, the issuing company shall be released from its obligations (except for certain specified obligations) with respect to such debt securities under the applicable indenture or, if provided in the applicable prospectus supplement, its obligations with respect to any other covenant, and any omission to comply with such obligations shall not constitute an event of default with respect to such debt securities.

The applicable prospectus supplement may further describe the provisions, if any, permitting such defeasance or covenant defeasance, including any modifications to the provisions described above, with respect to the debt securities of or within a particular series.

Conversion Rights

The terms and conditions, if any, upon which the debt securities are convertible into common stock or other securities of ours will be set forth in the applicable prospectus supplement. The terms will include whether the debt securities are convertible into shares of common stock or other securities of ours, the conversion price, or manner of calculation thereof, the conversion period, provisions as to whether conversion will be at the issuing company's option or the option of the holders, the events requiring an adjustment of the conversion price and provisions affecting conversion in the event of the redemption of the debt securities and any restrictions on conversion.

Governing Law

The indentures and the debt securities will be governed by and construed in accordance with the laws of the State of New York, except to the extent that the Trust Indenture Act is applicable.

DESCRIPTION OF CAPITAL STOCK

The following description of our capital stock and provisions of our certificate of incorporation and bylaws are summaries. You should also refer to the restated certificate of incorporation, as amended, and the amended and restated bylaws, which are filed as exhibits to the registration statement of which this prospectus is part.

Our authorized capital stock consists of 50,000,000 shares of our common stock, par value $0.001 per share. We do not have any authorized preferred stock.

Common Stock

Holders of our common stock are entitled to one vote for each share held on all matters submitted to a vote of stockholders and do not have cumulative voting rights. Each election of directors by our stockholders will be determined by a plurality of the votes cast by the stockholders entitled to vote on the election. Any matters other than the election of directors to be voted upon by the stockholders at a meeting are decided by the vote of the holders of shares of stock having a majority in voting power of the votes cast by the holders of all of the shares of stock present or represented at the meeting and voting affirmatively or negatively on such matter, except when a different vote is required by law, our certificate of incorporation or our bylaws. Holders of common stock are entitled to receive proportionately any dividends as may be declared by our board of directors.

In the event of our liquidation, dissolution or winding up, the holders of our common stock are entitled to receive proportionately all assets available for distribution to stockholders after the payment of all debts and other liabilities. Holders of our common stock have no preemptive, subscription, redemption or conversion rights.

Delaware Anti-Takeover Law and Certain Charter and Bylaw Provisions

Certain provisions of our amended and restated certificate of incorporation, as amended, our bylaws and Delaware law may have the effect of making it more difficult for a third party to acquire, or of discouraging a third party from attempting to acquire, control of us. Such provisions could limit the price that certain investors might be willing to pay in the future for shares of our common stock and may limit the ability of stockholders to remove current management or directors or approve transactions that stockholders may deem to be in their best interest and, therefore, could adversely affect the price of our common stock.

Delaware Law

We are subject to Section 203 of the Delaware General Corporation Law, or DGCL. Subject to certain exceptions, Section 203 prevents a publicly held Delaware corporation from engaging in a "business combination" with any "interested stockholder" for three years following the date that the person became an interested stockholder, unless either the interested stockholder attained such status with the approval of our board of directors, the business combination is approved by our board of directors and stockholders in a prescribed manner or the interested stockholder acquired at least 85% of our outstanding voting stock in the transaction in which it became an interested stockholder. A "business combination" includes, among other things, a merger or consolidation involving us and the "interested stockholder" and the sale of more than 10% of our assets. In general, an "interested stockholder" is any entity or person beneficially owning 15% or more of our outstanding voting stock and any entity or person affiliated with or controlling or controlled by such entity or person.

Staggered Board; Removal of Directors

Our certificate of incorporation and our bylaws divide our board of directors into three classes with staggered three-year terms. In addition, our certificate of incorporation and our bylaws provide that directors may be removed only for cause and only by the affirmative vote of the holders of at least 75% of our shares of capital stock present in person or by proxy and entitled to vote in an election of directors or class of directors. Under our certificate of incorporation and our bylaws, any vacancy on our board of directors, including a vacancy resulting from an enlargement of our board of directors, may be filled only by vote of a majority of

our directors then in office. Furthermore, our certificate of incorporation provides that the authorized number of directors may be changed only by the resolution of our board of directors. The classification of our board of directors and the limitations on the ability of our stockholders to remove directors, change the authorized number of directors and fill vacancies could make it more difficult for a third party to acquire, or discourage a third party from seeking to acquire, control of our company.

Stockholder Action; Special Meeting of Stockholders; Advance Notice Requirements for Stockholder Proposals and Director Nominations

Our amended and restated certificate of incorporation, as amended and our bylaws provide that any action required or permitted to be taken by our stockholders at an annual meeting or special meeting of stockholders may only be taken if it is properly brought before such meeting and may not be taken by written action in lieu of a meeting. Our certificate of incorporation and our bylaws also provide that, except as otherwise required by law, special meetings of the stockholders can only be called by our board of directors. In addition, our bylaws establish an advance notice procedure for stockholder proposals to be brought before an annual meeting of stockholders, including proposed nominations of candidates for election to our board of directors. Stockholders at an annual meeting may only consider proposals or nominations specified in the notice of meeting or brought before the meeting by or at the direction of our board of directors, or by a stockholder of record on the record date for the meeting who is entitled to vote at the meeting and who has delivered timely written notice in proper form to our secretary of the stockholder's intention to bring such business before the meeting. These provisions could have the effect of delaying until the next stockholder meeting stockholder actions that are favored by the holders of a majority of our outstanding voting securities. These provisions also could discourage a third party from making a tender offer for our common stock because even if the third party acquired a majority of our outstanding voting stock, it would be able to take action as a stockholder, such as electing new directors or approving a merger, only at a duly called stockholders meeting and not by written consent.

Super-Majority Voting

The DGCL provides generally that the affirmative vote of a majority of the shares entitled to vote on any matter is required to amend a corporation's certificate of incorporation or bylaws unless a corporation's certificate of incorporation or bylaws, as the case may be, requires a greater percentage. Our bylaws may be amended or repealed by a majority vote of our board of directors or the affirmative vote of the holders of at least 75% of the votes that all our stockholders would be entitled to cast in any annual election of directors. In addition, the affirmative vote of the holders of at least 75% of the votes that all our stockholders would be entitled to cast in any election of directors is required to amend or repeal or to adopt any provisions inconsistent with any of the provisions of our certificate of incorporation described above.

Exclusive Forum Selection

Our certificate of incorporation provides that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if the Court of Chancery of the State of Delaware does not have jurisdiction, the federal district court for the District of Delaware) shall be the sole and exclusive forum for (1) any derivative action or proceeding brought on our behalf, (2) any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers, other employees or stockholders to our company or our stockholders, (3) any action asserting a claim arising pursuant to any provision of the DGCL or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware or (4) any action asserting a claim arising pursuant to any provision of our certificate of incorporation or bylaws (in each case, as they may be amended from time to time) or governed by the internal affairs doctrine. This exclusive forum provision will not apply to actions arising under the Securities Act, the Exchange Act or any other claim for which the federal courts have exclusive or concurrent jurisdiction. Although our certificate of incorporation contains the choice of forum provision described above, it is possible that a court could rule that such a provision is inapplicable for a particular claim or action or that such provision is unenforceable.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is Equiniti.

Nasdaq Capital Market

Our common stock is listed on the Nasdaq Capital Market under the symbol “SMLR.”

DESCRIPTION OF UNITS

We may issue units consisting of one or more of the other securities that may be offered under this prospectus in any combination. The following, together with the additional information we may include in any applicable prospectus supplement, summarizes the material terms and provisions of the units that we may offer under this prospectus. We may issue units in one or more series, which will be described in the applicable prospectus. While the terms summarized below will apply generally to any units we may offer, we will describe the particular terms of any series of units in more detail in the applicable prospectus supplement. If we indicate in the prospectus supplement, the terms of any units offered under that prospectus supplement may differ from the terms described below. Specific unit agreements will contain additional important terms and provisions and will be incorporated by reference as an exhibit to the registration statement that includes this prospectus.

Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit. Thus, the holder of a unit will have the rights and obligations of a holder of each included security. The unit agreement under which a unit is issued may provide that the securities included in the unit may not be held or transferred separately at any time, or at any time before a specified date.

We will describe in the applicable prospectus supplement the terms of the series of units being offered, including:

- the designation and terms of the units and of the securities comprising the units, including whether and under what circumstances those securities comprising the units may be traded separately;
- the identity of any unit agent for the units, if applicable, and of any other depositaries, execution or paying agents, transfer agents, registrars or other agents;
- any additional provisions for the issuance, payment, settlement, transfer or exchange of the units or of the securities comprising the units;
- any applicable material U.S. federal income tax consequences; and
- any additional terms of the governing unit agreement, if applicable.

We may issue units in such amounts and in such numbers of distinct series as we determine.

The provisions described in this section, as well as those described under “Description of Debt Securities,” “Description of Capital Stock,” and “Description of Warrants” will apply to each unit, as applicable, and to any debt securities, common stock, or warrant included in each unit, as applicable.

Unit Agent

The name and address of the unit agent for any units we offer will be set forth in the applicable prospectus supplement.

Enforceability of Rights by Holders of Units

Each unit agent will act solely as our agent under the applicable unit agreement and will not assume any obligation or relationship of agency or trust with any holder of any unit. A single bank or trust company may act as unit agent for more than one series of units. A unit agent will have no duty or responsibility in case of any default by us under the applicable unit agreement or unit, including any duty or responsibility to initiate any proceedings at law or otherwise, or to make any demand upon us. Any holder of a unit may, without the consent of the related unit agent or the holder of any other unit, enforce by appropriate legal action its rights as holder under any security included in the unit.

DESCRIPTION OF WARRANTS

We may issue warrants to purchase common stock or debt securities. We may offer warrants separately or together with one or more additional warrants, common stock or debt securities, or any combination of those securities in the form of units, as described in the applicable prospectus supplement. If we issue warrants as part of a unit, the accompanying prospectus supplement will specify whether those warrants may be separated from the other securities in the unit prior to the expiration date of the warrants. The applicable prospectus supplement will also describe the following terms of any warrants:

- the specific designation and aggregate number of, and the offering price at which we will issue, the warrants;
- the currency or currency units in which the offering price, if any, and the exercise price are payable;
- the date on which the right to exercise the warrants will begin and the date on which that right will expire or, if you may not continuously exercise the warrants throughout that period, the specific date or dates on which you may exercise the warrants;
- whether the warrants are to be sold separately or with other securities as parts of units;
- whether the warrants will be issued in definitive or global form or in any combination of these forms, although, in any case, the form of a warrant included in a unit will correspond to the form of the unit and of any security included in that unit;
- any applicable material U.S. federal income tax consequences;
- the identity of the warrant agent for the warrants and of any other depositaries, execution or paying agents, transfer agents, registrars or other agents;
- the proposed listing, if any, of the warrants or any securities purchasable upon exercise of the warrants on any securities exchange;
- the designation and terms of any equity securities purchasable upon exercise of the warrants;
- the designation, aggregate principal amount, currency and terms of any debt securities that may be purchased upon exercise of the warrants;
- if applicable, the number of warrants issued with each security;
- if applicable, the date from and after which any warrants issued as part of a unit and the related debt securities, or common stock will be separately transferable;
- the number of shares of common stock purchasable upon exercise of a warrant and the price at which those shares may be purchased;
- if applicable, the minimum or maximum amount of the warrants that may be exercised at any one time;
- information with respect to book-entry procedures, if any;
- the anti-dilution provisions of, and other provisions for changes to or adjustment in the exercise price of, the warrants, if any;
- any redemption or call provisions; and
- any additional terms of the warrants, including terms, procedures and limitations relating to the exchange or exercise of the warrants.

FORMS OF SECURITIES

Each debt security, unit and warrant will be represented either by a certificate issued in definitive form to a particular investor or by one or more global securities representing the entire issuance of securities. Unless the applicable prospectus supplement provides otherwise, certificated securities in definitive form and global securities will be issued in registered form. Definitive securities name you or your nominee as the owner of the security, and in order to transfer or exchange these securities or to receive payments other than interest or other interim payments, you or your nominee must physically deliver the securities to the trustee, registrar, paying agent or other agent, as applicable. Global securities name a depositary or its nominee as the owner of the debt securities, units or warrants represented by these global securities. The depositary maintains a computerized system that will reflect each investor's beneficial ownership of the securities through an account maintained by the investor with its broker/dealer, bank, trust company or other representative, as we explain more fully below.

Global Securities

We may issue the debt securities of a particular series, units and warrants in the form of one or more fully registered global securities that will be deposited with a depositary or its nominee identified in the applicable prospectus supplement and registered in the name of that depositary or nominee. In those cases, one or more global securities will be issued in a denomination or aggregate denominations equal to the portion of the aggregate principal or face amount of the securities to be represented by global securities. Unless and until it is exchanged in whole for securities in definitive registered form, a global security may not be transferred except as a whole by and among the depositary for the global security, the nominees of the depositary or any successors of the depositary or those nominees.

If not described below, any specific terms of the depositary arrangement with respect to any securities to be represented by a global security will be described in the prospectus supplement relating to those securities. We anticipate that the following provisions will apply to all depositary arrangements.

Ownership of beneficial interests in a global security will be limited to persons, called participants, that have accounts with the depositary or persons that may hold interests through participants. Upon the issuance of a global security, the depositary will credit, on its book-entry registration and transfer system, the participants' accounts with the respective principal or face amounts of the securities beneficially owned by the participants. Any dealers, underwriters or agents participating in the distribution of the securities will designate the accounts to be credited. Ownership of beneficial interests in a global security will be shown on, and the transfer of ownership interests will be effected only through, records maintained by the depositary, with respect to interests of participants, and on the records of participants, with respect to interests of persons holding through participants. The laws of some states may require that some purchasers of securities take physical delivery of these securities in definitive form. These laws may impair your ability to own, transfer or pledge beneficial interests in global securities.

So long as the depositary, or its nominee, is the registered owner of a global security, that depositary or its nominee, as the case may be, will be considered the sole owner or holder of the securities represented by the global security for all purposes under the applicable indenture, deposit agreement, warrant agreement or unit agreement. Except as described below, owners of beneficial interests in a global security will not be entitled to have the securities represented by the global security registered in their names, will not receive or be entitled to receive physical delivery of the securities in definitive form and will not be considered the owners or holders of the securities under the applicable indenture, deposit agreement, unit agreement or warrant agreement. Accordingly, each person owning a beneficial interest in a global security must rely on the procedures of the depositary for that global security and, if that person is not a participant, on the procedures of the participant through which the person owns its interest, to exercise any rights of a holder under the applicable indenture, deposit agreement, unit agreement or warrant agreement. We understand that under existing industry practices, if we request any action of holders or if an owner of a beneficial interest in a global security desires to give or take any action that a holder is entitled to give or take under the applicable indenture, deposit agreement, unit agreement or warrant agreement, the depositary for the global security would authorize the participants holding the relevant beneficial interests to give or take that action, and the participants would authorize beneficial owners owning through them to give or take that action or would otherwise act upon the instructions of beneficial owners holding through them.

Principal, premium, if any, and interest payments on debt securities, and any payments to holders with respect to warrants or units, represented by a global security registered in the name of a depositary or its nominee will be made to the depositary or its nominee, as the case may be, as the registered owner of the global security. None of us, or any trustee, warrant agent, unit agent or other agent of ours, or any agent of any trustee, warrant agent or unit agent will have any responsibility or liability for any aspect of the records relating to payments made on account of beneficial ownership interests in the global security or for maintaining, supervising or reviewing any records relating to those beneficial ownership interests.

We expect that the depositary for any of the securities represented by a global security, upon receipt of any payment to holders of principal, premium, interest or other distribution of underlying securities or other property on that registered global security, will immediately credit participants' accounts in amounts proportionate to their respective beneficial interests in that global security as shown on the records of the depositary. We also expect that payments by participants to owners of beneficial interests in a global security held through participants will be governed by standing customer instructions and customary practices, as is now the case with the securities held for the accounts of customers or registered in "street name," and will be the responsibility of those participants.

If the depositary for any of the securities represented by a global security is at any time unwilling or unable to continue as depositary or ceases to be a clearing agency registered under the Exchange Act, and a successor depositary registered as a clearing agency under the Exchange Act is not appointed by us within 90 days, we will issue securities in definitive form in exchange for the global security that had been held by the depositary. Any securities issued in definitive form in exchange for a global security will be registered in the name or names that the depositary gives to the relevant trustee, warrant agent, unit agent or other relevant agent of ours or theirs. It is expected that the depositary's instructions will be based upon directions received by the depositary from participants with respect to ownership of beneficial interests in the global security that had been held by the depositary.

PLAN OF DISTRIBUTION

We may sell securities:

- to or through underwriters;
- to or through brokers or dealers;
- through agents;
- directly to one or more purchasers in negotiated sales or competitively bid transactions;
- through a block trade in which the broker or dealer engaged to handle the block trade will attempt to sell the securities as agent, but may position and resell a portion of the block as principal to facilitate the transaction; or
- through a combination of any of these methods of sale.

In addition, we may issue the securities as a dividend or distribution or in a subscription rights offering to our existing security holders. This prospectus may be used in connection with any offering of our securities through any of these methods or other methods described in the applicable prospectus supplement.

We may directly solicit offers to purchase securities, or agents may be designated to solicit such offers. We will, in the prospectus supplement relating to such offering, name any agent that could be viewed as an underwriter under the Securities Act, and describe any commissions that we must pay. Any such agent will be acting on a best efforts basis for the period of its appointment or, if indicated in the applicable prospectus supplement, on a firm commitment basis.

The distribution of the securities may be effected from time to time in one or more transactions:

- at a fixed price, or prices, which may be changed from time to time;
- at market prices prevailing at the time of sale;
- at prices related to such prevailing market prices; or
- at negotiated prices.

Each prospectus supplement will describe the method of distribution of the securities and any applicable restrictions.

The prospectus supplement with respect to the securities of a particular series will describe the terms of the offering of the securities, including the following:

- the name of the agent or any underwriters;
- the public offering or purchase price and the proceeds we will receive from the sale of the securities;
- any discounts and commissions to be allowed or re-allowed or paid to the agent or underwriters;
- all other items constituting underwriting compensation;
- any discounts and commissions to be allowed or re-allowed or paid to dealers; and
- any exchanges on which the securities will be listed.

If any underwriters or agents are utilized in the sale of the securities in respect of which this prospectus is delivered, we will enter into an underwriting agreement or other agreement with them at the time of sale to them, and we will set forth in the prospectus supplement relating to such offering the names of the underwriters or agents and the terms of the related agreement with them.

If a dealer is utilized in the sale of the securities in respect of which this prospectus is delivered, we will sell such securities to the dealer, as principal. The dealer may then resell such securities to the public at varying prices to be determined by such dealer at the time of resale.

If we offer securities in a subscription rights offering to our existing security holders, we may enter into a standby underwriting agreement with dealers, acting as standby underwriters. We may pay the standby

underwriters a commitment fee for the securities they commit to purchase on a standby basis. If we do not enter into a standby underwriting arrangement, we may retain a dealer-manager to manage a subscription rights offering for us.

Remarketing firms, agents, underwriters, dealers and other persons may be entitled under agreements which they may enter into with us to indemnification by us against certain civil liabilities, including liabilities under the Securities Act, and may be customers of, engage in transactions with or perform services for us in the ordinary course of business.

If so indicated in the applicable prospectus supplement, we will authorize underwriters or other persons acting as our agents to solicit offers by certain institutions to purchase securities from us pursuant to delayed delivery contracts providing for payment and delivery on the date stated in the prospectus supplement. Each contract will be for an amount not less than, and the aggregate amount of securities sold pursuant to such contracts shall not be less nor more than, the respective amounts stated in the prospectus supplement. Institutions with whom the contracts, when authorized, may be made include commercial and savings banks, insurance companies, pension funds, investment companies, educational and charitable institutions and other institutions, but shall in all cases be subject to our approval. Delayed delivery contracts will not be subject to any conditions except that:

- the purchase by an institution of the securities covered under that contract shall not at the time of delivery be prohibited under the laws of the jurisdiction to which that institution is subject; and
- if the securities are also being sold to underwriters acting as principals for their own account, the underwriters shall have purchased such securities not sold for delayed delivery. The underwriters and other persons acting as our agents will not have any responsibility in respect of the validity or performance of delayed delivery contracts.

Certain agents, underwriters and dealers, and their associates and affiliates may be customers of, have borrowing relationships with, engage in other transactions with, and/or perform services, including investment banking services, for us or one or more of our respective affiliates in the ordinary course of business.

In order to facilitate the offering of the securities, any underwriters may engage in transactions that stabilize, maintain or otherwise affect the price of the securities or any other securities the prices of which may be used to determine payments on such securities. Specifically, any underwriters may overallot in connection with the offering, creating a short position for their own accounts. In addition, to cover overallotments or to stabilize the price of the securities or of any such other securities, the underwriters may bid for, and purchase, the securities or any such other securities in the open market. Finally, in any offering of the securities through a syndicate of underwriters, the underwriting syndicate may reclaim selling concessions allowed to an underwriter or a dealer for distributing the securities in the offering if the syndicate repurchases previously distributed securities in transactions to cover syndicate short positions, in stabilization transactions or otherwise. Any of these activities may stabilize or maintain the market price of the securities above independent market levels. Any such underwriters are not required to engage in these activities and may end any of these activities at any time.

Under Rule 15c6-1 of the Exchange Act, trades in the secondary market generally are required to settle in one business day, unless the parties to any such trade expressly agree otherwise. The applicable prospectus supplement may provide that the original issue date for your securities may be more than one scheduled business day after the trade date for your securities. Accordingly, in such a case, if you wish to trade securities on any date prior to the first business day before the original issue date for your securities, you will be required, by virtue of the fact that your securities initially are expected to settle in more than one scheduled business day after the trade date for your securities, to make alternative settlement arrangements to prevent a failed settlement.

The securities may be new issues of securities and may have no established trading market. The securities may or may not be listed on a national securities exchange. We can make no assurance as to the liquidity of or the existence of trading markets for any of the securities.

LEGAL MATTERS

Unless the applicable prospectus supplement indicates otherwise, the validity of the securities in respect of which this prospectus is being delivered will be passed upon by Goodwin Procter LLP. Certain legal matters will be passed upon for any underwriters, dealers or agents by the law firm identified as counsel to such underwriters, dealers or agents in the applicable prospectus supplement.

EXPERTS

The financial statements of Semler Scientific, Inc. appearing in Semler Scientific, Inc.'s Annual Report (Form 10-K) for the year ended December 31, 2023 have been audited by BDO USA, P.C., independent registered public accounting firm, as set forth in their report thereon, included therein, and incorporated herein by reference. Such financial statements are incorporated herein by reference in reliance upon such report given on the authority of such firm as experts in accounting and auditing.

$150,000,000
Debt Securities

Common Stock

Units

Warrants

PROSPECTUS

, 2024

SUBJECT TO COMPLETION, DATED JULY 31, 2024

PROSPECTUS

Semler Scientific®

Up to $50,000,000

Common Stock

We have entered into a Controlled Equity Offering℠ Sales Agreement, or sales agreement, with Cantor Fitzgerald & Co., or Cantor, relating to the sale of shares of our common stock offered by this prospectus. In accordance with the terms of the sales agreement, we may offer and sell shares of our common stock from time to time through or to Cantor, acting as sales agent, having an aggregate offering price of up to $50.0 million.

Our common stock is listed on The Nasdaq Capital Market under the symbol "SMLR." On July 30, 2024, the last reported sale price of our common stock was $34.35 per share.

Sales of our common stock, if any, under this prospectus may be made in sales deemed to be "at the market offerings" as defined in Rule 415(a)(4) promulgated under the Securities Act of 1933, as amended, or the Securities Act. Cantor is not required to sell any specific number or dollar amounts of common stock but will act as sales agent using commercially reasonable efforts consistent with its normal trading and sales practices, on mutually agreed terms between Cantor and us. There is no arrangement for funds to be received in any escrow, trust or similar arrangement.

Cantor will be entitled to compensation at a commission rate of up to 3.0% of the gross sales price per share sold by the sales agent under the sales agreement. In connection with the sale of common stock on our behalf, Cantor will be deemed to be an "underwriter" within the meaning of the Securities Act and the compensation of Cantor will be deemed to be underwriting commissions or discounts. We have also agreed to provide indemnification and contributions to Cantor against certain civil liabilities, including liabilities under the Securities Act.

Investing in our common stock involves significant risks. See "Risk Factors" beginning on page 5 of this prospectus and in the documents incorporated by reference in this prospectus for a discussion of the factors you should carefully consider before deciding to purchase our common stock.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

CANTOR

The date of this prospectus is , 2024.

TABLE OF CONTENTS

Prospectus

ABOUT THIS PROSPECTUS

This prospectus relates to the offering of our common stock. Before buying any of the common stock that we are offering, we urge you to carefully read this prospectus, together with the information incorporated by reference as described under the headings "Where You Can Find More Information" and "Incorporation of Certain Information by Reference" in this prospectus. These documents contain important information that you should consider when making your investment decision.

To the extent there is a conflict between the information contained in this prospectus, on the one hand, and the information contained in any document incorporated by reference in this prospectus that was filed with the SEC before the date of this prospectus, on the other hand, you should rely on the information in this prospectus, provided that if any statement in one of these documents is inconsistent with a statement in another document having a later date—for example, a document incorporated by reference in this prospectus —the statement in the document having the later date modifies or supersedes the earlier statement.

We further note that the representations, warranties and covenants made by us in any agreement that is filed as an exhibit to any document that is incorporated by reference herein were made solely for the benefit of the parties to such agreement, including, in some cases, for the purpose of allocating risk among the parties to such agreement, and should not be deemed to be a representation, warranty or covenant to you. Moreover, such representations, warranties or covenants were accurate only as of the date when made. Accordingly, such representations, warranties and covenants should not be relied on as accurately representing the current state of our affairs.

You should rely only on the information contained in, or incorporated by reference into, this prospectus and in any free writing prospectus that we may authorize for use in connection with this offering. We have not, and Cantor has not, authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not, and Cantor is not, making an offer to sell or soliciting an offer to buy our securities in any jurisdiction in which an offer or solicitation is not authorized or in which the person making that offer or solicitation is not qualified to do so or to anyone to whom it is unlawful to make an offer or solicitation. You should assume that the information appearing in this prospectus, the documents incorporated by reference into this prospectus and in any free writing prospectus that we may authorize for use in connection with this offering, is accurate only as of the date of those respective documents. Our business, financial condition, results of operations and prospects may have changed materially since those dates. You should read this prospectus, the information incorporated by reference into this prospectus and any free writing prospectus that we may authorize for use in connection with this offering, in their entirety before making an investment decision. You should also read and consider the information in the documents to which we have referred you in the sections of this prospectus entitled "Where You Can Find More Information" and "Incorporation of Certain Information by Reference."

Unless otherwise mentioned or unless the context requires otherwise, all references in this prospectus to "we," "our," "us," and "our company" refer to Semler Scientific, Inc., a Delaware corporation.

PROSPECTUS SUMMARY

This summary highlights certain information about us, this offering and selected information contained elsewhere in or incorporated by reference into this prospectus. This summary is not complete and does not contain all of the information that you should consider before deciding whether to invest in our common stock. For a more complete understanding of our company and this offering, we encourage you to read and consider carefully the more detailed information in this prospectus, including the information incorporated by reference into this prospectus and the information included in any free writing prospectus that we may authorize for use in connection with this offering, including the information included or referred to under the heading "Risk Factors" beginning on page 5 of this prospectus and in the documents incorporated by reference into this prospectus.

Overview

We are a company providing technology solutions to improve the clinical effectiveness and efficiency of healthcare providers. Our mission is to develop, manufacture and market innovative products and services that assist our customers in evaluating and treating chronic diseases. Our patented and U.S. Food and Drug Administration, or FDA, cleared product, QuantaFlo, measures arterial blood flow in the extremities to aid in the diagnosis of cardiovascular diseases, such as peripheral arterial disease, or PAD.

We are currently seeking a new 510(k) clearance from the FDA for the expanded use of QuantaFlo, which is intended to enable expanded labeling as an aid in the diagnosis of other cardiovascular diseases in addition to PAD. We continue to develop additional complementary proprietary products in-house and seek out other arrangements for additional products and services that we believe will bring value to our customers and to our company. We believe our current products and services, and any future products or services that we may offer, position us to provide valuable information to our customer base, which in turn permits them to better guide patient care.

Recent Developments

WE ARE NOT REGISTERED AS AN INVESTMENT COMPANY UNDER THE INVESTMENT COMPANY ACT OF 1940 AND STOCKHOLDERS DO NOT HAVE THE PROTECTIONS ASSOCIATED WITH OWNERSHIP OF SHARES IN A REGISTERED INVESTMENT COMPANY NOR THE PROTECTIONS AFFORDED BY THE COMMODITIES EXCHANGE ACT.

Bitcoin Strategy

On May 28, 2024, we announced that our board of directors adopted bitcoin as our primary treasury reserve asset on an ongoing basis, subject to market conditions and our anticipated cash needs and that we purchased 581 bitcoins for an aggregate amount of $40.0 million, inclusive of fees and expenses. As of June 6, 2024, we hold a total of 828 bitcoins, which we acquired for an aggregate amount of $57.0 million, inclusive of fees and expenses.

We view bitcoin as a reliable store of value and a compelling investment. We believe it has unique characteristics as a scarce and finite asset that can serve as a reasonable inflation hedge and safe haven amid global instability. Bitcoin is often compared to gold, which has been viewed as a dependable store of value throughout history. Gold's value has appreciated substantially over time. For example, 25 years ago, the price of gold was approximately $500 per ounce. In 2024, the price of gold has traded higher than $2,400 per ounce. As of July 2024, the total market capitalization of gold was approximately $16.1 trillion compared to approximately $1.1 trillion for bitcoin. Bitcoin is a highly volatile asset that has traded below $26,000 per bitcoin and above $70,000 per bitcoin on Coinbase in the 12 months preceding the date of this prospectus. While highly volatile, bitcoin's price has also appreciated significantly since bitcoin's inception in January 2009 (at zero per bitcoin). We believe that a substantial portion of bitcoin's appreciation is attributable to the view that bitcoin is or will become a reliable store of value. Like gold, bitcoin is also viewed as a scarce asset; the ultimate supply of bitcoin is limited to 21 million coins and approximately 94% of its supply already exists. We believe that bitcoin's finite, digital and decentralized nature as well as its architectural resilience make it preferable to gold, which, as noted above, has a market capitalization 16 times higher than the market capitalization of bitcoin as of July 2024. Given our belief that bitcoin is a comparable and possibly better

store of value than gold, we believe that bitcoin has the potential to approach or exceed the value of gold over time. Given the substantial gap in value between gold and bitcoin based on current market capitalization, we believe that bitcoin has the potential to generate outsize returns as it gains increasing acceptance as "digital gold." We believe that the growing global acceptance and "institutionalization" of bitcoin supports our view that bitcoin is a reliable store of value. We believe that bitcoin's unique attributes discussed above not only differentiate it from fiat money, but also from other cryptocurrency assets, and for that reason, we have no plans to purchase cryptocurrency assets other than bitcoin.

Please also see Exhibit 99.1 to our Form 8-K filed on July 31, 2024, as amended on July 31, 2024, for additional information relating to our bitcoin strategy, which is incorporated by reference into this prospectus, and is also filed as Exhibit 99.1 to the registration statement of which this prospectus forms a part.

CMS Rate Notice

In late March 2023, the Centers for Medicare and Medicaid Services, or CMS, issued the final 2024 rate announcement with payment changes for the Medicare Advantage and Part D prescription drug programs. Essentially, CMS is phasing in a new Medicare Advantage risk adjustment model (V28 model) from the previous model (V24 model) over a three-year period. The V28 model does not include risk adjusted payments for PAD without complications, which payments many health insurers, including our customers, relied upon for their Medicare Advantage patients in the V24 model. 2024 marks the first year the changes will be phased in as follows: in calendar year 2023, full payment under the V24 model; in calendar year 2024, 67% of the V24 model; in calendar year 2025, 33% of the V24 model.

Corporate Information

We were incorporated in the State of Oregon in August 2007, established C-corporation status in 2012, and reincorporated as a Delaware corporation in September 2013 under the name Semler Scientific, Inc. Our principal executive offices are located at 2340-2348 Walsh Avenue, Suite 2344, Santa Clara, California 95051, and our telephone number is (877) 774-4211. Our website address is http://www.semlerscientific.com. The information contained on, or that can be accessed through, our website is not a part of this prospectus. We have included our website address in this prospectus solely as an inactive textual reference.

We own or have rights, or have applied for, to trademarks, service marks and trade names that we use in connection with the operation of our business, including our corporate name, logos and website names. Other trademarks, service marks and trade names appearing in this prospectus are the property of their respective owners. Solely for convenience, some of the trademarks, service marks and trade names referred to in this prospectus are listed without the ® and ™ and SM symbols, but we will assert, to the fullest extent under applicable law, our rights to our trademarks, service marks and trade names.

Implications of Being a Smaller Reporting Company

We are a "smaller reporting company," meaning that the market value of our stock held by non-affiliates is less than $700 million as of our most recently completed second fiscal quarter and our annual revenue was less than $100 million during our most recently completed fiscal year. We may continue to be a smaller reporting company if either (i) the market value of our stock held by non-affiliates is less than $250 million as of our most recently completed second fiscal quarter or (ii) our annual revenue was less than $100 million during the most recently completed fiscal year and the market value of our stock held by non-affiliates is less than $700 million as of our most recently completed second fiscal quarter. As a smaller reporting company, we rely on exemptions from certain disclosure requirements that are available to smaller reporting companies.

THE OFFERING

Common stock offered by us pursuant to this prospectus	Shares of common stock having an aggregate offering price of up to $50.0 million.
Common stock to be outstanding immediately after this offering	Up to 8,375,375 shares, assuming sales of 1,455,604 shares of our common stock in this offering at a price of $34.35 per share, which was the last reported sale price of our common stock on The Nasdaq Capital Market on July 30, 2024. The actual number of shares issued will vary depending on the sales prices at which our common stock is sold under this offering.
Plan of Distribution	"At the market offering" that may be made from time to time through or to Cantor as sales agent or principal. See "Plan of Distribution" on page 13 of this prospectus for more information.
Use of Proceeds	We intend to use the net proceeds from this offering primarily for general corporate purposes, including the acquisition of bitcoin. See "Use of Proceeds" on page 12 of this prospectus for more information.
Risk Factors	Investing in our common stock involves a high degree of risk. Please read the information contained in and incorporated by reference under the heading "Risk Factors" beginning on page 5 of this prospectus and under similar headings in the other documents incorporated by reference into this prospectus, together with the other information included in or incorporated by reference into this prospectus, before deciding whether to invest in our common stock.
Nasdaq Capital Market symbol	SMLR

The number of shares of our common stock that will be outstanding immediately after this offering as shown above is based on 6,919,771 shares issued and outstanding as of March 31, 2024. The number of shares outstanding as of March 31, 2024 used throughout this prospectus, unless otherwise indicated, excludes:

- 986,004 shares of common stock issuable upon exercise of stock options outstanding as of March 31, 2024 at a weighted average exercise price of $3.89 per share; and
- 2,089,605 shares of our common stock available for future issuance as of March 31, 2024 under our 2014 Equity Incentive Plan.

RISK FACTORS

Investing in our common stock involves a high degree of risk. You should carefully consider the risks and uncertainties described below together with all of the other information contained in this prospectus and the risk factors in our most recent Annual Report on Form 10-K, our most recent Quarterly Report on Form 10-Q, in Exhibit 99.1 to the registration statement of which this prospectus forms a part, and in our other filings with the SEC that we make from time to time, which are incorporated by reference in this prospectus, together with other information in this prospectus and the information and documents incorporated by reference in this prospectus and in any prospectus supplement or free writing prospectus that we authorize for use in connection with this offering. If any of the following risks actually occur, our business, prospects, operating results and financial condition could suffer materially. In such event, the trading price of our common stock could decline and you might lose all or part of your investment.

Risks Related to This Offering

A significant portion of our total outstanding shares are eligible to be sold into the market, which could cause the market price of our common stock to drop significantly, even if our business is doing well.

Sales of a substantial number of shares of our common stock in the public market, or the perception in the market that the holders of a large number of shares intend to sell shares, could reduce the market price of our common stock. Persons who were our stockholders prior to our initial public offering continue to hold a substantial number of shares of our common stock. If such persons sell, or indicate an intention to sell, substantial amounts of our common stock in the public market, the trading price of our common stock could decline.

In addition, we have filed a universal shelf registration statements (which allows us to offer and sell securities from time to time pursuant to one or more offerings at prices and terms to be determined at the time of sale) subject to an aggregate offering amount stated therein, as well as registration statements registering all shares of common stock that we may issue under our equity compensation plans or pursuant to equity awards made to newly hired employees outside of equity compensation plans. Such registered shares can be freely sold in the public market upon issuance, subject to volume limitations applicable to affiliates.

Our management may invest or spend the proceeds of this offering in ways with which you may not agree or in ways that may not yield a return.

Our management will have broad discretion in the application of the net proceeds from this offering and could spend the proceeds in ways that do not improve our results of operations or enhance the value of our common stock. The failure by our management to apply these funds effectively could result in financial losses that could cause the price of our common stock to decline and delay the development of additional products and services in our pursuit of our new bitcoin strategy. Pending their use, we may invest the net proceeds from this offering in a manner that does not produce income or that loses value.

We may use the net proceeds from this offering to purchase additional bitcoin, the price of which has been, and will likely continue to be, highly volatile.

We may use the net proceeds from this offering to purchase additional bitcoin. Bitcoin is a highly volatile asset that has traded below $26,000 per bitcoin and above $70,000 per bitcoin on Coinbase in the 12 months preceding the date of this prospectus. In addition, bitcoin does not pay interest or other returns and so ability to generate a return on investment from the net proceeds from this offering will depend on whether there is appreciation in the value of bitcoin following our purchases of bitcoin with the net proceeds from this offering. Future fluctuations in bitcoin trading prices may result in our converting bitcoin purchased with the net proceeds from this offering into cash with a value substantially below the net proceeds from this offering.

Purchasers will experience immediate dilution in the book value per share of common stock purchased in the offering.

The shares of common stock sold in this offering, if any, will be sold from time to time at various prices. However, we expect that the offering price of our common stock will be substantially higher than the net

tangible book value per share of our outstanding common stock. Our net tangible book value represents our total assets less our digital assets (which are classified as intangible assets) and less our total liabilities. After giving effect to the sale of shares of our common stock in the aggregate amount of $50,000,000 at an assumed offering price of $34.35 per share, the last sale price of our common stock on July 30, 2024 on The Nasdaq Capital Market, and after deducting estimated commissions and estimated offering expenses, our as adjusted net tangible book value as of March 31, 2024 would have been approximately $126.7 million, or approximately $18.35 per share. This represents an immediate increase in as adjusted net tangible book value of approximately $7.05 per share to the existing holders of our common stock and an immediate dilution in as adjusted net tangible book value of approximately $16.00 per share to purchasers of our common stock in this offering.

Furthermore, the exercise of outstanding options will result, in further dilution to investors. In addition, the market price of our common stock could fall as a result of resales of any of these shares common stock issuable upon such exercise due to an increased number of shares of common stock available for sale in the market.

You may experience future dilution as a result of future equity offerings.

In order to raise additional capital, we may in the future offer additional shares of our common stock or other securities convertible into or exchangeable for our common stock at prices that may not be the same as the price per share in this offering. We may sell shares or other securities in any other offering at a price per share that is less than the price per share paid by any investors in this offering, and investors purchasing shares or other securities in the future could have rights superior to existing stockholders. The price per share at which we sell additional shares of our common stock, or securities convertible or exchangeable into common stock, in future transactions may be higher or lower than the price per share paid by any investors in this offering.

In addition, the issuance from time to time of shares of our common stock in this offering, or our ability to issue these shares of common stock in this offering, could result in resales of our common stock by our current stockholders concerned about the potential dilution of their holdings. In turn, these resales could have the effect of depressing the market price for our common stock.

We do not anticipate paying any cash dividends on our common stock in the foreseeable future. Accordingly, stockholders must rely on capital appreciation, if any, for any return on their investment.

We have never declared or paid cash dividends on our common stock. We currently intend to retain all of our future earnings, if any, to finance the growth and development of our business. As a result, capital appreciation, if any, of our common stock will be our stockholders' sole source of gain for the foreseeable future.

The actual number of shares we will issue under the sales agreement, at any one time or in total, is uncertain.

Subject to certain limitations in the sales agreement and compliance with applicable law, we have the discretion to deliver a placement notice to Cantor at any time throughout the term of the sales agreement. The number of shares that are sold by Cantor after delivering a placement notice will fluctuate based on the market price of the common shares during the sales period and limits we set with Cantor. Because the price per share of each share sold will fluctuate based on the market price of our common stock during the sales period, it is not possible at this stage to predict the number of shares that will be ultimately issued.

The common stock offered hereby will be sold in "at the market offerings," and investors who buy shares at different times will likely pay different prices.

Investors who purchase shares in this offering at different times will likely pay different prices, and so may experience different levels of dilution and different outcomes in their investment results. We will have discretion, subject to market demand, to vary the timing, prices, and numbers of shares sold. Investors may experience a decline in the value of their shares as a result of share sales made at prices lower than the prices they paid.

Bitcoin and other digital assets are novel assets, and are subject to significant legal, commercial, regulatory and technical uncertainty.

Bitcoin and other digital assets are relatively novel and are subject to significant uncertainty, which could adversely impact their price. The application of state and federal securities laws and other laws and regulations to digital assets is unclear in certain respects, and it is possible that regulators in the United States or foreign countries may interpret or apply existing laws and regulations in a manner that adversely affects the price of bitcoin.

The U.S. federal government, states, regulatory agencies, and foreign countries may also enact new laws and regulations, or pursue regulatory, legislative, enforcement or judicial actions, that could materially impact the price of bitcoin or the ability of individuals or institutions such as us to own or transfer bitcoin. For example, the U.S. executive branch, the SEC, the European Union's Markets in Crypto Assets Regulation, among others have been active in recent years, and in the U.K., the Financial Services and Markets Act 2023, or FSMA 2023 became law. It is not possible to predict whether, or when, any of these developments will lead to Congress granting additional authorities to the SEC or other regulators, or whether, or when, any other federal, state or foreign legislative bodies will take any similar actions. It is also not possible to predict the nature of any such additional authorities, how additional legislation or regulatory oversight might impact the ability of digital asset markets to function or the willingness of financial and other institutions to continue to provide services to the digital assets industry, nor how any new regulations or changes to existing regulations might impact the value of digital assets generally and bitcoin specifically. The consequences of increased regulation of digital assets and digital asset activities could adversely affect the market price of bitcoin and in turn adversely affect the market price of our common stock.

Moreover, the risks of engaging in a bitcoin treasury strategy are relatively novel and have created, and could continue to create, complications due to the lack of experience that third parties have with companies engaging in such a strategy, such as increased costs of director and officer liability insurance or the potential inability to obtain such coverage on acceptable terms in the future.

The growth of the digital assets industry in general, and the use and acceptance of bitcoin in particular, may also impact the price of bitcoin and is subject to a high degree of uncertainty. The pace of worldwide growth in the adoption and use of bitcoin may depend, for instance, on public familiarity with digital assets, ease of buying, accessing or gaining exposure to bitcoin, institutional demand for bitcoin as an investment asset, the participation of traditional financial institutions in the digital assets industry, consumer demand for bitcoin as a means of payment, and the availability and popularity of alternatives to bitcoin. Even if growth in bitcoin adoption occurs in the near or medium-term, there is no assurance that bitcoin usage will continue to grow over the long-term.

Because bitcoin has no physical existence beyond the record of transactions on the bitcoin blockchain, a variety of technical factors related to the bitcoin blockchain could also impact the price of bitcoin. For example, malicious attacks by miners, inadequate mining fees to incentivize validating of bitcoin transactions, hard "forks" of the bitcoin blockchain into multiple blockchains, and advances in digital computing, algebraic geometry, and quantum computing could undercut the integrity of the bitcoin blockchain and negatively affect the price of bitcoin. The liquidity of bitcoin may also be reduced and damage to the public perception of bitcoin may occur, if financial institutions were to deny or limit banking services to businesses that hold bitcoin, provide bitcoin-related services or accept bitcoin as payment, which could also decrease the price of bitcoin. Similarly, the open-source nature of the bitcoin blockchain means the contributors and developers of the bitcoin blockchain are generally not directly compensated for their contributions in maintaining and developing the blockchain, and any failure to properly monitor and upgrade the bitcoin blockchain could adversely affect the bitcoin blockchain and negatively affect the price of bitcoin.

Recent actions by U.S. banking regulators have reduced the ability of bitcoin-related services providers to gain access to banking services and liquidity of bitcoin may also be impacted to the extent that changes in applicable laws and regulatory requirements negatively impact the ability of exchanges and trading venues to provide services for bitcoin and other digital assets.

Regulatory change reclassifying bitcoin as a security could lead to our classification as an "investment company" under the Investment Company Act of 1940, as amended, or the 1940 Act, and could adversely affect the market price of bitcoin and the market price of our common stock.

Under Sections 3(a)(1)(A) and (C) of the 1940 Act, a company generally will be deemed to be an "investment company" for purposes of the 1940 Act if (1) it is, or holds itself out as being, engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities or (2) it engages, or proposes to engage, in the business of investing, reinvesting, owning, holding or trading in securities and it owns or proposes to acquire investment securities having a value exceeding 40% of the value of its total assets (exclusive of U.S. government securities and cash items) on an unconsolidated basis. We do not believe that we are an "investment company," as such term is defined in the 1940 Act, and are not registered as an "investment company" under the 1940 Act as of the date of this prospectus.

While senior SEC officials have stated their view that bitcoin is not a "security" for purposes of the federal securities laws, a contrary determination by the SEC could lead to our classification as an "investment company" under the 1940 Act, if the portion of our assets consists of investments in bitcoins exceeds 40% safe harbor limits prescribed in the 1940 Act, which would subject us to significant additional regulatory controls that could have a material adverse effect on our business and operations and may also require us to change the manner in which we conduct our business.

We monitor our assets and income for compliance under the 1940 Act and seek to conduct our business activities in a manner such that we do not fall within its definitions of "investment company" or that we qualify under one of the exemptions or exclusions provided by the 1940 Act and corresponding SEC regulations. If bitcoin is determined to constitute a security for purposes of the federal securities laws, we would take steps to reduce the percentage of bitcoins that constitute investment assets under the 1940 Act. These steps may include, among others, selling bitcoins that we might otherwise hold for the long term and deploying our cash in non-investment assets, and we may be forced to sell our bitcoins at unattractive prices. We may also seek to acquire additional non-investment assets to maintain compliance with the 1940 Act, and we may need to incur debt, issue additional equity or enter into other financing arrangements that are not otherwise attractive to our business. Any of these actions could have a material adverse effect on our results of operations and financial condition. Moreover, we can make no assurance that we would successfully be able to take the necessary steps to avoid being deemed to be an investment company in accordance with the safe harbor. If we were unsuccessful, and if bitcoin is determined to constitute a security for purposes of the federal securities laws, then we would have to register as an investment company, and the additional regulatory restrictions imposed by 1940 Act could adversely affect the market price of bitcoin and in turn adversely affect the market price of our common stock.

We may be subject to regulatory developments related to crypto assets and crypto asset markets, which could adversely affect our business, financial condition, and results of operations.

As bitcoin and other digital assets are relatively novel and the application of state and federal securities laws and other laws and regulations to digital assets is unclear in certain respects, and it is possible that regulators in the United States or foreign countries may interpret or apply existing laws and regulations in a manner that adversely affects the price of bitcoin. The U.S. federal government, states, regulatory agencies, and foreign countries may also enact new laws and regulations, or pursue regulatory, legislative, enforcement or judicial actions, that could materially impact the price of bitcoin or the ability of individuals or institutions such as us to own or transfer bitcoin. For examples, see "— Bitcoin and other digital assets are novel assets, and are subject to significant legal, commercial, regulatory and technical uncertainty" above.

If bitcoin is determined to constitute a security for purposes of the federal securities laws, the additional regulatory restrictions imposed by such a determination could adversely affect the market price of bitcoin and in turn adversely affect the market price of our common stock. See "— Regulatory change reclassifying bitcoin as a security could lead to our classification as an "investment company" under the Investment Company Act of 1940, as amended, or the 1940 Act, and could adversely affect the market price of bitcoin and the market price of our common stock" above. Moreover, the risks of us engaging in a bitcoin treasury strategy have created, and could continue to create, complications due to the lack of experience that third parties have with companies engaging in such a strategy, such as increased costs of director and officer liability insurance or the potential inability to obtain such coverage on acceptable terms in the future.

Our bitcoin holdings are less liquid than our existing cash and cash equivalents and may not be able to serve as a source of liquidity for us to the same extent as cash and cash equivalents.

Historically, the bitcoin markets have been characterized by significant volatility in price, limited liquidity and trading volumes compared to sovereign currencies markets, relative anonymity, a developing regulatory landscape, potential susceptibility to market abuse and manipulation, compliance and internal control failures at exchanges, and various other risks inherent in its entirely electronic, virtual form and decentralized network. During times of market instability, we may not be able to sell our bitcoin at favorable prices or at all. For example, a number of bitcoin trading venues temporarily halted deposits and withdrawals in 2022. As a result, our bitcoin holdings may not be able to serve as a source of liquidity for us to the same extent as cash and cash equivalents. Further, bitcoin we hold with our custodians and transact with our trade execution partners does not enjoy the same protections as are available to cash or securities deposited with or transacted by institutions subject to regulation by the Federal Deposit Insurance Corporation or the Securities Investor Protection Corporation. Additionally, we may be unable to enter into term loans or other capital raising transactions collateralized by our unencumbered bitcoin or otherwise generate funds using our bitcoin holdings, including in particular during times of market instability or when the price of bitcoin has declined significantly. If we are unable to sell our bitcoin, enter into additional capital raising transactions using bitcoin as collateral, or otherwise generate funds using our bitcoin holdings, or if we are forced to sell our bitcoin at a significant loss, in order to meet our working capital requirements, our business and financial condition could be negatively impacted.

If we or our third-party service providers experience a security breach or cyberattack and unauthorized parties obtain access to our bitcoin, or if our private keys are lost or destroyed, or other similar circumstances or events occur, we may lose some or all of our bitcoin and our financial condition and results of operations could be materially adversely affected.

Substantially all of the bitcoin we own is held in custody accounts at U.S.-based institutional-grade digital asset custodians. Security breaches and cyberattacks are of particular concern with respect to our bitcoin. Bitcoin and other blockchain-based cryptocurrencies and the entities that provide services to participants in the bitcoin ecosystem have been, and may in the future be, subject to security breaches, cyberattacks, or other malicious activities. For example, in October 2021 it was reported that hackers exploited a flaw in the account recovery process and stole from the accounts of at least 6,000 customers of the Coinbase exchange, although the flaw was subsequently fixed and Coinbase reimbursed affected customers. Similarly, in November 2022, hackers exploited weaknesses in the security architecture of the FTX Trading digital asset exchange and reportedly stole over $400 million in digital assets from customers. A successful security breach or cyberattack could result in:

- a partial or total loss of our bitcoin in a manner that may not be covered by insurance or the liability provisions of the custody agreements with the custodians who hold our bitcoin;
- harm to our reputation and brand;
- improper disclosure of data and violations of applicable data privacy and other laws; or
- significant regulatory scrutiny, investigations, fines, penalties, and other legal, regulatory, contractual and financial exposure.

Further, any actual or perceived data security breach or cybersecurity attack directed at other companies with digital assets or companies that operate digital asset networks, regardless of whether we are directly impacted, could lead to a general loss of confidence in the broader bitcoin blockchain ecosystem or in the use of the bitcoin network to conduct financial transactions, which could negatively impact us.

Attacks upon systems across a variety of industries, including industries related to bitcoin, are increasing in frequency, persistence, and sophistication, and, in many cases, are being conducted by sophisticated, well-funded and organized groups and individuals, including state actors. The techniques used to obtain unauthorized, improper or illegal access to systems and information (including personal data and digital assets), disable or degrade services, or sabotage systems are constantly evolving, may be difficult to detect quickly, and often are not recognized or detected until after they have been launched against a target. These attacks may occur on our systems or those of our third-party service providers or partners. We may

experience breaches of our security measures due to human error, malfeasance, insider threats, system errors or vulnerabilities or other irregularities. In particular, we expect that unauthorized parties will attempt, to gain access to our systems and facilities, as well as those of our partners and third-party service providers, through various means, such as hacking, social engineering, phishing and fraud. Threats can come from a variety of sources, including criminal hackers, hacktivists, state-sponsored intrusions, industrial espionage, and insiders. In addition, certain types of attacks could harm us even if our systems are left undisturbed. For example, certain threats are designed to remain dormant or undetectable, sometimes for extended periods of time, or until launched against a target and we may not be able to implement adequate preventative measures. Further, there has been an increase in such activities due to the increase in work-from-home arrangements. The risk of cyberattacks could also be increased by cyberwarfare in connection with the ongoing Russia-Ukraine and Israel-Hamas conflicts, or other future conflicts, including potential proliferation of malware into systems unrelated to such conflicts. Any future breach of our operations or those of others in the bitcoin industry, including third-party services on which we rely, could materially and adversely affect our financial condition and results of operations.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS AND INDUSTRY DATA

This prospectus and the documents incorporated by reference in this prospectus include "forward-looking statements" within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. All statements, other than statements of historical fact, contained or incorporated by reference in this prospectus, including statements regarding our strategy, future operations, future financial position, future revenue, projected costs, prospects, plans and objectives of management, are forward-looking statements. The words "anticipate," "believe," "estimate," "expect," "intend," "may," "might," "plan," "predict," "project," "target," "potential," "would," "could," "should," "continue" and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words.

We may not actually achieve the plans, intentions or expectations disclosed in our forward-looking statements, and you should not place undue reliance on our forward-looking statements. Actual results or events could differ materially from the plans, intentions and expectations disclosed in the forward-looking statements we make. We have included important factors in the cautionary statements included, or incorporated by reference, in this prospectus, particularly in the "Risk Factors" section, that we believe could cause actual results or events to differ materially from the forward-looking statements that we make. You should also carefully review the risk factors and cautionary statements described in the other documents we file from time to time with the SEC, specifically our most recent Annual Report on Form 10-K, our Quarterly Reports on Form 10-Q and our Current Reports on Form 8-K. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures or investments we may make.

You should read this prospectus, the documents incorporated by reference in this prospectus and the documents that we have filed as exhibits to the registration statement of which this prospectus is a part completely and with the understanding that our actual future results may be materially different from what we expect. The forward-looking statements contained in this prospectus and incorporated by reference herein are made as of the date hereof, and we do not assume any obligation to update any forward-looking statements except as required by applicable law.

This prospectus includes or incorporates by reference certain statistical and other industry and market data that we obtained from industry publications and research, surveys and studies conducted by third parties as well as our own estimates of potential market opportunities. Industry publications and third-party research, surveys and studies generally indicate that their information has been obtained from sources believed to be reliable, although they do not guarantee the accuracy or completeness of such information. Our estimates of the potential market opportunities for our product candidates include several key assumptions based on our industry knowledge, industry publications, third-party research and other surveys, which may be based on a small sample size and may fail to accurately reflect market opportunities. While we believe that our internal assumptions are reasonable, no independent source has verified such assumptions.

USE OF PROCEEDS

We may issue and sell shares of our common stock having aggregate gross sales proceeds of up to $50.0 million from time to time. Because there is no minimum offering amount required as a condition to close this offering, the actual total public offering amount, commissions and proceeds to us, if any, are not determinable at this time.

We currently anticipate that we will use the net proceeds from this offering primarily for general corporate purposes, including the acquisition of bitcoin. As a result, our management will have broad discretion in the application of the net proceeds from this offering and you will not have the opportunity as part of your investment decision to assess whether the net proceeds are being used in a manner of which you approve.

PLAN OF DISTRIBUTION

We have entered into a Controlled Equity Offering[SM] Sales Agreement, or the sales agreement, with Cantor Fitzgerald & Co., or Cantor. Pursuant to this prospectus, we may offer and sell shares of our common stock having an aggregate gross sales price of up to $50,000,000 from time to time through or to Cantor acting as sales agent. The sales agreement is filed as an exhibit to the registration statement of which this prospectus forms a part and is incorporated by reference in this prospectus.

Upon delivery of a placement notice and subject to the terms and conditions of the sales agreement, Cantor may sell shares of our common stock by any method permitted by law deemed to be an "at the market offering" as defined in Rule 415(a)(4) promulgated under the Securities Act. We may instruct Cantor not to sell common stock if the sales cannot be effected at or above the price designated by us from time to time. We or Cantor may suspend the offering of common stock upon notice and subject to other conditions.

We will pay the sales agent commissions, in cash, for its service in acting as agent in the sale of our common stock. The sales agent will be entitled to compensation at a commission rate of up to 3.0% of the sales price per share sold by it under the sales agreement. Because there is no minimum offering amount required as a condition to close this offering, the actual total public offering amount, commissions and proceeds to us, if any, are not determinable at this time. We have also agreed to reimburse the sales agent for certain specified expenses, including the fees and disbursements of its legal counsel in an amount not to exceed (a) $75,000 in connection with the execution of the sales agreement, (b) $25,000 per calendar quarter thereafter and (c) $40,000 for any refresh of the ATM pursuant to the terms of the sales agreement. We estimate that the total expenses for the offering, excluding compensation and reimbursements payable to the sales agent under the terms of the sales agreement, will be approximately $0.3 million.

Settlement for sales of shares of our common stock will occur on the first business day following the date on which any sales are made, or on some other date that is agreed upon by us and Cantor in connection with a particular transaction, in return for payment of the net proceeds to us. Sales of our common stock as contemplated in this prospectus will be settled through the facilities of The Depository Trust Company or by such other means as we and Cantor may agree upon. There is no arrangement for funds to be received in an escrow, trust or similar arrangement.

Cantor will use its commercially reasonable efforts, consistent with its sales and trading practices, to solicit offers to purchase the common stock under the terms and subject to the conditions set forth in the sales agreement. In connection with the sale of the common stock on our behalf, Cantor will be deemed to be an "underwriter" within the meaning of the Securities Act and the compensation of Cantor will be deemed to be underwriting commissions or discounts. We have agreed to provide indemnification and contribution to the sales agent against certain civil liabilities, including liabilities under the Securities Act.

The offering of shares of our common stock pursuant to the sales agreement will terminate upon the termination of the sales agreement as permitted therein.

Cantor and its affiliates may in the future provide various investment banking, commercial banking and other financial services for us and our affiliates, for which services they may in the future receive customary fees. To the extent required by Regulation M under the Exchange Act, Cantor will not engage in any market making activities involving our common stock while the offering is ongoing under this prospectus.

This prospectus in electronic format may be made available on a website maintained by the sales agent and the sales agent may distribute this prospectus electronically.

LEGAL MATTERS

The validity of the shares of common stock offered hereby will be passed upon for us by Goodwin Procter LLP. Cantor Fitzgerald & Co. is being represented in connection with this offering by Cooley LLP, New York, New York.

EXPERTS

The financial statements of Semler Scientific, Inc. appearing in Semler Scientific, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2023, have been audited by BDO USA, P.C., independent registered public accounting firm, as set forth in their report thereon, included therein, and incorporated herein by reference. Such financial statements are incorporated herein by reference in reliance upon such report given on the authority of such firm as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. Our SEC filings are available to the public over the Internet at the SEC's website at http://www.sec.gov. Copies of certain information filed by us with the SEC are also available on our website at http://www.semlerscientific.com. Our website is not a part of this prospectus and information contained on, or that can be accessed through our website, is not incorporated by reference in this prospectus.

This prospectus is part of a registration statement on Form S-3 we filed with the SEC. This prospectus omits some information contained in the registration statement in accordance with SEC rules and regulations. You should review the information and exhibits in the registration statement for further information about us and our consolidated subsidiary and the securities we are offering. Statements in this prospectus concerning any document we filed as an exhibit to the registration statement or that we otherwise filed with the SEC are not intended to be comprehensive and are qualified by reference to these filings and the exhibits attached thereto. You should review the complete document to evaluate these statements. You can obtain a copy of the registration statement from the SEC's website.

INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The SEC allows us to incorporate by reference much of the information we file with the SEC, which means that we can disclose important information to you by referring you to those publicly available documents. The information that we incorporate by reference in this prospectus is considered to be part of this prospectus. Because we are incorporating by reference future filings with the SEC, this prospectus is continually updated and those future filings may modify or supersede some of the information included or incorporated in this prospectus. This means that you must look at all of the SEC filings that we incorporate by reference to determine if any of the statements in this prospectus or in any document previously incorporated by reference have been modified or superseded. This prospectus incorporates by reference the documents listed below (File No. 001-36305) and any future filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, or the Exchange Act (in each case, other than those documents or the portions of those documents not deemed to be filed) until the offering of the securities under the registration statement is terminated or completed:

- annual report on Form 10-K for the fiscal year ended December 31, 2023 filed on March 7, 2024;
- quarterly report on Form 10-Q for the quarter ended March 31, 2024 filed on May 8, 2024;
- current reports on Form 8-K filed on January 22, 2024, May 28, 2024, June 6, 2024, July 11, 2024 and July 31, 2024; and
- the description of our common stock contained in our registration statement on Form 8-A filed on September 27, 2021, as the description therein has been updated and superseded by the description of our capital stock contained in Exhibit 4.2 to our annual report on Form 10-K for the fiscal year ended December 31, 2022, and including any amendments and reports filed for the purpose of updating such description.

You may request a copy of these filings, at no cost, by writing or calling us at the following address or telephone number:

Semler Scientific, Inc.
2340-2348 Walsh Ave, Suite 2344
Santa Clara, California 95051
Attn: Investor Relations
(877) 774-4211

Up to $50,000,000

Common Stock

PROSPECTUS

, 2024

PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution.

The following table sets forth the fees and expenses payable by us in connection with the sale of the offered securities being registered hereby, other than underwriting discounts and commissions. All amounts are estimates except the SEC registration fee.

SEC registration fee	$22,140	
Printing and engraving		(1)
Accounting services		(1)
Legal fees of registrant's counsel		(1)
Transfer agent's, trustee's and depositary's fees and expenses		(1)
Miscellaneous fees and expenses		(1)
Total	$	(1)

(1) These fees and expenses are calculated based on the securities offered and the number of issuances and accordingly cannot be defined at this time.

Item 15. Indemnification of Directors and Officers.

The following summary is qualified in its entirety by reference to the complete Delaware General Corporation Law, or DGCL, and the registrant's amended and restated certificate of incorporation, as amended.

Section 102 of the DGCL permits a corporation to limit or eliminate the personal liability of its directors or officers to the corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director or officer, except, in the case of any director or officer, where the director or officer breached his or her duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, or obtained an improper personal benefit; in the case of any director, where the director authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law; or in the case of any officer, in any action by or in the right of the corporation. Our amended and restated certificate of incorporation, as amended, provides that no director or officer shall be personally liable to us or our stockholders for monetary damages for any breach of fiduciary duty as a director or officer, notwithstanding any provision of law imposing such liability, except to the extent that the DGCL prohibits the elimination or limitation of liability of directors or officers for breaches of fiduciary duty.

Section 145 of the DGCL provides that a corporation has the power to indemnify a director, officer, employee or agent of the corporation and certain other persons serving at the request of the corporation in related capacities against expenses (including attorneys' fees), judgments, fines and amounts paid in settlements actually and reasonably incurred by the person in connection with an action, suit or proceeding to which he or she is or is threatened to be made a party by reason of such position, if such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, in any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful, except that, in the case of actions brought by or in the right of the corporation, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or other adjudicating court determines that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which the Court of Chancery or such other court shall deem proper.

Our amended and restated certificate of incorporation, as amended, provides that we will indemnify each person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of us), by reason of the fact that he or she is or was, or has agreed to become, our director or officer, or is or was serving, or has agreed to serve, at our request as a director, officer, partner, employee or trustee of, or

in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise (all such persons being referred to herein as an Indemnitee), or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding and any appeal therefrom if such Indemnitee acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, our best interests, and, with respect to any criminal action or proceeding, he or she had no reasonable cause to believe his or her conduct was unlawful.

Our amended and restated certificate of incorporation, as amended, also provides that we will indemnify any Indemnitee who was or is a party to an action or suit by or in the right of us to procure a judgment in our favor by reason of the fact that the Indemnitee is or was, or has agreed to become, our director or officer, or is or was serving, or has agreed to serve, at our request as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise, or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees) and, to the extent permitted by law, amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding, and any appeal therefrom, if the Indemnitee acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, our best interests, except that no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to us, unless a court determines that, despite such adjudication but in view of all of the circumstances, he or she is entitled to indemnification of such expenses. Notwithstanding the foregoing, to the extent that any Indemnitee has been successful, on the merits or otherwise, he or she will be indemnified by us against all expenses (including attorneys' fees) actually and reasonably incurred by him or her or on his or her behalf in connection therewith. If we do not assume the defense, expenses must be advanced to an Indemnitee under certain circumstances.

In addition, we have entered into indemnification agreements with all of our executive officers and directors. In general, these agreements provide that we will indemnify the executive officer or director to the fullest extent permitted by law for claims arising in his or her capacity as an executive officer or director of our company or in connection with his or her service at our request for another corporation or entity. The indemnification agreements also provide for procedures that will apply in the event that an executive officer or director makes a claim for indemnification and establish certain presumptions that are favorable to the executive officer or director.

We maintain a general liability insurance policy that covers certain liabilities of our directors and officers arising out of claims based on acts or omissions in their capacities as directors or officers.

Insofar as the foregoing provisions permit indemnification of directors, executive officers or persons controlling us for liability arising under the Securities Act, we have been informed that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

Item 16. Exhibits.

Exhibit No.	Description
1.1*	Form of Underwriting Agreement
1.2**	Controlled Equity Offering℠ Sales Agreement, dated June 6, 2024, by and between the registrant and Cantor Fitzgerald & Co.
3.1	Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to our Form 8-K filed with the Securities and Exchange Commission on November 2, 2015)
3.2	Certificate of Amendment to the Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to our Form 8-K filed with the Securities and Exchange Commission on October 23, 2023)
3.3	Third Amended and Restated Bylaws (incorporated by reference to Exhibit 3.1 of our Form 8-K filed with the Securities and Exchange Commission on April 19, 2023)
3.4	Specimen common stock certificate (incorporated by reference to Exhibit 4.1 of our Form S-1 Registration Statement filed with the Securities and Exchange Commission on December 6, 2013)
4.1**	Form of Senior Indenture
4.2**	Form of Subordinated Indenture
4.3*	Form of Warrant Agreement
4.4*	Form of Unit Agreement
5.1**	Opinion of Goodwin Procter LLP
5.2**	Opinion of Goodwin Procter LLP relating to the at the market offering prospectus
23.1***	Consent of BDO USA, P.C., independent registered public accounting firm
23.2**	Consent of Goodwin Procter LLP (included in Exhibit 5.1 to this registration statement)
23.3**	Consent of Goodwin Procter LLP (contained in Exhibit 5.2 to this registration statement)
24.1**	Power of Attorney (included on the signature page to the initial filing of this registration statement)
25.1****	Statement of Eligibility on Form T-1 under the Trust Indenture Act of 1939, as amended, of the Trustee under the Senior Indenture
25.2****	Statement of Eligibility on Form T-1 under the Trust Indenture Act of 1939, as amended, of the Trustee under the Subordinated Indenture
99.1	Supplemental Business and Risk Factor Disclosures (incorporated by reference to Exhibit 99.1 to our Form 8-K filed with the Securities and Exchange Commission on July 11, 2024, as amended on July 31, 2024)
99.2†***	NYDIG Digital Asset Custodial Agreement
99.3†***	Coinbase Prime Broker Agreement
107**	Filing Fee Table

* To be filed, if necessary, by amendment or as an exhibit to a document to be incorporated or deemed to be incorporated by reference in this registration statement, including a Current Report on Form 8-K.

** Previously filed.

*** Filed herewith.

**** To be filed pursuant to Section 305(b)(2) of the Trust Indenture Act of 1939.

† Certain portions of this exhibit have been omitted because the registrant has determined that they are both not material and is the type of information that the registrant treats as private or confidential.

Item 17. Undertakings.

The undersigned Registrant hereby undertakes:

(a)(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended (the "Securities Act");

(ii) to reflect in the prospectus any facts or events arising after the effective date of this registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in this registration statement or any material change to such information in this registration statement;

provided, *however*, that paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by a Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), that are incorporated by reference in this registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of this registration statement.

(2) That, for the purposes of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at the time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability under the Securities Act to any purchaser:

(i) each prospectus filed by a Registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(ii) each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof;. *provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale

prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) That, for the purpose of determining liability of a Registrant under the Securities Act to any purchaser in the initial distribution of the securities, the undersigned Registrant undertakes that in a primary offering of securities of such undersigned Registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, such undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) any preliminary prospectus or prospectus of such undersigned Registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) any free writing prospectus relating to the offering prepared by or on behalf of such undersigned Registrant or used or referred to by such undersigned Registrant;

(iii) the portion of any other free writing prospectus relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and

(iv) any other communication that is an offer in the offering made by such undersigned Registrant to the purchaser.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of any Registrant pursuant to the indemnification provisions described herein, or otherwise, each Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by a Registrant of expenses incurred or paid by a director, officer or controlling person of such Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, such Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

(d) The undersigned Registrant hereby undertake to file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of Section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the Commission under Section 305(b)(2) of the Trust Indenture Act.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Santa Clara, State of California, on July 31, 2024.

SEMLER SCIENTIFIC, INC.

By: /s/ Douglas Murphy-Chutorian

Name: Douglas Murphy-Chutorian, M.D.
Title: President and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Douglas Murphy-Chutorian Douglas Murphy-Chutorian, M.D.	President and Chief Executive Officer, Director (Principal Executive Officer)	July 31, 2024
/s/ Renae Cormier Renae Cormier	Chief Financial Officer (Principal Financial and Accounting Officer)	July 31, 2024
/s/ * Eric Semler	Chairman of the Board	July 31, 2024
/s/ * William H.C. Chang	Director	July 31, 2024
/s/ * Daniel Messina	Director	July 31, 2024

*By: /s/ Douglas Murphy-Chutorian
Douglas Murphy-Chutorian
Attorney-in-Fact

Exhibit 23.1

Tel: 212-885-8000
Fax: 212-697-1299
www.bdo.com

BDO
200 Park Avenue
New York, NY 10166
USA

Consent of Independent Registered Public Accounting Firm

We hereby consent to the incorporation by reference in this Registration Statement on Form S-3/A Amendment No.2 of our report dated March 6, 2024, relating to the financial statements of Semler Scientific, Inc. (the Company), which is included in the financial statements incorporated by reference in the Registration Statement on Form S-3/A Amendment No.2.

We also consent to the reference to us under the caption “Experts” in such Registration Statement.

/s/ BDO USA, P.C.

New York, New York

July 31, 2024

Exhibit 99.2

CERTAIN INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY [***], HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL

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Digital Asset Custodial Term Sheet

Effective Date	May 23, 2024
Custodian	NYDIG Trust Company LLC, a duly chartered New York limited liability trust company
Client *[Legal name of customer], a [state] [type of entity]* *OR* *Full Legal Name*	Semler Scientific, Inc., a Delaware corporation
Client Contact Info *Address, Phone, Email*	Renae Cormier Chief Financial Officer [***] [***]@semlerscientific.com
Eligible Assets	Bitcoin and any other assets Custodian may support in the future according to its Digital Asset Framework Policy.
Digital Assets	Digital assets in the Account will be held in cold storage by Custodian.
Cash	U.S. dollars in the Account will be deposited with one or more U.S. insured depository institutions.
[***]	[***]
[***] Fee & [***] Fee	A [***] Fee may be assessed in certain instances, as described further in the Agreement, so that the Client pays the [***] Fee, which is [***] based on [***].
Fee Calculation	The [***] Fee is calculated based on [***] (measured [***]) of [***], will be [***] will be determined using NYDIG's [***] policy.
Invoicing	Custodian will invoice Client [***], in [***] for [***] Fees and expenses.
Payment	Payment in respect of the Fee Amount is owed on or before the [***] following the Invoice Date (such date, the "**Due Date**"). Subject to restrictions described in more detail in the Agreement, Custodian [***].
Statements	[***].
Deposits[1]	Deposits may be made [***] unless otherwise agreed with Custodian [***] each deposit with Custodian. Custodian will [***] for each deposit. **Do not rely on [***] for deposits.**

[1] For purposes of this Agreement, the term "deposit" does not refer to a deposit within the meaning of the U.S. federal and state banking laws. **Custodied Digital Assets are not insured by the FDIC or SIPC.**

Withdrawals	Withdrawals of Custodied Digital Assets can be made [***] unless otherwise agreed with Custodian [***]. As described in more detail in the SLA in Appendix A: ● *Digital Asset Withdrawals:* If a withdrawal request for Custodied Digital Assets is received before [***], such assets will generally be delivered [***]. ● *Cash Withdrawals:* If Client requests a withdrawal of Custodied Cash, such withdrawal will be [***].

This Digital Asset Custodial Term Sheet ("**Term Sheet**"), together with the attached DIGITAL ASSET CUSTODIAL TERMS AND CONDITIONS ("**Terms and Conditions**"), form a DIGITAL ASSET CUSTODIAL AGREEMENT between Custodian and Client as of the Effective Date (the "**Agreement**"). This Term Sheet provides only a summary of certain terms and more details are in the Terms and Conditions; *however*, to the extent of any conflict between the Term Sheet and the Terms and Conditions, the Term Sheet controls. Capitalized terms not defined in this Term Sheet have the meaning ascribed to them in the Terms and Conditions.

DIGITAL ASSET CUSTODIAL TERMS AND CONDITIONS

TABLE OF CONTENTS

These DIGITAL ASSET CUSTODIAL TERMS AND CONDITIONS ("**Terms and Conditions**"), together with the attached DIGITAL ASSET CUSTODIAL TERM SHEET ("**Term Sheet**"), form a DIGITAL ASSET CUSTODIAL AGREEMENT between Custodian and Client as of the Effective Date (the "**Agreement**"). The Term Sheet provides only a summary of certain terms and more details are in these Terms and Conditions; *however*, to the extent of any conflict between the Term Sheet and the Terms and Conditions, the Term Sheet controls.

This Agreement sets forth the terms and conditions pursuant to which Custodian is to act as a custodian for digital assets and cash for Client.

In consideration of the mutual promises contained herein, Client and Custodian hereby agree as follows:

1. ***Definitions***

As used herein, the following terms shall have the following meanings:

"**Account**" means the Cash Account and the Digital Asset Account.

"**Agreement**" has the meaning set forth in the preamble hereto.

"**AML and Sanctions Regulations**" means U.S. federal and state anti-money laundering and sanctions laws applicable to Custodian, including (i) the Bank Secrecy Act, as amended by the USA PATRIOT Act of 2001 and the implementing regulations adopted by FinCEN codified in 31 C.F.R. Chapter X, the AML Act of 2020, and federal anti-money laundering statutes (18 U.S.C §§ 1956, 1957); (ii) New York State Department of Financial Services regulations in Parts 115, 116 and 504; and (iii) the economic and trade sanctions programs administered and enforced by OFAC.

"**Applicable Law**" means, with respect to any Person, any transnational, domestic or foreign federal, state or local law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling or other similar requirement enacted, adopted, promulgated or applied by a Governmental Authority that is binding upon or applicable to that Person, as amended unless expressly specified otherwise, including AML and Sanctions Regulations.

"**Approved Account**" means an external bank account approved by Custodian for sending (or receiving) cash transfers to (or from) the Client's Cash Account, whether beneficially owned by Client or a third party.

"**Approved Address**" means an external digital asset deposit or withdrawal address approved by Custodian for one-time or recurring transactions, whether beneficially owned by Client or a third party.

"[***]" has the meaning set forth in the Term Sheet.

"**Authorized Person**" means:

(i) Client (if Client is a natural person), an employee or officer of Client (if applicable), a third-party service provider (including an affiliate of Custodian) or any other individual who has been designated by Client in writing as authorized by Client to give Instructions to Custodian for or on behalf of Client; or

(ii) in the event of death, incapacity or disability (if Client is a natural person or a legal entity wholly owned by a natural person), a duly appointed trustee, legal representative, guardian or similar with the authority to act on behalf of such natural person's estate under Applicable Law.

"**Business Day**" means any day that the New York Stock Exchange is open for trading.

"**Cash Account**" means one or more omnibus or segregated accounts held for benefit of customers and titled as such at one or more U.S. insured depository institutions.

"**Cash Withdrawal Timeframes**" means the times set forth in the SLA that Custodian has to take a corresponding action after Client has made a request to withdraw cash from its Cash Account.

"**Change of Control**" means:

(i) the merger or consolidation of Custodian with or into another Person or the merger of another Person with or into Custodian, or the sale of all or substantially all the assets of Custodian to another Person, unless holders of a majority of the aggregate voting power of the outstanding membership interests of Custodian, immediately prior to that transaction, hold membership interests of the surviving or transferee Person that represent, immediately after the transaction, at least a majority of the aggregate voting power of the outstanding membership interests of the surviving or transferee Person; or

(ii) any "person" or "group" (as those terms are used for purposes of Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended) is or becomes the "beneficial owner" (as that term is used in Rule 13d-3 under the Securities Exchange Act of 1934, as amended), directly or indirectly, of more than 50% of the total voting power of the outstanding membership interests of Custodian.

"**Client**" has the meaning set forth in the Term Sheet.

"**Client Contact Info**" means contact information that Custodian has on file for Client.

"**Client Designated Security Procedures**" means the Security Procedures for [***] and acknowledged and accepted by [***].

"**Client Tax**" means any Tax with respect to any Custodied Assets or any transaction related thereto.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Cold Storage [***]**" means the [***] set forth in the SLA that [***] has to take a corresponding action after [***] from [***].

"**Confidential Information**" means, (a) information disclosed in connection with this Agreement, either directly or indirectly, before, on, or after the Effective Date, whether in graphic, written, electronic or oral form, identified at the time of disclosure as confidential, or which by its context would reasonably be deemed to be confidential including, without limitation, current and potential investment and trading strategies, portfolio positions, valuations, performance data, investor reports, financial statements, marketing materials, organizational, offering and other corporate documents, risk management models, proprietary trading models, computer programs and software (both source and object code), data files, file layouts, databases and algorithms, analyses, projections, forecasts, financial statements, trade secrets (which term includes, for the avoidance of doubt, any non-public information related to the NYDIG custody system or otherwise regarding the Services), technical know-how, commitments and arrangements with service providers and other third parties, and (b) any information that contains, reflects or is based upon the foregoing Confidential Information, in each case, of the disclosing Party or of its affiliates or clients (which term includes, for the avoidance of doubt, any fund, trust, company or other entity advised or administered by the disclosing Party or any of its affiliates) and as provided by the disclosing Party or its affiliates to the receiving Party or its affiliates. For the avoidance of doubt, Confidential Information includes the terms and conditions of this Agreement.

"**Custodied Assets**" means Custodied Digital Assets and Custodied Cash.

"**Custodied Cash**" means cash properly sent to Custodian in accordance with Section 4(g) and held by Custodian in custody for the benefit of Client in the Cash Account pursuant to this Agreement.

"**Custodied Digital Assets**" means:

(i) Eligible Assets properly sent to Custodian in accordance with Section 4(g) and held by Custodian in custody for the benefit of Client in the Digital Asset Account pursuant to this Agreement; and

(ii) Forked or Airdropped Assets, but [***] to be included in Client's Digital Asset Account [***], it being understood that Forked or Airdropped Assets [***] being included in the Digital Asset Account are [***].

"**Custodian**" has the meaning set forth in the Term Sheet.

"**Custodian Designated Security Procedures**" means [***].

"**Digital Asset Account**" means an account for digital assets in the name of Client.

"**Digital Asset Framework Policy**" means [***].

"**Digital Asset Network**" means a decentralized peer-to-peer network used to transfer a particular type of digital asset.

"[***]" has the meaning set forth in Section 12(b).

"**Due Date**" has the meaning set forth in the Term Sheet.

"**Eastern Time**" means local time in New York, New York.

"**Effective Date**" has the meaning set forth in the Term Sheet.

"**Eligible Assets**" means digital assets with respect to which Custodian provides Services, as specified in writing by Custodian, pursuant to its Digital Asset Framework Policy.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**Execution Agreement**" means the Digital Asset Execution Agreement by and between NYDIG Execution and Client, as amended from time to time.

"**FDIC**" means the Federal Deposit Insurance Corporation.

"**Fee**" means the [***], and if applicable, the [***] Fee.

"**Fee Amount**" Means, with respect to a billing period, the amount of Fees and expenses [***] such period together with any [***] Fee Amounts from prior billing periods.

"**Fiat Currency**" means any government-issued currency that is designated as legal tender in its country of issuance through government decree, regulation, or law.

"**FinCEN**" means the U.S. Treasury Department's Financial Crimes Enforcement Network.

"**Forked or Airdropped Assets**" means any digital assets received and held by Custodian on behalf of and for the benefit of Client through air drops, forks or other similar mechanisms.

"**Governmental Authority**" means any transnational, domestic or foreign federal, state or local governmental, regulatory or administrative authority, department, court, agency or official, including any political subdivision thereof.

"**Instruction**" means a directive initiated by Client, acting through an Authorized Person, which directive conforms to the requirements set forth in Section 8.

"**Invoice Date**" means, with respect to an invoice, the date set forth on such invoice.

"**Lien**" means, with respect to any property or asset, any mortgage, deed of trust, lien, pledge, charge, security interest, encumbrance or other adverse claim of any kind in respect of that property or asset. For the purposes of this Agreement, a Person will be deemed to own subject to a Lien any property or asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to that property or asset.

"**Location**" means, with respect to any Custodied Digital Assets, the physical location of the private keys required to transfer those Custodied Digital Assets as stored on one or more servers, hard drives, or other media physically present in that location (including in the case of any digital asset secured by more than one private key (a "multi-sig protected digital asset"), the physical location of any private key for all the multi-sig protected digital asset as stored on one or more servers, hard drives or other media physically present in that location).

"**Material Adverse Effect**" means a material adverse effect on:

(i) the financial condition, business, assets, results of operations or prospects of, as context requires, Custodian or Client;

(ii) Custodian's safekeeping of the Custodied Assets; or

(iii) Custodian's ability to provide the Services.

"[***] **Amount**" has the meaning set forth in the Term Sheet.

"**NYDIG Execution**" means NYDIG Execution LLC, a Delaware limited liability company registered as a Money Services Business with FinCEN and licensed with a BitLicense by the New York State Department of Financial Services, or any successor thereto.

"**OFAC**" means the U.S. Treasury Department's Office of Foreign Assets Control.

"**Party**" means each party to this Agreement (together, the "**Parties**").

"**Person**" means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization.

"**Portal**" means [***] or such other [***] to from time to time.

"**[***]**.

"**SIPC**" means the Securities Investor Protection Corporation.

"**Security Procedure**" means a security procedure set forth in [***] with respect to [***], to be followed:

(i) by [***], upon the [***]; or

(ii) with [***], upon the [***], provided that the security procedure in question is intended to [***].

A Security Procedure may [***]. For the avoidance of doubt, a Security Procedure includes [***].

"**Services**" means the custodial services to be provided by Custodian to Client under this Agreement, including the services provided through use of the Account.

"**SLA**" means the Service Level Agreement in Appendix A, which Custodian may update with 30 days' notice.

"[***] **Fee**" has the meaning set forth in Section 12(b).

"**Taxes**" means all taxes, levies, imposts, duties, charges, assessments or fees of any nature (including such amounts that are collected by deduction or withholding) and including interest, penalties and additions thereto that are imposed by any taxing authority.

"**Terms and Conditions**" has the meaning set forth in the preamble hereto.

"**Term Sheet**" has the meaning set forth in the preamble hereto.

"**Termination Date**" means the effective date of the termination of this Agreement.

"**UCC 4A**" means Article 4A of the Uniform Commercial Code as currently in effect in the State of New York.

"**Virtual Currency**" has the meaning set forth in Section 17.

2. ***Custodial Relationship***

(a) Client hereby appoints Custodian as its custodian, and Custodian hereby accepts that appointment. All Custodied Assets of Client delivered to Custodian or its agents will be held by Custodian in trust for the benefit of Client, as provided in this Agreement. The duties of Custodian with respect to the Custodied Assets will only be as set forth expressly in this Agreement, which duties are generally comprised of receiving and holding Custodied Assets for safekeeping for the benefit of Client, delivering Custodied Assets to Client in accordance with Instructions, and performing various administrative duties in accordance with Instructions and as reasonably required to effect Instructions. For the avoidance of doubt, Custodian may not transfer the Custodied Assets except as directed by Client in accordance with Instructions, as reasonably required to effect Instructions or as otherwise set forth in this Agreement.

(b) Custodian hereby acknowledges and agrees that it is a custodian of the Custodied Assets stored in the Account, such Custodied Assets are held by Custodian in trust for the benefit of Client, and that Custodian has no right, interest, or title in those Custodied Assets. Custodian hereby confirms that the Custodied Assets do not constitute an asset on the balance sheet of Custodian and that the Custodied Assets will at all times be identifiable in Custodian's database as being stored in the Account for the benefit of Client.

(c) Custodian will establish and maintain a Digital Asset Account.

(d) With respect to Services for digital assets, Custodian will provide Services to Client only for digital assets deemed to be Eligible Assets by Custodian according to its Digital Asset Framework Policy, as set forth in the Term Sheet. Custodian will notify Client of any changes to the list of Eligible Assets.

(e) Custodian will use its commercially reasonable judgment to determine which post-fork digital asset is the same as the pre-fork digital asset.

(f) Client acknowledges that it may not immediately or ever have the ability to withdraw a Forked or Airdropped Asset. Unless and until a Forked or Airdropped Asset is deemed an Eligible Asset and reflected on Client's customer account statement as a Custodied Digital Asset, Custodian has no obligation to safeguard or provide any other Services for such asset.

(g) Custodian will hold Client's cash in the Cash Account. Custodian intends for Client to benefit from FDIC deposit insurance on a pass-through basis on such cash.

(h) Custodian may rely on an affiliate that is U.S.-located and appropriately licensed and regulated as a digital asset custodian as a service provider, including as a sub-custodian, in providing the Services without approval from Client.

3. *Duties and Obligations of Custodian*

The duties and obligations of Custodian include the following:

(a) *Safekeeping of Custodied Assets.*

(i) Custodian will use reasonable care to keep in safe custody for the benefit and on behalf of Client all Custodied Assets.

(ii) All Custodied Digital Assets credited to the Digital Asset Account will:

(A) be held in the Digital Asset Account at all times, and the Digital Asset Account will be controlled by Custodian at all times;

(B) be labeled or otherwise appropriately identified as being held for the benefit of Client;

(C) not without the prior written consent of Client be deposited or held with any third-party depositary, custodian, clearance system or digital asset wallet; and

(D) not be commingled with other digital assets held by Custodian, whether held for Custodian's own account or the account of other Persons other than Client, [***].

(iii) All Custodied Cash credited to the Cash Account will:

(A) be held in the Cash Account at all times;

(B) be labeled or otherwise appropriately identified as being held for the benefit of Client;

(C) not be commingled with cash of any Person, including cash of Custodian, except that [***]; and

(D) not constitute liabilities of Custodian.

(b) *Record Keeping*. Custodian will keep appropriate records regarding the Services. All records maintained pursuant to this Section 3(b) will be retained by Custodian for such period as required by Applicable Law, but in no event for less than seven years, after which retention of the records will be at Custodian's discretion.

(c) *Annual Certificate and Report*.

(i) Upon Client's request, which request may occur no more than once per calendar year, Custodian will deliver to Client a certificate signed by a duly authorized officer, which certificate will:

(A) certify that Custodian has complied, and is currently in compliance, with the provisions of this Agreement during the preceding calendar year; and

(B) certify that the representations and warranties of Custodian contained in this Agreement are true and correct on and as of the date of the certificate and have been true and correct throughout the preceding year.

(d) *Inspection and Auditing*.

(i) To the extent Custodian may legally do so, it will permit Client's auditors or third-party accountants, upon reasonable notice, to inspect, take extracts from and audit the records maintained pursuant to Section 3(b) containing information relevant to the safekeeping of the Custodied Assets as provided in this Agreement and take necessary steps to verify that satisfactory internal control systems and procedures are in place, all at such times as Client may [***]. If Custodian [***] that an auditing procedure proposed by Client or its auditors or third-party accountants may [***] of any Custodied Assets, Custodian may deny access to those records to auditors or third-party accountants; *however*, Custodian and Client will [***].

(ii) If any material deficiencies or objections are identified as part of the annual audit of Custodian that are relevant to the safekeeping of the Custodied Assets as provided in this Agreement, a report will be provided to Client stating the nature of those deficiencies or objections and describing the steps taken or to be taken to remedy the same. Any audit report furnished pursuant to this Section 3(d)(ii) will be deemed Confidential Information of Custodian.

(e) *Attachment*.

(i) Custodian will, and will cause any agent acting on its behalf to, use reasonable care to:

(A) refuse to consent to any attachment of Custodied Assets or to any similar order or to any claim that would encumber the Custodied Assets in any manner;

(B) resist any writ of attachment, similar order or claim that would encumber or affect the free transferability of any Custodied Assets in any relevant market; and

(C) deny any request by a third party to transfer any Custodied Assets without the prior consent of Client.

(ii) Custodian will give Client immediate notice of the occurrence of any request, consent, writ, order or claim referred to in Section 3(e)(i) (unless such notice is prohibited by Applicable Law). Client will pay [***] incurred by Custodian in connection with any action taken by it in accordance with this Section 3(e).

(f) All Locations of Custodied Digital Assets will be in the United States.

(g) Custodian agrees not to consummate a transaction that would constitute a Change of Control without providing at least 30 days' written notice to Client.

(h) Custodian will give Client prompt notice if there has been a Material Adverse Effect. That notice will reasonably describe the change in business conduct, event, occurrence, development, or state of circumstances or facts.

4. ***Account Service***

(a) Client and Authorized Persons will be able to provide Instructions with respect to the Account [***] in order to deposit or initiate withdrawal of digital assets or cash, subject to the Cold Storage Withdrawal Timeframes or the Cash Withdrawal Timeframes, as relevant, except as otherwise provided in this Section 4.

(b) Custodian will send Client account statements on the frequency specified in the Term Sheet [***]. Custodian may send Client account statements, tax forms, and other documentation to Client [***].

(c) Client must [***]. Client agrees to provide Custodian with any additional information that may be requested in connection with [***]. Custodian will timely review the proposed [***]. Any rejection will be accompanied by an explanation of the basis for the rejection unless Custodian is legally prohibited from providing such an explanation or it would be imprudent under the circumstances to do so. Custodian's review of a proposed [***]. Custodian will not deliver Custodied Digital Assets to any addresses that are sanctioned by OFAC, would cause Custodian to violate AML and Sanctions Regulations or [***]. Custodian reserves the right to limit Client to withdrawals solely to [***].

(d) Custodian will provide Client with procedures that detail how to provide Instructions to Custodian to deposit cash in the Cash Account and digital assets to the Digital Asset Account. Custodian may from time to time update the requirements [***], as appropriate, and will [***]. Client acknowledges that Custodian may not credit to the Digital Asset Account digital assets that are sent to Custodian in a manner different from that described in the procedures provided by Custodian. Client acknowledges that cash and digital assets that are sent inconsistently with Custodian's procedures (for example, to the wrong addresses) may be irretrievable.

(e) Except as set forth in Section 7(b), Custodian will not suspend Client's ability to provide Instructions with respect to the Account, and any such suspension will constitute a breach of this Agreement. However, Custodian may restrict the ability to provide Instructions with respect to or use of the Account by [***] if, in Custodian's [***], the restriction is [***] to comply with Custodian's anti-money laundering and sanctions programs and policies, AML and Sanctions Regulations or any other requirements under Applicable Law or if Custodian [***] that [***] cybersecurity has been or will be compromised (for example, because someone is impersonating an Authorized Person).

(f) All Instructions to withdraw, deposit or otherwise move digital assets or cash to or from an Account must be provided by [***].

(g) Custodian will credit to the Account all Eligible Assets and cash properly sent to Custodian by Authorized Persons to be held in the Account for the benefit of Client pursuant to this Agreement within the timeframes set forth in the SLA. Custodian will notify Client and the relevant Authorized Person(s) of its receipt of Custodied Assets and of the related credit to the Account, including the amounts allocated to the Digital Asset Account and the Cash Account, as relevant. Notwithstanding the foregoing, processing of a credit of Eligible Assets or cash may be delayed or rejected if, [***], that delay or rejection is [***] to comply with Custodian's anti-money laundering and sanctions programs and policies, AML and Sanctions Regulations or any other requirements of Applicable Law, or if Client did not send Custodian an Instruction before effecting a transfer on a Digital Asset Network.

(h) Custodian will debit from the Account all Custodied Assets withdrawn by [***] from the Account within the timeframes set forth in the SLA. Custodian will notify [***] of any withdrawal and of the related debit from the Account.

(i) Custodian will promptly provide Client with [***] of withdrawals from or deposits to the Account. Notwithstanding the foregoing, for any withdrawals from or deposits to the Account made in connection with settling transactions executed by Client with NYDIG Execution,[***].

5. ***Access to Services***

(a) To the extent known to Client or Custodian, Client will promptly notify Custodian and Custodian shall promptly notify Client of any unauthorized access, use or disclosure of Client's Account credentials, unauthorized access or use of the Account, which notification will reasonably describe the issue at hand including the date and type of problem.

(b) Custodian may verify the [***] every [***], or more often as [***], to ensure that [***] with Client (if applicable) or otherwise authorized to act on Client's behalf.

6. ***Representations, Warranties and Covenants***

(a) Custodian represents, warrants and covenants that:

(i) Custodian is (A) duly organized, validly existing and in good standing under the laws of New York; (B) has all corporate powers required to carry on its business as now conducted; and (C) is duly qualified to do business and is in good standing in each jurisdiction where such qualification is necessary;

(ii) Custodian has full power to execute and deliver this Agreement and to perform all the duties and obligations to be performed by it under this Agreement;

(iii) the execution, delivery and performance by Custodian of this Agreement and the provision of the Services are within Custodian's corporate powers and have been duly authorized by all necessary corporate action on the part of Custodian;

(iv) this Agreement constitutes a valid and binding agreement of Custodian enforceable against Custodian in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity) and does not contravene, or constitute a default under, any provision of Applicable Law or of documents under which Custodian is organized or of any agreement, judgment, injunction, order, decree or other similar instrument binding upon Custodian;

(v) none of the Custodied Assets will be used by Custodian in connection with any loan, hypothecation, Lien or claim of (or by) Custodian or otherwise transferred or pledged to any third party unless otherwise agreed in writing by Custodian and Client;

(vi) Custodian has and will maintain any material necessary consents, permits, licenses, approvals, authorizations or exemptions of any government or other regulatory authority or agency in the United States or any other country required to fully and timely provide the Services to Client;

(vii) beneficial and legal ownership of all Custodied Assets is, and will remain, freely transferable without the payment of money or value and that Custodian has no ownership interest in the Custodied Assets;

(viii) Custodian waives any right of Lien, pledge, retention or set-off or similar right it may have under any provision of law, regulation or contract with respect to the Custodied Assets; and

(ix) Custodian will carry out its obligations under this Agreement in compliance with law, regulations and orders, as well as the guidelines, regulations and orders of the applicable local tax, or other competent authorities.

(b) Client represents, warrants and covenants that:

(i) if Client is a legal entity, Client (A) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization; (B) has all corporate powers required to carry on its business as now conducted; and (C) is duly qualified to do business and is in good standing in each jurisdiction where such qualification is necessary;

(ii) Client has the full power and authority to execute and deliver this Agreement and to perform all the duties and obligations to be performed by it under this Agreement;

(iii) if Client is a legal entity, the execution, delivery and performance by Client of this Agreement are within Client's corporate powers and have been duly authorized by all necessary corporate action on the part of Client;

(iv) this Agreement constitutes a valid and binding agreement of Client enforceable against Client in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity) and does not contravene, or constitute a default under, any provision of Applicable Law or of the documents under which Client is organized (if Client is a legal entity) or of any agreement, judgment, injunction, order, decree or other similar instrument binding upon Client;

(v) Client is not itself, nor is it an entity that is, an entity owned or controlled by any Person that is, or conducting any activities itself or on behalf of any Person that is (A) the subject of any sanctions administered or enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State, or any other Governmental Authority with jurisdiction over Custodian, Client or the Services; (B) identified on the Denied Persons, Entity, or Unverified Lists of the U.S. Department of Commerce's Bureau of Industry and Security; or (C) located, organized or resident in a country or territory that is, or whose government is, the subject of U.S. economic sanctions, including, without limitation, Crimea (or other regions of Ukraine subject to comprehensive OFAC sanctions), Cuba, Iran, North Korea, Syria or other regions subject to comprehensive OFAC sanctions;

(vi) Client has all rights, title and interest in and to the Custodied Assets as necessary for Custodian to perform its obligations under this Agreement;

(vii) at the time of delivery of each Instruction, the execution, delivery and performance by Client of the Instruction will have been within Client's corporate powers and will have been duly authorized by all necessary corporate action on the part of Client (if Client is a legal entity). Any Instruction issued under this Agreement constitutes a valid and binding agreement of Client enforceable against Client in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity) and does not contravene, or constitute a default under, any provision of Applicable Law or of the documents under which Client is organized (if Client is a legal entity) or of any agreement, judgment, injunction, order, decree or other similar instrument binding upon Client;

(viii) by providing an Instruction, Client hereby (A) authorizes Custodian to complete any documentation that may be required or appropriate to carry out the Instruction, and agrees to be contractually bound to the terms of that documentation "as is" without recourse against Custodian; (B) represents, warrants and covenants that it will provide Custodian with any information that is [***] to enable Custodian's performance pursuant to the Instruction or under this Agreement; and (C) represents, warrants and covenants that the processing, completion or otherwise effectuation of the Instruction will not cause the Custodian to violate AML and Sanctions Regulations;;

(ix) Client will promptly respond to any information request Custodian makes in relation to Custodian's periodic know-your-customer review or AML and Sanctions Regulations;

(x) Client will maintain appropriate security controls with respect to sensitive information related to the Account, including, for example, procedures for secure storage of passwords, use of two-factor authentication, secure e-mail, and secure storage of documents;

(xi) Client will promptly execute and deliver, upon request, any proxies, powers of attorney or other instruments that may be [***] for Custodian to provide the Services;

(xii) Client will cooperate with any reasonable request Custodian makes in connection with responding to formal or informal inquiries made by exchanges or regulatory, self-regulatory or governmental authorities in connection with the Services;

(xiii) to the extent that Client is not precluded from doing so by law, Client will promptly notify Custodian of any legal proceedings or formal or informal inquiries made by exchanges or regulatory, self-regulatory or governmental authorities pertaining to Client's business activities relating to digital assets;

(xiv) in the event that (x) Client is, or is acting on behalf of or with assets of, a "benefit plan investor" within the meaning of Section 3(42) of ERISA or (y) the Custodied Assets include "plan assets" for purposes of ERISA or the Code, (A) none of Custodian or any of its affiliates [***] with respect to the Custodied Assets, and none of them is [***], (B) Client has determined [***] with respect to the Services, and, in making such determination, has [***] in determining [***] involved with respect to the Services, (C) Client has determined that [***] and (D) the assets held within the Account shall comply with Section 404(b) of ERISA and accompanying regulations; and

(xv) Client is independent of Custodian and did not rely on any statement of Custodian or any of its affiliates to invest in the Custodied Asset and Client has exercised independent judgment in its determination to invest in the Custodied Assets;

(xvi) Client will carry out its obligations under this Agreement in compliance with law, regulations and orders, as well as the guidelines, regulations and orders of the applicable local tax, or other competent authorities; and

(xvii) Client has reviewed and understand the disclosures on its State Licenses and Consumer Disclosures website located at [***] or such other website as NYDIG Trust may direct Client to from time to time.

(c) *Notification of Adverse Change.* Each Party agrees to notify the other Party, if, at any time after the date of this Agreement, any of the representations, warranties or covenants made by such Party under this Section 6 fail to be materially true and correct as if made at and as of that time. The notifying Party will describe in reasonable detail the representation, warranty or covenant affected, the circumstances giving rise to that failure and the steps it has taken or proposes to take to rectify the failure.

7. ***Prohibited Activities***

(a) Client agrees that Client will not use the Services for any illegal purpose or any other type of illegal activity of any sort or take any action that negatively affects the performance of the Services. Client may not engage in any of the following activities, either directly or through a third party:

(i) attempt to gain unauthorized access to the Services or another user's account;

(ii) make any attempt to bypass or circumvent any security features;

(iii) reproduce, duplicate, copy, sell or resell the Services or access to the Services for any purpose except as authorized in this Agreement;

(iv) engage in any activity that is abusive or interferes with or disrupts the Services. Use of the Services in connection with any transaction involving illegal products or services is prohibited; or

(v) engage in any activity that would cause Custodian to violate AML and Sanctions Regulations.

(b) Custodian may suspend Client's (or any Authorized Person's) ability to provide Instructions with respect to the Account in the event of any breach of Section 7(a).

(c) Client will remain fully responsible for any acts or omissions of its Authorized Persons and will ensure that Authorized Persons comply with the terms of this Agreement.

8. ***Instructions***

(a) Unless otherwise explicitly provided for in this Agreement, Custodian will perform its duties under this Agreement pursuant to Instructions.

(b) Client must deliver Instructions in accordance with a Custodian Designated Security Procedure, unless Client elects to transmit an Instruction in accordance with a Client Designated Security Procedure.

(c) Client may use a Client Designated Security Procedure to transmit Instructions only if Custodian has agreed to and acknowledged that procedure. If Client determines to use [***] it must provide Custodian sufficient notice and information to allow testing or other confirmation that Instructions received via the Client Designated Security Procedure can be [***]. Custodian may require Client to execute additional documentation prior to the use of such transmission method. Custodian's acknowledgment of [***] will authorize it to accept such means of delivery but will not represent [***]. In electing to transmit an Instruction via a Client Designated Security Procedure, Client:

(i) agrees to be bound by the transaction(s) or payment order(s) specified on said Instruction, whether or not authorized, and accepted by Custodian in compliance with such Client Designated Security Procedure; and

(ii) accepts the risk associated with such Client Designated Security Procedure and confirms it is commercially reasonable for the transmission and authentication of the Instruction.

(d) Instructions provided [***] will be binding upon Custodian only if and when Custodian takes action with respect thereto. Custodian reserves the right to restrict Client's use of telephonic Instruction and/or to require Client to [***].

(e) Client must provide an Instruction to Custodian to deposit Eligible Assets to the Digital Asset Account [***] on the relevant Digital Asset Network into the Digital Asset Account. Client acknowledges that if Client attempts to [***], Client may experience delays in the crediting of those Eligible Assets to the Digital Asset Account, or the Eligible Assets may be forever lost or inaccessible. Custodian will not be liable for any damages related to delays that result from the lack of a proper Instruction.

(f) Custodian may treat [***]. Custodian will be entitled to [***].

(g) The [***] providing an Instruction will be responsible for assuring the adequacy and accuracy of that Instruction. If Custodian determines that an Instruction is either unclear or incomplete, Custodian will give [***] notice of that determination to Client. Such notice may be [***]. Client must thereupon amend or otherwise reform the Instruction. In such event, Custodian will have no obligation to take any action in response to the Instruction initially delivered until the redelivery of an amended or reformed Instruction.

(h) The purpose of any Client Designated Security Procedure or Custodian Designated Security Procedure is to confirm the authenticity of any Instruction and is not designed to detect errors or omissions in such Instructions. Therefore, Custodian is not responsible for detecting any Client error or omission contained in any Instruction received by Custodian.

(i) With respect to Instructions to transfer cash, Custodian will not be liable for interest on the amount of any Instruction that was not authorized or was erroneously executed unless Client so notifies Custodian within [***]. Any such compensation payable in the form of interest will be payable in accordance with [***]. If an Instruction in the name of Client and accepted by Custodian was not authorized by Client, the liability of the parties will be governed by [***].

(j) Custodian, after providing [***] may decide to no longer accept a particular Client Designated Security Procedure or Custodian Designated Security Procedure, or to do so only on revised terms, in the event that it determines that such agreed or established method of transmission represents a security risk or is attendant to any general change in Custodian's policy regarding Instructions.

(k) Client will use reasonable care to comply with any applicable Security Procedures with respect to the delivery or authentication of Instructions and will use commercially reasonable efforts to safeguard any codes, passwords or similar devices.

(l) Custodian will use reasonable care to comply with any applicable Security Procedures with respect to the receipt or verification of Instructions and will use commercially reasonable efforts to safeguard any codes, passwords or similar devices.

(m) Client may cancel an Instruction but Custodian will have no liability for Custodian's failure to act on a cancellation Instruction unless Custodian has [***]. Any cancellation Instruction must be sent and confirmed by a Custodian Designated Security Procedure or a Client Designated Security Procedure.

(n) Custodian cannot and does not guarantee the value of Eligible Assets. Custodian does not control the relevant Digital Asset Networks and therefore is not responsible for the services provided by those Digital Asset Networks – in particular, verifying and confirming transactions that are submitted to the Digital Asset Networks. Furthermore, notwithstanding Section 8(m), Custodian cannot cancel or reverse a transaction that has been submitted to a Digital Asset Network. Once a transaction request has been submitted to a Digital Asset Network, Client will subsequently not be able to cancel or otherwise modify Client's transaction request. Client acknowledges and agrees that, to the extent Custodian did not cause or contribute to a loss Client suffers in connection with any Eligible Asset transaction initiated, Custodian will have no liability for that loss. Custodian has no control over the relevant Digital Asset Networks and therefore does not ensure that any transaction request Custodian submits to a Digital Asset Network will be completed. Client acknowledges and agrees that the transaction requests Client instructs Custodian to submit on a Digital Asset Network may not be completed, or may be substantially delayed, by that Digital Asset Network and Custodian is not responsible for any delay or any failure of completion caused by that Digital Asset Network. When Client provides Instructions to Custodian, Client authorizes Custodian to submit Client's transaction to the relevant Digital Asset Network in accordance with the Instructions Client provides.

(o) Client may establish with Custodian a process to [***]. Client will execute all documentation reasonably required by Custodian, including a separate [***].

(p) In the event Custodian fails to execute a properly executable Instruction and fails to give Client notice of Custodian's non-execution, Custodian will be liable [***]. Notwithstanding anything in this Agreement to the contrary, Custodian will in no event be liable for [***].

(q) If Client does not have an Execution Agreement, Client authorizes NYDIG Execution to act as agent on its behalf solely for the limited purposes set forth in this Agreement.

9. ***Audio-recording***

Client on behalf of itself and its customers (if any) authorizes Custodian to record any and all telephonic or other oral instructions given to Custodian by or on behalf of Client, including from any Authorized Person. This authorization will remain in effect until and unless revoked by Client in writing.

10. ***Responsibility of Custodian***

(a) In performing its duties and obligations hereunder, Custodian will use reasonable care. Subject to the specific provisions of this Section 10, Custodian will be liable for any direct damage incurred by Client in consequence of Custodian's gross negligence, bad faith or willful misconduct. In no event will Custodian be liable hereunder for any special, indirect, punitive or consequential damages arising out of, pursuant to or in connection with this Agreement even if Custodian has been advised of the possibility of such damages. It is agreed that Custodian will have no duty to assess the risks inherent in Client's investments or to provide investment advice with respect to those investments and that Client as principal will bear any risks attendant to particular investments such as failure of counterparty, issuer, promoter or developer.

(b) Custodian will not be responsible under this Agreement for any failure to perform its duties, and will not be liable hereunder for any loss or damage in association with such failure to perform, for or in consequence of any circumstance or event which is beyond the reasonable control of Custodian or any agent of Custodian and which adversely affects the performance by Custodian of its obligations hereunder or by any other agent of Custodian, including any event caused by, arising out of or involving (i) an act of God, (ii) accident, fire, water or wind damage or explosion, (iii) any computer, system or other equipment failure or malfunction caused by any computer virus or the malfunction or failure of any communications medium, (iv) any interruption of the power supply or other utility service, (v) any strike or other work stoppage, whether partial or total, (vi) any disruption of, or suspension of trading in, the digital asset markets, or (vii) any other cause similarly beyond the reasonable control of Custodian (except in all such cases as may arise from Custodian's own [***]).

(c) Custodian will not be liable for any loss, claim, damage or other liability arising from the following causes (except such as may arise from its or its nominee's, agent's, employee's, contractor's, or representative's own grossly negligent action, grossly negligent failure to act, bad faith, or willful misconduct):

(i) The failure of any third party beyond the control or choice of Custodian, including the failure of a Digital Asset Network or a commercially reasonable information provider relied upon by Custodian;

(ii) Client's or any Authorized Person's failure to protect the confidentiality or security of the Account information associated with Custodied Assets;

(iii) An unauthorized party's impersonation of an Authorized Person to provide an Instruction or otherwise access the Account;

(iv) Any action taken or omitted by Custodian in accordance with an Instruction, even when that action conflicts with, or is contrary to any provision of, Client's declaration of trust, certificate of incorporation or by-laws or other constitutive document, Applicable Law, or actions by the trustees, directors or shareholders of Client;

(v) Specific inaccuracies in information that Custodian received from a commercially reasonable source such as a commercial database, provided that Custodian has relied upon that information in good faith;

(vi) Any action taken or omitted by Custodian based on a good faith belief that the action is reasonably necessary to comply with requirements under Applicable Law, including AML and Sanctions Regulations; or

(vii) Any action taken or omitted by Custodian pursuant to the advice of legal counsel and accountants (who may also be advisors to Client), in each case nationally recognized and with expertise in the relevant area, in relation to matters of law, regulation or market practice, provided that Custodian has relied upon that advice in good faith.

11. ***Indemnification***

Client hereby indemnifies Custodian and its agents, nominees, employees, officers and directors, and agrees to hold each of them harmless from and against all claims and liabilities, [***] and taxes, incurred or assessed against any of them in connection with the performance of this Agreement and any Instruction, including for the acts, omissions, or any unlawful activity of any of Client's agents, except such as may arise from Custodian's or its nominees' own [***].

12. ***Fees and Expenses***

(a) Client will pay Custodian an [***] Fee for the Services as set forth in the Term Sheet.

(b) Client will also pay Custodian a [***] for the Services in such amount as [***]. For the avoidance of doubt, if the [***] shall be due for such billing period. Custodian may [***]. For example, Custodian may, but is not required to, [***] for the amount of [***] paid by Client to affiliates of the Custodian in such billing period. With respect to any spreads paid that [***], Custodian and its affiliates shall [***], unless and only to the extent otherwise required by the applicable agreement. Custodian does not expect to [***]. Custodian expects that [***]. Custodian may rely on [***]. Notwithstanding anything to the contrary in this paragraph, Custodian may further [***].

(c) Custodian may increase Fees upon [***] notice to Client.

(d) Custodian will invoice Client [***], and such invoice shall reflect the Fee Amount.

(e) [Reserved].

(f) [Reserved].

(g) For any Fee Amount outstanding [***] the Due Date, Client hereby authorizes Custodian to [***].

13. ***Termination***

(a) This Agreement will commence on the Effective Date and will continue for one year, unless otherwise terminated as provided in this Section 13. After one year, this Agreement will automatically renew for successive one-year periods, unless either Party notifies the other of termination, in writing, in accordance with this Section 13.

(b) This Agreement may be terminated by either Party upon 30 days' written notice to the other Party, which notice shall set forth the Termination Date.

(c) Either Party may terminate this Agreement at any time by written notice to the other Party, effective immediately, or on such later date as may be specified in the notice, if:

(i) any representation, warranty, certification or statement made by the other Party under this Agreement, or pursuant to any certificate or document delivered pursuant to this Agreement, was incorrect in any material respect when made or becomes incorrect in any material respect;

(ii) the other Party fails in any material respect to perform any of its obligations under this Agreement, including (A) if Client is in breach of Section 6(b)(ix) or (B) if Custodian fails to perform in accordance with the Service Levels specified in Appendix A and, upon notification of such breach, the failure is not cured within [***].

(iii) the other Party requests a postponement of maturity or a moratorium with respect to any indebtedness or is adjudged bankrupt or insolvent, or there is commenced against the other Party a case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or the other Party files an application for an arrangement with its creditors, seeks or consents to the appointment of a receiver, administrator or other similar official for all or any substantial part of its property, admits in writing its inability to pay its debts as they mature, or takes any corporate action in furtherance of any of the foregoing, or fails to meet applicable legal minimum capital requirements;

(iv) any Applicable Law or any change therein or in the interpretation or administration thereof has or may have a Material Adverse Effect on:

(A) Client or the rights of Client with respect to the Services;

(B) the quality or efficiency of the Services provided under this Agreement; or

(C) Custodian's ability to provide the Services to Client as required under this Agreement; or

(v) a substantial change in the ownership or control, or a material adverse change in the financial condition, of Client or Custodian, as applicable, or in the ability of Client or Custodian, as applicable, to fulfill its responsibilities under this Agreement occurs.

(d) A notice of termination by either Party shall be treated as a withdrawal request as of the Termination Date or another date that the Parties agree for all Custodied Assets. Custodian will deliver or cause to be delivered to Client all Custodied Assets held or controlled by Custodian as of the Termination Date.

(e) Upon receiving written notice of termination of this Agreement (or [***] after receiving written notice, in the case of a termination pursuant to Section 13(c)(iii)):

(i) Client shall ensure that Custodian has accurate withdrawal instructions for the Custodied Assets as soon as practicable thereafter, and in any event, prior to the Termination Date;

(ii) Client will, but only upon the performance by Custodian of its obligations under Section 3(d)(i), pay to Custodian the unpaid balance of any Fee Amount owed as of the Termination Date; and

(iii) Client and its Authorized Persons must immediately discontinue all access and use of the Services.

(f) As of the Termination Date:

(i) if Client has not satisfied its obligation to provide digital asset withdrawal instructions pursuant to Section 13(e)(i), Client hereby authorizes Custodian to act as Client's agent to instruct, NYDIG Execution to liquidate Custodied Digital Assets on the first Business Day following the Termination Date or any Business Day thereafter; and

(ii) Client has no right and forfeits any claim to any actual or potential Forked or Airdropped Assets before or after the Termination Date if such digital assets were not Custodied Digital Assets on the Termination Date.

(g) Termination of this Agreement will not affect any right or liability arising out of events occurring, or services delivered, prior to the effectiveness thereof.

14. ***Confidentiality***

(a) In connection with this Agreement, each Party may receive or otherwise have access to Confidential Information of the other Party. Except as otherwise expressly provided herein, the receiving Party agrees to retain the Confidential Information in strict confidence from the date of receipt of the Confidential Information and shall not disclose the Confidential Information to any third party, except as previously approved in writing by the disclosing Party or as provided herein, and will use and reproduce the Confidential Information for no purpose other than as necessary in connection with this Agreement. The receiving Party may permit access to Confidential Information by its employees, agents, advisors and other authorized representatives who have a need to know such Confidential Information for the purposes of this Agreement; provided that the receiving Party ensures any such individuals have agreed (either as a condition of employment or service or in order to obtain the Confidential Information) to be bound by confidentiality obligations substantially similar to those of this Section 14, informs any such individuals in possession of Confidential Information of the confidential nature of such Confidential Information, and remains responsible for the compliance by such individuals with the terms of this Section 14.

(b) The receiving Party's obligations under this Agreement with respect to any portion of the Confidential Information shall not apply or shall terminate when: (a) the Confidential Information was in the public domain at the time it was communicated to the receiving Party; (b) the Confidential Information becomes publicly known through no wrongful act on the part of the receiving Party; (c) the Confidential Information was in the receiving Party's possession free of any obligation of confidence at the time of disclosure by the disclosing Party; or (d) the Confidential Information was independently developed by the receiving Party without reference to the Confidential Information subject to this Agreement and without breach of this Agreement.

(c) The receiving Party may make a disclosure of Confidential Information as required by any legal proceeding or governmental entity, or in response to a request by a competent regulatory authority; provided that, to the extent permitted by law, the receiving Party provides prompt written notice of such request prior to disclosure so that the disclosing Party may have an opportunity to seek a protective order or other legal actions to protect its interest in the Confidential Information. Notwithstanding the foregoing, the receiving Party is not required to give notice to the disclosing Party in connection with a disclosure that has been requested by a regulator of competent jurisdiction (over the receiving Party or its affiliates) exercising its normal course supervisory or examination authority and where no specific reference is made by such regulator to the disclosing Party.

(d) At any time following the termination or expiration of this Agreement for any reason, the disclosing Party may request from the receiving Party, and the receiving Party shall promptly provide upon receipt of such request, a written confirmation that all documents and other tangible materials (including notes, writings and other material developed therefrom by the receiving Party) containing Confidential Information and all copies thereof have been returned or destroyed, except that the receiving Party may retain copies of the Confidential Information in accordance with its standard document retention policies, and the receiving Party may retain electronic copies of the Confidential Information that exist on its computer system and backups thereof in the ordinary course. Any retained Confidential Information shall remain subject to the obligations of confidentiality and non-use herein.

(e) Each Party's obligations under this Section 14 shall survive the termination or expiration of this Agreement.

(f) Notwithstanding anything to the contrary in this Agreement, neither Party will use the name or logo of the other Party or its affiliates as a reference for marketing or promotional purposes, or in public or private conversations with existing or potential customers.

15. ***Intellectual Property***

As between the Parties, Custodian will retain all right, title, and interest (including all copyright, trademark, patent, trade secrets, and all other intellectual property rights) in its Confidential Information.

16. ***Taxation***

Client is liable for any and all Client Taxes. Client will indemnify Custodian for any Client Tax, and any expenses related thereto, other than any Client Tax arising out of Custodian’s gross negligence, bad faith, or willful misconduct. Client acknowledges that Custodian may, or may instruct the applicable withholding agent to, withhold and remit to the appropriate Governmental Authority the amount of any Client Tax that Custodian is advised by counsel to withhold. Client also acknowledges that Custodian may, or may instruct another party to, report actions taken with respect to the Custodied Assets to the Internal Revenue Service or other Governmental Authority if advised to do so by counsel. Upon execution of this Agreement, Client will deliver to Custodian a properly completed and executed Internal Revenue Service Form W-8 or W-9 appropriate to Client’s circumstances.

17. ***Disclosure of Risks***

Custodian hereby notifies Client, and Client hereby acknowledges, that:

a. digital units that are used as a medium of exchange or a form of digitally stored value ("**Virtual Currency**") are not legal tender, and are not backed by the government;

b. although this Agreement uses the term "deposit," digital assets in the Digital Asset Account are not "deposits" within the meaning of U.S. federal or state banking law, and cash in the Cash Account are not deposits of Custodian. Balances of digital assets in the Digital Asset Account are not subject to FDIC or SIPC protections;

c. legislative and regulatory changes or actions at the state, federal, or international level may adversely affect the use, transfer, exchange, and value of Virtual Currency;

d. if any Custodied Digital Assets are deemed to be securities under state or Federal securities laws or if providing custody services or the ability to withdraw with respect to any Custodied Digital Asset would otherwise violate applicable state or federal laws, Custodian will make reasonable efforts to return such Custodied Digital Assets to Client but such Custodied Digital Assets may become temporarily or permanently inaccessible to Client;

e. the software and cryptography that governs the protocols of Digital Asset Networks have short histories and could at any time be found ineffective or faulty, which could result in the complete loss of value or theft of the Custodied Digital Assets;

f. no physical, operational and cryptographic system for the secure storage of private keys is perfectly secure, and loss or theft due to operational or other failure is always possible;

g. transactions in Virtual Currency may be irreversible, and, accordingly, losses due to fraudulent or accidental transactions may not be recoverable;

h. some Virtual Currency transactions shall be deemed to be made when recorded on a public ledger, which is not necessarily the date or time that an Authorized Person provides an Instruction;

i. the value of Virtual Currency may be derived from the continued willingness of market participants to exchange Fiat Currency for Virtual Currency, which may result in the potential for permanent and total loss of value of a particular Virtual Currency should the market for that Virtual Currency disappear;

j. there is no assurance that a Person who accepts a Virtual Currency as payment today will continue to do so in the future;

k. the volatility and unpredictability of the price of Virtual Currency relative to Fiat Currency may result in significant loss over a short period of time;

l. the nature of Virtual Currency may lead to an increased risk of fraud or cyber-attack;

m. the nature of Virtual Currency means that any technological difficulties experienced by Custodian may prevent the access or use of Client's Virtual Currency;

n. any bond or trust account maintained by Custodian for the benefit of its customers may not be sufficient to cover all losses incurred by customers; and

o. for purposes of calculating Fees and for account statements, the fair market value of each Custodied Asset will be determined by Custodian according to its valuation policy, which may differ from the way that Client values its digital asset holdings.

18. ***Limitations of Liability***

(a) Neither Party will be liable to the other Party (whether under contract, tort (including negligence) or otherwise) for any indirect, incidental, special or consequential losses suffered or incurred by the other Party (whether or not any such losses were foreseeable or within the contemplation of the Parties).

(b) Neither Party's total aggregate liability arising out of or relating to this Agreement will exceed the greater of (i) the fair market value of the amount of Custodied Assets at the time in which the events giving rise to the liability occurred and (ii) the fair market value of the amount of Custodied Assets at the time that Custodian notifies Client in writing or Client otherwise has actual knowledge of the events giving rise to the liability. The fair market value of each digital asset will be determined by Custodian according to its valuation policy, which may differ from the way that Client values its digital asset holdings.

19. ***Miscellaneous***

(a) *Counterparts.* This Agreement may be signed in any number of counterparts, each of which must be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement will become effective when each Party has received a counterpart hereof signed by all of the other Parties. Until and unless each Party has received a counterpart hereof signed by the other Party, this Agreement will have no effect and no Party will have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). No provision of this Agreement is intended to confer any rights, benefits, remedies, obligations or liabilities hereunder upon any Person other than the Parties and their respective successors and assigns.

(b) *Electronic Documents.* Client consents to the delivery of confirmations, any other required or optional communication or agreement under any Applicable Law by e-mail, Web site or other electronic means, including through the Portal, subject to compliance with Applicable Law. Any such documents that are delivered to Client electronically are deemed to be "in writing." If Client's signature or acknowledgment is required or requested with respect to any such document and Client (if a natural person) or an authorized representative of Client "clicks" in the appropriate space, Client will be deemed to have signed or acknowledged the document to the same extent and with the same effect as if Client had signed the document manually. Client acknowledges its understanding that Client has the right to withdraw its consent to the electronic delivery and signature of documents at any time by providing prior written notice.

(c) *Notices.* All notices, requests and other communications to any Party hereunder must be in writing (including e-mail transmission, so long as a confirmation of receipt of any e-mail transmission is requested and received) and must be given,

if to Client, using Client Contact Info;

if to Custodian, to:

NYDIG Trust Company LLC
One Vanderbilt Avenue, 65th Floor
New York, NY 10017
Attention: [***]
E-mail: [***]

or such other address as a Party may hereafter specify for the purpose by notice to the other Party. Each of the foregoing addresses will be effective unless and until notice of a new address is given by the applicable Party to the other Party in writing. Notice will not be deemed to be given unless it has been received.

(d) *Relationship of the Parties*. Nothing in this Agreement will be deemed or is intended to be deemed, nor will it cause, Client and Custodian to be treated as partners, joint ventures, or otherwise as joint associates for profit.

(e) *Governing Law.* This Agreement is governed by and is to be construed in accordance with the law of the State of New York, without giving effect to the conflicts of law rules of that state.

(f) Jurisdiction. The Parties agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby will be brought in the United States District Court for the Southern District of New York or any New York State court sitting in New York City, so long as one of those courts has subject matter jurisdiction over the suit, action or proceeding, and that any cause of action arising out of this Agreement will be deemed to have arisen from a transaction of business in the State of New York, and each of the Parties hereby irrevocably consents to the jurisdiction of those courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

Process in any such suit, action or proceeding may be served on any Party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each Party agrees that service of process on that Party as provided in Section 19(c) will be deemed effective service of process on that Party.

(g) *Claims; Third-Party Beneficiaries*. It is the intention of the Parties that no party other than the Parties will have or assert any rights, claims or remedies against any Party in respect of any action, omission, failure or neglect in the performance of any responsibilities referred to in this Agreement. For the avoidance of doubt, the Parties acknowledge and agree that the foregoing sentence does not affect the right of any party to recover from Custodian pursuant to Section 10 the losses, claims, damages, liabilities or expenses specified in Section 10. Custodian will advise Client as soon as reasonably practicable in the event any such claim is asserted by a third party against Custodian.

(h) *Modifications, Amendments and Waivers*.

(i) Custodian may modify or amend the terms and conditions of this Agreement at any time after providing 30 days' advance notice to Client. The Parties may agree, memorialized in writing signed by both Parties, to modify or amend this Agreement at any time.

(ii) Any provision of this Agreement may be waived if the waiver is in writing and is signed by the Party against whom the waiver is to be effective. Notwithstanding the foregoing, Custodian may unilaterally waive any provision of this Agreement that it determines in good faith does not adversely affect Client.

(iii) Custodian may change its internal policies and procedures, including its valuation policy, without notice to, or consent by, Client. However, to the extent of any conflict between this Agreement and updated policies and procedures, this Agreement shall control.

(iv) No failure or delay by any Party in exercising any right, power or privilege hereunder operates as a waiver thereof nor may any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

(i) *Headings; Internal References; Rule of Construction.* When a reference is made in this Agreement to Sections or Appendices, such reference shall be to a Section or Appendix to this Agreement unless otherwise indicated. The table of contents, if any, and headings contained in this Agreement are for convenience and reference purposes only and shall not be deemed to alter or affect in any way the meaning or interpretation of any provisions of this Agreement. To the fullest extent permitted by Applicable Law, whenever in this Agreement a Person is permitted or required to make a decision (i) in its "sole discretion," "discretion" or under a grant of similar authority or latitude, the Person shall be entitled to consider such interests and factors as it desires, including its own interests or the interests of any other Person, and shall have no duty or obligation to give any consideration to any interest of or factors affecting the any other Person; or (ii) in its "good faith" or under another express standard, in the case of either clause (i) or (ii) the Person shall act under such express standard and shall not be subject to any other or different standard imposed by this Agreement or any other agreement contemplated hereby, under any other law, rule or regulation, or at equity. Further, whenever in this Agreement a Person is permitted or required to rely or to make a decision, determination, judgment or a similar action in "good faith," such provision shall be satisfied by such Person's subjective belief as to the matter specified.

(j) *Successors and Assigns.* The provisions of this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns but the Parties agree that no Party may assign its rights and obligations under this Agreement without the prior written consent of the other Parties, which consent may not be unreasonably withheld or delayed, except that Custodian may assign its rights and obligations under this Agreement to any affiliate of Custodian that is chartered or licensed to provide the Services or to any entity which succeeds to all or substantially all of the assets and business of Custodian without the prior written consent of Client.

(k) *Entire Agreement*. This Agreement embodies the entire agreement and understanding between the Parties and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter of this Agreement, except that any non-disclosure agreement or agreements previously entered into between the Parties continue to be in force.

(l) *Severability.* If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement will remain in full force and effect and will in no way be affected, impaired or invalidated so long as the economic or legal substance of the Services contemplated hereby is not affected in any manner materially adverse to either Party. Upon such a determination, the Parties will negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the Services contemplated hereby be consummated as originally contemplated to the fullest extent possible.

(m) *No Advice*. Client acknowledges that Custodian is not providing, and it is not relying on Custodian to provide, any legal, tax, or investment advice in providing the Services.

Each of the undersigned has caused this Agreement to be executed by an authorized person, which in the case of a legal entity is its duly authorized officer.

NYDIG Trust Company LLC

By:	/s/ Renae Cormier	By:	/s/ [***]
Name:	Renae Cormier	Name:	[***]
Title:	CFO	Title:	[***]
Date:	5/23/024	Date:	5/23/2024

Appendix A

Service Level Agreement

Custodian is open every [***]. The tables below indicate, for each [***] that Client may make in relation to its account, [***] Custodian has to [***]. All SLAs are subject to Custodian [***], if applicable [***].

Custodian accepts its [***]. All other requests may be made until [***]. **ANY REQUEST MADE AFTER [***] WILL BE TREATED AS THOUGH [***].**

General SLAs

Client Request	**Custodian Action**	**SLA Time**
[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]

Problem Severity Levels

[***]	[***]
[***]	[***]
[***]	[***]

Cold Storage SLAs

Client Request/Action	**Custodian Action**	**SLA Time**
[***]	[***]	[***]
[***]	[***]	[***]
	[***]	[***]
	[***]	[***]
[***]	[***]	[***]

Cash SLAs

Client Request/Action	Custodian Action	SLA Time
[***]	[***]	[***]
[***]	[***]	[***]
	[***]	[***]
	[***]	[***]

Exhibit 99.3

CERTAIN INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY [***], HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL

COINBASE PRIME BROKER AGREEMENT

General Terms and Conditions

1. Introduction

1.1 This agreement dated as of _____ (the "Effective Date") (including, the Coinbase Custody Services Agreement attached hereto as Exhibit A (the "Custody Agreement"), the Coinbase Master Trading Agreement attached hereto as Exhibit B (the "MTA"), and all other exhibits, addenda, and supplements attached hereto or referenced herein, (collectively, the "Coinbase PBA")), is entered into by and between Semler Scientific, Inc. ("Client"), and Coinbase, Inc. ("Coinbase"), for and on behalf of itself and on behalf of Coinbase Custody Trust Company, LLC ("Coinbase Custody"), and, if applicable, Coinbase Credit, Inc. ("Coinbase Credit,") or Coinbase Custody International Ltd. ("CCI") and collectively with Coinbase and Coinbase Custody, the "Coinbase Entities").

1.2 This Coinbase PBA sets forth the terms and conditions pursuant to which the Coinbase Entities will provide to Client custody, trade execution, lending, post-trade credit (if applicable), and other services (collectively, the "PB Services") for certain digital assets ("Digital Assets") and cash as set forth herein. As part of the PB Services, Coinbase will establish and maintain for Client the Trading Account (as defined and described in Section 2 of the MTA), and Coinbase Custody will establish and maintain for Client the Vault Account (as defined and described in Sections 1.1 and 2 of the Custody Agreement) (collectively with the Trading account, the "Accounts").

1.3 Client's Digital Assets are referred to as "Client Digital Assets," Client's cash is referred to as "Client Cash," and Client Digital Assets and Client Cash are together referred to as "Client Assets."

1.4 Client and the Coinbase Entities (individually or collectively, as the context requires) may also be referred to as a "Party." Capitalized terms not defined in these General Terms and Conditions (the "General Terms") shall have the meanings assigned to them in the respective exhibit, addendum, or supplement. Any singular term in this Coinbase PBA will be deemed to include the plural, and any plural term the singular and the words "such as," "include," "includes," or "including" are deemed to be followed by the words "without limitation," whether or not expressly stated. The word "will" shall be construed to have the same meaning and effect as the word "shall." In the event of a conflict between these General Terms and any exhibit, addendum, or supplement hereto, the document governing the specific relevant PB Service shall control in respect of such PB Service.

2. Conflicts of Interest Acknowledgement

Client acknowledges that the Coinbase Entities may have actual or potential conflicts of interest in connection with providing the PB Services including that (i) Orders (as such term is defined in the MTA) may be routed to Coinbase's exchange platform where Orders may be executed against other Coinbase clients or with Coinbase acting as principal, (ii) the beneficial identity of the purchaser or seller with respect to an Order is unknown and therefore may be another Coinbase client, (iii) Coinbase does not engage in front-running, but is aware of Orders or imminent Orders and may execute a trade for its own inventory (or the account of an affiliate) while in possession of that knowledge, and (iv) Coinbase may act in a principal capacity with respect to certain Orders (e.g., to fill residual Order size when a portion of an Order may be below the minimum size accepted by the CTV (as defined in Section 1.1 of the MTA)). As a result of these and other conflicts, the Coinbase Entities may have an incentive to favor their own interests and the interests of their affiliates over a particular client's (including Client's) interests. Coinbase has in place certain policies and procedures that are designed to mitigate such conflicts.

3. Account Statements

Coinbase will make available to Client an electronic account statement [***]. Each account statement will identify [***].

4. Client Instructions

4.1 In a written notice to the relevant Coinbase Entity, Client may designate persons or entities authorized to act on behalf of Client with respect to the PB Services (the "Authorized Representative"). Upon such designation, [***].

4.2 The Coinbase Entities may act upon instructions received from Client or Client's Authorized Representative ("Instructions"). When taking action upon Instructions, the applicable Coinbase Entity shall act in a reasonable manner, and in conformance with the following: [(a) Instructions shall continue in full force and effect until executed, canceled, or superseded; (b) if any Instructions are ambiguous, the applicable Coinbase Entity shall refuse to execute such Instructions until any such ambiguity has been resolved to the Coinbase Entity's satisfaction; (c) the Coinbase Entities may refuse to execute Instructions if in the applicable Coinbase Entity's opinion such Instructions are outside the scope of its obligations under this Coinbase PBA or are contrary to any applicable law, rule, regulation, court order, or binding order of a government authority; and (d) the Coinbase Entities may rely on any Instructions, notice, or other communication believed by it [***] to be given by Client or Client's Authorized Representative. Client shall be fully responsible and liable for, and the Coinbase Entities shall have no liability with respect to, any and all Claims and Losses (each as defined below) arising out of or relating to inaccurate or ambiguous Instructions. If Client is a trust, Client agrees that the Coinbase Entities shall have no liability for following the trustee's instructions.

4.3 Each Coinbase Entity will comply with Client's Instructions to stake, stack, or vote Client Digital Assets to the extent the applicable Coinbase Entity supports proof of stake validation, proof of transfer validation, or voting for such Digital Assets. The Coinbase Entities may, in their sole discretion, decide whether or not to support or cease supporting staking services, stacking, or voting for a Digital Asset.

5. Representations, Warranties, and Additional Covenants

Client represents, warrants, and covenants (which shall be deemed to repeat each of the following on each day on which it provides an Instruction) that:

5.1 Client has the full power, authority, and capacity to enter into this Coinbase PBA and to engage in transactions with respect to all Digital Assets relating to the PB Services;

5.2 Client is and shall remain in full compliance with all applicable laws, rules, and regulations in each jurisdiction in which Client operates or otherwise uses the PB Services, including U.S. securities laws and regulations, as well as any applicable state and federal laws, including AML and Sanctions Laws and Regulations (as defined below), and other anti-terrorism statutes, regulations, and conventions of the U.S. or other international jurisdictions;

5.3 Client is and shall remain in good standing with all relevant government agencies, departments, regulatory, self-regulatory, and supervisory bodies in all relevant jurisdictions in which it does business, and it will immediately notify Coinbase if it ceases to be in good standing with any regulatory authority;

5.4 Client is not a resident in nor organized under the laws of any country with which transactions or dealings are prohibited by governmental sanctions imposed by the U.S., the United Nations, the European Union, the United Kingdom, or any other applicable jurisdiction (collectively, "Sanctions Regimes"), nor is it owned or controlled by a person, entity or government prohibited under an applicable Sanctions Regime;

5.5 If it is a legal entity, it has implemented an AML and sanctions program that is reasonably designed to comply with applicable AML, anti-terrorist, anti-bribery/corruption, and Sanctions Regime laws and regulations, including, but not limited to, the Bank Secrecy Act, as amended by the USA PATRIOT Act (collectively, "AML and Sanctions Laws and Regulations"). Said program includes: (a) a customer due diligence program designed to identify and verify the identities of Client's customers; (b) enhanced due diligence on high-risk customers, including but not limited to customers designated as politically exposed persons or residing in high-risk jurisdictions; (c) processes to conduct ongoing monitoring of customer transactional activity and report any activity deemed to be suspicious; (d) ongoing customer sanctions screening against applicable Sanctions Regimes lists; and (e) processes to maintain records related to the above controls as required by law;

5.6 Client does not maintain any asset in an Account which is derived from any unlawful activity and it will not instruct or otherwise cause Coinbase to hold any assets or engage in any transaction that would cause Coinbase to violate applicable laws and regulations, including applicable AML and Sanctions Laws and Regulations;

5.7 Client shall promptly provide such information as the Coinbase Entities may reasonably request from time to time regarding: (a) its policies, procedures, and activities which relate to the PB Services, including information on Client's underlying customers, where applicable; and (b) its use of the PB Services, in each case to the extent reasonably necessary for the Coinbase Entities to comply with any applicable laws, rules, and regulations (including money laundering statutes, regulations, and conventions of the U.S. or other jurisdictions), or the guidance or direction of, or request from, any regulatory authority or financial institution;

5.8 By executing this Agreement, Client further provides written consent to allow the Coinbase Entities to request and obtain any and all beneficial owner information regarding the Client that is maintained on any national beneficial ownership registry, including, but not limited to, the Beneficial Ownership Information Registry maintained by the U.S. Financial Crimes Enforcement Network ("FinCEN"), in order to assist the Coinbase Entities in complying with their anti-money laundering and customer due diligence obligations, with the understanding that the Coinbase Entities will only use such information for those purposes and will maintain the information pursuant to the confidentiality provisions of this Agreement.

5.9 Client's use of the PB Services shall be for commercial, business purposes only, limited to activities disclosed in the due diligence information submitted to Coinbase, and shall not include any personal, family, or household purposes. It shall promptly notify Coinbase in writing in the event it intends to use the PB Services in connection with any business activities not previously disclosed to Coinbase. Coinbase may, in its sole discretion, prohibit Client from using the PB Services in connection with any business activities not previously disclosed;

5.10 Client's Authorized Representatives have the: (a) full power, authority, and capacity to access and use the PB Services; and (b) appropriate sophistication, expertise, and knowledge necessary to understand the nature and risks, and make informed decisions, in respect of Digital Assets and the PB Services;

5.11 This Coinbase PBA is a legal, valid, and binding obligation, enforceable against it in accordance with its terms;

5.12 Client has not relied on any Coinbase Entity for any investment, legal, tax, or accounting advice, and Client is solely responsible, and shall not rely on any Coinbase Entity, for determining whether any investment, investment strategy, transaction, legal consideration, or tax or accounting treatment involving any assets (including Digital Assets) is appropriate for Client based on its investment objectives, financial circumstances, risk tolerance, legal considerations, and tax or accounting consequences;

5.13 Client has duly appointed and authorized the individual(s) whose signatures are stated below to execute and deliver this Coinbase PBA;

5.14 Client has the right to deliver any assets it transfers to a Coinbase Entity and all such assets are free and clear of all liens, claims, and encumbrances (other than liens solely in favor of any of the Coinbase Entities) and Client will not cause or allow any of the Accounts, whether now owned or hereafter acquired, to be or become subject to any liens, security interests, mortgages, or encumbrances of any nature (other than liens solely in favor of any of the Coinbase Entities);

5.15 To the best of Client's knowledge, there is no pending or threatened action, suit, or proceeding at law or in equity or before any court, tribunal, governmental body, agency, official, or arbitrator against Client that is likely to affect the legality, validity, or enforceability against it of this Coinbase PBA or the ability of Client to perform its obligations hereunder;

5.16 Unless it advises Coinbase to the contrary in writing, at all times, none of Client's assets constitute, directly or indirectly, [***] the Employment Retirement Income Security Act of 1974, as amended ("ERISA"), [***], and Client shall immediately provide Coinbase with a written notice in the event that it becomes aware that it is in breach of the foregoing;

5.17 To the extent Client provides a Coinbase Entity with Instructions (which may include standing Instructions) to implement a vesting or lockup schedule for a particular token in connection with Client's obligations to a token issuer, such vesting or lockup schedule (and any subsequent changes made by Client to the vesting or lockup schedule, if any) will accurately reflect the terms of Client's obligations to the token issuer; and

5.18 Client will promptly inform Coinbase in writing if any of the above representations, warranties, and covenants cease to be true.

Coinbase, on behalf of itself and each other Coinbase Entity, represents, warrants, and covenants that:

5.19 Coinbase possesses and will maintain all licenses, registrations, authorizations, and approvals required by any applicable government agency or regulatory authority for it to operate its business and provide the PB Services;

5.20 Coinbase will not, directly or indirectly, lend, pledge, hypothecate, or rehypothecate Client Assets unless otherwise agreed in writing by Client;

5.21 Coinbase has the full power, authority, and capacity to enter into and be bound by this Coinbase PBA; and

5.22 This Coinbase PBA is a legal, valid, and binding obligation, enforceable against it in accordance with its terms.

6. No Investment Advice or Brokerage

6.1 Client assumes responsibility for each transaction executed by or for it in connection with this Coinbase PBA. Client understands and agrees that none of the Coinbase Entities is acting as a "broker" as defined in the Securities Exchange Act of 1934 or as an investment adviser as defined in the Investment Advisers Act of 1940 (the "Investment Advisers Act") with respect to their activities in connection with this Coinbase PBA, and the Coinbase Entities have no liability, obligation, or responsibility whatsoever for Client decisions relating to the PB Services. Client should consult its own legal, tax, investment, and accounting professionals.

6.2 While the Coinbase Entities may make certain general information available to Client (including Market Data, as defined in Section 7 of the MTA), the Coinbase Entities are not providing and will not provide Client with any investment, legal, tax, or accounting advice regarding Client's specific situation. The Coinbase Entities shall have no liability, obligation, or responsibility whatsoever regarding any decision to enter into in any transaction with respect to any asset (including Digital Assets).

7. Opt-In to Article 8 of the Uniform Commercial Code

Each item of property (including Client Assets) credited to an Account will be treated as "financial assets" under Article 8 of the New York Uniform Commercial Code ("Article 8"). Coinbase and Coinbase Custody are "securities intermediaries," the Accounts are each "securities accounts," and Client is an "entitlement holder" under Article 8. This Coinbase PBA sets forth how the Coinbase Entities will satisfy their Article 8 duties. Treating property in the Accounts as financial assets under Article 8 does not determine the characterization or treatment of such property under any other law or rule. New York will be the securities intermediary's jurisdiction with respect to Coinbase and Coinbase Custody, and New York law will govern all issues addressed in Article 2(1) of the Hague Securities Convention. Coinbase and Coinbase Custody will credit Client with any payments or distributions on any Client Assets it holds for Client's Accounts, unless (i) the payment or distribution is an Advanced Protocol (as defined below) that Coinbase does not support (as described in Section 14.2), (ii) Coinbase lacks the technological capabilities to provide Client with these payments or distributions, or (iii) Coinbase cannot deliver the distributions for legal or other reasons that make providing such distributions impossible or impracticable. Coinbase and Coinbase Custody will comply with Client's Instructions with respect to Client Assets in the Accounts, subject to the terms of this Coinbase PBA, and related Coinbase rules, including the Prime Trading Rules (as defined in preamble to the MTA).

8. General Use, Security and Prohibited Use

8.1 *Prime Broker Site and Content*. During the term of this Coinbase PBA, the Coinbase Entities hereby grant Client a limited, nonexclusive, non-transferable, non-sublicensable, revocable, and royalty- free license, subject to the terms of this Coinbase PBA, to access and use [***] (the "Coinbase PB Site") and related content, materials, and information (collectively, the "Content") solely for Client's internal business use and other purposes as permitted by Coinbase in writing from time to time. Any other use of the Coinbase PB Site or Content is hereby prohibited. All other right, title, and interest (including all copyright, trademark, patent, trade secrets, and all other intellectual property rights) in the Coinbase PB Site, Content, and PB Services is and will remain the exclusive property of the Coinbase Entities and their licensors. Client shall not copy, transmit, distribute, sell, license, reverse engineer, modify, publish, or participate in the transfer or sale of, create derivative works from, or in any other way exploit any of the PB Services or Content, in whole or in part. "Coinbase," "Coinbase Prime," "[***]," and all logos related to the PB Services or displayed on the Coinbase PB Site are either trademarks or registered marks of the Coinbase Entities or their licensors. Client may not copy, imitate, or use them without Coinbase's prior written consent. The license granted under this Section will automatically terminate upon termination of this Coinbase PBA, or the suspension or termination of Client's access to the Coinbase PB Site or PB Services.

8.2 *Supported Digital Assets*. Coinbase determines in its sole discretion which Digital Assets to support for use with the Trading Services (as defined in the preamble to the MTA), as specified on the Coinbase PB Site. Not all Digital Assets supported for Custodial Services (as defined in Section 1.1 of the Custody Agreement) are also supported for Trading Services.

8.3 *Use of the Coinbase PB Site.* Client agrees to access and use the Coinbase PB Site to review any Orders, deposits, or withdrawals or required actions to confirm the authenticity of any communication or notice from the Coinbase Entities.

8.4 *Unauthorized Users.* Client shall not permit any person or entity that is not Client or an Authorized Representative (each, an "Unauthorized User") to access, connect to, or use the Coinbase PB Site or the PB Services. The Coinbase Entities shall have no liability, obligation, or responsibility whatsoever for, and Client shall be fully responsible and liable for, any and all Claims and Losses arising out of or relating to the acts and omissions of any Unauthorized User in respect of the Coinbase PB Site or the PB Services. Client shall notify Coinbase immediately if Client believes or becomes aware that an Unauthorized User has accessed, connected to, or used the Coinbase PB Site or the PB Services.

8.5 *Password Security; Contact Information*. Client is fully responsible for maintaining adequate security and control of any and all IDs, passwords, hints, personal identification numbers (PINs), API keys, YubiKeys, other security or confirmation information or hardware, and any other codes that Client or an Authorized Representative uses to access the Coinbase PB Site or the PB Services. Client agrees to keep Client's email address and telephone number on the Coinbase PB Site up to date in order to receive any notices or alerts that the Coinbase Entities may send to Client. Client shall be fully responsible for, and the Coinbase Entities shall have no liability, obligation, or responsibility whatsoever for, any Losses that Client may sustain due to compromise of Client's login credentials. In the event Client believes Client's login credentials or other information with respect to the Coinbase PB Site or the PB Services has been compromised, Client must contact Coinbase immediately.

8.6 *Prohibited Use*. Client will comply with the Prohibited Use Policy found at [***].

9. Taxes

9.1 *Taxes*. Except as otherwise expressly stated herein, Client shall be fully responsible and liable for, and the Coinbase Entities shall have no liability, obligation, or responsibility whatsoever for, the payment of any and all present and future tariffs, duties, or taxes (including withholding taxes, transfer taxes, stamp taxes, documentary taxes, value added taxes, personal property taxes, and all similar costs) imposed or levied by any government or governmental agency (collectively, "Taxes") and any related Claims and Losses or the accounting or reporting of income or other Taxes arising from or relating to any transactions Client conducts through the PB Services. Client shall file all tax returns, reports, and disclosures required by applicable law.

9.2 *Withholding Tax*. Except as required by applicable law, each payment under this Coinbase PBA or collateral deliverable by Client to any Coinbase Entities shall be made, and the value of any collateral or margin shall be calculated, without withholding or deducting of any Taxes. If any Taxes are required to be withheld or deducted, Client (a) authorizes the Coinbase Entities to effect such withholding or deduction and remit such Taxes to the relevant taxing authorities and (b) shall pay such additional amounts or deliver such further collateral as necessary to ensure that the actual net amount received by the Coinbase Entities is equal to the amount that the Coinbase Entities would have received had no such withholding or deduction been required. Client agrees that the Coinbase Entities may disclose any information with respect to Client Assets and the PB Services, including the Accounts and Client's transactions and Orders, required by any applicable taxing authority or other governmental entity. Client agrees that the Coinbase Entities may withhold or deduct Taxes as may be required by applicable law. From time to time, Coinbase Entities shall ask Client for tax documentation or certification of Client's taxpayer status as required by applicable law, and any failure by Client to comply with this request in the time frame identified may result in withholding or remission of taxes to a tax authority as required by applicable law.

10. PB Services Fees

10.1 Client agrees to pay all undisputed commissions and fees in connection with Orders and the PB Services [***]. This includes the fees set out in the Fee Schedule, as amended from time- to-time, and pass-through fees such as bank fees and network fees from third parties. If such undisputed fees remain unpaid following the payment date, [***]. In the event that Client [***] disputes any commissions or fees owed under this Coinbase PBA Client shall provide notice in writing to the appropriate Coinbase Entity within [***] of an applicable Order. The undisputed portion of the commissions and fees of an applicable Order shall be paid in accordance with the payment terms set forth in this Section 10 and the disputed portion of any commissions and fees shall be resolved by the Parties within [***] of the notice and that agreed upon amount shall be paid within [***] after resolution of the dispute in accordance with the payment terms of this Section 10.1. If the Parties do not resolve the dispute, then the Parties' liabilities and remedies shall be in accordance with the terms of this Coinbase PBA, [***] determine the appropriate level of rounding of amounts to minimize any rounding error.

10.2 In addition to any fees payable pursuant to the Fee Schedule, as payment in part for the Custodial Services Coinbase provides under this Coinbase PBA, Client agrees to pay Coinbase an [***].

11. Confidentiality

11.1 Client and the Coinbase Entities each agree that with respect to any non-public, confidential, or proprietary information of the other Party, including the existence and terms of this Coinbase PBA, the other Party's business operations or business relationships (including the Coinbase Entities' fees), and any arbitration pursuant to Section 21 (collectively, "Confidential Information"), it (a) will not disclose such Confidential Information except to such party's officers, directors, agents, employees, and professional advisors who need to know such Confidential Information for the purpose of assisting in the performance of this Coinbase PBA and who are informed of, and agree to be bound by, obligations of confidentiality no less restrictive than those set forth herein and (b) will protect such Confidential Information from unauthorized use and disclosure. Each Party shall use any Confidential Information that it receives solely for purposes of (i) exercising its rights and performing its duties under the Coinbase PBA and (ii) complying with any applicable laws, rules, and regulations; provided that, the Coinbase Entities may use Confidential Information for (1) risk management and (2) to develop, enhance, and market their products and services. Confidential Information shall not include any (v) information that is or becomes generally publicly available through no fault of the recipient, (w) information that the recipient obtains from a third party (other than in connection with this Coinbase PBA) that, to the recipient's best knowledge, is not bound by a confidentiality agreement prohibiting such disclosure, (x) information that is independently developed or acquired by the recipient without the use of Confidential Information provided by the disclosing party, (y)disclosure with the prior written consent of the disclosing Party or (z)information that is already in the recipient's rightful possession and not subject to an obligation of confidentiality.

11.2 Notwithstanding the foregoing, each Party may disclose Confidential Information of the other Party to the extent required by a court of competent jurisdiction or governmental authority or otherwise required by law; provided, however, the Party making such required disclosure shall first notify the other Party (to the extent legally permissible) and shall afford the other Party a reasonable opportunity to seek confidential treatment if it wishes to do so and will consider in good faith reasonable and timely requests for redaction,. The Parties agree to minimize the disclosure of confidential information in response to request from regulators or court orders. Each party will cover their respective legal fees associated with these efforts to ensure the protection of shared information. For purposes of this Section, no affiliate of Coinbase shall be considered a third party of any Coinbase Entity, and the Coinbase Entities may freely share Client's Confidential Information among each other and with such affiliates. All documents and other tangible objects containing or representing Confidential Information and all copies or extracts thereof or notes derived therefrom that are in the possession or control of the receiving Party shall be and remain the property of the disclosing Party and shall be promptly returned to the disclosing Party or destroyed, each upon the disclosing Party's request; provided, however, notwithstanding the foregoing, the receiving Party may retain one (1) copy of Confidential Information if (a) required by law or regulation or (b) retained pursuant to an established document retention policy. The receiving party shall use the same degree of care to protect the other party's Confidential Information used by the receiving party to protect its own information of similar sensitivity and confidentiality, but in any case no less than a reasonable degree of care.

12. Security and Business Continuity

The Coinbase Entities shall not have any liability, obligation, or responsibility whatsoever for any damage or interruptions caused by any computer viruses, spyware, scareware, Trojan horses, worms, or other malware that may affect computer or other equipment, or any phishing, spoofing, or other attack, unless such damage or interruption [***] resulted from the Coinbase Entities' [***]. Client agrees to access and use the PB Services through the Coinbase PB Site [***].

The Coinbase Entities have implemented and will maintain a reasonable information security program that includes policies and procedures that are reasonably designed to safeguard the Coinbase Entities' electronic systems and Client's Confidential Information from, among other things, unauthorized access or misuse. In the event of a Data Security Incident (as defined below), the applicable Coinbase Entity shall promptly notify as required by New York law, Client and such notice shall include the following information: (a) the timing and nature of the Data Security Incident; (b) the information related to Client that was compromised; (c) when the Data Security Incident was discovered; and (d) any remedial actions that have been taken and that the applicable Coinbase Entity plans to take. "Data Security Incident" means an incident whereby (i) an unauthorized person acquired or accessed Client's Confidential Information, or (ii) Client's Confidential Information is otherwise lost, stolen, or compromised, in each case while in the possession or control of the Coinbase Entities resulting in material harm to the Client.

The Coinbase Entities have established a business continuity plan that will support their ability to conduct business in the event of a significant business disruption. The business continuity plan is reviewed and updated annually, and may be updated more frequently as deemed necessary by the Coinbase Entities in their sole discretion. To receive more information about the Coinbase Entities' business continuity plan, please send a written request to Client's account manager or sales representative.

13. Acknowledgement of Risks

Client hereby acknowledges, that:

(i) Digital Assets are not legal tender, are not backed by any government or government agency, and the Vault Account and the Trading Account are not subject to the Federal Deposit Insurance Corporation or Securities Investor Protection Corporation protections;

(ii) Legislative and regulatory changes or actions at the state, federal, or international level may adversely affect (1) the use, transfer, exchange, and value of Digital Assets or (2) Coinbase's ability or willingness to support one or more Digital Assets;

(iii) Transactions in Digital Assets are irreversible, and, accordingly, Digital Assets lost due to fraudulent or accidental transactions may not be recoverable;

(iv) Certain Digital Asset transactions will be deemed to be made when recorded on a public blockchain ledger, which is not necessarily the date or time that Client initiates the transaction or such transaction enters the pool;

(v) The value of Digital Assets may be derived from the continued willingness of market participants to exchange any fiat currency for Digital Assets, which may result in the permanent and total loss of value of a Digital Asset should the market for that Digital Asset disappear;

(vi) There is no assurance that a person or entity who accepts a Digital Assets as payment today will continue to do so in the future;

(vii) The volatility and unpredictability of the price of Digital Assets relative to fiat currency may result in significant losses over a short period of time;

(viii) The nature of Digital Assets may lead to an increased risk of fraud or cyber-attack;

(ix) The nature of Digital Assets means that any technological difficulties experienced by a Coinbase Entity may prevent access to or use of Client Digital Assets; and

(x) Any bond or trust account maintained by Coinbase Entities for the benefit of its customers may not be sufficient to cover all losses (including Losses) incurred by customers.

14. Operation of Digital Asset Protocols

14.1 The Coinbase Entities do not own or control the underlying software protocols which govern the operation of Digital Assets. Generally, the underlying software protocols and, if applicable, related smart contracts (referred to collectively as "Protocols" for purposes of this Section) are open source and anyone can use, copy, modify, or distribute them. By using the PB Services, Client acknowledges and agrees that: (i) the Coinbase Entities make no guarantee of the functionality, security, or availability of underlying Protocols; (ii) some underlying Protocols are subject to consensus-based proof of stake validation methods which may allow, by virtue of their governance systems, changes to the associated blockchain or digital ledger ("Governance Modifiable Blockchains"), and that any Client transactions validated on such Governance Modifiable Blockchains may be affected accordingly; and (iii) the underlying Protocols are subject to sudden changes in operating rules (a/k/a "forks"), and that such forks may materially affect the value, function, and even the name of the Digital Assets. In the event of a fork, Client agrees that the Coinbase Entities may temporarily suspend PB Services (with or without notice to Client) and that the Coinbase Entities may[***] determine whether or not to support or cease supporting either branch of the forked protocol entirely. Client agrees that the Coinbase Entities shall have no liability, obligation, or responsibility whatsoever arising out of or relating to the operation of Protocols, transactions affected by Governance Modifiable Blockchains, or an unsupported branch of a forked protocol and, accordingly, Client acknowledges and assumes the risk of the same.

14.2 Except to the extent otherwise specifically communicated by the Coinbase Entities through a written public statement on the Coinbase website, the Coinbase Entities do not support airdrops, metacoins, colored coins, side chains, or other derivative, enhanced, or forked protocols, tokens, or coins, which supplement or interact with a Digital Asset (collectively, "Advanced Protocols") in connection with the PB Services. The PB Services are not configured to detect, process, or secure Advanced Protocol transactions and neither Client nor any Coinbase Entity will be able to retrieve any unsupported Advanced Protocol. No Coinbase Entity shall have liability, obligation, or responsibility whatsoever in respect of Advanced Protocols.

15. Disclaimer of Warranties

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PB SERVICES AND THE COINBASE WEBSITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTY OF ANY KIND, AND THE COINBASE ENTITIES HEREBY SPECIFICALLY DISCLAIM ALL WARRANTIES WITH RESPECT TO THE PB SERVICES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OR CONDITIONS OF TITLE, MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. THE COINBASE ENTITIES DO NOT WARRANT THAT THE PB SERVICES, INCLUDING ACCESS TO AND USE OF THE COINBASE WEBSITES, OR ANY OF THE CONTENT CONTAINED THEREIN, WILL BE CONTINUOUS, UNINTERRUPTED, TIMELY, COMPATIBLE WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, SECURE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR-FREE.

16. Indemnification

16.1 Client shall defend, indemnify, and hold harmless each Coinbase Entity, its affiliates, and their respective officers, directors, agents, employees, and representatives (each, a "Coinbase Party" and collectively, the "Coinbase Parties") from and against any and all Claims and Losses arising out of or relating to Client's breach of this Coinbase PBA, Client's violation of any law, rule, or regulation, or rights of any third party, or Client's gross negligence, fraud, or willful misconduct. This obligation will survive any termination of this Coinbase PBA. Client shall not accept any settlement of any Claims or Losses if such settlement imposes any financial or non-financial liabilities, obligations or restrictions on, or requires an admission of guilt or wrong-doing from, any Coinbase Party pursuant to this Section, without such Coinbase Party's prior written consent.

16.2 For the purposes of this Coinbase PBA:

(a) "Claim" means any action, suit, litigation, demand, charge, arbitration, proceeding (including any civil, criminal, administrative, investigative, or appellate proceeding), hearing, inquiry, audit, examination, or investigation commenced, brought, conducted, or heard by or before, or otherwise involving, any court or other governmental, regulatory, or administrative body, or any arbitrator or arbitration panel; and

(b) "Losses" means any liabilities, damages, diminution in value, payments, obligations, losses, interest, costs and expenses, security, or other remediation costs [***]; fines, taxes, fees, restitution, or penalties imposed by any governmental, regulatory, or administrative body, interest on and additions to tax with respect to, or resulting from, Taxes imposed on Client's assets, cash, other property, or any income or gains derived therefrom; and judgments (at law or in equity) or awards of any nature.

17. Limitation of Liability

17.1 *Standard of Care*.

IN NO EVENT SHALL ANY COINBASE PARTY BE RESPONSIBLE OR LIABLE FOR ANY LOSS, CLAIM, OR DAMAGE SUFFERED BY CLIENT, EXCEPT TO THE EXTENT THAT SUCH LOSS, CLAIM, OR DAMAGE DIRECTLY RESULTED FROM THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD OF A COINBASE PARTY.

NO COINBASE PARTY SHALL BE LIABLE FOR ANY LOSS CAUSED DIRECTLY OR INDIRECTLY BY (A) THE FAILURE OF CLIENT TO ADHERE TO CLIENT'S POLICIES AND PROCEDURES THAT HAVE BEEN DISCLOSED TO THE CLIENT, (B) ANY FAILURE OR DELAY TO ACT BY ANY SERVICE PROVIDER TO CLIENT, OR (C) ANY SYSTEM FAILURE (OTHER THAN A SYSTEM FAILURE CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD OF A COINBASE ENTITY) THAT PREVENTS A COINBASE ENTITY FROM FULFILLING ITS OBLIGATIONS UNDER THIS COINBASE PBA.

17.2 *Liability Caps*.

THE LIABILITY OF SUCH COINBASE PARTY WILL NOT EXCEED

(A) THE AGGREGATE AMOUNT OF FEES PAID BY CLIENT TO THE RELEVANT COINBASE ENTITY IN RESPECT OF THE PB SERVICES IN THE 12-MONTH PERIOD PRIOR TO THE OCCURRENCE OF THE EVENT GIVING RISE TO SUCH LIABILITY (SUCH EVENT, THE "LIABILITY EVENT"), OR

(B) SOLELY IN RESPECT OF CUSTODIAL SERVICES PROVIDED PURSUANT TO THE CUSTODY AGREEMENT, THE GREATER OF:

(i) THE AGGREGATE AMOUNT OF FEES PAID BY CLIENT TO COINBASE CUSTODY IN RESPECT OF THE CUSTODIAL SERVICES IN THE 12-MONTH PERIOD PRIOR TO THE LIABILITY EVENT, OR

(ii) THE VALUE, AT THE TIME THE LIABILITY EVENT OCCURRED, OF THE SUPPORTED DIGITAL ASSETS ON DEPOSIT IN CLIENT'S VAULT ACCOUNT(S) DIRECTLY AFFECTED BY SUCH LIABILITY EVENT. THE COINBASE ENTITIES WILL VALUE THE SUPPORTED DIGITAL ASSETS USING THE SAME VALUATION METHODS AND PROCESSES THAT ARE OTHERWISE USED WHEN A COINBASE CUSTOMER SELLS AN ASSET ON THE COINBASE PB SITE OR ANY OTHER COMMERCIALLY REASONABLE VALUATION METHOD AS DETERMINED BY COINBASE IN ITS SOLE DISCRETION;

PROVIDED THAT IN NO EVENT SHALL COINBASE CUSTODY'S AGGREGATE LIABILITY IN RESPECT OF ANY CUSTODY COLD WALLET EXCEED ONE HUNDRED MILLION U.S. DOLLARS (US$100,000,000). IN THE EVENT OF ANY LOSS SUSTAINED BY CLIENT FOR WHICH A COINBASE PARTY IS LIABLE HEREUNDER, THE LIABILITY OF SUCH COINBASE PARTY SHALL BE REDUCED TO THE EXTENT THAT CLIENT'S OWN NEGLIGENCE CONTRIBUTED TO SUCH LOSS.

17.3 *Waiver of Consequential Damages*

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NO PARTY HERETO SHALL BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, OR PUNITIVE LOSS OR DAMAGE OR SIMILAR LOSSES OR DAMAGES, EVEN IF THE OTHER PARTY HAD BEEN ADVISED OF OR KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY THEREOF.

17.4 *No Joint and Several Liability*

NOTHING IN THIS COINBASE PBA SHALL BE DEEMED TO CREATE ANY JOINT OR SEVERAL LIABILITY AMONG ANY OF THE COINBASE ENTITIES.

18. Term, Termination and Suspension

This Coinbase PBA shall remain in effect until terminated by a Coinbase Entity or Client as follows:

18.1 Client or any Coinbase Entity may terminate this Coinbase PBA in whole or in part for any reason and absent an Event of Default by providing at least [***] prior notice to the other party; provided, however, Client's termination of this Coinbase PBA shall not be effective until Client has fully satisfied its obligations hereunder. In addition, any Coinbase Entity may suspend or restrict any PB Service by providing at least [***] prior notice to Client.

18.2 Regardless of any other provision of this Coinbase PBA, the Coinbase Entities may, in their sole discretion, suspend, restrict, or terminate Client's PB Services, including by suspending, restricting, or closing Client's Accounts or any provision of credit (as applicable), immediately upon the occurrence of an Event of Default, at any time and without prior notice to Client.

"Event of Default" shall mean:

(i) Client breaches any provision of this Coinbase PBA;

(ii) Client breaches any of the representations or warranties contained in Section 5 of this Coinbase PBA;

(iii) A default or event of default under, or termination of, any other agreement between Client and a Coinbase Entity, including the Events of Default listed in the Post Trade Financing Agreement or Portfolio Financing and Margining Agreement;

(iv) Client takes any action to dissolve or liquidate, in whole or in part;

(v) Client becomes insolvent, makes an assignment for the benefit of creditors, or becomes subject to the direct control of a trustee, receiver, or similar authority;

(vi) Client institutes or becomes subject to any bankruptcy or insolvency proceeding under any applicable laws, rules, or regulations, such termination being effective immediately upon any declaration of bankruptcy;

(vii) A Coinbase Entity becomes aware of any facts or circumstances with respect to Client's financial, legal, regulatory, or reputational position which may affect Client's ability to comply with its obligations under this Coinbase PBA;

(viii) Termination is required pursuant to a facially valid subpoena, court order, or binding order of a government authority;

(ix) Any Account or Client's use of the PB Services is subject to any pending litigation, investigation, or government proceeding or a Coinbase Entity reasonably perceives a heightened risk of legal regulatory non-compliance, in each case as associated with any Account or Client's use of the PB Services; or

(x) A Coinbase Entity reasonably suspects Client of attempting to circumvent a Coinbase Entity's controls or uses the PB Services in a manner a Coinbase Entity otherwise deems inappropriate or potentially harmful to itself or third parties.

18.3 Client acknowledges that the Coinbase Entities' decision to take certain actions, including suspending, restricting, or terminating the provision of PB Services, may be based on confidential criteria that are essential to a Coinbase Entity's risk management and security practices and agrees that the Coinbase Entities are under no obligation to disclose the details of its risk management and security practices to Client.

18.4 *Inactive Accounts*. Client agrees that to the extent that Client has not utilized the PB Services or the Accounts have been inactive or dormant for a period of at least twelve (12) months, the Coinbase Entities may close any such dormant Accounts or cease to provide one or more PB Services or immediately, upon notice, terminate this Coinbase PBA.

18.5 *Termination and Closur*e.

Upon notice by one party hereunder to the other of the termination of this Coinbase PBA or the termination of a service provided hereunder or closure of an Account pursuant to 18.1, Client shall withdraw affected Client Assets ("Affected Assets") within [***] following such notice to the extent not prohibited under applicable law, including applicable AML and Sanctions Laws and Regulations, or by a facially valid subpoena, court order, or binding order of a government authority. Client agrees that failure to do so within that [***] period may result in Client Assets being transferred to Client's linked bank account or Digital Asset wallet on file.

Client is liable to pay fees until all Client Assets are removed. However, the relevant Coinbase Entities will provide no services other than continuing to maintain Affected Assets following termination or closure. Notwithstanding anything provided herein to the contrary, the relevant Coinbase Entities may retain sufficient Client Assets to close out or complete any transaction that was in process prior to such termination or to satisfy any remaining obligations or indebtedness. Client is responsible for all fees, debits, costs, commissions, and losses arising from any actions a Coinbase Entity must take to liquidate or close transactions.

19. Set off

Upon the occurrence of an Event of Default , each Coinbase Entity may set off and net the amounts due from it or any other Coinbase Entity to Client and from Client to it or any other Coinbase Entity, so that a single payment (the "Net Payment"), shall be immediately due and payable by Client or the Coinbase Entity to the other (subject to the other provisions hereof and of any agreement with a Coinbase Entity). If any amounts cannot be included within the Net Payment, such amounts shall be excluded but may still be netted against any other similarly excluded amounts. Upon the occurrence of an Event of Default , each Coinbase Entity may also (a) liquidate, apply, and set off any or all Client Assets against any Net Payment, unpaid trade credits, or any other obligation owed by Client to any Coinbase Entity and (b) set off and net any Net Payment or any other obligation owed to Client by any Coinbase Entity against (i) any or all collateral or margin posted by any Coinbase Entity to Client (or the U.S. dollar value thereof, determined by Coinbase in its sole discretion on the basis of a recent price at which the relevant Digital Asset was sold to clients via the Trading Services), and (ii) any Net Payment, unpaid trade credits, or any other obligation owed by Client to any Coinbase Entity (in each case, whether matured or unmatured, fixed or contingent, or liquidated or unliquidated). Client agrees that in the exercise of setoff rights or secured party remedies, the Coinbase Entities may value Client Digital Assets using the same valuation methods and processes that are otherwise used when a Coinbase client sells an asset via the Trading Services or any other commercially reasonable valuation method as determined by Coinbase in its sole discretion.

20. Privacy

The Coinbase Entities shall use and disclose Client's and its Authorized Representatives' non-public personal information in accordance with the Coinbase Privacy Policy, as set forth at [***] or a successor website, and as amended and updated from time to time.

21. Arbitration

21.1 Any Claim arising out of or relating to this Coinbase PBA, or the breach, termination, enforcement, interpretation, or validity thereof, including any determination of the scope or applicability of the agreement to arbitrate as set forth in this Section, shall be determined by arbitration in the state of New York or another mutually agreeable location before one neutral arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures, and the award of the arbitrator (the "Award") shall be accompanied by a reasoned opinion. Judgment on the Award may be entered in any court having jurisdiction. This Coinbase PBA shall not preclude the Parties from seeking provisional relief, including injunctive relief, in any court of competent jurisdiction. Seeking any such provisional relief shall not be deemed to be a waiver of such party's right to compel arbitration. The Parties expressly waive their right to a jury trial to the extent permitted by applicable law.

21.2 In any arbitration arising out of or related to this Coinbase PBA, the arbitrator shall award to the prevailing party, if any, as determined by the arbitrator, all of its costs and fees. "Costs and fees" mean all reasonable and documented pre-award expenses of the arbitration, including the arbitrator's fees, administrative fees, travel expenses, out-of-pocket expenses such as copying and telephone, court costs, witness fees, and attorneys' fees.

21.3 The Parties acknowledge that this Coinbase PBA evidences a transaction involving interstate commerce. Notwithstanding the provision herein with respect to applicable substantive law, any arbitration conducted pursuant to the terms of this Coinbase PBA shall be governed by the Federal Arbitration Act (9 U.S.C. §§ 1-16).

22. Recording of Conversations

For compliance and monitoring purposes, Client authorizes each Coinbase Entity at its sole discretion to record conversations between such Coinbase Entity and Client or its Authorized Representatives relating to this Coinbase PBA and the PB Services. Client agrees that the Coinbase Entities may submit such recordings in evidence in any dispute, suit, action, or other proceeding.

23. Waiver

Any waivers of rights by the Coinbase Entities under this Coinbase PBA must be in writing and signed by Coinbase on behalf of the relevant Coinbase Entities. A waiver will apply only to the particular circumstance giving rise to the waiver and will not be considered a continuing waiver in other similar circumstances. The Coinbase Entities' failure to insist on strict compliance with this Coinbase PBA or any other course of conduct by the Coinbase Entities shall not be considered a waiver of their rights under this Coinbase PBA.

24. Survival

All provisions of this Coinbase PBA which by their nature extend beyond the expiration or termination of this Coinbase PBA shall survive the termination or expiration of this Coinbase PBA.

25. Governing Law

This Coinbase PBA and the PB Services will be governed by and construed in accordance with the laws of the State of New York, excluding its conflicts of laws principles, except to the extent such state law is preempted by federal law.

26. Force Majeure

The Coinbase Entities shall not be liable for delays, suspension of operations, whether temporary or permanent, failure in performance, or interruption of service which result directly or indirectly from any cause or condition beyond the reasonable control of the Coinbase Entities, including any act of God; embargo; natural disaster; act of civil or military authorities; act of terrorists; hacking; government restrictions; market volatility or disruptions in order trading on any CTV, exchange or market; suspension of trading; civil disturbance; war; strike or other labor dispute; fire; severe weather; interruption in telecommunications, Internet services, or network provider services; failure of equipment or software; failure of computer or other electronic or mechanical equipment or communication lines; unauthorized access; theft; outbreaks of infectious disease or any other public health crises, including quarantine or other employee restrictions; acts or omissions of any CTV; or any other catastrophe or other occurrence which is beyond the reasonable control of the Coinbase Entities.

27. Unclaimed Property

If a Coinbase Entity (i) is holding Client Assets, (ii) has no record of Client's use of the Custodial Services or Trading Services as applicable for an extended period, and/or (iii) is otherwise unable to contact Client, then the Coinbase Entity may be required under applicable laws, rules, or regulations to report these assets as unclaimed property and to deliver such unclaimed property to the applicable authority. The Coinbase Entity may deduct a dormancy fee or other administrative charge from such unclaimed funds, as permitted by applicable laws, rules, or regulations.

28. Entire Agreement; Headings; Severability

This Coinbase PBA, together with all exhibits, addenda, and supplements attached hereto or referenced herein, comprise the entire understanding between Client and the Coinbase Entities as to the PB Services and supersedes all prior discussions, agreements, and understandings, including any previous version of this Coinbase PBA, and a Custodial Services Agreement between Client and any Coinbase Entity, including all exhibits, addenda, policies, and supplements attached thereto or referenced therein. Section headings in this Coinbase PBA are for convenience only and shall not govern the meaning or interpretation of any provision of this Coinbase PBA.

If any provision or condition of this Coinbase PBA shall be held invalid or unenforceable, the remainder of this Coinbase PBA shall continue in full force and effect.

29. Amendments

Any modification or addition to this Coinbase PBA must be in writing and either (a) signed by a duly authorized representative of each party, or (b) approved by Coinbase and accepted and agreed to by Client.

30. Assignment

Any assignment of Client's rights or licenses granted under this Coinbase PBA without obtaining the prior written consent of Coinbase shall be null and void. Coinbase reserves the right to assign its rights under this Coinbase PBA without restriction, including to any of the Coinbase Entities or their affiliates or subsidiaries, or to any successor in interest of any business associated with the PB Services, provided that Coinbase shall notify Client within a reasonable amount of time after such assignment. Subject to the foregoing, this Coinbase PBA will bind and inure to the benefit of the Parties, their successors, and permitted assigns.

31. Electronic Delivery of Communications and Notices

31.1 Client agrees and consents to receive electronically (including through a posting on the Coinbase PB Site) all communications, agreements, documents, notices, information, and disclosures (collectively, "Communications") that the Coinbase Entities provide in connection with the PB Services. Communications include: (a) terms of use and policies Client agrees to, including updates to policies or the Coinbase PBA; (b) details of Client's use of the PB Services, including transaction receipts, confirmations, records of deposits, withdrawals, or transaction information; (c) legal, regulatory, and tax disclosures or statements the Coinbase Entities may be required to make available to Client; (d) responses to claims or customer support inquiries filed in connection with Client's use of the PB Services; and (e) notice of termination or closure.

31.2 Client agrees that electronically delivered Communications may be accepted and agreed to by Client through the PB Services interface. Furthermore, the Parties consent to the use of electronic signatures in connection with Client's use of the PB Services.

31.3 If a notice is not provided electronically as provided for in Section 31.1 above, then the notice shall be in writing delivered to the Party at its address specified below via an overnight mailing company of national reputation. Any Party that changes its notice address or principal place of business must notify the other Party promptly of such change.

If to any Coinbase Entity:

[***]
Coinbase, Inc.
248 3rd St, #434
Oakland, CA 94607
[***]@coinbase.com

If to Client,

[***]
Semler Scientific, Inc.
2340-2348 Walsh Avenue, Suite 2344
Santa Clara, CA 95051
[***]@semlerscientific.com

31.4 In the event of any market operations, connectivity, or erroneous trade issues that require immediate attention including any unauthorized access to the PB Services or the Coinbase PB Site, please contact:

To Coinbase: [***]@coinbase.com

To Client: the address specified in its signature block on the Execution Page.

Client has the sole responsibility to provide the Coinbase Entities with true, accurate, and complete contact information including any e-mail address, and to keep such information up to date. Client understands and agrees that if a Coinbase Entity sends Client an electronic Communication but Client does not receive it because Client's primary email address on file is incorrect, out of date, blocked by Client's service provider, or Client is otherwise unable to receive electronic Communications, such Coinbase Entity will be deemed to have provided the Communication to Client. Client may update Client's information on the Coinbase PB Site or by providing a notice to Coinbase as prescribed above.

Any notice or other communication in respect of this Coinbase PBA shall be deemed effective: (i) if sent by email, on the date it is sent; (ii) if posted on a website, the date on which it is posted; or (iii) if by overnight mail, the following Business Day after it is sent. If a communication is sent (or delivery is attempted) on a non-Business Day, the communication will be deemed effective on the first following day that is a Business Day.

"Business Day" means any day on which it is not (i) a public holiday in New York, or (ii) a Saturday or Sunday.

31.5 To see more information about our regulators, licenses, and contact information for feedback, questions, or complaints, please visit [***].

32. Address for Process

Client hereby appoints the entity located in the state of New York detailed below to receive for itself and on its behalf any service of process (the "Process Agent") with respect to any claim, action, or proceeding arising hereunder or related to this Coinbase PBA. Client will promptly notify Coinbase of any change in Process Agent and provide details of the substitute process agent who is acceptable to Coinbase.

Process Agent:	[***]
Address:	2340-2348 Walsh Avenue, Suite 2344 Santa Clara, CA 95051
Email:	[***]@semlerscientific.com
Telephone number:	[***]

Client irrevocably consents to service of process in a manner provided for in Section 31. Nothing in this Coinbase PBA will affect the right of Coinbase to serve process in any other manner permitted by applicable law.

33. Natural Persons

To the extent Client is a natural person over 18 years of age, if Coinbase receives legal documentation confirming Client's death or other information leading Coinbase to believe Client is deceased, Coinbase will freeze Client's access to the PB Services ("Freeze Period"). During the Freeze Period, no transactions may be completed until (i) Client's designated fiduciary has entered into a new Coinbase Prime Broker Agreement and the entirety of Client Assets have been transferred to the accounts subject to that Coinbase Prime Broker Agreement, or (ii) Coinbase has received proof in a form satisfactory to Coinbase that Client is not deceased. If Coinbase has reason to believe Client is deceased but Coinbase does not have proof of Client's death in a form satisfactory to Coinbase, Client authorizes Coinbase to make inquiries, whether directly or through third parties, that Coinbase considers necessary to ascertain whether Client is deceased. Upon receipt by Coinbase of proof satisfactory to Coinbase that Client is deceased, the fiduciary Client designated in a valid will or similar testamentary document will be required to enter into a new Coinbase Prime Broker Agreement. If Client has not designated a fiduciary, then Coinbase reserves the right to (i) treat as Client's fiduciary any person entitled to inherit Client's Client Assets, as determined by Coinbase upon receipt and review of the documentation Coinbase, in its sole and absolute discretion, deems necessary or appropriate, including (but not limited to) a will, a living trust, or a small estate affidavit, or (ii) require an order designating a fiduciary from a court having competent jurisdiction over Client's estate. In the event Coinbase determines, in its sole and absolute discretion, that there is uncertainty regarding the validity of the fiduciary designation, Coinbase reserves the right to require an order resolving such issue from a court of competent jurisdiction before taking any action relating to the PB Services. Pursuant to the above, the entry into a new Coinbase Prime Broker Agreement by a designated fiduciary is mandatory following the death of Client, and Client hereby agrees that its fiduciary shall be required to enter into a new Coinbase Prime Broker Agreement and provide required account opening information to gain access to the contents of Client's PB Services.

34. Counterparts

This Coinbase PBA may be executed in one or more counterparts, including by email of .pdf signatures or DocuSign (or similar electronic signature software), each of which shall be deemed to be an original document, but all such separate counterparts shall constitute only one and the same Coinbase PBA.

[***Signatures on following page***]

IN WITNESS WHEREOF, the Parties have caused this Coinbase PBA, including the Custody Agreement and MTA, to be duly executed and delivered on the Effective Date.

COINBASE, INC. For itself and as agent for the Coinbase Entities

By:

Name:

Title:

Date:

CLIENT: Semler Scientific, Inc.

By:

Name:

Title:

Date:

Address:

E-Mail:

EXHIBIT A
to the Coinbase Prime Broker Agreement

COINBASE CUSTODY SERVICES AGREEMENT

This Custody Agreement is entered into between Client and Coinbase Custody and forms a part of the Coinbase PBA between Client and the Coinbase Entities. Capitalized terms used in this Custody Agreement that are not defined herein shall have the meanings assigned to them in the other parts of the Coinbase PBA.

1. **Custody Accounts**.

1.1 *Accounts Established*. Coinbase Custody shall establish and maintain a vault account for the purpose of storing Digital Assets (the "Vault Account") and effecting Custody Transactions (as defined below) (the "Custodial Services"). Digital Assets credited to the Vault Account will be held by Coinbase Custody in one or more segregated cold wallets (each, a "Custody Cold Wallet") in Client's name controlled and secured by Coinbase Custody.

1.2 *Maintenance of Assets*. Coinbase Custody is a fiduciary under Section 100 of the New York Banking Law and a qualified custodian for purposes of Rule 206(4)-2(d)(6) under the Investment Advisers Act, and is licensed to custody Client Digital Assets in trust on Client's behalf. Unless Client instructs CCTC to hold these assets as a bailee, CCTC will hold these assets in trust and administer them for Client's benefit consistent with New York Estates, Powers, and Trusts Law § 13-A-4.1 and New York Banking Law § 100. Client Assets in Client's Vault Account shall (i) be segregated from, and not commingled with, the assets held by Coinbase Custody as principal and the assets of other clients of Coinbase Custody, (ii) not be treated as general assets of Coinbase Custody, and except as otherwise provided herein, Coinbase Custody shall have no right, title, or interest in such Client Assets, and (iii) constitute custodial assets and Client's property. Coinbase Custody shall maintain adequate capital and reserves to the extent required by applicable law. Coinbase Custody shall not sell, transfer, assign, lend, hypothecate, pledge, or otherwise use or encumber Client Digital Assets in the Vault Account, except to sell, transfer, or assign such assets at the direction of Client.

2. **Vault Account**.

2.1 *Services Provided.* The Custodial Services shall (a) permit Client (i) to transfer Client Digital Assets to and from the Vault Account, (ii) to deposit supported Digital Assets from a public blockchain address controlled by Client into the Vault Account, and (iii) to withdraw supported Digital Assets from the Vault Account to a public blockchain address controlled by Client, and (b) include certain additional services as may be agreed to between Client and Coinbase Custody from time to time. Each such transfer, deposit, or withdrawal shall be referred to as a "Custody Transaction" and shall conform to Instructions provided by Client through [***] Client must withdraw or deposit Digital Assets to [***] or an address for which Client has conducted the necessary Know Your Customer ("KYC") and anti-money laundering ("AML") due diligence. **Coinbase Custody reserves the right to [***], or to [***] to comply with applicable law or in response to a subpoena, court order, or other binding government order, or to enforce transaction, threshold, and condition limits, or if Coinbase Custody [***] that the Custody Transaction [***] an applicable law, regulation, or rule of a governmental authority or self-regulatory organization, or if it [***] fraud or illegal activity**.

2.2 *Digital Asset Deposits and Withdrawals.* Coinbase Custody will process Custody Transactions according to Instructions received from Client or Client's Authorized Representatives. Client [***] regarding a Custody Transaction. Coinbase Custody [***] for Client Digital Asset transfers [***], and Coinbase Custody [***]. Coinbase Custody [***] to process a Custody Transaction on Client's behalf. Once Client has initiated a Digital Asset withdrawal, the associated Client Digital Assets [***]. Client acknowledges that Coinbase may not be able to reverse a withdrawal once initiated.

2.3 *Digital Asset Storage and Transmission Delays.* [***] With respect to the foregoing, Coinbase Custody makes no representations or warranties with respect to the availability or accessibility of (1) the Digital Assets, (2) a Custody Transaction, (3) the Vault Account, or (4) the Custodial Services. While Coinbase Custody will make reasonable efforts to [***].

2.4 *Supported Digital Assets.* The Custodial Services are available only in connection with those Digital Assets that Coinbase Custody [***] decides to support, which may change from time to time. Prior to initiating a deposit of a Digital Asset to Coinbase Custody, Client [***]. By initiating a deposit of any Digital Asset to the Vault Account, Client attests that Client has confirmed that the Digital Asset being transferred is a supported Digital Asset offered by Coinbase Custody. Under no circumstances should Client attempt to initiate a Custody Transaction or use the Custodial Services to deposit or store Digital Assets in any forms that are not supported by Coinbase Custody. Depositing or attempting to deposit Digital Assets that are not supported by Coinbase Custody may result in such Digital Asset being irretrievable by Client and Coinbase Custody. Client shall be fully responsible and liable, and Coinbase Custody shall have no liability, obligation, or responsibility whatsoever, regarding any unsupported Digital Asset sent or attempted to be sent to it, or regarding any attempt to use the Custodial Services for Digital Assets that Coinbase Custody does not support. Digital Assets supported by Coinbase Custody shall be listed on the Coinbase PB Site. Coinbase Custody shall provide Client with [***] notice before ceasing to support a Digital Asset, unless Coinbase Custody is required to cease such support by court order, statute, law, rule (including a self-regulatory organization rule), regulation, code, or other similar requirement.

2.5 *Use of the Custodial Services.* Client acknowledges and agrees that Coinbase Custody may monitor use of the Vault Account and the Custodial Services. The resulting information may be utilized, reviewed, retained, and or disclosed by Coinbase Custody for its internal purposes or in accordance with the rules of any applicable legal, regulatory, or self-regulatory organization or as otherwise may be required to comply with relevant law, sanctions programs, legal process, or government request.

2.6 *Independent Verification.* If Client is subject to Rule 206(4)-2 under the Investment Advisers Act, Coinbase Custody shall, upon written request, provide Client's authorized independent public accountant confirmation of or access to information sufficient to confirm (i) Client's Assets as of the date of an examination conducted pursuant to Rule 206(4)-2(a)(4) or an audit conducted pursuant to Rule 206(4)-2(b)(4), and (ii) that Client Digital Assets are held either in a separate account under Client's name or in accounts under Client's name as agent or trustee for Client's clients.

2.7 *Third Party Payments.* The Custodial Services are not intended to facilitate third party payments of any kind. As such, Coinbase Custody has no control over, or liability for, the delivery, quality, safety, legality, or any other aspect of any goods or services that Client may purchase or sell to or from a third party (including other users of Custodial Services) involving Digital Assets that Client intends to store, or have stored, in Client's Vault Account.

3. **Staking**

3.1 *Staking with Coinbase Custody Validators.* For certain supported Digital Assets, Client may engage with Coinbase Custody to provide validator services for such supported Digital Assets pursuant to a separate agreement.

3.2 *Staking With Third Party Validators*. Client may engage with third-party service providers ("Third Party Staking Service Providers") to provide validator services for Client's Digital Assets. From time to time, Coinbase Custody may allow Client to select or designate (A) certain Third Party Staking Service Providers directly via the Coinbase PB Site, or (B) an arbitrary Third Party Staking Service Provider by manually entering the applicable staking or delegate address for such provider via the Coinbase PB Site (collectively, the "Third Party Staking Services"). Notwithstanding the affiliate relationship between the Coinbase Entities and Coinbase Crypto Services, LLC (d/b/a "Coinbase Cloud," f/k/a Bison Trails), all staking services provided by Coinbase Cloud shall be deemed Third Party Staking Services and Coinbase Cloud shall be deemed a Third Party Staking Service Provider for purposes of this Section.

(i) Third Party Staking Service Providers may require that Client withdraw its Digital Assets from Client's Vault Account and transfer such assets to such Third Party Staking Service Provider, in which case, subject to any bonding, unbonding, warm-up, lockup, or any other restrictions on the applicable blockchain network, Client may do so in accordance with this Coinbase PBA.

(ii) Client hereby acknowledges and agrees that: (1) the availability of any Third Party Staking Service Providers on the Coinbase PB Site does not constitute an endorsement or approval by any Coinbase Entity of any such Third Party Staking Service Provider; (2) by electing to stake or delegate Client's Digital Assets to any Third Party Staking Service Provider, including via the Third Party Staking Services, Client is subject to such Third Party Staking Service Provider's terms of use, terms of service, or other applicable agreements; and (3) Third Party Staking Service Providers may require that Client's Digital Assets be transferred on-chain to a wallet, public key, or smart contract address not controlled by Coinbase Custody or any other Coinbase Entity.

(iii) Client is [***] Client's use of any Third Party Staking Service Providers and Third Party Staking Services. Client must ensure that the applicable staking or delegate address for any Third Party Staking Service Provider is accurately entered and updated from time to time, as necessary. There is no assurance that the Third Party Staking Services or any Third Party Staking Service Provider will be available, function, or operate as expected. Client may not receive any rewards regardless of the amount of time or the number of Digital Assets staked or delegated to Third Party Staking Service Providers. In addition, Client's Digital Assets may be subject to slashing or a total loss due to Client's use of Third Party Staking Service Providers, including via the Third Party Staking Services. The Coinbase Entities bear no responsibility whatsoever with respect to any decision made by Client to stake or delegate Digital Assets to any Third Party Staking Service Provider, including via the Third Party Staking Services, or any losses, damages, or liabilities arising therefrom.

4. **Coinbase Custody Obligations**

4.1 *Bookkeeping*. Coinbase Custody shall keep timely and accurate records as to the deposit, disbursement, investment, and reinvestment of Client Assets, as required by applicable law and in accordance with Coinbase Custody's internal document retention policies.

4.2 *Insurance.* Coinbase Custody shall obtain and maintain, at its sole expense, insurance coverage in such types and amounts as shall be commercially reasonable for the Custodial Services provided hereunder.

5. **Additional Matters**

In addition to any additional service providers that may be described in an addendum or attachment hereto, Client acknowledges and agrees that the Custodial Services may be provided from time to time by, through, or with the assistance of affiliates of, or vendors to, Coinbase Custody. Client shall receive notice of any material change in the entities that provide the Custodial Services.

[***Remainder of page intentionally left blank***]

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