

TRANSGENOMIC INC
Form DEF 14A
December 24, 2013

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the
Securities Exchange Act of 1934 (Amendment No.)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to §240.14a-12

Transgenomic, Inc.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

o Fee paid previously with preliminary materials.

Check box if any part of the fee is offset as provided by the Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount previously paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

TRANSGENOMIC, INC.

12325 Emmet Street

Omaha, Nebraska 68164

December 24, 2013

Dear Stockholder:

You are cordially invited to attend our Special Meeting of Stockholders, which will be held at the offices of Paul Hastings LLP, 55 Second Street, 24th Floor, San Francisco, California 94105, on Tuesday, January 14, 2014 at 11:00 a.m. Pacific Standard Time.

At the Special Meeting, stockholders will be asked to vote on each of the two proposals set forth in the Notice of Special Meeting of Stockholders and the accompanying proxy statement, which describe the formal business to be conducted at the Special Meeting and follow this letter.

It is important that your shares are represented and voted at the Special Meeting regardless of the size of your holdings. Whether or not you plan to attend the Special Meeting, please complete, sign, date and return the accompanying proxy card in the enclosed postage-paid envelope or vote electronically via the Internet or by telephone, if permitted by the broker or other nominee that holds your shares. Voting electronically, by telephone, or by returning your proxy card in advance of the Special Meeting does not deprive you of your right to attend the Special Meeting.

If you have any questions concerning the Special Meeting and you are the stockholder of record of your shares, please contact Donna Christian at (402) 452-5416. If your shares are held by a broker or other nominee (that is, in "street name"), please contact your broker or other nominee for questions concerning the Special Meeting.

Thank you for your continued support. We look forward to seeing those of you who will be able to attend the Special Meeting.

Sincerely yours,

/s/ Paul Kinnon

Paul Kinnon

President and Chief Executive Officer

TRANSGENOMIC, INC.

12325 Emmet Street

Omaha, Nebraska 68164

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

Notice is hereby given that a Special Meeting of Stockholders of Transgenomic, Inc. (the “Company”) will be held at the offices of Paul Hastings LLP, 55 Second Street, 24th Floor, San Francisco, California 94105, on Tuesday, January 14, 2014 at 11:00 a.m. Pacific Standard Time, for the following purposes:

To authorize the Company’s Board of Directors to, in its discretion, amend the Company’s Third Amended and (1) Restated Certificate of Incorporation to effect a reverse stock split of the Company’s common stock at a ratio of between one-for-four to one-for-twenty-five, such ratio to be determined by the Company’s Board of Directors;

To approve amendments to the Company’s 2006 Equity Incentive Plan (the “2006 Plan”) to increase the number of shares of common stock of the Company that may be issued under the 2006 Plan by 10,000,000 shares (prior to (2) giving effect to the proposed reverse stock split) and to provide for a corresponding increase in the limits on the number of incentive stock options and awards other than options or stock appreciation rights that may be granted under the 2006 Plan; and

(3) To transact such other business as may properly come before the Special Meeting or any adjournment or postponement thereof.

The proposal in Item 2 above regarding the amendments to the 2006 Plan is conditioned upon the approval by our stockholders, and the effectiveness, of the reverse stock split in Item 1.

Only stockholders of record at the close of business on December 18, 2013 are entitled to notice of, and to vote at, the Special Meeting.

By Order of the Board of Directors

/s/ Paul Kinnon

Paul Kinnon

President and Chief Executive Officer

Omaha, Nebraska

December 24, 2013

Important Notice Regarding the Availability of Proxy Materials for the Special Meeting of Stockholders to be held on January 14, 2014: This Proxy Statement and the accompanying form of proxy card are available on the Internet at www.transgenomic.com. Under rules issued by the Securities Exchange Commission (the "SEC"), we are providing access to our proxy materials both by sending you this full set of proxy materials and by notifying you of the availability of our proxy materials on the Internet.

Transgenomic, Inc.

12325 Emmet Street

Omaha, Nebraska 68164

PROXY STATEMENT

for

SPECIAL MEETING OF STOCKHOLDERS

of

TRANSGENOMIC, INC.

GENERAL INFORMATION

We are sending this Proxy Statement to you in connection with our request for your proxy to use at the Special Meeting of Stockholders (the “Special Meeting”) of Transgenomic, Inc. (the “Company”) to be held on Tuesday, January 14, 2014 at 11:00 a.m. Pacific Standard Time, at the offices of Paul Hastings LLP, 55 Second Street, 24th Floor, San Francisco, California 94105. Only those owners of our common stock or Series A Convertible Preferred Stock (the “Series A Preferred Stock”) of record as of the close of business on December 18, 2013 (the “Record Date”) are entitled to vote at the Special Meeting. This Proxy Statement, along with the Notice of the Special Meeting and a proxy card, are being first mailed to stockholders of the Company on or about December 27, 2013.

Your proxy is being solicited by the Board of Directors of the Company (the “Board”) and will give the Board or our Chief Executive Officer the power to vote on your behalf at the Special Meeting. All shares of the Company’s voting stock represented by properly executed and unrevoked proxies will be voted by the Board or the Chief Executive Officer in accordance with the directions given by those proxies. Where no instructions are indicated, the Board or the Chief Executive Officer will vote as follows: (1) “**FOR**” the authorization of the Board to, in its discretion, amend our Third Amended and Restated Certificate of Incorporation to effect a reverse stock split of our common stock at a ratio

of between one-for-four to one-for-twenty-five, such ratio to be determined by the Board; (2) “**FOR**” the amendments to the Company’s 2006 Equity Incentive Plan (the “2006 Plan”) to increase the number of shares of common stock of the Company that may be issued under the 2006 Plan by 10,000,000 shares (prior to giving effect to the proposed reverse stock split) and to provide for a corresponding increase in the limits on the number of incentive stock options and awards other than options or stock appreciation rights that may be granted under the 2006 Plan; and (3) in their discretion upon any other business as may properly come before the Special Meeting or any adjournment or postponement thereof. In addition, the Board believes outstanding voting shares owned directly by current executive officers and directors of the Company will be voted “**FOR**” each of Proposals One and Two. Shares owned by these persons represent less than 1% of the total shares of our voting stock outstanding as of the Record Date.

Approval of Proposal Two regarding the amendments to the 2006 Plan is conditioned upon the approval by our stockholders, and the effectiveness, of the reverse stock split as contemplated by Proposal One.

You may revoke your proxy at any time before it is exercised by the Board or the Chief Executive Officer at the Special Meeting. If you decide to do this, you will need to give the Secretary of the Company written notice that you want to revoke the proxy or you can submit a new proxy to the Secretary, or submit a new vote electronically via the Internet or by telephone, if permitted by the broker or other nominee that holds your shares. In addition, if you attend the Special Meeting in person, you may withdraw your proxy and vote in person. Shares of common stock and Series A Preferred Stock entitled to vote and represented by properly executed, returned and unrevoked proxies will be considered present at the Special Meeting for purposes of establishing a quorum. This includes shares for which votes are withheld, abstentions are cast or there are broker non-votes. The holders of our common stock and Series A Preferred Stock representing at least a majority of our voting stock issued and outstanding on the Record Date must be present at the Special Meeting, either in person or by proxy, in order for there to be a quorum.

Under rules that govern banks, brokers and others who have record ownership of company stock held in brokerage accounts for their clients who beneficially own the shares, these banks, brokers and other such holders who do not receive voting instructions from their clients have the discretion to vote uninstructed shares on certain matters (“discretionary matters”) but do not have discretion to vote uninstructed shares as to certain other matters (“non-discretionary matters”). A broker may return a proxy card on behalf of a beneficial owner from whom the broker has not received voting instructions that casts a vote with regard to discretionary matters but expressly states that the broker is not voting as to non-discretionary matters. The broker’s inability to vote with respect to the non-discretionary matters with respect to which the broker has not received voting instructions from the beneficial owner is referred to as a “broker non-vote.”

As a result of a change in rules related to discretionary voting and broker non-votes, banks, brokers and other such record holders are no longer permitted to vote the uninstructed shares of their customers on a discretionary basis with respect to amendments to certificates of incorporation or amendments to equity plans. Because broker non-votes are not considered under Delaware law to be entitled to vote at the Special Meeting, they will have no effect on the outcome of the vote on Proposal One (authorization of the Board to, in its discretion, amend our Third Amended and Restated Certificate of Incorporation to effect a reverse stock split of our common stock at a ratio of between one-for-four to one-for-twenty-five, such ratio to be determined by the Board) or Proposal Two (amendments to the 2006 Plan to increase the number of shares of common stock of the Company that may be issued under the 2006 Plan by 10,000,000 shares (prior to giving effect to the proposed reverse stock split) and corresponding increase in the limits on the number of incentive stock options and awards other than options or stock appreciation rights that may be granted under the 2006 Plan). As a result, if you hold your shares in street name and you do not instruct your bank, broker or other such holder how to vote your shares in connection with the amendment to our Third Amended and Restated Certificate of Incorporation to effectuate a reverse stock split or the amendment to the 2006 Plan to increase the number of shares that may be issued thereunder, no votes will be cast on your behalf on these proposals. **Therefore, it is critical that you indicate your vote on these proposals if you want your vote to be counted.**

Required Votes

On the Record Date, there were 88,245,725 issued and outstanding shares of our common stock and 2,586,205 issued and outstanding shares of Series A Preferred Stock. Each share of common stock is entitled to one vote on each matter to be voted on at the Special Meeting. Each share of Series A Preferred Stock is entitled to four votes on each matter to be voted on at the Special Meeting. Accordingly, the owners of Series A Preferred Stock have an aggregate of 10,344,820 votes with respect to each proposal to be voted on at the Special Meeting. The holders of Series A Preferred Stock will vote together as a single class on an as-converted basis with the holders of common stock on Proposal One and Proposal Two.

Proposal One: Authorization of the Board to, in its discretion, amend our Third Amended and Restated Certificate of Incorporation to effect a reverse stock split of our common stock at a ratio of between one-for-four to one-for-twenty-five, such ratio to be determined by the Board. The affirmative vote of a majority of the votes cast at the Special Meeting by the holders of our common stock and Series A Preferred Stock, voting together as a single

class on an as-converted to common stock basis, is required to approve the authorization of the Board to, in its discretion, amend our Third Amended and Restated Certificate of Incorporation to effect a reverse stock split of our common stock at a ratio of between one-for-four to one-for-twenty-five, such ratio to be determined by the Board. Abstentions will be counted as votes against this proposal. Broker non-votes will not be counted as votes cast for this proposal.

Proposal Two: Approval of the amendments to the 2006 Plan to increase the number of shares of common stock of the Company that may be issued under the 2006 Plan by 10,000,000 shares (prior to giving effect to the proposed reverse stock split) and to provide for a corresponding increase in the limits on the number of incentive stock options and awards other than options or stock appreciation rights that may be granted under the 2006 Plan. The affirmative vote of a majority of the votes cast at the Special Meeting by the holders of (i) our common stock and Series A Preferred Stock, voting together as a single class on an as-converted to common stock basis, and (ii) our Series A Preferred Stock, voting as a separate class, is required to approve the amendment to the 2006 Plan to increase the number of shares of common stock of the Company that may be issued under the 2006 Plan by 10,000,000 shares (prior to giving effect to the proposed reverse stock split) and to provide for a corresponding increase in the limits on the number of incentive stock options and awards other than options or stock appreciation rights that may be granted under the 2006 Plan. Abstentions will be counted as votes against this proposal. Broker non-votes will not be counted as votes cast for this proposal.

Approval of Proposal Two regarding the amendments to the 2006 Plan is conditioned upon the approval by our stockholders, and the effectiveness, of the reverse stock split as contemplated by Proposal One.

**VOTING SECURITIES AND BENEFICIAL OWNERSHIP BY
PRINCIPAL STOCKHOLDERS, DIRECTORS AND OFFICERS**

Beneficial Ownership of Common Stock

On the Record Date, there were 88,245,725 issued and outstanding shares of our common stock.

The following table provides information known to us with respect to beneficial ownership of our common stock by our directors and all nominees for director, by those of the persons listed as our named executive officers in our proxy statement for the 2013 Annual Meeting of Stockholders, by all of our current executive officers and directors as a group, and by each person we believe beneficially owns more than 5% of our outstanding common stock as of December 18, 2013, the Record Date established for our Special Meeting of Stockholders. Except as indicated in the footnotes to this table, to our knowledge the persons named in the table below have sole voting and investment power with respect to all common stock of the Company beneficially owned and such shares are owned directly by such person. The number of shares beneficially owned by each person or group as of December 18, 2013 includes shares of common stock that such person or group had the right to acquire on or within 60 days after December 18, 2013, including, but not limited to, upon the exercise of options or warrants to purchase common stock or the conversion of securities into common stock. Beneficial ownership information of persons other than our current executive officers and directors is based on available information including, but not limited to, Schedules 13D, 13F or 13G filed with the Securities and Exchange Commission (the "SEC") or information supplied by these persons.

Name and Address of Beneficial Owner ⁽¹⁾	Number of Shares Beneficially Owned		Percent of Class
Directors and Executive Officers			
Paul Kinnon, President and Chief Executive Officer, Director ⁽²⁾	—		*
Mark P. Colonnese, Executive Vice President and Chief Financial Officer	83,334	(3)	*
Craig J. Tuttle, Former President and Chief Executive Officer ⁽⁴⁾	933,333	(5)	1.0 %
Brett L. Frevert, Former Chief Financial Officer ⁽⁶⁾	—		*
Chad M. Richards, Former Chief Commercial Officer ⁽⁷⁾	—		*
Doit L. Koppler II, Director	135,254	(8)	*
Rodney S. Markin, M.D., Ph.D., Director	80,000	(9)	*
Robert M. Patzig, Director	119,467	(10)	*
Antonius P. Schuh, Ph.D., Director	70,000	(11)	*
All current directors and executive officers as a group (6 persons)	488,055	(12)	*

Other Stockholders

Randal J. Kirk	29,499,241	(13)	27.2	%
LeRoy C. Kopp	14,175,526	(14)	16.1	%
Kevin Douglas	8,514,812	(15)	9.6	%
AMH Equity, LLC and Leviticus Partners, L.P.	5,000,000	(16)	5.7	%
Fidelity Select Biotechnology Portfolio	5,087,982	(17)	5.8	%

* Represents less than 1% of our outstanding common stock.

(1) The address for all of our directors and executive officers is the address of our principal executive offices located at 12325 Emmet Street, Omaha, Nebraska 68164.

(2) Mr. Kinnon was appointed to the Board and appointed our President and Chief Executive Officer on September 30, 2013.

(3) Consists solely of shares issuable upon the exercise of options that are exercisable or will become exercisable within 60 days after December 18, 2013.

(4) Mr. Tuttle's service as our President and Chief Executive Officer terminated on September 27, 2013. Mr. Tuttle resigned from the Board on September 30, 2013.

- (5) Consists solely of shares issuable upon the exercise of options that are exercisable or will become exercisable within 60 days after December 18, 2013.
- (6) Mr. Frevert's service as our Chief Financial Officer terminated on June 3, 2012.
- (7) Mr. Richards resigned as our Chief Commercial Officer effective May 10, 2013.
- (8) Includes 50,000 shares owned by Mr. Koppler and includes 85,254 shares issuable upon the exercise of options and warrants that are exercisable or will become exercisable within 60 days after December 18, 2013.
- (9) Includes 80,000 shares issuable upon the exercise of options that are exercisable or will become exercisable within 60 days after December 18, 2013.
- (10) Includes 40,000 shares owned by Mr. Patzig and includes 79,467 shares issuable upon the exercise of options and warrants that are exercisable or will become exercisable within 60 days after December 18, 2013.
- (11) Includes 70,000 shares issuable upon the exercise of options that are exercisable or will become exercisable within 60 days after December 18, 2013.
- (12) Includes shares which may be acquired by current executive officers and directors as a group within 60 days after December 18, 2013 through the exercise of stock options or warrants.
- (13) Consists of (i) 9,245,903 shares of common stock; (ii) warrants to purchase 4,736,110 shares of common stock; (iii) shares of Series A Preferred Stock convertible into 10,344,820 shares of common stock; and (iv) warrants to purchase shares of Series A Preferred Stock which are convertible into 5,172,408 shares of common stock. These shares and warrants are held 40% by Third Security Senior Staff 2008 LLC, 40% by Third Security Staff 2010 LLC and 20% by Third Security Incentive 2010 LLC, which companies are affiliated with the beneficial owner. Mr. Randal J. Kirk could be deemed to have indirect beneficial ownership of these shares. The business address of these beneficial owners is 1881 Grove Avenue, Radford, Virginia 24141.
- (14) Consists of shares owned directly by Mr. Kopp, shares held in individual retirement accounts established for Mr. Kopp and his spouse, shares held in the Kopp Family Foundation of which he is a director and shares held in

discretionary client accounts managed by Kopp Investment Advisors, LLC (“KIA”). Kopp Holding Company, LLC (“KHCLLC”) is the parent entity of KIA and indirect beneficial owner of the shares of common stock beneficially owned by KIA. Mr. Kopp is the sole governor, chairman, president and chief investment officer of KHCLLC and KIA. The business address of each of these beneficial owners is 8400 Normandale Lake Boulevard, Suite 1450, Bloomington, Minnesota 55437.

⁽¹⁵⁾ Mr. Douglas has dispositive power over all of the shares owned by the Douglas affiliates. The Douglas affiliates include shares owned directly by James E. Douglas, III and shares held in the following trusts: K&M Douglas Trust, Douglas Family Trust and the James Douglas and Jean Douglas Irrevocable Descendants’ Trust. The business address of this beneficial owner is 125 East Sir Francis Drake Boulevard, Suite 400, Larkspur, California 94939.

⁽¹⁶⁾ Consists of shares held by AMH Equity, LLC, which is the general partner of Leviticus Partners, L.P. The business address of this beneficial owner is 60 East 42nd Street, Suite 901, New York, New York 10165.

⁽¹⁷⁾ Fidelity Management & Research Company (“Fidelity”), a wholly-owned subsidiary of FMR LLC and an investment adviser registered under Section 203 of the Investment Advisers Act of 1940, as amended, is the beneficial owner of 5,087,982 shares of common stock as a result of acting as investment adviser to various investment companies registered under Section 8 of the Investment Company Act of 1940, as amended. Each of Edward C. Johnson 3d and FMR LLC, through its control of Fidelity and the funds, has sole power to dispose of the 5,087,982 shares owned by the funds. Members of the family of Edward C. Johnson 3d, Chairman of FMR LLC, are the predominant owners, directly or through trusts, of Series B voting common shares of FMR LLC, representing 49% of the voting power of FMR LLC. The Johnson family group and all other Series B common shareholders have entered into a shareholders’ voting agreement under which all Series B voting common shares will be voted in accordance with the majority vote of Series B voting common shares. Accordingly, through their ownership of voting common shares and the execution of the shareholders’ voting agreement, members of the Johnson family may be deemed, under the Investment Company Act of 1940, as amended, to form a controlling group with respect to FMR LLC. Neither FMR LLC nor Edward C. Johnson 3d, Chairman of FMR LLC, has the sole power to vote or direct the voting of the shares owned directly by the Fidelity funds, which power resides with the funds’ Boards of Trustees. Fidelity carries out the voting of the shares under written guidelines established by the funds’ Boards of Trustees. The business address of this beneficial owner is 82 Devonshire Street, Boston, Massachusetts 02109.

Beneficial Ownership of Preferred Stock

As of December 18, 2013, there were 2,586,205 issued and outstanding shares of our Series A Preferred Stock.

The following table provides information known to us with respect to beneficial ownership of the Series A Preferred Stock by each person we believe beneficially owns more than 5% of our outstanding Series A Preferred Stock as of December 18, 2013. The number of shares of Series A Preferred Stock beneficially owned by each person or group as of December 18, 2013 includes shares of Series A Preferred Stock that such person or group had the right to acquire on or within 60 days after December 18, 2013, upon the exercise of warrants to purchase Series A Preferred Stock. Except as indicated in the footnotes to this table, to our knowledge the persons named in the table below have sole voting and investment power with respect to all of the Series A Preferred Stock beneficially owned and such shares are owned directly by such person. Beneficial ownership information of such persons is based on available information including, but not limited to, Schedules 13D, 13F or 13G filed with the SEC or information supplied by these persons.

Name and Address of Beneficial Owner	Number of Shares Beneficially Owned		Percent of Class	
Randal J. Kirk	3,879,307	(1)	100	%

(1) Comprised of 2,586,205 owned shares and warrants to purchase 1,293,102 shares of the Series A Preferred Stock. These shares of the Series A Preferred Stock and warrants are held 40% by Third Security Senior Staff 2008 LLC, 40% by Third Security Staff 2010 LLC and 20% by Third Security Incentive 2010 LLC, which companies are affiliated with the beneficial owner. Mr. Randal J. Kirk could be deemed to have indirect beneficial ownership of these shares. The business address of these beneficial owners is 1881 Grove Avenue, Radford, Virginia 24141.

PROPOSAL ONE: AUTHORIZATION OF THE BOARD TO, IN ITS DISCRETION, AMEND OUR THIRD AMENDED AND RESTATED CERTIFICATE OF INCORPORATION TO EFFECT A REVERSE STOCK SPLIT OF OUR COMMON STOCK AT A RATIO OF one-for-four to one-for-twenty-five, SUCH RATIO TO BE DETERMINED BY THE BOARD

On December 11, 2013, the Board unanimously adopted resolutions approving, declaring advisable and recommending to the stockholders for their approval a proposal to authorize the Board, in its discretion, to amend our Third Amended and Restated Certificate of Incorporation to effect a reverse stock split of our issued and outstanding common stock at a ratio in the range of one-for-four to one-for-twenty-five, such ratio to be determined by the Board. The form of proposed amendment to our Third Amended and Restated Certificate of Incorporation to effect a reverse stock split will be substantially as set forth on [Appendix A](#) (subject to any changes required by applicable law). Pursuant to the law of Delaware, our state of incorporation, the Board must adopt any amendment to our Third Amended and Restated Certificate of Incorporation and submit the amendment to our stockholders for their approval. Approval of this proposal will grant the Board the authority (but not the obligation), without further action by the stockholders, to carry out such action any time prior to January 14, 2015, one year from the date of the Special Meeting, with the exact exchange ratio and timing to be determined at the discretion of the Board. The exchange ratio range of one-for-four to one-for-twenty-five is based on the recent trading price of our common stock.

Purpose of the Reverse Stock Split

The Board is submitting the proposed reverse stock split to our stockholders for approval in order to reduce the number of issued and outstanding shares and to increase the per share trading value of our common stock. The Board believes that the proposed reverse stock split is desirable and should be approved by our stockholders for a number of reasons, including, without limitation, the following:

If we are successful in maintaining a higher stock price, it may improve the perception of our common stock as an investment security and may generate greater interest among a broader range of institutional and other professional investors and institutions in us, as we have been advised that the current market price of our common stock may affect its acceptability to certain members of the investing public.

The reverse stock split would reduce the number of our outstanding shares to a level more appropriate for a company with our market capitalization.

The reverse stock split could decrease price volatility, as small price movements currently may cause relatively large percentage changes in our stock price.

The reverse stock split may help increase analyst and broker interest in our stock as their policies can discourage them from following or recommending companies with lower stock prices. Because of the trading volatility often associated with lower-priced stocks, many brokerage houses and institutional investors have adopted internal policies and practices that either prohibit or discourage them from investing in such stocks or recommending them to their customers. Institutional investors typically are restricted from investing in companies whose stock trades at less than \$4.00 per share. Stockbrokers are also subject to restrictions on their ability to recommend stocks trading at less than \$5.00 per share because of the general presumption that such securities may be highly speculative. Some of these internal policies and practices may also function to make the processing of trades in lower-priced stocks economically unattractive to brokers. Additionally, because brokers' commissions on transactions in lower-priced stocks generally represent a higher percentage of the stock price than commissions on higher-priced stocks, the current average price per share of our common stock can result in individual stockholders paying transaction costs representing a higher percentage of their total share value than would be the case if the share price were substantially higher.

A higher stock price may allow us to meet the minimum bid price requirements of the national securities exchanges, including The Nasdaq Stock Market LLC and the NYSE. The Board is currently considering whether to seek to have our common stock listed on a national securities exchange. We believe that listing our common stock on a national securities exchange would improve the marketability and liquidity of our common stock for our stockholders.

A higher market price per share for our common stock may help us attract and retain employees because some potential employees are less likely to work for a company with a low stock price, especially below \$1.00 per share, regardless of our market capitalization.

The availability of additional shares of common stock would provide us with the flexibility to consider and respond to future business opportunities and needs as they arise, including equity offerings and other issuances, mergers, business combinations or other strategic transactions, asset acquisitions, stock dividends, stock splits and other corporate purposes.

Accordingly, for these reasons, we believe that effecting the reverse stock split is in our and our stockholders' best interests.

Reducing the number of outstanding shares of our common stock through the reverse stock split is intended, absent other factors, to increase the per share market price of our common stock and number of anticipated benefits of the proposed reverse stock split discussed above are contingent upon the split resulting in an increase in the per share market price of our common stock. However, other factors, such as our financial results, market conditions and the market perception of our business may adversely affect the market price of our common stock. As a result, there can be no assurance that the reverse stock split, if completed, would result in the intended benefits described above, that the market price of our common stock will increase following the reverse stock split or that the market price of our common stock will not decrease in the future. Additionally, we cannot assure you that the market price per share of our common stock after a reverse stock split will increase in proportion to the reduction in the number of shares of our common stock outstanding before the reverse stock split. Accordingly, the total market capitalization of our common stock after the reverse stock split may be lower than the total market capitalization before the reverse stock split.

Certain Risks Associated with the Reverse Stock Split

The reverse stock split may not increase the price of the common stock.

Although the Board expects that a reverse stock split will result in an increase in the price of our common stock, the effect of a reverse stock split cannot be predicted with certainty. Other factors, such as our financial results, market conditions and the market perception of our business, may adversely affect the stock price. As a result, there can be no assurance that the reverse stock split, if completed, will result in any of the intended benefits described above, that the stock price will increase as a result of or following the reverse stock split (or will increase in the same proportion as the final reverse stock split ratio) or that the stock price will not decrease in the future.

Moreover, a decline in the market price of the common stock after the reverse stock split may result in a greater percentage decline than would occur in the absence of the reverse stock split. The market price of the common stock is based on our performance and other factors, which are unrelated to the number of shares of common stock outstanding.

If the reverse stock split is implemented, the resulting per-share price may not attract institutional investors, investment funds or brokers and may not satisfy the investing guidelines of these investors or brokers, and consequently, the trading liquidity of our common stock may not improve.

While we believe that a higher share price may help generate investor and broker interest in the common stock, the reverse stock split may not result in a share price that will attract institutional investors or investment funds or satisfy the investing guidelines of institutional investors, investment funds or brokers. In addition, no assurances can be given that the reverse stock split will increase the price of our common stock to a level in excess of the five dollar threshold discussed above or otherwise to a level that is attractive to brokerage houses and institutional investors.

There can be no assurance that we will be able to meet all of the requirements for the initial or continued listing of our common stock on any national securities exchange after a reverse stock split.

Although the Board believes that a reverse stock split may allow us to meet the minimum bid price requirements of the national securities exchanges, including The Nasdaq Stock Market LLC and the NYSE, there is no guarantee that it will do so. Moreover, national securities exchanges have several other initial listing requirements and also impose maintenance listing requirements once a stock is listed. We cannot assure you that we will be able to meet or, if we do meet them, maintain each of the other requirements or that our common stock will be accepted for listing on any national securities exchange following the reverse stock split.

The reverse stock split may leave certain stockholders with “odd lots.”

The reverse stock split may result in some stockholders owning “odd lots” of fewer than 100 shares of the common stock. Odd lot shares may be more difficult to sell, and brokerage commissions and other costs of transactions in odd lots are generally somewhat higher than the costs of transactions in “round lots” of even multiples of 100 shares.

Board Discretion to Implement the Reverse Stock Split

The Board believes that stockholder approval of a range of reverse stock split ratios (rather than a single exchange ratio) is in the best interests of our stockholders because it provides the Board with the flexibility to achieve the desired results of the reverse stock split and because it is not possible to predict market conditions at the time the reverse stock split would be implemented. If stockholders approve this proposal, the Board would have the authority, but not the obligation, in its sole discretion and without any further action on the part of the stockholders, to carry out a reverse stock split only upon the Board’s determination that a reverse stock split would be in the best interests of our stockholders at that time. The reverse stock split, if implemented, would be effected at a time that the Board determines to be most advantageous to us and to our stockholders. The Board would then set the ratio for the reverse stock split within the range approved by stockholders and in an amount it determines is advisable and in the best interests of the stockholders considering relevant market conditions at the time the reverse stock split is to be implemented. In determining the ratio, following receipt of stockholder approval, the Board may consider, among other things:

· the historical prices and trading volume of our common stock;

· the then-prevailing trading price and trading volume of our common stock and the anticipated impact of the reverse stock split on the trading market for our common stock;

· the aggregate market value of our common stock held by non-affiliates;

· the outlook for the trading price of our common stock;

· threshold prices of brokerage houses or institutional investors that could impact their ability to invest or recommend investments in our common stock;

· our stockholders’ equity at such time;

our ability to meet the initial listing requirements of national securities exchanges, such as The NASDAQ Stock Market LLC and the NYSE; and

prevailing general market and economic conditions.

Although approval of this proposal would provide the Board with the authority to carry out a reverse stock split, the Board is not obligated to do so. If the Board determines to effect the reverse stock split, it intends to select a reverse stock split ratio that it believes would be most likely to achieve the anticipated benefits of the reverse stock split described above. Notwithstanding approval of the reverse stock split by our stockholders, the Board may, in its sole discretion, abandon the proposal and determine, prior to the effectiveness of any filing with the Secretary of State of the State of Delaware, not to effect the reverse stock split. If the Board fails to implement the reverse stock split on or prior to the first anniversary date of the Special Meeting, stockholder approval again would be required prior to implementing any reverse stock split.

Procedures for Effecting the Reverse Stock Split and Filing Amended and Restated Certificate of Incorporation to Effect the Reverse Stock Split

If our stockholders approve the reverse stock split, the Board will have discretion as to whether or not to effect the reverse stock split at any time prior to the first anniversary date of the Special Meeting. If implemented by the Board, the reverse stock split would become effective upon the filing of the amendment to our Third Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware. The actual timing of any such filing will be made by the Board at such time as the Board believes to be most advantageous to us and our stockholders. If the Board, in its sole discretion, determines to effect the reverse stock split, the form of proposed amendment to our Third Amended and Restated Certificate of Incorporation to effect a reverse stock split will be substantially as set forth on Appendix A (subject to any changes required by applicable law).

Principal Effects of the Reverse Stock Split

Effect on Existing Common Stock

If the reverse stock split is implemented, the number of shares of common stock issued and outstanding will be reduced from 88,245,725 shares (as of December 18, 2013, the Record Date of the Special Meeting) to between approximately 3,529,829 shares and 22,061,431 shares, depending on which exchange ratio is ultimately effected and when the reverse stock split is effected. As described below under “—Mechanics of the Reverse Stock Split—Fractional Shares,” cash will be paid in lieu of the issuance of fractional shares. Subject to the treatment of fractional shares, (1) the change in the number of shares of common stock outstanding that will result from the reverse stock split will not affect any stockholder’s percentage ownership in the Company, and (2) the relative voting and other rights that accompany the shares of common stock will not be affected by the reverse stock split.

Although the reverse stock split will not have any dilutive effect on our stockholders (other than de minimis adjustments that may result from the treatment of fractional shares), the proportion of shares owned by our stockholders relative to the number of shares authorized for issuance will decrease because the number of authorized shares of common stock would remain at 150,000,000. As a result, additional authorized shares of common stock will be available for issuance at such times and for such purposes as the Board may deem advisable without further action by our stockholders, except as required by applicable laws and regulations. Since we are not reducing the total authorized number of shares of common stock under our Third Amended and Restated Certificate of Incorporation, we will have the ability to issue more than 100 million shares of our common stock without seeking further stockholder approval, which might significantly dilute the ownership of our current stockholders.

Approval of Proposal Two (amendments to the 2006 Plan) is contingent upon our stockholders approving this Proposal One and the Board effectuating the reverse stock split.

At the present time, the Company does not have any plans, proposals or arrangements, written or otherwise, to issue any of the authorized but unissued shares of common stock that would become available as a result of the effectiveness of the amendment to our Third Amended and Restated Certificate of Incorporation to effect the reverse stock split of our outstanding shares of common stock. However, it is highly likely that we will issue additional shares in the future. Please see “Potential Anti-Takeover Effects” below for more information.

After the reverse stock split, we will continue to be subject to the periodic reporting and other requirements of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Our common stock will continue to be quoted on the Over-the-Counter Bulletin Board (the “OTCQB”) under the symbol “TBIO”, subject to any decision by the Board to list our securities on a national securities or other exchange if we meet the requirements of any such exchange.

However, following the reverse stock split, our common stock will be considered a new listing with a new CUSIP number. As of the Record Date for the Special Meeting, there were 210 holders of record of our common stock. Following the completion of a one-for-four reverse stock split, there would be approximately 208 holders of record of our common stock and we would expect to pay approximately \$36 in cash in lieu of fractional shares. Following the completion of a one-for-twenty-five reverse stock split, there would be approximately 201 holders of record of our common stock and we would expect to pay approximately \$317 in cash in lieu of fractional shares. The reverse stock split is not being pursued in order to reduce the number of Company stockholders below 300, and is not a part of a transaction or series of transactions that has either a reasonable likelihood or a purpose of producing, either directly or indirectly, the effects referred to in Rule 13e-3(a)(3)(ii) under the Exchange Act. Please see “Potential Anti-Takeover Effects” below for more information.

Effect on Existing Preferred Stock

The total authorized shares of Preferred Stock is 15,000,000, of which 3,879,307 shares have been designated Series A Preferred Stock. As of December 18, 2013, the Record Date of the Special Meeting, 2,586,205 shares of Series A Preferred Stock were outstanding, and warrants to purchase 1,293,102 shares of Series A Preferred Stock were outstanding. Each share of Series A Preferred Stock is currently convertible into four shares of common stock and we have reserved 15,517,228 shares of common stock for issuance upon the conversion of our outstanding shares of Series A Preferred Stock and our shares of Series A Preferred Stock issuable upon exercise of our outstanding warrants to purchase Series A Preferred Stock. Pursuant to the terms of the Certificate of Designation of Series A Convertible Preferred Stock, if we combine our outstanding shares of common stock into a smaller number of shares, as contemplated by the reverse stock split, the conversion rate of the Series A Preferred Stock will be proportionately adjusted. Accordingly, upon effectiveness of the reverse stock split, the number of shares of common stock issuable upon conversion of the Series A Preferred Stock will be decreased in accordance with the exchange ratio selected by the Board and we will proportionately decrease the number of shares of common stock reserved for issuance upon conversion of the Series A Preferred Stock, including the outstanding warrants to purchase Series A Preferred Stock. However, the total number of authorized shares of Preferred Stock and Series A Preferred Stock, the actual number of outstanding shares of Series A Preferred Stock or shares of Series A Preferred Stock issuable upon exercise of outstanding warrants to purchase Series A Preferred Stock will remain unchanged upon the effectiveness of the reverse stock split. Other than as described in this paragraph, all of the rights, preferences and other privileges of our Preferred Stock will remain unchanged following the reverse stock split.

Effect on Equity Compensation Plans and Outstanding Common Stock Warrants

The proposed reverse stock split will reduce the number of shares of common stock available for issuance under the 2006 Plan in proportion to the exchange ratio selected by the Board if the reverse stock split is effected.

Under the terms of our outstanding equity compensation awards and common stock warrants, a reverse stock split would cause a reduction in the number of shares of common stock issuable upon exercise or vesting of such equity awards and common stock warrants in proportion to the exchange ratio selected by the Board, and would cause a proportionate increase in the exercise price of such equity awards and common stock warrants such that the aggregate exercise price payable by the optionee or warrant holder, as applicable, would remain the same. In each case, any fractional share subject to an option resulting from an adjustment pursuant to the foregoing will generally be rounded down to the nearest whole number, and the exercise price per share will generally be rounded up to the nearest whole cent. Fractional shares subject to warrants resulting from an adjustment pursuant to the foregoing will generally be rounded down to the nearest whole number, and the exercise price per share will be rounded to the nearest whole cent.

The following table contains approximate information relating to our common stock, our Preferred Stock, our options and our warrants under each of the possible split ratios (without giving effect to the treatment of fractional shares discussed below in “—Mechanics of the Reverse Stock Split—Fractional Shares”), based on share information as of December 18, 2013.

	December 18, 2013	One-for-Four	One-for-Fifteen	One-for-Twenty-Five
Number of authorized shares of Common Stock	150,000,000	150,000,000	150,000,000	150,000,000
Number of outstanding shares of Common Stock	88,245,725	22,061,431	5,883,048	3,529,829
Number of authorized shares of Preferred Stock	15,000,000	15,000,000	15,000,000	15,000,000
Number of authorized shares of Series A Preferred Stock	3,879,307	3,879,307	3,879,307	3,879,307
Number of outstanding shares of Series A Preferred Stock	2,586,205	2,586,205	2,586,205	2,586,205
Number of shares of Series A Preferred Stock reserved for issuance upon exercise of	1,293,102	1,293,102	1,293,102	1,293,102

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outstanding warrants to purchase Series A Preferred Stock

Number of shares of common stock reserved for issuance upon exercise of outstanding stock options and common stock warrants	30,540,936	7,635,234	2,036,062	1,221,637
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Number of shares of common stock reserved for issuance upon conversion of outstanding Series A Preferred Stock	10,344,820	2,586,205	689,655	413,793
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Number of shares of common stock reserved for issuance upon conversion of Series A Preferred Stock issuable upon exercise of outstanding warrants to purchase Series A Preferred Stock	5,172,408	1,293,102	344,827	206,896
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Number of shares of common stock reserved for issuance in connection with future awards under our equity compensation plans