

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

FORM 8-K

CURRENT REPORT

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

July 2, 2018

Date of Report (Date of earliest event reported)

Windtree Therapeutics, Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation)

000-26422

(Commission File Number)

94-3171943

(IRS Employer Identification Number)

2600 Kelly Road, Suite 100

Warrington, Pennsylvania 18976

(Address of principal executive offices)

(215) 488-9300

(Registrant's telephone number, including area code)

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

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01 **Entry into a Material Definitive Agreement.**

On July 2, 2018 (the “**Effective Date**”), Windtree Therapeutics, Inc. (the “**Company**”) executed and delivered to Panacea Venture Management Company Ltd. (the “**Holder**”), a Secured Convertible Promissory Note (the “**Note**”) with respect to Loans (defined below) in the aggregate amount of up to US\$1.5 million. Simultaneously with the issuance of the Note, the Holder made a loan to the Company in the amount of \$1.0 million (“**First Tranche Loan**”). On or before July 15, 2018, the Holder has agreed to make a second loan to the Company in the amount of \$500,000 (“**Second Tranche Loan**” and together with the First Tranche Loan, the “**Loans**”).

The Loans will bear interest at a rate of fifteen percent (15%) per annum until paid in full or converted into shares of common stock of the Company at a price per share of \$4.00, which was the closing price of the Company’s common stock as quoted on the OTCQB[®] trading market operated by the OTC Markets Group on June 29, 2018, the trading day immediately preceding the funding date for the First Tranche Loan. In addition, in lieu of converting the Note, the Holder may deliver the Note into a private placement in which Panacea Venture Healthcare Fund I L.P., an affiliate of Holder, may participate. There can be no assurance that such a private placement will be completed.

In connection with the Loans, the Company issued to Holder warrants (the “**Series D Warrants**”) to purchase 187,500 shares (the “**Warrant Shares**”) at an exercise price of \$4.00 per Warrant Share (the “**Exercise Price**”). The Warrants may be exercised at any time beginning six months after the date of issuance and through the fifth anniversary of the date of issuance. The Warrants may not be exercised to the extent that the holder thereof would, following such exercise, beneficially own more than 9.99% of the Company’s outstanding shares of Common Stock, which percentage may be increased, decreased or waived by such holder upon sixty-one days’ notice to the Company. The Warrants also contain customary provisions that adjust the Exercise Price and the number of Warrant Shares in the event of a corporate transaction.

The Company issued the Note and Warrants to Holder pursuant to Rule 506(b) of Regulation D and Regulation S under, and Section 4(a)(2) of, the Securities Act of 1933.

Copies of the Note and the form of Warrant are attached to this Current Report on Form 8-K as Exhibits 10.1, and 4.1, respectively.

The foregoing descriptions of the Note and Warrants do not purport to be complete and are qualified in their entirety by reference to the instruments filed as exhibits to this report and incorporated herein by reference. The Note and Warrants are being filed to provide investors and the Company’s stockholders with information regarding the terms thereof and in accordance with applicable rules and regulations of the Securities and Exchange Commission (“**Commission**”). In connection with the Note and Series D Warrants, each of the parties thereto may have made customary representations, warranties and covenants, which were made by the parties to and solely for the benefit of each other and any expressly intended third party beneficiaries in the context of all of the terms and conditions of the agreements and in the context of the specific relationship between the parties. Accordingly, investors and stockholders should not rely on such representations, warranties and covenants. Furthermore, investors and stockholders should not rely on the representations, warranties and covenants as characterizations of the actual state of facts or continuing intentions of the parties, since they were only made as of the date of the Note. Information concerning the subject matter of such representations, warranties and covenants may change, which subsequent information may or may not be fully reflected in the Company’s reports or other filings with the Commission.

Item 3.02 **Unregistered Sales of Equity Securities.**

The information set forth in Item 1.01 above is incorporated into this Item 3.02 by reference.

Item 9.01. Financial Statements and Exhibits.

- (d) Exhibits
- 4.1 Form of Series D Warrant.
- 10.1 Secured Convertible Promissory Note dated July 2, 2018.

Cautionary Note Regarding Forward-looking Statements:

To the extent that statements in this Current Report on Form 8-K are not strictly historical, including statements as to business strategy, outlook, objectives, future milestones, plans, intentions, goals, future financial conditions, future collaboration agreements, the success of the Company's product development or otherwise as to future events, such statements are forward-looking, and are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. The forward-looking statements contained in this Current Report are subject to certain risks and uncertainties that could cause actual results to differ materially from the statements made. Such risks and others are further described in the Company's filings with the Securities and Exchange Commission including the most recent reports on Forms 10-K, 10-Q and 8-K, and any amendments thereto.

SIGNATURES

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

Windtree Therapeutics, Inc.

By: /s/ Craig Fraser
Craig Fraser
President and Chief Executive Officer

Date: July 6, 2018

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED HEREBY NOR THE SECURITIES INTO WHICH THE SECURITIES REPRESENTED HEREBY ARE EXERCISABLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES REPRESENTED HEREBY AND THE SECURITIES INTO WHICH THE SECURITIES REPRESENTED HEREBY ARE EXERCISABLE MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED EXCEPT PURSUANT TO (A) AN EFFECTIVE REGISTRATION STATEMENT FOR SUCH SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) PURSUANT TO AN AVAILABLE EXEMPTION IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES REPRESENTED HEREBY AND THE SECURITIES INTO WHICH THE SECURITIES REPRESENTED HEREBY ARE EXERCISABLE MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES.

WINDTREE THERAPEUTICS, INC.

SERIES D WARRANT TO PURCHASE COMMON STOCK

Series D Warrant:

Number of Shares of Common Stock:

Date of Issuance: July 2, 2018 (“**Issuance Date**”)

Windtree Therapeutics, Inc., a Delaware corporation (the “**Company**”), hereby certifies that, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Panacea Venture Management Company Ltd., the registered holder hereof or its permitted assigns (the “**Holder**”), is entitled, subject to the terms set forth below, to purchase from the Company, at the Exercise Price (as defined below) then in effect, upon surrender of this Series D Warrant to Purchase Common Stock (including any Series D Warrants to Purchase Common Stock issued in exchange, transfer or replacement hereof, the “**Warrant**”), at any time or times from the date that is six (6) months after the Issuance Date (the “**Exercisability Date**”), but not after 11:59 p.m., New York time, on the Expiration Date (as defined below), One Hundred Eighty-Seven Thousand Five Hundred (187,500) fully paid and nonassessable shares of Common Stock (as defined below) (the “**Warrant Shares**”).

1. EXERCISE OF WARRANT.

- (a) Mechanics of Exercise. Subject to the terms and conditions hereof, this Warrant may be exercised by the Holder on any day on or after the Exercisability Date, in whole or in part, by (i) delivery of a written notice, in the form attached hereto as Exhibit A (the “**Exercise Notice**”), of the Holder’s election to exercise this Warrant to the Company and Continental Stock Transfer & Trust Company (the “**Warrant Agent**” and “**Transfer Agent**”) and (ii) if applicable, delivery of this Warrant to the Warrant Agent for cancellation. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Warrant Agent until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case the Holder shall surrender this Warrant to the Warrant Agent for cancellation within three (3) Trading Days of the date the final Exercise Notice is delivered to the Warrant Agent. Execution and delivery of an Exercise Notice with respect to a partial Exercise shall have the same effect as cancellation of the original Warrant and issuance of a new Warrant evidencing the right to purchase the remaining number of Warrant Shares. The Exercise Notice shall indicate if the Holder has elected a Cashless Exercise (as defined below) pursuant to Section 1(d) of this Warrant. Within two (2) Business Days following the Exercise, Holder shall deliver payment to the Company of an amount equal to the applicable Exercise Price multiplied by the number of Warrant Shares as to which this Warrant is being exercised (the “**Aggregate Exercise Price**”) in cash or by wire transfer of immediately available funds, unless such Holder has elected a Cashless Exercise pursuant to Section 1(c). On or before the second (2nd) Business Day following the date on which the Warrant has been duly Exercised (the “**Share Delivery Date**”), the Company or the Warrant Agent shall (X) provided that the Company’s transfer agent (the “**Transfer Agent**”) is participating in The Depository Trust Company (“**DTC**”) Fast Automated Securities Transfer Program, upon the request of the Holder and provided the Holder causes its prime broker to initiate a Deposit Withdrawal At Custodian (“**DWAC**”) deposit, credit such aggregate number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the Holder’s or its designee’s balance account with DTC through its DWAC system, or (Y) if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program or upon a cash Exercise at a time when a registration statement covering the issuance of Warrant Shares is not effective, issue and dispatch by overnight courier to the address as specified in the Exercise Notice, a certificate, registered in the Company’s share register in the name of the Holder or its designee, for the number of shares of Common Stock to which the Holder is entitled pursuant to such Exercise, provided that, unless such Holder has elected a Cashless Exercise pursuant to Section 1(c), the Company shall not be obligated to deliver shares of Common Stock hereunder unless the Company has received the Aggregate Exercise Price by the Share Delivery Date. Upon Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been Exercised, irrespective of the date such Warrant Shares are credited to the Holder’s DTC account or the date of delivery of the certificates evidencing such Warrant Shares, as the case may be. If this Warrant is submitted in connection with any exercise pursuant to this Section 1(a) and the number of Warrant Shares represented by this Warrant submitted for exercise is greater than the number of Warrant Shares being acquired upon an exercise, then the Company shall as soon as practicable and in no event later than five Business Days after any exercise and at its own expense, issue a new Warrant (in accordance with Section 6(d)) representing the right to purchase the number of Warrant Shares purchasable immediately prior to such exercise under this Warrant, less the number of Warrant Shares with respect to which this Warrant is exercised. No fractional shares of Common Stock are to be issued upon the exercise of this Warrant, but rather the number of shares of Common Stock to be issued shall be rounded down to the nearest whole number. The Company shall pay any and all taxes which may be payable with respect to the issuance and delivery of Warrant Shares upon exercise of this Warrant; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the registration of any certificates for Warrant Shares or Warrants in a name other than that of the Holder or an affiliate thereof. The Holder shall be responsible for all other tax liability that may arise as a result of holding or transferring this Warrant or receiving Warrant Shares upon exercise hereof.

- (b) Exercise Price. For purposes of this Warrant, “**Exercise Price**” means a per Warrant Share price of \$4.00, subject to adjustment as provided herein.
- (c) Cashless Exercise. In the event that a registration statement covering the issuance of Warrant Shares is not effective, the Holder may, at its option, exercise this Warrant in whole or in part and, in lieu of making the cash payment otherwise contemplated to be made to the Company upon such exercise in payment of the Aggregate Exercise Price, elect instead to receive upon such exercise the “Net Number” of shares of Common Stock determined according to the following formula (a “**Cashless Exercise**”):

Net Number =

$$\frac{(A \times B) - (A \times C)}{B}$$

B

A = the total number of shares with respect to which this Warrant is then being exercised.

B = the arithmetic average of the Closing Sale Prices of the shares of Common Stock for the five (5) consecutive Trading Days ending on the Trading Day immediately preceding the date of the Exercise Notice; and

C = the Exercise Price then in effect for the applicable Warrant Shares at the time of such exercise.

The Company shall notify the Holder at any time prior to the Expiration Date that a registration statement covering the issuance of Warrant Shares is not effective. For sake of clarity, in the event that neither a registration statement nor an exemption from registration is available, there is no circumstance that requires the Company to effect a net cash settlement of the Warrant.

- (e) Disputes. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Warrant Shares, the Company shall issue to the Holder the number of Warrant Shares that are not disputed in accordance with the delivery obligations set forth in this Warrant.
- (f) Beneficial Ownership. The Company shall not effect any exercise of the Warrant, and a Holder shall not have the right to exercise any portion of the Warrant, to the extent that, such Holder (together with such Holder’s Affiliates, and any Persons acting as a group together with such Holder or any of such Holder’s Affiliates (such Persons, “**Attribution Parties**”)) would beneficially own in excess of the Beneficial Ownership Limitation (as defined below) after giving effect to such exercise, or immediately prior to giving effect to such exercise. For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by such Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon exercise of the Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which are issuable upon (i) exercise of the remaining, unexercised portion of this Warrant beneficially owned by such Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of unexercised or unconverted portion of any other Common Stock Equivalents of the Company that are subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by such Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 1(f), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder (the “**Exchange Act**”), it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 1(f) applies, the determination of whether the Warrant is exercisable (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and number of shares of Common Stock issuable upon such exercise (or partial exercise) shall be in the sole discretion of such Holder, and the submission of a Notice of Exercise shall be deemed to be such Holder’s determination of whether the Warrant may be exercised (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and number of shares of Common Stock issuable upon exercise (or partial exercise), in each case subject to the Beneficial Ownership Limitation. To ensure compliance with this restriction, each Holder will be deemed to represent to the Company each time it delivers a Notice of Exercise that such Notice of Exercise has not violated the restrictions set forth in this paragraph and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 1(f), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as stated in the most recent of the following: (i) the Company’s most recent periodic or annual report filed with the Commission, as the case may be, (ii) a more recent public announcement by the Company or (iii) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within two Business Days confirm orally and in writing to such Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined by the Holder after giving effect to the conversion or exercise of securities of the Company, including the Warrant, by such Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The “**Beneficial Ownership Limitation**” initially shall be 9.99% of the Company’s issued and outstanding shares of Common Stock. A Holder, upon notice to the Company, may decrease or thereafter increase the Beneficial Ownership Limitation provided in this Section 1(f) applicable to such Holder’s Warrant. Any such change in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Company and shall only apply to such Holder and no other Holder. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 1(f) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of the Warrant.

2. ADJUSTMENT OF EXERCISE PRICE AND NUMBER OF WARRANT SHARES. The Exercise Price and the number of Warrant Shares shall be adjusted from time to time as follows:

- (a) Adjustment upon Subdivision or Combination of Common Stock. If the Company at any time on or after the Issuance Date subdivides (by any stock split, stock dividend, recapitalization, reorganization, scheme, arrangement or otherwise) one or more classes of its outstanding shares of Common Stock into a greater number of shares, the Exercise Price in effect immediately prior to such subdivision will be proportionately reduced and the number of Warrant Shares will be proportionately increased. If the Company at any time on or after the Issuance Date combines (by any stock split, stock dividend, recapitalization, reorganization, scheme, arrangement or otherwise) one or more classes of its outstanding shares of Common Stock into a smaller number of shares, the Exercise Price in effect immediately prior to such combination will be proportionately increased and the number of Warrant Shares will be proportionately decreased. Any adjustment under this Section 2(a) shall become effective at the close of business on the date the subdivision or combination becomes effective.
- (b) Other Events. If any event occurs of the type contemplated by the provisions of Section 2(a) but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights with equity features to the holders of the Company's equity securities), then the Company's Board of Directors will make an appropriate adjustment in the Exercise Price and the number of Warrant Shares and provide that the record date for stockholders entitled to participate in such event shall be the effective date for such adjustment so as to protect the rights of the Holder; provided that no such adjustment pursuant to this Section 2(b) will increase the Exercise Price or decrease the number of Warrant Shares as otherwise determined pursuant to this Section 2.

3. PURCHASE RIGHTS; FUNDAMENTAL TRANSACTIONS.

- (a) Purchase Rights. In addition to any adjustments pursuant to Section 2 above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "**Purchase Rights**"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation)
 - (b) Fundamental Transactions. Upon the occurrence of any Fundamental Transaction, any Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant referring to the "Company" shall refer instead to any Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant with the same effect as if such Successor Entity had been named as the Company herein. Upon consummation of the Fundamental Transaction, any Successor Entity shall deliver to the Holder confirmation that there shall be issued upon exercise of this Warrant at any time after the consummation of the Fundamental Transaction, in lieu of the shares of the Common Stock (or other securities, cash, assets or other property purchasable upon the exercise of the Warrant prior to such Fundamental Transaction), such shares of stock, securities, cash, assets or any other property whatsoever (including warrants or other purchase or subscription rights), if any, that the Holder would have been entitled to receive upon the happening of such Fundamental Transaction had this Warrant been exercised immediately prior to such Fundamental Transaction, as adjusted in accordance with the provisions of this Warrant. In addition to and not in substitution for any other rights hereunder, prior to the consummation of any Fundamental Transaction pursuant to which holders of shares of Common Stock are entitled to receive securities or other assets with respect to or in exchange for shares of Common Stock (a "Corporate Event"), the Company shall make appropriate provision to insure that the Holder will thereafter have the right to receive upon an exercise of this Warrant within 90 days after the consummation of the Fundamental Transaction but, in any event, prior to the Expiration Date, in lieu of the shares of the Common Stock (or other securities, cash, assets or other property) purchasable upon the exercise of the Warrant prior to such Fundamental Transaction, such shares of stock, securities, cash, assets or any other property whatsoever (including warrants or other purchase or subscription rights) which the Holder would have been entitled to receive upon the happening of such Fundamental Transaction had the Warrant been exercised immediately prior to such Fundamental Transaction. The Company shall not enter into or be a party to a Fundamental Transaction unless provision is made with respect to the holder's right under this Section 3(b) in a form and substance reasonably satisfactory to the Holder. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. The provisions of this Section shall apply similarly and equally to successive Fundamental Transactions and Corporate Events and shall be applied without regard to any limitations on the exercise of this Warrant. The Holder may waive its rights under this Section 3(b) with respect to any particular Fundamental Transaction.
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4. NONCIRCUMVENTION. The Company hereby covenants and agrees that the Company will not, by amendment of its Amended and Restated Certificate of Incorporation, Amended and Restated Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, and will at all times in good faith carry out all the provisions of this Warrant. Without limiting the generality of the foregoing, the Company (i) shall not increase the par value of any shares of Common Stock receivable upon the exercise of this Warrant above the Exercise Price then in effect, and (ii) shall, so long as this Warrant is outstanding, take all action necessary to reserve and keep available out of its authorized and unissued shares of Common Stock, solely for the purpose of effecting the exercise of this Warrant, 100% of the number of shares of Common Stock issuable upon exercise of this Warrant then outstanding (without regard to any limitations on exercise).

5. WARRANT HOLDER NOT DEEMED A STOCKHOLDER. The Holder, solely in such Person's capacity as a holder of this Warrant, shall not be entitled to vote or be deemed the holder of share capital of the Company for any purpose, nor shall anything contained in this Warrant be construed to confer upon the Holder, solely in such Person's capacity as the Holder of this Warrant, any of the rights of a stockholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of stock, reclassification of stock, consolidation, merger, conveyance or otherwise), receive notice of meetings, or otherwise, prior to the issuance to the Holder of the Warrant Shares which such Person is then entitled to receive upon the due exercise of this Warrant. In addition, nothing contained in this Warrant shall be construed as imposing any liabilities on the Holder to purchase any securities (upon exercise of this Warrant or otherwise) or as a stockholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company.

6. REISSUANCE OF WARRANTS.

- (a) Registration of Warrant. The Company or its Transfer Agent shall register this Warrant, upon the records to be maintained by the Company or its Transfer Agent for that purpose (the "**Warrant Register**"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary. The Company or its Transfer Agent shall also register any transfer, exchange, reissuance or cancellation of any portion of this Warrant in the Warrant Register.
 - (b) Transfer of Warrant. If this Warrant is to be transferred in accordance with Section 13, the Holder shall surrender this Warrant to the Company, whereupon the Company will forthwith issue and deliver upon the order of the Holder a new Warrant (in accordance with Section 6(d)), registered as the Holder may request, representing the right to purchase the number of Warrant Shares being transferred by the Holder and, if less than the total number of Warrant Shares then underlying this Warrant is being transferred, a new Warrant (in accordance with Section 6(d)) to the Holder representing the right to purchase the number of Warrant Shares not being transferred.
 - (c) Lost, Stolen or Mutilated Warrant. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant, and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary form or the provision of reasonable security by the Holder to the Company and, in the case of mutilation, upon surrender and cancellation of this Warrant, the Company shall execute and deliver to the Holder a new Warrant (in accordance with Section 6(d)) representing the right to purchase the Warrant Shares then underlying this Warrant.
 - (d) Exchangeable for Multiple Warrants. This Warrant is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company, together with all applicable transfer taxes, for a new Warrant or Warrants (in accordance with Section 6(d)) representing in the aggregate the right to purchase the number of Warrant Shares then underlying this Warrant, and each such new Warrant will represent the right to purchase such portion of such Warrant Shares as is designated by the Holder at the time of such surrender; provided, however, that no Warrants for fractional shares of Common Stock shall be given.
 - (e) Issuance of New Warrants. Whenever the Company is required to issue a new Warrant pursuant to the terms of this Warrant, such new Warrant (i) shall be of like tenor with this Warrant, (ii) shall represent, as indicated on the face of such new Warrant, the right to purchase the Warrant Shares then underlying this Warrant (or in the case of a new Warrant being issued pursuant to Section 7(a) or Section 7(c), the Warrant Shares designated by the Holder which, when added to the number of shares of Common Stock underlying the other new Warrants issued in connection with such issuance, does not exceed the number of Warrant Shares then underlying this Warrant), (iii) shall have an issuance date, as indicated on the face of such new Warrant which is the same as the Issuance Date and (iv) shall have the same rights and conditions as this Warrant.
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7. NOTICES. Whenever notice is required to be given to either party under this Warrant, unless otherwise provided herein, such notice shall be given in accordance with information provided by the Holder to the Company, or by the Company to the Holder, as applicable, in writing. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Warrant, including in reasonable detail a description of such action and the reason therefor.
 8. AMENDMENT AND WAIVER. The provisions of this Warrant may be amended or modified or the provisions hereof waived with the written consent of the Company and the Holder.
 9. JURISDICTION. Except as set forth in Section 11 below, this Warrant shall be governed by and construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Warrant shall be governed by, the internal laws of the State of Delaware, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Delaware or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of Delaware.
 10. CONSTRUCTION; HEADINGS. This Warrant shall be deemed to be jointly drafted by the Company and the Holder and shall not be construed against any person as the drafter hereof. The headings of this Warrant are for convenience of reference and shall not form part of, or affect the interpretation of, this Warrant.
 11. DISPUTE RESOLUTION. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Warrant Shares, the Company shall submit the disputed determinations or arithmetic calculations via facsimile within two (2) Business Days of receipt of the Exercise Notice giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation of the Exercise Price or the Warrant Shares within three (3) Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two (2) Business Days submit via facsimile (a) the disputed determination of the Exercise Price to an independent, reputable investment bank selected by the Company and approved by the Holder or (b) the disputed arithmetic calculation of the Warrant Shares to the Company's independent, outside accountant. The Company shall cause at its expense the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than ten (10) Business Days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error. The expenses of the investment bank and accountant will be borne by the Company.
 12. REMEDIES, OTHER OBLIGATIONS, BREACHES AND INJUNCTIVE RELIEF. The remedies provided in this Warrant shall be cumulative and in addition to all other remedies available under this Warrant, at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the right of the Holder to pursue actual damages for any failure by the Company to comply with the terms of this Warrant.
 13. TRANSFER. Subject to compliance with any applicable securities laws and the transfer restrictions set forth herein, this Warrant may be offered for sale, sold, transferred or assigned without the consent of the Company.
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14. **CERTAIN DEFINITIONS.** For purposes of this Warrant, the following terms shall have the following meanings:

- (a) **“Bloomberg”** means Bloomberg Financial Markets.
- (b) **“Business Day”** means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed.
- (c) **“Closing Sale Price”** means, for any security as of any date, the last closing bid price and last closing trade price, respectively, for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing bid price or the closing trade price, as the case may be, then the last bid price or the last trade price, respectively, of such security prior to 4:00:00 p.m., New York time, as reported by Bloomberg, or, if the Principal Market is not the principal securities exchange or trading market for such security, the last closing bid price or last trade price, respectively, of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg, or if the foregoing do not apply, the last closing bid price or last trade price, respectively, of such security in the OTCQB[®] trading market operated by The OTC Markets Group, or the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no closing bid price or last trade price, respectively, is reported for such security by Bloomberg, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the “pink sheets” by OTC Markets Group Inc. If the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Sale Price, as the case may be, of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination or other similar transaction during the applicable calculation period.
- (d) **“Common Stock”** means (i) the Company’s shares of Common Stock, par value \$0.001 per share, and (ii) any share capital into which such Common Stock shall have been changed or any share capital resulting from a reclassification of such Common Stock.
- (e) **“Common Stock Equivalents”** means any securities of the Company which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.
- (f) **“Convertible Securities”** means any stock or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for shares of Common Stock.
- (g) **“Eligible Market”** means The New York Stock Exchange, Inc., The NYSE MKT LLC, The NASDAQ Global Select Market, The NASDAQ Global Market or The NASDAQ Capital Market.
- (h) **“Expiration Date”** means July 2, 2023 or, if such date falls on a day other than a Business Day or on which trading does not take place on the Principal Market (a **“Holiday”**), the next date that is not a Holiday.
- (i) **“Fundamental Transaction”** means that (A) the Company shall, directly or indirectly, in one or more related transactions, (i) consolidate or merge with or into (whether or not the Company is the surviving corporation) another Person, or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company to another Person, or (iii) allow another Person to make a purchase, tender or exchange offer that is accepted by the holders of more than the 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the Person or Persons making or party to, or associated or affiliated with the Persons making or party to, such purchase, tender or exchange offer), or (iv) consummate a stock purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock purchase agreement or other business combination), or (v) reorganize, recapitalize or reclassify the Common Stock, or (B) any “person” or “group” (as these terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act) is or shall become the “beneficial owner” (within the meaning of Rule 13d-3 under the Exchange Act), directly or indirectly, of 50% of the aggregate ordinary voting power represented by issued and outstanding Common Stock.
- (j) **“Options”** means any rights, warrants or options to subscribe for or purchase shares of Common Stock or Convertible Securities.
- (k) **“Parent Entity”** of a Person means an entity that, directly or indirectly, controls the applicable Person and whose common stock or equivalent equity security is quoted or listed on an Eligible Market, or, if there is more than one such Person or Parent Entity, the Person or Parent Entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.
- (l) **“Person”** means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and a government or any department or agency thereof.
- (m) **“Principal Market”** means the securities exchange or securities quotation service where the Common Stock is principally listed or quoted for trading.
- (n) **“Successor Entity”** means the Person (or, if so elected by the Holder, the Parent Entity) formed by, resulting from or surviving any Fundamental Transaction or the Person (or, if so elected by the Holder, the Parent Entity) with which such Fundamental Transaction shall have been entered into.
- (o) **“Trading Day”** means any day on which the Common Stock is traded on the Principal Market, or, if the Principal Market is not the principal trading market for the Common Stock, then on the principal securities exchange or securities market on which the Common Stock is then traded; provided that “Trading Day” shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York time).

IN WITNESS WHEREOF, the Company has caused this Series D Warrant to Purchase Common Stock to be duly executed as of the Issuance Date set out above.

WINDTREE THERAPEUTICS, INC.

By: /s/ Craig Fraser

Name: Craig Fraser

Title: President and Chief Executive Officer

EXHIBIT A

**EXERCISE NOTICE TO BE EXECUTED BY THE REGISTERED HOLDER
TO EXERCISE THIS SERIES D WARRANT TO PURCHASE COMMON STOCK**

To: CONTINENTAL STOCK TRANSFER & TRUST COMPANY

1 State Street, 30th Floor
New York NY 10004
Attention: Compliance Department
By Email: Compliance@continentalstock.com

The undersigned holder hereby exercises the right to purchase _____ of the shares of Common Stock (“**Warrant Shares**”) of **WINDTREE THERAPEUTICS, INC.**, a Delaware corporation (the “**Company**”), evidenced by the attached Series D Warrant to Purchase Common Stock (the “**Warrant**”). Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in the Warrant.

1. Form of Exercise Price. The Holder intends that payment of the Exercise Price shall be made as:

a “Cash Exercise” with respect to _____ Warrant Shares; and/or

a “Cashless Exercise” with respect to _____ Warrant Shares

2. Payment of Exercise Price. In the event that this is a Cash Exercise with respect to some or all of the Warrant Shares to be issued pursuant hereto, the holder shall pay the Aggregate Exercise Price in the sum of \$ _____ to the Company in accordance with the terms of the Warrant.

3. Delivery of Warrant Shares. The Company shall deliver the Warrant Shares to the holder in accordance with the terms of the Warrant.

4. Representations and Warranties. By its delivery of this Exercise Notice, the undersigned represents and warrants to the Company that in giving effect to the exercise evidenced hereby the Holder will not beneficially own in excess of the number of shares of Common Stock (determined in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended) permitted to be owned under Section 1(f) of this Warrant to which this notice relates.

Date: _____,
Name of Registered Holder:

By:
Name:
Title:

Facsimile Number for notices:
Address for delivery (if applicable):
Holder, or Holder’s designee’s account information with DTC through its DWAC system (if applicable):

ACKNOWLEDGMENT

The Company hereby acknowledges this Exercise Notice.

WINDTREE THERAPEUTICS, INC.

By:
Name:
Title:

THIS SECURED CONVERTIBLE PROMISSORY NOTE AND THE DEBT EVIDENCED HEREBY IS SUBORDINATED PURSUANT TO THE TERMS OF A SUBORDINATION AGREEMENT, DATED AS OF THE DATE HEREOF BETWEEN PANACEA VENTURE MANAGEMENT COMPANY LTD. AND LPH INVESTMENTS LTD.

SECURED CONVERTIBLE PROMISSORY NOTE

\$1,500,000 Maximum Principal Amount

July 2, 2018

FOR VALUE RECEIVED, Windtree Therapeutics, Inc. (the "**Company**"), promises to pay to the order of Panacea Venture Management Company Ltd. (the "**Holder**"), the aggregate principal amount of all Loans (defined below) made by the Holder to the Company pursuant to this Secured Convertible Promissory Note (this "**Note**"), which aggregate principal amount shall not exceed One Million Five Hundred Thousand U.S. Dollars (\$1,500,000) as set forth hereinafter. This Note is issued pursuant to that certain Term Sheet between the Company and the Holder (the "**Term Sheet**"). Capitalized terms not defined herein shall have the meanings set forth in the Term Sheet.

1. **Loan Tranches.** Simultaneously with the issuance of this Note, the Holder has made a loan to the Company in the amount of One Million U.S. Dollars (\$1,000,000) (the "**First Tranche Loan**"). On or before July 15, 2008, the Holder shall make an additional loan to the Company in the amount of Five Hundred Thousand U.S. Dollars (\$500,000) (the "**Second Tranche Loan**"; each of the First Tranche Loan and the Second Tranche Loan, a "**Loan**").

2. **Principal and Interest.** This Note shall bear interest with respect to each Loan at the rate of fifteen percent (15%) per annum, compounding annually, during the period beginning on the date such Loan is made and shall continue to accrue interest until the earlier of (a) the repayment of such Loan in full, including all principal and accrued interest or (b) conversion of this Note according to its terms.

3. **Maturity.** All unpaid principal, together with the balance of unpaid and accrued interest and other amounts payable hereunder, if not converted pursuant to the provisions of **Section 6** or **Section 7** below, will be due and payable on the Maturity Date, in accordance with **Section 4**, or when such amounts are declared due and payable by the Holder upon or after the occurrence of an Event of Default (as defined below). As used in this Note, the term "**Maturity Date**" means December 31, 2018.

4. **Payments.** In the event that the Holder has not elected to convert this Note in accordance with **Section 6** or **Section 7** below, all unpaid principal, together with the balance of unpaid and accrued interest and other amounts payable hereunder shall be due and payable to the Holder on the Maturity Date. All payments pursuant to this Note shall be made to the Holder, at the address set forth below or such other address as the Holder shall designate from time to time, in lawful money of the United States of America and shall be applied first to accrued interest, and thereafter to principal. Upon payment in full of the principal hereof and accrued interest hereunder, this Note shall be surrendered to the Company for cancellation.

5. **Prepayment.** The Company may prepay this Note, in whole or in part, without the prior written consent of the Holder and without any penalty.

6. **Conversion of the Note.** At any time prior to the Maturity Date, this Note may be converted at the Holder's option into shares of the Company's Common Stock at a price per share equal to the closing price of the Company's common stock as quoted on the OTCQB[®] trading market operated by the OTC Markets Group on the trading day immediately preceding the funding date of the First Tranche Loan (\$4.00).

7. **Optional Participation in Private Placement.** The Holder shall be entitled to, upon the satisfaction of the Conversion Condition (defined below) during the period ending two days after the satisfaction of the Conversion Condition (the “**Conversion Period**”), to convert the outstanding and unpaid principal and interest into an investment into the Private Placement based on the same economic, voting and other rights as the shares provided to the Equity Investors (defined below) in the Private Placement.

As used in this Note, “**Conversion Condition**” means the closing by the Holder of a Private Placement (defined below).

As used in this Note, “**Private Placement**” means the equity financing with investment proceeds provided by one (1) or more institutional investors, which may include Panacea Venture Healthcare Fund I L.P (such institutional investors, the “**Equity Investors**”).

8. **Conversion Procedure.**

(a) **Fractional Shares.** The Company will not be required to issue fractional securities upon the conversion hereof or to distribute certificates that evidence fractional securities, nor will the Company be required to make any cash payments in lieu of fractional securities otherwise issuable upon the conversion hereof. The Holder hereby waives any right to receive fractional securities in connection with the conversion hereof.

(b) **Fully Paid Shares.** Upon conversion of this Note pursuant to the terms hereof, all securities issuable upon conversion of this Note will be fully paid and non-assessable.

(c) **Original Note.** Upon conversion of this Note pursuant to the terms hereof, the Holder by acceptance of this Note agrees to deliver the executed original of this Note to the Company within ten (10) business days of receipt by Holder of notice from the Company of such conversion and this Note shall for all purposes be deemed paid and cancelled.

9. **Default.** Notwithstanding anything to the contrary contained herein, the occurrence of any one or more of the following events shall constitute an “**Event of Default**” hereunder:

(a) **Payments.** Any failure by the Company to pay any amount payable hereunder in accordance with the terms hereof when due.

(b) **Insolvency.** The Company (i) makes an assignment for the benefit of creditors, (ii) applies for or seeks the appointment of a receiver, liquidator, assignee, trustee, or other similar official for it or of any substantial part of its property or any such official is appointed, other than upon the Company’s request, and such unrequested appointment continues for ninety (90) days, or (iii) institutes proceedings seeking an order for relief under the federal Bankruptcy Code or seeking to adjudicate it a bankrupt or insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment, or composition of it or any of its debts under other applicable federal or state law relating to creditor rights and remedies, or any such proceeding is filed against it, other than upon the Company’s request, and such unrequested proceeding continues un-dismissed or un-stayed for ninety (90) days.

If any Event of Default shall occur and be continuing, after the expiration of applicable grace and/or cure periods, if any, the Holder may (i) by written notice to the Company, declare the entire unpaid principal amount of this Note, all interest accrued and unpaid hereon and all other amounts payable hereunder to be forthwith due and payable, whereupon all unpaid principal under this Note, all such accrued interest and all such other amounts shall become and be forthwith due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Company, provided that if an event described in paragraph (b) above shall occur, the result which would otherwise occur only upon giving of notice to the Company as specified above, this Note and all such other amounts payable pursuant hereto shall become due and payable automatically without the giving of any such notice; and (ii) whether or not the actions referred to in clause (i) have been taken, exercise any or all rights and remedies available to Holder under this Note and applicable law.

10. Presentment; Demand. The Company hereby waives any right to presentment, demand, protest or notice of dishonor and protest of this Note and any other notice, and any set-off against sums due and payable under this Note that the Company may have or claim to have against any Holder of this Note.

11. Usury. The Holder does not intend to charge, collect or receive any interest that would exceed the maximum rate allowed by law. If the effect of any applicable law is to render usurious any amount called for under this Note or if any amount that is charged or received with respect to this Note results in the payment of any interest in excess of that permitted by law, then all excess amounts collected by the Holder shall be credited on the principal balance of this Note (or, if this Note shall have been paid in full, refunded to the Company), and the provisions of this Note shall immediately be deemed reformed and the amounts thereafter collectable reduced, without the necessity of the execution of any new document, so as to comply with the then applicable law. All sums paid, or agreed to be paid, by the Company for the use, forbearance, or detention of money under this Note shall, to the maximum extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on account of such indebtedness does not exceed the usury ceiling from time to time in effect and applicable to such indebtedness for so long as such indebtedness is outstanding.

12. Security Interest. To secure the timely and full performance of the Company's obligations pursuant to this Note, the Company hereby grants to the Holder and its successors and assigns (collectively, the "**Secured Parties**") a security interest and/or general security interest in all of the right, title and interest of the Company in, to and under the following property, wherever located, and whether now existing or hereafter arising or acquired from time to time (collectively, the "**Collateral**"):

(a) all personal property of every kind and nature including all accounts (including health-care-insurance receivables), goods (including inventory and equipment), documents (including, if applicable, electronic documents), instruments, promissory notes, chattel paper (whether tangible or electronic), letters of credit, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), securities and all other investment property, general intangibles (including all payment intangibles), money, deposit accounts, and any other contract rights or rights to the payment of money;

(b) all intellectual property; and

(c) all proceeds and products of each of the foregoing, all books and records relating to the foregoing, all supporting obligations related thereto, and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, and any and all Proceeds of any insurance, indemnity, warranty or guaranty payable to the Grantor from time to time with respect to any of the foregoing.

The security interest provided under this Section 12 shall terminate effective with the expiration of the Conversion Period as described in Section 7 hereof, provided that no Event of Default shall have occurred and be continuing. If any Event of Default shall occur and be continuing, after the expiration of applicable grace and/or cure periods, the Secured Parties shall have all rights, remedies and privileges in and to the Collateral as provided by applicable law, including, without limitation, the applicable sections of the Uniform Commercial Code as presently in effect and as amended from time to time in the State of New York, including, without limitation, the right to take immediate possession of the Collateral. The Secured Parties may file all documents (including, without limitation, UCC financing statements) and take any action necessary to perfect the Secured Parties' security interest in the Collateral.

13. Miscellaneous.

(a) Expenses. Each party hereto will pay such party's own expenses.

(b) Waiver and Amendment. Any term of this Note may be amended or waived only with the written consent of the Company and the Holder.

(c) Binding Effect. The rights and obligations of the Company and the Holder of this Note shall be binding upon and benefit the successors, permitted assigns, heirs, administrator and transferees of the parties.

(d) No Rights as Shareholder. This Note, as such, creates a lender/borrower relationship and will not entitle the Holder to any rights as a shareholder, officer, director, other employee or agent of the Company, except as otherwise specified herein.

(e) Governing Law; Venue. This Note has been negotiated, delivered and accepted in the State of New York and shall be governed by, and construed in accordance with, the internal laws of the State of New York, regardless of the laws that might otherwise govern under applicable principles of conflicts of law. Any dispute with respect to this Note shall be resolved only in the state and federal courts located in New York, New York, and the appellate courts having jurisdiction of appeals in such courts.

(f) Counterparts. This Note may be executed in two or more counterparts, including by facsimile or electronic transmission, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(g) Construction. The titles and captions contained herein are inserted herein only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Note or the intent of any provision hereof. The parties acknowledge and agree that each has negotiated and reviewed the terms of this Note, assisted by such legal and tax counsel as they desired, and has contributed to its revisions. The parties further agree that the rule of construction that any ambiguities are resolved against the drafting party will be subordinated to the principle that the terms and provisions of this Note will be construed fairly as to all parties and not in favor of or against any party.

(h) Severability. If one or more provisions of this Note are held to be unenforceable under applicable law, such provision shall be excluded from this Note and the balance of this Note shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

(i) Entire Agreement. This Note constitutes the full and entire understanding and agreement among the parties with regard to the subjects hereof and supersedes any prior agreements (including the Term Sheet) between the parties regarding the subject matter hereof.

(j) Attorneys' Fees. If any action at law or in equity (including arbitration) is necessary to enforce or interpret the terms of this Note, the prevailing party shall be entitled to reasonable attorneys' fees, costs and disbursements in addition to any other relief to which such party may be entitled.

(K) WAIVER OF JURY TRIAL. THE COMPANY AND THE HOLDER, BY ACCEPTANCE OF THIS NOTE, HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS NOTE AND ANY OTHER DOCUMENTS DELIVERED PURSUANT HERETO, AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have executed this Secured Convertible Promissory Note as of the date set forth above.

WINDTREE THERAPEUTICS, INC.

By: /s/ Craig Fraser

Name: Craig Fraser

Title: President and Chief Executive Officer

Acknowledged and Accepted:

PANACEA VENTURE MANAGEMENT COMPANY LTD.

By: /s/ James Huang

Name: James Huang

Title:

Address: