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

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**FORM 8-K**

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

Date of Report (Date of earliest event reported): December 12, 2022

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**Keros Therapeutics, Inc.**  
(Exact name of registrant as specified in its charter)

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**Delaware**  
(state or other jurisdiction  
of incorporation)

**001-39264**  
(Commission  
File Number)

**81-1173868**  
(I.R.S. Employer  
Identification No.)

**99 Hayden Avenue, Suite 120, Building E**  
**Lexington, Massachusetts**  
(Address of principal executive offices)

**02421**  
(Zip Code)

Registrant's telephone number, including area code: (617) 314-6297

Not applicable

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

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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))
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Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol	Name of each exchange on which registered
<b>Common Stock, \$0.0001 par value per share</b>	<b>KROS</b>	<b>The Nasdaq Stock Market LLC</b>

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

Emerging growth company

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

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## **Item 8.01. Other Events.**

As previously disclosed, on May 3, 2021, (i) Keros Therapeutics, Inc. (the “Company”) entered into a Sales Agreement (the “Agreement”) with SVB Securities LLC (formerly known as SVB Leerink LLC) (“SVB Securities”) with respect to an at the market offering program, under which the Company may, from time to time in its sole discretion, issue and sell through SVB Securities, acting as sales agent, shares of the Company’s common stock, par value \$0.0001 per share (the “Common Stock”) and (ii) the Company filed a registration statement on Form S-3 (File No. 333-255724), including a base prospectus and sales agreement prospectus, with the Securities and Exchange Commission (the “SEC”) on May 3, 2021 (the “Shelf Registration Statement”), which became effective immediately upon filing, for the issuance and sale of up to \$150,000,000 of shares of Common Stock by the Company under the Agreement (the “Prior ATM Program”).

On December 12, 2022, the Company filed a prospectus supplement to the Company’s Shelf Registration Statement for the issuance and sale, if any, of up to an additional \$250,000,000 of shares of Common Stock (the “Placement Shares”) by the Company under the Agreement. The Company has exhausted sales of its shares of Common Stock under the Prior ATM Program.

Pursuant to the Agreement, SVB Securities may sell the Placement Shares by any method permitted by law deemed to be an “at the market offering” as defined in Rule 415(a)(4) of the Securities Act of 1933, as amended (the “Securities Act”), including, without limitation, sales made directly on or through the Nasdaq Global Market, on or through any other existing trading market for the Common Stock. SVB Securities will use commercially reasonable efforts consistent with its normal trading and sales practices to sell the Placement Shares from time to time, based upon instructions from the Company (including any price or size limits or other customary parameters or conditions the Company may impose). SVB Securities will not purchase any Placement Shares on a principal basis pursuant to the Agreement unless the Company and SVB Securities enter into a separate written agreement setting forth the terms of such sale.

The Company will pay SVB Securities a commission of up to 3.0% of the gross sales proceeds of any Placement Shares sold through SVB Securities, acting as sales agent, under the Agreement.

The Company is not obligated to make any sales of Placement Shares under the Agreement. The offering of Placement Shares pursuant to the Agreement will terminate upon the earlier to occur of (i) the issuance and sale, through SVB Securities, of all Placement Shares subject to the Agreement and (ii) termination of the Agreement in accordance with its terms.

The Agreement contains representations, warranties and covenants that are customary for transactions of this type. In addition, the Company has agreed to indemnify SVB Securities against certain liabilities, including liabilities under the Securities Act and the Securities Exchange Act of 1934, as amended.

The foregoing description of the Agreement is not complete and is qualified in its entirety by reference to the full text of the Agreement, a copy of which is filed as Exhibit 1.2 to the Shelf Registration Statement, and is incorporated herein by reference.

Cooley LLP, counsel to the Company, has issued an opinion to the Company, dated December 12, 2022, regarding the validity of the Placement Shares. A copy of the opinion is filed as Exhibit 5.1 to this Current Report on Form 8-K.

This Current Report on Form 8-K shall not constitute an offer to sell or the solicitation of an offer to buy the securities discussed herein, nor shall there be any offer, solicitation or sale of the securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

## **Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

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<b>Exhibit No.</b>	<b>Description</b>
5.1	<a href="#">Opinion of Cooley LLP</a>
23.1	<a href="#">Consent of Cooley LLP (included in Exhibit 5.1)</a>
104	Cover Page Interactive Data File (the cover page XBRL tags are embedded within the Inline XBRL document)

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**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.

**KEROS THERAPEUTICS, INC.**

By: /s/ Jasbir Seehra  
Jasbir Seehra, Ph.D.  
Chief Executive Officer

Dated: December 12, 2022



Marc A. Recht  
+1 617 937 2316  
mrecht@cooley.com

December 12, 2022

Keros Therapeutics, Inc.  
99 Hayden Avenue  
Bldg. E, Suite 120  
Lexington, MA 02421

Ladies and Gentlemen:

We have acted as counsel to Keros Therapeutics, Inc., a Delaware corporation (the "**Company**"), with respect to certain matters in connection with the offering by the Company of shares of the Company's common stock, par value \$0.0001 (the "**Common Stock**"), having aggregate sale proceeds of up to \$250,000,000 (the "**Shares**"), a Registration Statement on Form S-3 (Registration Statement No. 333-255724) (the "**Registration Statement**"), filed with the Securities and Exchange Commission (the "**Commission**") under the Securities Act of 1933, as amended (the "**Act**"), the prospectus included in the Registration Statement (the "**Base Prospectus**"), and the prospectus supplement relating to the Shares dated December 12, 2022 and filed with the Commission pursuant to Rule 424(b) under the Act (together with the Base Prospectus, the "**Prospectus**"). The Shares are to be sold by the Company in accordance with the Sales Agreement, dated May 3, 2021, by and among SVB Securities LLC and the Company (the "**Agreement**"), as described in the Prospectus.

In connection with this opinion, we have examined and relied upon the Registration Statement and the Prospectus, the Company's certificate of incorporation and bylaws, each as currently in effect, the Agreement and originals, or copies certified to our satisfaction, of such other records, documents, certificates, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below. In rendering this opinion, we have assumed the genuineness of all signatures; the authenticity of all documents submitted to us as originals; the conformity to originals of all documents submitted to us as copies; the accuracy, completeness and authenticity of certificates of public officials; and the due authorization, execution and delivery of all documents by all persons other than the Company where authorization, execution and delivery are prerequisites to the effectiveness of such documents. As to certain factual matters, we have relied upon a certificate of an officer of the Company and have not independently verified such matters.

We have assumed (i) that each sale of Shares will be duly authorized by the Board of Directors of the Company, a duly authorized committee thereof or a person or body pursuant to an authorization granted in accordance with Section 152 of the General Corporation Law of the State of Delaware (the "**DGCL**"), (ii) that no more than 25,000,000 Shares will be sold pursuant to the Agreement and (iii) that the price at which the Shares are sold will equal or exceed the par value of the Common Stock. We express no opinion to the extent that future issuances of securities of the Company and/or anti-dilution adjustments to outstanding securities of the Company and/or other matters cause the number of shares of Common Stock issuable under the Agreement to exceed the number of shares of common stock the available for issuance under the Company's certificate of incorporation.

Our opinion herein is expressed solely with respect to the DGCL. We express no opinion to the extent that any other laws are applicable to the subject matter hereof and express no opinion and provide no assurance as to compliance with any federal or state securities law, rule or regulation.

On the basis of the foregoing, and in reliance thereon, and subject to the qualifications herein stated, we are of the opinion that the Shares, when issued against payment therefor in accordance with the



Keros Therapeutics, Inc.  
December 12, 2022  
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Agreement, the Registration Statement and the Prospectus, will be validly issued, fully paid and nonassessable.

We consent to the reference to our firm under the caption "Legal Matters" in the Prospectus and to the filing of this opinion as an exhibit to a Current Report on Form 8-K to be filed with the Commission for incorporation by reference into the Registration Statement.

This opinion is expressed as of the date hereof, and we disclaim any responsibility to advise you of any changes in the facts stated or assumed herein or of any changes in applicable law.

Sincerely,

Cooley LLP

By: /s/ Marc A. Recht  
Marc A. Recht

Cooley LLP 500 Boylston Street Boston, MA 02116-3736  
Phone: (617) 937-2300 Fax: (617) 937-2400