

As of November 12, 2024 there were 6,919,919 shares of the registrant's Common Stock outstanding.

BIORESTORATIVE THERAPIES, INC.

FORM 10-Q

FOR THE THREE AND NINE MONTHS ENDED SEPTEMBER 30, 2024 AND 2023

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**PART I - FINANCIAL INFORMATION**

**ITEM 1. FINANCIAL STATEMENTS**

**BIORESTORATIVE THERAPIES, INC.  
CONDENSED CONSOLIDATED BALANCE SHEETS**

	<b>September 30, 2024</b>	<b>December 31, 2023</b>
	<b>(unaudited)</b>	<b>(As Restated)</b>
<b>Assets</b>		
Current Assets:		
Cash and cash equivalents	\$ 1,489,444	\$ 884,377
Investments held in marketable securities	11,598,417	10,181,618
Accounts receivable	165,000	19,300
Prepaid expenses and other current assets	233,697	305,231
Deferred offering costs	22,381	-
Total Current Assets	<u>13,508,939</u>	<u>11,390,526</u>
Property and equipment, net	378,434	356,055
Right-of-use assets	39,697	151,447
Intangible assets, net	646,381	713,692
Total Assets	<u>\$ 14,573,451</u>	<u>\$ 12,611,720</u>
<b>Liabilities and Stockholders' Equity</b>		
Current Liabilities:		
Accounts payable	\$ 401,379	\$ 189,389
Accrued expenses and other current liabilities	682,237	711,686
Lease liability	42,414	162,317
Warrant liabilities	3,455,505	1,543,953
Total Current Liabilities	<u>4,581,535</u>	<u>2,607,345</u>
Total Liabilities	<u>4,581,535</u>	<u>2,607,345</u>
Commitments and contingencies		
Stockholders' Equity:		
Preferred stock, \$0.01 par value; 20,000,000 shares authorized; Series B Convertible Preferred Stock; 1,543,158 shares designated, 1,398,158 shares issued and outstanding at September 30, 2024 and December 31, 2023	13,982	13,982
Common stock, \$0.0001 par value; 75,000,000 shares authorized; 6,919,919 and 4,706,917 shares issued and outstanding at September 30, 2024 and December 31, 2023, respectively	692	471
Additional paid-in capital	164,019,809	156,689,256
Accumulated deficit	<u>(154,042,567)</u>	<u>(146,699,334)</u>
Total Stockholders' Equity	<u>9,991,916</u>	<u>10,004,375</u>
Total Liabilities and Stockholders' Equity	<u>\$ 14,573,451</u>	<u>\$ 12,611,720</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**BIORESTORATIVE THERAPIES, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
(unaudited)

	For the Three Months Ended September 30		For the Nine Months Ended September 30	
	2024	2023 (As Restated)	2024	2023 (As Restated)
<b>Revenues</b>	\$ 233,600	\$ 30,700	\$ 357,700	\$ 126,500
Cost of goods sold	18,243	-	24,733	-
Gross profit	215,357	30,700	332,967	126,500
<b>Operating Expenses:</b>				
Research and development	1,320,030	809,824	3,690,495	2,944,460
General and administrative	1,182,320	2,325,319	5,507,524	9,182,132
Total Operating Expenses	2,502,350	3,135,143	9,198,019	12,126,592
Loss From Operations	(2,286,993)	(3,104,443)	(8,865,052)	(12,000,092)
<b>Other (Income) Expense:</b>				
Interest income	(158,547)	(61,667)	(497,089)	(176,070)
Grant income	-	(83,333)	-	(83,333)
Other income	(566)	(33,951)	(150,498)	(150,423)
Gain on exchange of warrants	-	-	(1,711,698)	-
Change in fair value of warrant liabilities	(1,036,464)	(7,693,753)	837,466	(3,476,556)
Total Other (Income) Expense	(1,195,577)	(7,872,704)	(1,521,819)	(3,886,382)
<b>Net (Loss) Income</b>	<u>\$ (1,091,416)</u>	<u>\$ 4,768,261</u>	<u>\$ (7,343,233)</u>	<u>\$ (8,113,710)</u>
Net (Loss) Income Per Share - Basic	<u>\$ (0.13)</u>	<u>\$ 1.04</u>	<u>\$ (0.96)</u>	<u>\$ (2.00)</u>
Net (Loss) Income Per Share - Diluted	<u>\$ (0.13)</u>	<u>\$ 0.39</u>	<u>\$ (0.96)</u>	<u>\$ (2.00)</u>
Weighted Average Common Shares Outstanding - Basic	<u>8,121,499</u>	<u>4,570,843</u>	<u>7,643,437</u>	<u>4,061,975</u>
Weighted Average Common Shares Outstanding - Diluted	<u>8,121,499</u>	<u>12,324,766</u>	<u>7,643,437</u>	<u>4,061,975</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**BIORESTORATIVE THERAPIES, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY**  
(unaudited)

	For the Nine Months Ended September 30, 2024						
	Series B Convertible Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total
	Shares	Amount	Shares	Amount			
<b>Balance - January 1, 2024 (as restated)</b>	1,398,158	\$ 13,982	4,706,917	\$ 471	\$ 156,689,256	\$ (146,699,334)	\$ 10,004,375
Common stock issued in connection with warrant exchange [1]	-	-	2,000,000	200	4,742,043	-	4,742,243
Return and cancellation of shares in lieu of payroll tax withholding	-	-	(34,825)	(4)	(48,406)	-	(48,410)
Stock-based compensation:							
Restricted share units	-	-	97,827	10	985,028	-	985,038
Options	-	-	-	-	1,043,336	-	1,043,336
Net loss (as restated)	-	-	-	-	-	(2,223,255)	(2,223,255)
<b>Balance - March 31, 2024</b>	1,398,158	\$ 13,982	6,769,919	\$ 677	\$ 163,411,257	\$ (148,922,589)	\$ 14,503,327
Common stock issued in connection with abeyance shares	-	-	150,000	15	(15)	-	-
Stock-based compensation:							
Options	-	-	-	-	324,322	-	324,322
Net loss	-	-	-	-	-	(4,028,562)	(4,028,562)
<b>Balance - June 30, 2024</b>	1,398,158	\$ 13,982	6,919,919	\$ 692	\$ 163,735,564	\$ (152,951,151)	\$ 10,799,087
Stock-based compensation:							
Options	-	-	-	-	284,245	-	284,245
Net loss	-	-	-	-	-	(1,091,416)	(1,091,416)
<b>Balance - September 30, 2024</b>	<u>1,398,158</u>	<u>\$ 13,982</u>	<u>6,919,919</u>	<u>\$ 692</u>	<u>\$ 164,019,809</u>	<u>\$ (154,042,567)</u>	<u>\$ 9,991,916</u>

  

	For the Nine Months Ended September 30, 2023						
	Series B Convertible Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total
	Shares	Amount	Shares	Amount	(As Restated)	(As Restated)	(As Restated)
<b>Balance - January 1, 2023 (as restated)</b>	1,518,158	\$ 15,182	3,677,775	\$ 369	\$ 146,556,418	\$ (136,281,630)	\$ 10,290,339
Return and cancellation of shares in lieu of payroll tax withholding	-	-	(10,058)	(1)	(39,307)	-	(39,308)
Stock-based compensation:							
Restricted share units	-	-	99,898	10	1,188,060	-	1,188,070
Options	-	-	-	-	2,190,428	-	2,190,428
Net loss (as restated)	-	-	-	-	-	(7,172,572)	(7,172,572)
<b>Balance - March 31, 2023 (as restated)</b>	1,518,158	\$ 15,182	3,767,615	\$ 378	\$ 149,895,599	\$ (143,454,202)	\$ 6,456,957
Stock-based compensation:							
Restricted share units	-	-	1,442	-	1,164,134	-	1,164,134
Options	-	-	-	-	321,534	-	321,534
Issuance of common stock	-	-	93,551	9	411,701	-	411,710
Conversion of Series B preferred to common stock	(120,000)	(1,200)	120,000	12	1,188	-	-
Net loss (as restated)	-	-	-	-	-	(5,709,399)	(5,709,399)
<b>Balance - June 30, 2023 (as restated)</b>	1,398,158	\$ 13,982	3,982,608	\$ 399	\$ 151,794,156	\$ (149,163,601)	\$ 2,644,936
Stock-based compensation:							
Restricted share units	-	-	-	-	1,164,134	-	1,164,134
Options	-	-	-	-	329,570	-	329,570
Issuance of common stock	-	-	685,033	69	1,853,921	-	1,853,990
Net income (as restated)	-	-	-	-	-	4,768,261	4,768,261
<b>Balance - September 30, 2023 (as restated)</b>	<u>1,398,158</u>	<u>\$ 13,982</u>	<u>4,667,641</u>	<u>\$ 468</u>	<u>\$ 155,141,781</u>	<u>\$ (144,395,340)</u>	<u>\$ 10,760,891</u>

[1] Represents the aggregate fair value of 3,351,580 shares of common stock, which includes 2,150,000 that have been issued and 1,201,580 shares held in abeyance. See Note 4 - Stockholders' Equity - Warrant Exercise and Issuance and Note 6 - Fair Value Measurement for additional details.

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**BIORESTORATIVE THERAPIES, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(unaudited)

	For the Nine Months Ended September 30,	
	2024	2023 (As Restated)
<b>Cash Flows From Operating Activities:</b>		
Net loss	\$ (7,343,233)	\$ (8,113,710)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	138,687	123,022
Dividend and interest income	(492,476)	(166,866)
Stock-based compensation	2,636,941	6,318,562
Non-cash lease expense	111,750	87,034
Gain on exchange of warrants	(1,711,698)	-
Change in fair value of warrant liabilities	837,466	(3,476,556)
Changes in operating assets and liabilities:		
Accounts receivable	(145,700)	(23,300)
Prepaid expenses and other current assets	23,124	37,151
Accounts payable	211,990	56,453
Accrued expenses and other current liabilities	(29,449)	418,882
Lease liability	(119,903)	(102,921)
<b>Net Cash Used In Operating Activities</b>	<b>(5,882,501)</b>	<b>(4,842,249)</b>
<b>Cash Flows From Investing Activities:</b>		
Sale of marketable securities	17,370,243	18,089,372
Purchase of marketable securities	(18,294,566)	(14,651,512)
Purchases of equipment	(93,755)	(101,019)
<b>Net Cash (Used In) Provided By Investing Activities</b>	<b>(1,018,078)</b>	<b>3,336,841</b>
<b>Cash Flows From Financing Activities:</b>		
Net proceeds from issuance of common stock in at-the-market offering	-	411,710
Net proceeds from issuance of common stock in direct-offering	-	1,853,990
Proceeds from exchange and issuance of warrants, net [1]	7,528,027	-
Deferred offering costs	(22,381)	-
<b>Net Cash Provided By Financing Activities</b>	<b>7,505,646</b>	<b>2,265,700</b>
<b>Net Increase In Cash and Cash Equivalents</b>	<b>605,067</b>	<b>760,292</b>
<b>Cash and Cash Equivalents - Beginning of the Period</b>	<b>884,377</b>	<b>1,676,577</b>
<b>Cash and Cash Equivalents - End of the Period</b>	<b>\$ 1,489,444</b>	<b>\$ 2,436,869</b>
<b>Supplemental Disclosures of Cash Flow Information:</b>		
Cash paid during the period for:		
Interest	\$ -	\$ -
Income taxes	\$ -	\$ -
Non-cash investing and financing activities:		
Issuance of common stock held in abeyance	\$ 15	\$ -
Return and cancellation of shares in lieu of payroll tax withholding	\$ 48,410	\$ 39,308

[1] Includes gross proceeds of \$8,123,391, less issuance costs of \$595,364.

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

## NOTE 1 – BUSINESS ORGANIZATION, NATURE OF OPERATIONS, BASIS OF PRESENTATION AND LIQUIDITY

### *Corporate History*

BioRestorative Therapies, Inc. has one wholly-owned subsidiary, Stem Pearls, LLC (“Stem Pearls”). BioRestorative Therapies, Inc. and its subsidiary are referred to collectively as “BRT” or the “Company”.

On December 23, 2022, the Company reincorporated from Delaware to Nevada by filing Articles of Incorporation with the state of Nevada. The reincorporation was structured as a statutory merger.

### *Business Operations*

BRT develops therapeutic products and medical therapies using cell and tissue protocols, primarily involving adult stem cells. BRT’s website is at [www.biorestorative.com](http://www.biorestorative.com). The information contained in the website or connected thereto is not intended to be incorporated by reference into this Quarterly Report. BRT is currently developing a Disc/Spine Program referred to as “brtxDISC”. Its lead cell therapy candidate, *BRTX-100*, is a product formulated from autologous (or a person’s own) cultured mesenchymal stem cells collected from the patient’s bone marrow. The product is intended to be used for the non-surgical treatment of painful lumbosacral disc disorders or as a complimentary therapeutic to a surgical procedure. BRT is also engaging in research efforts with respect to a platform technology utilizing brown adipose (fat) for therapeutic purposes to treat type 2 diabetes, obesity and other metabolic disorders and has labeled this initiative its ThermoStem Program. In addition, in continuation of BRT’s mission of developing and commercializing cell-based biologics, it is seeking to develop a biologics-based cosmetic products business. Pursuant to such business, BRT would formulate, manufacture and sell products designed for cosmetic and aesthetic uses. Further, BRT has licensed a patented curved needle device that is a needle system designed to deliver cells and/or other therapeutic products or material to the spine and discs or other potential sites.

### *Basis of Presentation*

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”) for interim financial information and with the instructions to Form 10-Q and Article 8 of Regulation S-X. Accordingly, they do not include all of the information and disclosures required by U.S. GAAP for complete financial statements. The December 31, 2023 consolidated balance sheet data were derived from audited financial statements but do not include all disclosures required by U.S. GAAP. In the opinion of management, such statements include all adjustments (consisting only of normal recurring items) that are considered necessary for a fair presentation of the unaudited condensed consolidated financial statements of the Company as of September 30, 2024 and for the three and nine months then ended. The results of operations for the three and nine months ended September 30, 2024 are not necessarily indicative of the operating results for the full year ending December 31, 2024 or any other period. These unaudited condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and related disclosures of the Company as of December 31, 2023 and for the year then ended, which were filed with the Securities and Exchange Commission (“SEC”) on June 11, 2024 as part of the Company’s Amendment No. 1 to the Annual Report on Form 10-K/A (the “Form 10-K/A”), which includes the restatement of the Company’s consolidated financial statements, including periods that are included in this Quarterly Report on Form 10-Q. Refer to Note 2 - Summary of Significant Accounting Policies - Restatement of Previously Issued Consolidated Financial Statements and Note 3 - Restatement of Previously Issued Unaudited Interim Condensed Consolidated Financial Statements in the Form 10-K/A for additional information.

### *Liquidity*

For the nine months ended September 30, 2024, the Company had a net loss of \$7.3 million, negative cash flows from operations of \$5.9 million and working capital of \$8.9 million. The Company's operating activities consume the majority of its cash resources. The Company anticipates that it will continue to incur net losses and negative cash flows from operations as it executes its development plans for 2024 and beyond, as well as other potential strategic and business development initiatives. The Company has previously funded, and plans to continue funding, these losses primarily through current cash on hand, investments in marketable securities and additional infusions of cash from equity and debt financing. During the nine months ended September 30, 2024, the Company raised net proceeds of approximately \$7.5 million in connection with a warrant exercise program which is further discussed in Note 4 – Stockholders' Equity. On November 6, 2024, the Company entered into an at-the-market offering agreement pursuant to which the Company has an ability to issue and sell shares of its common stock up to an aggregate offering price of \$3,614,170. See Note 7 – Subsequent Events for additional details.

Based on cash on hand and investments as of the date these unaudited condensed consolidated financial statements were issued, which includes \$7.5 million of net proceeds from the warrant exercise program, the Company believes it has sufficient cash to fund operations for at least 12 months after the issuance date of these unaudited condensed consolidated financial statements.

However, the Company's current funds will not be sufficient to enable the Company to fully complete its development activities or attain profitable operations. If the Company is unable to obtain such needed additional financing on a timely basis, the Company may have to curtail its development, marketing and promotional activities, which would have a material adverse effect on the Company's business, financial condition and results of operations, and ultimately the Company could be forced to discontinue its operations and liquidate.

The accompanying unaudited condensed consolidated financial statements have been prepared in conformity with U.S. GAAP, which contemplate continuation of the Company as a going concern and the realization of assets and satisfaction of liabilities in the normal course of business. The carrying amounts of assets and liabilities presented in the unaudited condensed consolidated financial statements do not necessarily purport to represent realizable or settlement values. The accompanying unaudited condensed consolidated financial statements do not include any adjustments that might be necessary should the Company be unable to continue as a going concern.

### **NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

See Amendment No. 1 to the Annual Report on Form 10-K/A for the year ended December 31, 2023 for a complete listing of the Company's significant accounting policies.

### *Reclassifications*

Certain prior period statements of operations, changes in stockholders' equity and cash flows amounts have been reclassified to conform to the Company's fiscal 2024 presentation. These reclassifications have no impact on the Company's previously reported net (loss) income.



### *Cash and Cash Equivalents*

Financial instruments that potentially subject the Company to concentrations of credit risk consist of a cash account in a financial institution. The Company maintains deposits in its accounts that hold cash and cash equivalents in excess of the Federal Depositary Insurance Corporation (“FDIC”) coverage of \$250,000 per banking institution. The Company had deposits in excess of FDIC coverage of \$1,220,350 and \$604,226 as of September 30, 2024 and December 31, 2023, respectively. As of September 30, 2024, the Company has not experienced losses on this account.

### *Customer and Revenue Concentrations*

All of the Company’s contract service revenue is derived from one customer. Additionally, all of the Company’s product sales revenue is derived from one customer.

### *Accounts Receivable*

Accounts receivable are carried at their contractual amounts, less an estimate for credit losses. As of September 30, 2024 and 2023, no allowances for credit losses were determined to be necessary. Management estimates the allowance for credit losses based on existing economic conditions, the financial conditions of the customers, and the amount and age of past due accounts. Receivables are considered past due if full payment is not received by the contractual due date. Past due accounts are generally written off against the allowance for credit losses only after all collection attempts have been exhausted.

### *Deferred Contract Costs*

The Company defers costs associated with fulfilling its contracts if those costs meet all of the following criteria: (i) the costs relate directly to a contract, (ii) the costs generate or enhance resources of the Company that will be used in satisfying performance obligations in the future, and (iii) the costs are expected to be recovered. Deferred contract costs are recognized as cost of revenues in the period when the related revenue is recognized. Deferred contract costs consist of consumables and labor costs and are included in prepaid and other current assets in the unaudited condensed consolidated balance sheets. The Company had \$8,333 and \$0 deferred contract costs as of September 30, 2024 and December 31, 2023, respectively.

### *Derivative Financial Instruments*

The Company evaluates all of its agreements to determine if such instruments have derivatives or contain features that qualify as embedded derivatives. For derivative financial instruments that are accounted for as liabilities, the derivative instrument is initially recorded at its fair value and is then re-valued at each reporting date, with changes in the fair value reported in the statements of operations. For stock-based derivative financial instruments, the Company uses a weighted-average Black-Scholes option pricing model to value the derivative instruments at inception and on subsequent valuation dates. The classification of derivative instruments, including whether such instruments should be recorded as liabilities or as equity, is evaluated at the end of each reporting period.

### *Fair Value of Financial Instruments*

Fair value is defined as the amount that would be received for selling an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date and is measured using inputs in one of the following three categories:

Level 1 measurements are based on unadjusted quoted prices in active markets for identical assets or liabilities that we have the ability to access. Valuation of these items does not entail a significant amount of judgment.

Level 2 measurements are based on quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active or market data other than quoted prices that are observable for the assets or liabilities.

Level 3 measurements are based on unobservable data that are supported by little or no market activity and are significant to the fair value of the assets or liabilities.

The Company considers cash and cash equivalents, investments held in marketable securities, accounts receivable, accounts payable and warrant liabilities to meet the definition of financial instruments. As of September 30, 2024 and December 31, 2023, the carrying amount of cash and cash equivalents, investments held in marketable securities, accounts receivable, and accounts payable approximate their fair value due to the relatively short period of time between their origination and their expected realization or payment. The warrant liabilities are measured at fair value (see Note 6 – Fair Value Measurement for additional details).

### *Revenue Recognition*

The Company recognizes revenue in accordance with Accounting Standards Codification (“ASC”) Topic 606, “Revenue from Contracts with Customers” (“ASC 606”). The core principle of ASC 606 requires that an entity recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the company expects to be entitled in exchange for those goods or services. ASC 606 defines a five-step process to achieve this core principle and, in doing so, it is possible more judgment and estimates may be required within the revenue recognition process, including identifying performance obligations in the contract, estimating the amount of variable consideration to include in the transaction price and allocating the transaction price to each separate performance obligation. The Company recognizes revenue primarily from the following different types of contracts:

- **Product sales** - Revenue is recognized at the point in time the customer obtains control of the goods and the Company satisfies its performance obligation.
- **Royalty revenue** - Revenue is recognized as a usage-based royalty from customers’ usage of intellectual property pursuant to a license agreement at the point in time in which the underlying sale occurs.

The Company recognizes bill-and-hold revenue from its sale of cosmetic vials warehoused at a Company location for a specified period of time in accordance with directions received from the Company's customer. Even though the vials are held at a Company location, a sale is recognized at the point in time when the customer obtains control of the product. Control is transferred to the customer in a bill-and-hold arrangement when: (i) customer acceptance specifications have been met, (ii) legal title has transferred, (iii) the customer has a present obligation to pay for the product and (iv) the risks and rewards of ownership have transferred to the customer. Additionally, all the following bill-and-hold criteria have to be met in order for control to be transferred to the customer:

- the reason for the bill-and-hold arrangement is substantive
- the customer has requested the product be warehoused
- the product has been identified as separately belonging to the customer
- the product is currently ready for physical transfer to the customer
- the Company does not have the ability to use the product or direct it to another customer.

The following table summarizes the Company's revenue recognized in its unaudited condensed consolidated statements of operations:

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2024	2023	2024	2023
Product revenue	\$ 230,700	\$ -	\$ 300,000	\$ -
Royalty revenue	2,900	30,700	57,700	126,500
	<u>\$ 233,600</u>	<u>\$ 30,700</u>	<u>\$ 357,700</u>	<u>\$ 126,500</u>

*Net (Loss) Income Per Common Share*

Net (loss) income per share is computed by dividing net (loss) income by the weighted average number of shares of common stock outstanding during the year. All outstanding options and warrants are considered potential common stock. The Company has 1,201,580 shares held in abeyance included in basic loss per share given that they are issuable for no additional consideration (see Note 4 – Stockholders' Equity for additional details). The dilutive effect, if any, of stock options and warrants are calculated using the treasury stock method. All outstanding convertible preferred stock is considered common stock at the beginning of the period or at the time of issuance, if later, pursuant to the if-converted method. Since the effect of common stock equivalents is anti-dilutive with respect to losses, options, warrants, restricted stock units ("RSUs") and convertible preferred stock have been excluded from the Company's computation of diluted net (loss) income per common share for the three months ended September 30, 2024 and the nine months ended September 30, 2024 and 2023.

The following table summarizes the securities that were excluded from the diluted per share calculation because the effect of including these potential shares was antidilutive due to the Company's net loss position even though the exercise or conversion price could be less than the average market price of the common shares:

	For the Three Months Ended September 30,			For the Nine Months Ended September 30,	
	2024	2023		2024	2023
Stock options	3,401,608	-		3,401,608	1,466,890
Warrants	3,952,504	-		3,952,504	4,791,048
Unvested RSUs	-	-		-	97,827
Convertible Preferred Stock	1,398,158	-		1,398,158	1,398,158
	<u>8,752,270</u>	<u>-</u>		<u>8,752,270</u>	<u>7,753,923</u>

#### *Recently Issued Accounting Pronouncements*

In November 2023, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2023-07, "Improvements to Reportable Segments Disclosures (Topic 280)" ("ASU 2023-07"), which updates reportable segment disclosure requirements, primarily through enhanced disclosures about significant segment expenses on both an annual and interim basis. The guidance becomes effective for fiscal years beginning after December 15, 2023 and interim periods within fiscal years beginning after December 15, 2024, with early adoption permitted. Since this new ASU addresses only disclosures, the Company does not expect the adoption of this ASU to have any material effects on its financial condition, results of operations or cash flows. The Company is currently evaluating any new disclosures that may be required upon adoption of ASU 2023-07.

In December 2023, the FASB issued ASU No. 2023-09 "Income Taxes (Topic 740): Improvements to Income Tax Disclosures," ("ASU 2023-09"). The amendments in ASU 2023-09 are designed to enhance the transparency of income tax disclosures by requiring consistent categories and greater disaggregation of information in the rate reconciliation, and income taxes paid disaggregated by jurisdiction. ASU 2023-09 is effective for fiscal years beginning after December 15, 2024, with early adoption permitted. The Company is currently evaluating the impact of this update on its consolidated financial statements and related disclosures.

In November 2024, the FASB issued ASU No. 2024-03, "Income Statement - Reporting Comprehensive Income - Expense Disaggregation Disclosures (Subtopic 220-40): Disaggregation of Income Statement Expenses," ("ASU 2024-03"), which is intended to require more detailed disclosures about specified categories of expenses (including employee compensation, depreciation, and amortization) included in certain expense captions presented on the face of the income statement. ASU 2024-03 is effective for fiscal years beginning after December 15, 2026, and for interim periods within fiscal years beginning after December 15, 2027, with early adoption permitted. The amendments may be applied either (1) prospectively to financial statements issued for reporting periods after the effective date of ASU 2024-03 or (2) retrospectively to all prior periods presented in the financial statements. The Company is currently evaluating the potential impact of this update on its consolidated financial statements and related disclosures.

#### **NOTE 3 - ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES**

Accrued expenses and other current liabilities consist of:

	September 30, 2024	December 31, 2023
Accrued bonuses	\$ 584,250	\$ 638,000
Accrued general and administrative expenses	97,987	73,686
Total accrued expenses and other current liabilities	<u>\$ 682,237</u>	<u>\$ 711,686</u>

## NOTE 4 - STOCKHOLDERS' EQUITY

### *2021 Stock Incentive Plan*

On July 23, 2024, the Company's Board of Directors approved an amendment to the Company's 2021 Stock Incentive Plan (the "2021 Plan") to increase the number of shares of common stock authorized to be issued under the 2021 Plan from 3,850,000 to 6,850,000. On September 19, 2024, the Company held its Annual Meeting of Stockholders (the "Annual Meeting"). At the Annual Meeting, the Company's stockholders approved the amendment to the 2021 Plan to increase such number of authorized shares.

### *Warrant Exercise and Issuance*

On February 6, 2024, the Company entered into agreements with certain holders of its existing warrants exercisable for an aggregate of 3,351,580 shares of its Common Stock (collectively, the "Existing Warrants"), to exercise their warrants at a reduced exercise price of \$2.33 per share, in exchange for the issuance of new warrants (the "New Warrants") as described below (the "Warrant Exercise and Issuance"). The aggregate gross proceeds from the exercise of the Existing Warrants and the payment of the New Warrants, as described below, was approximately \$8.1 million, before deducting cash issuance costs in the amount of \$595,364. The reduction of the exercise price of the Existing Warrants and the issuance of the New Warrants was structured as an at-market transaction under Nasdaq rules. Of the 3,351,580 shares of Common Stock issuable upon the exercise of the Existing Warrants, through September 30, 2024, the Company had issued an aggregate of 2,150,000 shares of Common Stock. The remaining 1,201,580 shares of Common Stock, which are issuable to Auctus Fund, LLC ("Auctus"), are being held in abeyance due to Auctus' maximum beneficial ownership limitation (the "Abeyance Shares"). Such Abeyance Shares have been fully paid for and are issuable upon notice from Auctus to the Company.

In consideration for the immediate exercise of the Existing Warrants for cash and the payment of \$0.125 per share underlying the New Warrants, the exercising holders received the New Warrants to purchase shares of Common Stock in a private placement pursuant to Section 4(a)(2) of the Securities Act of 1933, as amended (the "Securities Act"). The New Warrants will be exercisable for a period of five years into an aggregate of 2,513,686 shares of Common Stock at an exercise price of \$2.43 per share. The securities offered in the private placement have not been registered under the Securities Act or applicable state securities laws. Accordingly, the securities may not be offered or sold in the United States except pursuant to an effective registration statement or an applicable exemption from the registration requirements of the Securities Act and such applicable state securities laws. As part of the transaction, the Company agreed to file a resale registration statement with the SEC to register the resale of the shares of Common Stock underlying the New Warrants issued in the private placement. Such resale registration statement was filed and was declared effective by the SEC on April 18, 2024.

In connection with the transaction described above, the Company entered into a financial advisory services agreement, dated February 5, 2024, with Roth Capital Partners, LLC ("Roth"), pursuant to which the Company has paid Roth a cash fee of approximately \$528,000 for its services, in addition to reimbursement for certain expense. During the nine months ended September 30, 2024, the Company incurred an aggregate of \$595,364 of cash issuance costs related to the Warrant Exercise and Issuance.

Prior to the Warrant Exercise and Issuance, the Existing Warrants were classified as derivative liabilities. Additionally, the Company analyzed the form of the New Warrants and determined that they should be classified as derivative liabilities in accordance with ASC 815-40, Derivatives and Hedging — Contracts in Entity's Own Equity. Under the New Warrants, the Company does not control the occurrence of events, such as a tender offer or exchange, that may trigger cash settlement of the New Warrants and not result in a change of control of the Company. As a result, such New Warrants do not meet the criteria for equity treatment. Additionally, certain New Warrants contain adjustments to the settlement amount based on a variable that is not an input to the fair value of a "fixed-for-fixed" option as defined under ASC 815-40 and, accordingly, such New Warrants are not considered indexed to the Company's own stock and are not eligible for an exception from derivative accounting. See Note 6 – Fair Value Measurement for details regarding the valuation of the Existing Warrants and New Warrants.

The Company determined the Warrant Exercise and Issuance to be an exchange by investors of Existing Warrants with an aggregate fair value of \$1,115,334 along with aggregate cash consideration of \$8,123,392 (consisting of \$7,809,181 paid to exercise the Existing Warrants and \$314,211 paid for the New Warrants) for an aggregate of 3,351,580 shares of common stock with an aggregate fair value of \$4,742,244, New Warrants with an aggregate fair value of \$2,189,420 and aggregate cash issuance costs of \$595,364 and, accordingly, the Company recorded a gain on extinguishment of \$1,711,698 during the nine months ended September 30, 2024.

#### Warrants

See Note 6 – Fair Value of Financial Instruments for details regarding the valuation of the New Warrants.

A summary of the Company's warrant activity and related information follows:

	Number of Warrants	Weighted Average Exercise Price	Weighted Average Remaining Life In Years
Outstanding, January 1, 2024	4,791,019	\$ 10.57	
Granted	2,513,686	2.43	
Exercised	(3,351,580)	2.33	
Expired	(622)	3,126	
Outstanding, September 30, 2024	3,952,504	\$ 3.84	3.55
Exercisable, September 30, 2024	3,952,504	\$ 3.84	3.55

As of September 30, 2024, the warrants exercisable and outstanding had an intrinsic value of \$0.

#### Stock Options

On February 13, 2024, the Company granted options to purchase an aggregate 1,934,716 shares of the Company's Common Stock at an exercise price of \$1.45 per share to employees, the Company's board of directors and a member of the Company's Scientific Advisory Board. The options had an aggregate grant date fair value of \$2,140,000 and vest as follows: (i) options to purchase an aggregate 513,663 shares of common stock vest monthly over one year, and (ii) options to purchase an aggregate of 1,421,053 shares of common stock vest to the extent of 50% immediately with the remainder vesting quarterly over two years commencing one year from the date of grant. The Company will recognize the grant date fair value of the options proportionate to the vesting period.

In applying the Black-Scholes option pricing model to stock options granted, the Company used the following assumptions:

	For the Nine Months Ended September 30,	
	2024	2023
Risk free interest rate	4.14 - 4.30%	4.22%
Expected term (years)	2.77 - 5.38	3.5
Expected volatility	101 - 102%	175%
Expected dividends	0.00%	0.00%

There were no stock options granted during the three months ended September 30, 2024 and 2023. Options granted during the nine months ended September 30, 2024 and 2023 had a weighted average grant date fair value per share of \$1.11 and \$2.77 per share, respectively.

A summary of the stock option activity during the nine months ended September 30, 2024 is presented below:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Life In Years	Intrinsic Value
Outstanding, January 1, 2024	1,466,892	\$ 4.11		
Granted	1,934,716	1.45		
Exercised	-	-		
Forfeited	-	-		
Outstanding, September 30, 2024	3,401,608	\$ 2.60	7.8	\$ -
Exercisable, September 30, 2024	2,351,081	\$ 3.03	7.4	\$ -

*Restricted Stock Units ("RSUs")*

Pursuant to the 2021 Plan, the Company may grant RSUs to employees, consultants or non-employee directors ("Eligible Individuals"). The number, terms and conditions of the RSUs that are granted to Eligible Individuals are determined on an individual basis by the 2021 Plan administrator. On the distribution date, the Company shall issue to the Eligible Individual one unrestricted, fully transferable share of the Company's common stock (or the fair market value of one such share in cash) for each vested and nonforfeitable RSU.

A summary of the Company's unvested RSUs as of September 30, 2024 is as follows:

	Number of Shares
Non-vested at January 1, 2024	97,827
Granted	-
Vested	(97,827)
Forfeited	-
Non-vested at September 30, 2024	-

## Stock-Based Compensation Expense

The following table presents information related to stock-based compensation expense:

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,		Unrecognized at September 30,	Weighted Average Remaining Amortization Period (Years)
	2024	2023	2024	2023	2024	
General and administrative	\$ 284,245	\$ 1,493,704	\$ 2,636,941	\$ 6,318,562	\$ 1,060,129	1.64
Total	\$ 284,245	\$ 1,493,704	\$ 2,636,941	\$ 6,318,562	\$ 1,060,129	1.64

The following table presents stock-based compensation by award type:

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2024	2023	2024	2023
Options	\$ 284,245	\$ 329,570	\$ 1,651,903	\$ 2,802,224
RSUs	-	1,164,134	985,038	3,516,338
Total	\$ 284,245	\$ 1,493,704	\$ 2,636,941	\$ 6,318,562

## NOTE 5 - LEASES

The Company is a party to a lease for 6,800 square feet of space located in Melville, New York (the “Melville Lease”) with respect to its corporate and laboratory operations. The Melville Lease was scheduled to expire in March 2020 (subject to extension at the option of the Company for a period of five years) and provided for an annual base rental during the initial term ranging between \$132,600 and \$149,260. In June 2019, the Company exercised its option to extend the Melville Lease and entered into a lease amendment with the lessor whereby the five-year extension term commenced on January 1, 2020 with annual base rent ranging between \$153,748 and \$173,060.

When measuring lease liabilities for leases that were classified as operating leases, the Company discounted lease payments using its estimated incremental borrowing rate at August 1, 2019. The weighted average incremental borrowing rate applied was 12%.



The following table presents net lease cost and other supplemental lease information:

	For the Nine Months Ended September 30,	
	2024	2023
Lease Costs		
Operating lease cost (cost resulting from lease payments)	\$ 129,795	\$ 126,021
Net lease costs	\$ 129,795	\$ 126,021
Operating lease - operating cash flows (fixed payments)	\$ 129,795	\$ 126,021
Operating lease - operating cash flows (liability reduction)	\$ 119,903	\$ 102,921
Non-current leases - right of use assets	\$ 39,697	\$ 154,726
Current liabilities - operating lease liabilities	\$ 42,414	\$ 156,310
Non-current liabilities - operating lease liabilities	\$ -	\$ 42,414

Future minimum payments under non-cancellable leases for operating leases for the remaining terms of the leases as of September 30, 2024:

Fiscal Year	Operating Leases
2024	\$ 43,265
Total future minimum lease payments	43,265
Amount representing interest	(851)
Present value of net future minimum lease payments	\$ 42,414

#### NOTE 6 – FAIR VALUE MEASUREMENT

On February 8, 2024, in connection with the Warrant Exercise and Issuance, the Company estimated the aggregate fair value of the Existing Warrants (see Note 4 - Stockholders' Equity for details) to be \$1,115,334 using the Black-Scholes option pricing model (Level 3 inputs). The following table shows the detail of the valuation assumptions used:

	February 8, 2024
Risk free interest rate	4.20 - 4.28%
Expected term (years)	2.75 - 2.76
Expected volatility	102%
Expected dividends	0.00%

On February 8, 2024, the Company estimated the aggregate issuance date fair value of the warrant liability related to the New Warrants (see Note 4 - Stockholders' Equity for details) as \$2,189,420 using the Black-Scholes option pricing model (Level 3 inputs).

The following table shows the detail of the valuation assumptions used:

	February 8, 2024
Risk free interest rate	4.12%
Expected term (years)	5.00
Expected volatility	101%
Expected dividends	0.00%

On September 30, 2024, the Company estimated the aggregate fair value of warrants that are accounted for as warrant liabilities to be \$3,455,505 using the Black-Scholes option price model (Level 3 inputs) and, accordingly, recognized a loss on the change in fair value of these warrant liabilities of \$837,466 during the nine months ended September 30, 2024. The following table shows the detail of the valuation assumptions used:

	September 30, 2024
Risk free interest rate	3.58%-3.64%
Expected term (years)	2.11 - 4.36
Expected volatility	99% - 109%
Expected dividends	0.00%

The following table sets forth a summary of the changes in the fair value of Level 3 liabilities that are measured at fair value on a recurring basis during the nine months ended September 30, 2024:

Balance, January 1, 2024 (as restated)	\$	1,543,953
Issuance of warrants		2,189,420
Exercise of warrants		(1,115,334)
Change in fair value of warrant liability		837,466
Balance, September 30, 2024	\$	<u>3,455,505</u>

Assets and liabilities measured at fair value on a recurring basis are as follows:

	Fair value measurements at reporting date using:				
	Quoted prices in active markets for identical liabilities (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)		Total Fair Value
Assets:					
Marketable securities as of September 30, 2024	\$ 11,598,417	\$ -	\$ -	\$	11,598,417
Marketable securities as of December 31, 2023	\$ 10,181,618	\$ -	\$ -	\$	10,181,618
Liabilities:					
Warrant liabilities as of September 30, 2024	\$ -	\$ -	\$ 3,455,505	\$	3,455,505
Warrant liabilities as of December 31, 2023 (as restated)	\$ -	\$ -	\$ 1,543,953	\$	1,543,953

#### NOTE 7 – SUBSEQUENT EVENTS

On November 6, 2024, the Company entered into an at-the-market offering agreement pursuant to which the Company has an ability to issue and sell shares of its common stock up to an aggregate offering price of \$3,614,170.

## ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our unaudited condensed consolidated interim financial statements and related notes included in this Quarterly Report on Form 10-Q and the audited consolidated financial statements and notes thereto as of and for the year ended December 31, 2023 and the related Management's Discussion and Analysis of Financial Condition and Results of Operations, both of which are contained in our Annual Report on Form 10-K/A (Amendment No. 1) for the fiscal year ended December 31, 2023, which was filed with the Securities and Exchange Commission (the "SEC") on June 11, 2024.*

### *Note Regarding Forward-Looking Statements*

This Quarterly Report on Form 10-Q includes a number of forward-looking statements that reflect management's current views with respect to future events and financial performance. Forward-looking statements are projections in respect of future events or our future financial performance. In some cases, you can identify forward-looking statements by terminology such as "may," "should," "expects," "plans," "anticipates," "believes," "estimates," "predicts," "potential" or "continue" or the negative of these terms or other comparable terminology. These statements include statements regarding the intent, belief or current expectations of us and members of our management team, as well as the assumptions on which such statements are based. Prospective investors are cautioned that any such forward-looking statements are not guarantees of future performance and involve risk and uncertainties, and that actual results may differ materially from those contemplated by such forward-looking statements. These statements are only predictions and involve known and unknown risks, uncertainties and other factors, including the risks set forth in the section entitled "Risk Factors" in our Annual Report on Form 10-K/A (Amendment No. 1) for the fiscal year ended December 31, 2023, as filed with the SEC on June 11, 2024, any of which may cause our company's or our industry's actual results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied in our forward-looking statements. These risks and factors include, by way of example and without limitation:

- our ability to obtain financing needed to complete our clinical trials and implement our business plan;
- our ability to successfully develop and commercialize BRTX-100, our lead product candidate for the treatment of chronic lumbar disc disease, as well as our metabolic ThermoStem Program and commercial biocosmeceuticals platform;
- our ability to protect our proprietary rights;
- our ability to achieve and sustain profitability of the existing lines of business;
- our ability to attract and retain world-class research and development talent;
- our ability to attract and retain key science, technology and management personnel and to expand our management team;
- the accuracy of estimates regarding expenses, future revenue, capital requirements, profitability, and needs for additional financing;
- business interruptions resulting from geo-political actions, including war and terrorism or disease outbreaks (such as the recent outbreak of COVID-19);
- our ability to attract and retain customers;
- our ability to navigate through the increasingly complex therapeutic regulatory environment;
- our ability to successfully engage in any new business lines that we pursue; and
- risks related to the restatement of our previously issued financial statements.

Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity or performance. Except as required by applicable law, including the securities laws of the United States, we do not intend to update any of the forward-looking statements to conform these statements to actual results.

Readers are urged to carefully review and consider the various disclosures made by us in this report and in our other reports filed with the SEC. We undertake no obligation to update or revise forward-looking statements to reflect changed assumptions, the occurrence of unanticipated events or changes in the future operating results over time, except as required by law. We believe that our assumptions are based upon reasonable data derived from and known about our business and operations. No assurances are made that actual results of operations or the results of our future activities will not differ materially from our assumptions.

As used in this Quarterly Report on Form 10-Q and unless otherwise indicated, the terms “Company,” “we,” “us” and “our” refer to BioRestorative Therapies, Inc., a Nevada corporation (“BRT”), and its wholly-owned subsidiary, Stem Pearls, LLC, a New York limited liability company (“Stem Pearls”). Unless otherwise specified, all dollar amounts are expressed in United States dollars.

#### *Intellectual Property*

This report includes references to our federally registered trademarks, *BioRestorative Therapies* and *Dragonfly* design, *BRTX-100*, *ThermoStem*, and *BRTX*. The *Dragonfly* logo is also registered with the U.S. Copyright Office. This report may also include references to trademarks, trade names and service marks that are the property of other organizations. Solely for convenience, trademarks and trade names referred to in this report appear without the ®, <sup>SM</sup> or <sup>TM</sup> symbols, and copyrighted content appears without the use of the symbol ©, but the absence of use of these symbols does not reflect upon the validity or enforceability of the intellectual property owned by us or third parties.

#### *Corporate History*

Our offices are located in Melville, New York where we have established a laboratory facility in order to increase our capabilities for the further development of possible cellular-based treatments, products and protocols, stem cell-related intellectual property and translational research applications.

As of September 30, 2024, our accumulated deficit was \$154,042,567. We have historically only generated a modest amount of revenue, and our losses have principally been operating expenses incurred in research and development, marketing and promotional activities in order to commercialize our products and services, plus costs associated with meeting the requirements of being a public company. We expect to continue to incur substantial costs for these activities over at least the next year.

#### *Business Overview*

We develop therapeutic products and medical therapies using cell and tissue protocols, primarily involving adult stem cells.

We are currently pursuing our *Disc/Spine Program* with our initial investigational therapeutic product being called *BRTX-100*. In March 2022, a United States patent issued in our *Disc/Spine Program*. We have received authorization from the FDA to commence a Phase 2 clinical trial investigating the use of *BRTX-100* in the treatment of chronic lower back pain arising from degenerative disc disease. We have commenced such clinical trial through the execution of a CRO agreement with Professional Research Consulting, Inc., d/b/a PRC Clinical, the execution of clinical trial site agreements, patient enrollment, the commencement of patient procedures, the purchase of manufacturing equipment and the expansion of our laboratory to include capabilities for clinical production. We have received a license from the New York State Department of Health to act as a tissue bank for mesenchymal stem cell processing. In June 2023, we received a unanimous recommendation from the Data Safety Monitoring Board to continue our Phase 2 clinical trial without any changes. We have obtained a worldwide (excluding Asia and Argentina) exclusive license to use technology for investigational adult stem cell treatment of disc and spine conditions, including protruding and bulging lumbar discs. The technology is an advanced stem cell injection procedure that may offer relief from lower back pain, buttock and leg pain, and numbness and tingling in the leg and foot. We are investigating the expansion of the clinic application of *BRTX-100* to other indications within the body.

We are also developing our *ThermoStem Program*. This pre-clinical program involves the use of brown adipose (fat) in connection with the cell-based treatment of type 2 diabetes and obesity as well as hypertension, other metabolic disorders and cardiac deficiencies. United States patents related to the *ThermoStem Program* were issued in September 2015, January 2019, March 2020, March 2021, July 2021, June 2023 and December 2023; Australian patents related to the *ThermoStem Program* were issued in April 2017, October 2019, and August 2021; Japanese patents related to the *ThermoStem Program* were issued in December 2017, June 2021, February 2022, June 2023, and July 2024; Israeli patents related to our *ThermoStem Program* were issued in October 2019, May 2020, and March 2022; European patents related to the *ThermoStem Program* were issued in April 2020, January 2021, and July 2023.

We have obtained a license for a patented curved needle device that is a needle system designed to deliver cells and/or other therapeutic products or materials to the spine and discs or other potential sites. We anticipate that FDA approval or clearance will be necessary for this device prior to commercialization. We do not intend to utilize this device in connection with our Phase 2 clinical trial with regard to *BRTX-100*.

In addition, in continuation of our mission of developing and commercializing cell-based biologics, we are seeking to develop a biologics-based cosmetic products business. Pursuant to such business, we would formulate, manufacture and sell products designed for cosmetic and aesthetic uses. In April 2024, we announced that we have entered into a five-year exclusive supply agreement with Cartessa Aesthetics, LLC (“Cartessa”), a leading North American based aesthetic company, to supply to Cartessa our first commercial product.

#### *Revenue*

We derived some of our revenue pursuant to a license agreement with a stem cell treatment company (the “SCTC”) entered into in January 2012, as amended in November 2015 and November 2022. Pursuant to the license agreement, the SCTC granted to us an exclusive license to use certain intellectual property related to, among other things, stem cell disc procedures and we have granted to the SCTC a sublicense to use, and the right to sublicense to third parties the right to use, in certain locations in the United States and the Cayman Islands, certain of the licensed intellectual property. In consideration of the sublicenses, the SCTC has agreed to pay us royalties on a per disc procedure basis.

We also derived our initial product revenue from our five-year exclusive supply agreement with Cartessa entered into in April 2024.

**Comparison of the Three Months Ended September 30, 2024 to the Three Months Ended September 30, 2023**

Our financial results for the three months ended September 30, 2024 are summarized as follows in comparison to the three months ended September 30, 2023:

	<b>For the Three Months Ended September 30</b>	
	<b>2024</b>	<b>2023 (As Restated)</b>
<b>Revenues</b>	\$ 233,600	\$ 30,700
Cost of goods sold	18,243	-
Gross profit	215,357	30,700
<b>Operating Expenses:</b>		
Research and development	1,320,030	874,824
General and administrative	1,182,320	2,260,319
Total Operating Expenses	2,502,350	3,135,143
Loss From Operations	(2,286,993)	(3,104,443)
<b>Other Income:</b>		
Interest income	(158,547)	(61,667)
Grant income	-	(83,333)
Other income	(566)	(33,951)
Change in fair value of warrant liabilities	(1,036,464)	(7,693,753)
Total Other Income	(1,195,577)	(7,872,704)
<b>Net (Loss) Income</b>	<b>\$ (1,091,416)</b>	<b>\$ 4,768,261</b>

**Revenues**

For the three months ended September 30, 2024 and 2023, we generated \$2,900 and \$30,700, respectively, of royalty revenue in connection with our sublicense agreement with the SCTC. The decrease was primarily due to a decrease in disc procedures.

For the three months ended September 30, 2024 and 2023, we generated \$230,700 and \$0, respectively, of cosmetic product sales revenue in connection with our exclusive supply agreement with Cartessa.

**Research and Development**

Research and development expenses include cash compensation of (a) our Vice President of Research and Development; (b) our Scientific Advisory Board members; and (c) laboratory staff and costs related to our brown fat and disc/spine initiatives. Research and development expenses are expensed as they are incurred. For the three months ended September 30, 2024, research and development expenses increased by \$510,206, or 63%, as compared to the three months ended September 30, 2023. The increase was primarily the result of an increase in lab supply expense of \$246,384, an increase in recruitment costs for our Phase 2 clinical trial of \$73,194, an increase in payroll expense of \$141,079 and an increase in consulting expense of \$12,680. We expect that our research and development expenses will continue to increase in subsequent fiscal periods.

### General and Administrative

General and administrative expenses consist primarily of salaries, bonuses, payroll taxes and stock-based compensation to employees, as well as corporate expenses such as legal and professional fees, investor relations and occupancy-related expenses. For the three months ended September 30, 2024, general and administrative expenses decreased by \$1,142,999, or 49%, as compared to the three months ended September 30, 2023, primarily driven by a decrease in stock-based compensation expense of \$1,209,459 related to the vesting of awards, partially offset by an increase in cash compensation to employees of \$40,075 and an increase in professional fees of \$11,836 primarily related to the recent restatement of our historical financial statements.

### Interest Income

For the three months ended September 30, 2024, interest income was \$158,547, as compared to interest income of \$61,667 for the three months ended September 30, 2023. The change was primarily due to interest and dividend income on the investments held in marketable securities.

### Grant income

Grant income of \$83,333 during the three months ended September 30, 2023 consists of funding received under a National Institutes of Health Small Business Technology Transfer (STTR) Phase 1 grant, offset by related expenses. There was no grant income received during the three months ended September 30, 2024.

### Other Income

For the three months ended September 30, 2024 and 2023, other income primarily related to gains from settlements of certain accrued expenses and realized and unrealized gain on investments.

### Change in Fair Value of Warrant Liabilities

For the three months ended September 30, 2024 and 2023, we recognized a gain on the change in fair value of warrant liabilities of \$1,036,464 and \$7,693,753, respectively, related to the decrease in fair value of warrants that are accounted for as warrant liabilities.

### **Comparison of the Nine Months Ended September 30, 2024 to the Nine Months Ended September 30, 2023**

Our financial results for the nine months ended September 30, 2024 are summarized as follows in comparison to the nine months ended September 30, 2023:

	<b>For the Nine Months Ended September 30</b>	
	<b>2024</b>	<b>2023 (As Restated)</b>
<b>Revenues</b>	\$ 357,700	\$ 126,500
Cost of goods sold	24,733	-
Gross profit	332,967	126,500
<b>Operating Expenses:</b>		
Research and development	3,690,495	2,944,460
General and administrative	5,507,524	9,182,132
Total Operating Expenses	9,198,019	12,126,592
Loss From Operations	(8,865,052)	(12,000,092)
<b>Other (Income) Expense:</b>		
Interest income	(497,089)	(176,070)
Grant income	-	(83,333)
Other income	(150,498)	(150,423)
Gain on exchange of warrants	(1,711,698)	-
Change in fair value of warrant liabilities	837,466	(3,476,556)
Total Other (Income) Expense	(1,521,819)	(3,886,382)
<b>Net Loss</b>	<b>\$ (7,343,233)</b>	<b>\$ (8,113,710)</b>

### Revenues

For the nine months ended September 30, 2024 and 2023, we generated \$57,700 and \$126,500, respectively, of royalty revenue in connection with our sublicense agreement with the SCTC. The decrease was primarily due to a decrease in disc procedures.

For the nine months ended September 30, 2024 and 2023, we generated \$300,000 and \$0, respectively, of cosmetic product sales revenue in connection with our exclusive supply agreement with Cartessa.

### Research and Development

Research and development expenses include cash compensation of (a) our Vice President of Research and Development; (b) our Scientific Advisory Board members; and (c) laboratory staff and costs related to our brown fat and disc/spine initiatives. Research and development expenses are expensed as they are incurred. For the nine months ended September 30, 2024, research and development expenses increased by \$746,035, or 25%, as compared to the nine months ended September 30, 2023. The increase was primarily the result of increased lab supply expense of \$532,268 and increased payroll expense of \$271,388, all partially offset by a decrease in bonus expense of \$196,878. We expect that our research and development expenses will continue to increase in subsequent fiscal periods.

#### General and Administrative

General and administrative expenses consist primarily of salaries, bonuses, payroll taxes and stock-based compensation to employees, as well as corporate expenses such as legal and professional fees, investor relations and occupancy-related expenses. For the nine months ended September 30, 2024, general and administrative expenses decreased by \$3,674,608, or 40%, as compared to the nine months ended September 30, 2023, primarily driven by a decrease in stock-based compensation expense of \$3,681,621 related to the vesting of awards and a decrease in payroll expense of \$170,434 all partially offset by an increase in professional fees of \$179,273 primarily related to the recent restatement of our historical financial statements.

#### Interest Income

For the nine months ended September 30, 2024, interest income was \$497,089, as compared to interest income of \$176,070 for the nine months ended September 30, 2023. The change was primarily due to interest and dividend income on the investments held in marketable securities.

#### Grant income

Grant income of \$83,333 during the nine months ended September 30, 2023 consists of funding received under a National Institutes of Health Small Business Technology Transfer (STTR) Phase 1 grant, offset by related expenses. There was no grant income received during the nine months ended September 30, 2024.

#### Other Income

For the nine months ended September 30, 2024 and 2023, other income primarily related to gains from settlements of certain accrued expenses and realized and unrealized gain on investments.

#### Gain on Exchange of Warrants

For the nine months ended September 30, 2024, we recognized a gain on exchange of \$1,711,698 related to the issuance of warrants and common stock in exchange for the cancellation of existing warrants.

#### Change in Fair Value of Warrant Liabilities

For the nine months ended September 30, 2024, we recognized a loss on the change in fair value of warrant liabilities of \$837,466 related to the increase in fair value of warrants that are accounted for as warrant liabilities. For the nine months ended September 30, 2023, we recognized a gain on the change in fair value of warrant liabilities of \$3,476,556 related to the decrease in fair value of warrants that are accounted for as warrant liabilities.



## Liquidity

We measure our liquidity in a number of ways, including the following:

	September 30, 2024	December 31, 2023 (As Restated)
Cash and cash equivalents	\$ 1,489,444	\$ 884,377
Investments held in marketable securities	\$ 11,598,417	\$ 10,181,618
Working capital	\$ 8,927,404	\$ 8,783,181

Working capital increased by \$144,223 primarily due to the \$7,505,646 of cash provided by financing activities which was partially offset by \$5,882,501 of cash used to fund our operations and \$1,018,078 of cash used to fund our investments.

## Availability of Additional Funds

Based upon our accumulated deficit of \$154,042,567 as of September 30, 2024, along with our forecast for continued operating losses and our need for financing to fund our current and contemplated clinical trials, we will eventually require additional equity and/or debt financing to continue our operations. However, based on cash and cash equivalents and investments on hand, we believe we have sufficient cash to fund operations for at least 12 months after the issuance date of these financial statements.

Our operating needs include the planned costs to operate our business, including amounts required to fund our clinical trials, working capital and capital expenditures. Our future capital requirements and the adequacy of our available funds will depend on many factors, including our ability to successfully commercialize our products and services, competing technological and market developments, and the need to enter into collaborations with other companies or acquire other companies or technologies to enhance or complement our product and service offerings.

We may be unable to raise sufficient additional capital when we need it or raise capital on favorable terms. Future financing may require us to pledge certain assets and enter into covenants that could restrict certain business activities or our ability to incur further indebtedness and may contain other terms that are not favorable to our stockholders or us. If we are unable to obtain adequate funds on reasonable terms, we may be required to significantly curtail or discontinue operations or obtain funds by entering into financing agreements on unattractive terms. On November 6, 2024, we entered into an at-the-market offering agreement pursuant to which we have an ability to issue and sell shares of our common stock up to an aggregate offering price of \$3,614,170.

## Cash Flows

During the nine months ended September 30, 2024 and 2023, our sources and uses of cash were as follows:

	Nine Months Ended September 30, 2024	2023 (As Restated)
Net Cash Used In Operating Activities	\$ (5,882,501)	\$ (4,842,249)
Net Cash (Used In) Provided By Investing Activities	\$ (1,018,078)	\$ 3,336,841
Net Cash Provided By Financing Activities	\$ 7,505,646	\$ 2,265,700

## **Operating Activities**

Net cash used in operating activities was \$5,882,501 for the nine months ended September 30, 2024, primarily due to cash used to fund the net loss of \$7,343,233, adjusted for net non-cash expenses of \$1,520,670, and \$59,938 of cash used in changes in operating assets and liabilities. Net cash used in operating activities was \$4,842,249 for the nine months ended September 30, 2023, primarily due to cash used to fund the net loss of \$8,113,710, adjusted for non-cash expenses of \$2,885,196, and \$386,265 of cash provided by changes in operating assets and liabilities.

## **Investing Activities**

Net cash used in investing activities was \$1,018,078 for the nine months ended September 30, 2024 primarily due to a purchase of marketable securities which used \$18,294,566 of cash and a sale of marketable securities which provided \$17,370,243 of cash. Net cash provided by investing activities was \$3,336,841 for the nine months ended September 30, 2023 primarily due to a sale of marketable securities which provided \$18,089,372 of cash and a purchase of marketable securities which used \$14,651,512 of cash.

## **Financing Activities**

Net cash provided by financing activities was \$7,505,646 for the nine months ended September 30, 2024 due to net proceeds received in connection with the exercise and issuance of warrants, compared to \$2,265,700 net cash provided by financing activities for the nine months ended September 30, 2023 due to the net proceeds from the at-the-market offering of our common stock.

## *Effects of Inflation*

We do not believe that inflation had a material impact on our business, revenues or operating results during the periods presented.

## *Critical Accounting Policies and Estimates*

We prepare our unaudited condensed consolidated financial statements in accordance with U.S. generally accepted accounting principles, which require our management to make estimates that affect the reported amounts of assets, liabilities and disclosures of contingent assets and liabilities at the balance sheet dates, as well as the reported amounts of revenues and expenses during the reporting periods. To the extent that there are material differences between these estimates and actual results, our financial condition or results of operations would be affected. We base our estimates on our own historical experience and other assumptions that we believe are reasonable after taking account of our circumstances and expectations for the future based on available information. We evaluate these estimates on an ongoing basis.

We consider an accounting estimate to be critical if: (i) the accounting estimate requires us to make assumptions about matters that were highly uncertain at the time the accounting estimate was made, and (ii) changes in the estimate that are reasonably likely to occur from period to period or use of different estimates that we reasonably could have used in the current period, would have a material impact on our financial condition or results of operations. There are items within our unaudited condensed consolidated financial statements that require estimation but are not deemed critical, as defined above.

For a detailed discussion of our significant accounting policies and related judgments, see Note 2 of the Notes to Unaudited Condensed Consolidated Financial Statements in “Item 1. Financial Statements” of this report.

### ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Not applicable. As a smaller reporting company, we are not required to provide the information required by this Item.

### ITEM 4. CONTROLS AND PROCEDURES

#### Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures as that term is defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (“the Exchange Act”), that are designed to ensure that information required to be disclosed in our reports under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms, and that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosures. In designing disclosure controls and procedures, our management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible disclosure controls and procedures. The design of any disclosure controls and procedures also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Any controls and procedures, no matter how well designed and operated, can provide only reasonable, not absolute, assurance of achieving the desired control objectives.

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we are required to perform an evaluation of our disclosure controls and procedures, as such term is defined in Rule 13a-15(e) under the Exchange Act, as of September 30, 2024.

Management has completed such evaluation and has concluded that our disclosure controls and procedures were not effective to provide reasonable assurance that information required to be disclosed by us in reports we file or submit under the Exchange Act is appropriate to allow timely decisions regarding required disclosures. As a result of the material weaknesses in internal controls over financial reporting described below, we concluded that our disclosure controls and procedures as of September 30, 2024 were not effective.

#### Material Weaknesses in Internal Control over Financial Reporting

A material weakness, as defined in the standards established by Sarbanes-Oxley, is a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of our annual or interim consolidated financial statements will not be prevented or detected on a timely basis.

Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements in accordance with U.S. GAAP. The following material weaknesses in our internal control over financial reporting were present as of December 31, 2023 and continued to exist as of September 30, 2024:

- Lack of adherence to formal policies and procedures;
- Lack of risk assessment procedures on internal controls to detect financial reporting risks in a timely manner;
- Lack of sufficient formal management testing over documented formal procedures and controls, and time to evaluate continuous effectiveness of controls to achieve complete and accurate financial reporting and disclosures, including documented controls over the preparation and review of journal entries and account reconciliations; and
- Lack of design and implementation of effective controls over the accounting for warrants issued in connection with equity financings.

### **Management's Plan to Remediate the Material Weaknesses**

Management has been implementing and continues to implement measures designed to ensure that control deficiencies contributing to the material weaknesses are remediated, such that these controls are designed, implemented, and operating effectively. The remediation actions include:

- Management personnel, including our Chief Financial Officer, are overseeing the financial reporting process and implementation of enhanced controls and governance;
- Engagement of external financial consulting firm with expertise in accounting for significant and complex non-routine transactions to continue to enhance financial reporting, financial operations and internal controls; and
- Documentation of key procedures and controls using a risk-based approach.

Management is committed to maintaining a strong internal controls environment and implementing measures designed to help ensure that control deficiencies contributing to the material weaknesses are remediated as soon as possible. We have documented key procedures and controls using a risk-based approach and have, therefore, made progress toward remediation. We continue to implement our remediation plan, which includes continued engagement of an external financial consulting firm to enhance financial reporting and operations as well as design and implementation of controls. We will consider the material weaknesses remediated after the applicable controls operate for a sufficient period of time, and management has concluded, through testing, that the controls are operating effectively.

Management will continue to monitor and evaluate the effectiveness of our internal controls and procedures over financial reporting on an ongoing basis and is committed to taking further action and implementing additional enhancements or improvements, as necessary and as funds allow.

### **Changes in Internal Control Over Financial Reporting**

Other than described above, there have been no changes in our internal control over financial reporting that occurred during our third quarter of 2024 that have materially affected, or that are reasonably likely to materially affect, our internal control over financial reporting.

## PART II - OTHER INFORMATION

### ITEM 1A. RISK FACTORS

An investment in our common stock involves a number of very significant risks. You should carefully consider the risk factor set forth below, the risk factors included in the “Risk Factors” section of Amendment No. 1 to our Annual Report on Form 10-K/A for the year ended December 31, 2023, as filed with the SEC on June 11, 2024, and the other information contained in that report and in this quarterly report in evaluating the Company and its business before purchasing shares of our common stock. The Company’s business, operating results and financial condition could be adversely affected due to any of those risks.

#### Risks Related to Our Cell Therapy Product Development Efforts

*Our activity as a contract manufacturer of biologic-based cosmetics could result in FDA enforcement for reasons outside of our control, which could disrupt the development of our own product candidates or harm our reputation.*

We manufacture a commercial product as a contract manufacturer for a third-party company, Cartessa Aesthetics, LLC (“Cartessa”). While we believe the product we manufacture for Cartessa is intended for cosmetic uses, we (as the contract manufacturer) do not ultimately have control over how the product is marketed. It is possible that the FDA could determine, based on how the product is marketed (among other considerations), that it is intended for unapproved therapeutic use(s), which could result in the temporary or permanent suspension of manufacturing and/or commercialization of the product and/or a wide range of enforcement actions, such as warning letters, recall, ‘dear doctor’ letters, and others. If the FDA takes enforcement action against Cartessa or us in connection with this product, it could have an adverse impact on our operations and/or harm our reputation as a biologics company.

### ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

During the three months ended September 30, 2024, we did not have any unregistered sales of equity securities.

### ITEM 6. EXHIBITS

Exhibit Number	Exhibit Description	Incorporated by Reference		
		Form	Exhibit	Filing Date
3.1	<a href="#">Amended and Restated Articles of Incorporation</a>	8-K	3.3	1/5/2023
3.2	<a href="#">Certificate of Designations of Preferred Stock (Series B)</a>	8-K	3.4	1/5/2023
3.3	<a href="#">Bylaws</a>	8-K	3.5	1/5/2023
10.1*	<a href="#">BioRestorative Therapies, Inc. 2021 Stock Incentive Plan, as amended</a>			
31.1*	<a href="#">Certification of Principal Executive Officer</a>			
31.2*	<a href="#">Certification of Principal Financial Officer</a>			
32.1**	<a href="#">Section 1350 Certification of Principal Executive Officer and Principal Financial Officer</a>			
101.INS	Inline XBRL Instance Document			
101.SCH	Inline XBRL Taxonomy Extension Schema Document			
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document			
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document			
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document			
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document			
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)			

\* Filed herewith.

\*\* In accordance with SEC Release 33-8238, Exhibit 32.1 is being furnished and not filed.

## 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, thereunto duly authorized.

### BIORESTORATIVE THERAPIES, INC.

By: /s/ Lance Alstodt  
Lance Alstodt  
Chief Executive Officer, President, and Chairman of the Board  
(Principal Executive Officer)

Date: November 12, 2024

By: /s/ Robert E. Kristal  
Robert E. Kristal  
Chief Financial Officer  
(Principal Financial Officer)

Date: November 12, 2024

**BIORESTORATIVE THERAPIES, INC.  
2021 STOCK INCENTIVE PLAN****ARTICLE 1****PURPOSE**

The purpose of the BioRestorative Therapies, Inc. 2021 Stock Incentive Plan (the “Plan”) is to promote the success and enhance the value of BioRestorative Therapies, Inc., a Delaware corporation (the “Company”), and its Subsidiaries (as defined below) by linking the individual interests of Employees, Consultants and members of the Board to those of the Company’s stockholders and by providing such individuals with an incentive for outstanding performance to generate superior returns to the Company’s stockholders. The Plan is further intended to provide flexibility to the Company and its Subsidiaries in their ability to motivate, attract, and retain the services of those individuals upon whose judgment, interest, and special effort the successful conduct of the Company’s operation is largely dependent.

**ARTICLE 2****DEFINITIONS AND CONSTRUCTION**

Wherever the following terms are used in the Plan they shall have the meanings specified below, unless the context clearly indicates otherwise. The singular pronoun shall include the plural where the context so indicates.

2.1 “Administrator” shall mean the entity that conducts the general administration of the Plan as provided in Article 10 hereof. With reference to the duties of the Administrator under the Plan which have been delegated to one or more persons pursuant to Section 10.6 hereof, or which the Board has assumed, the term “Administrator” shall refer to such person(s) unless the Committee or the Board has revoked such delegation or the Board has terminated the assumption of such duties.

2.2 “Applicable Accounting Standards” shall mean Generally Accepted Accounting Principles in the United States, International Financial Reporting Standards or such other accounting principles or standards as may apply to the Company’s financial statements under United States federal securities and other applicable laws from time to time.

2.3 “Applicable Law” shall mean any applicable law, including without limitation, (a) provisions of the Code, the Securities Act, the Exchange Act and any rules or regulations thereunder; (b) corporate, securities, tax or other laws, statutes, rules, requirements or regulations, whether federal, state, local or foreign; and (c) rules of any securities exchange or automated quotation system on which the Shares are listed, quoted or traded.

2.4 “Award” shall mean an Option, a Restricted Stock award, a Dividend Equivalent award, a Stock Payment award, a Restricted Stock Unit award, a Performance Share award, an Other Incentive Award, or a Stock Appreciation Right, which may be awarded or granted under the Plan.

2.5 “Award Agreement” shall mean any written notice, agreement, contract or other instrument or document evidencing an Award, including through electronic medium, which shall contain such terms and conditions with respect to an Award as the Administrator shall determine, consistent with the Plan.

2.6 “Board” shall mean the Board of Directors of the Company.

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2.7 “Cause” shall mean (a) the Administrator’s determination that the Participant failed to substantially perform the Participant’s duties (other than any such failure resulting from the Participant’s Disability); (b) the Administrator’s determination that the Participant failed to carry out, or comply with, any lawful and reasonable directive of the Board or the Participant’s immediate supervisor; (c) the Participant’s commission of any act which, if the Participant were convicted would constitute, or the Participant’s conviction, plea of no contest, plea of nolo contendere, or imposition of unadjudicated probation for, any (i) felony, (ii) indictable offense or (iii) crime involving moral turpitude; (d) the Participant’s unlawful use (including being under the influence) or possession of illegal drugs on the premises of the Company or any of its Subsidiaries or while performing the Participant’s duties and responsibilities; or (e) the Participant’s commission of an act of fraud, embezzlement, misappropriation, willful or gross misconduct, or breach of fiduciary duty against the Company or any of its Subsidiaries. Notwithstanding the foregoing, if the Participant is a party to a written employment, consulting, or other agreement with the Company or any of its Subsidiaries in which the term “cause” is defined, then “Cause” shall be as such term is defined in the applicable written employment or consulting agreement.

2.8 “Change in Control” shall mean the occurrence of any of the following events:

(a) A “change in ownership,” as described in Section 1.409A-3(i)(5)(v) of the Treasury Regulations.

(b) A “change in effective control,” as described in Section 1.409A-3(i)(5)(vi) of the Treasury Regulations (but substituting “50 percent” for “30 percent” in the first sentence of Section 1.409A-3(i)(5)(vi)(A)(1)).

(c) A “change in ownership of a substantial portion of the assets,” as described in Section 1.409A-3(i)(5)(vii) of the Treasury Regulations (but substituting “50 percent” for “40 percent” in the first sentence thereof).

2.9 “Code” shall mean the Internal Revenue Code of 1986, as amended from time to time, together with the regulations and official guidance promulgated thereunder, whether issued prior or subsequent to the grant of any Award.

2.10 “Committee” shall mean the committee appointed by the Board to administer the Plan or the Board if no committee is appointed.

2.11 “Common Stock” shall mean the common stock of the Company.

2.12 “Company” shall mean BioRestorative Therapies, Inc., a Delaware corporation.

2.13 “Consultant” shall mean any consultant or advisor to the Company or any Subsidiary who provides consulting or advisory services, other than as an Employee or Director, and such consultant or advisor (a) is a natural person (or an entity wholly-owned, directly or indirectly, by a natural person), (b) has provided and/or will provide bona fide services to the Company, and (c) such services are not in connection with the offer or sale of securities in a capital-raising transaction and do not directly or indirectly promote or maintain a market for the Company’s securities.

2.14 “Director” shall mean a member of the Board, as constituted from time to time.



2.15 “Disability,” unless otherwise specified in an Award Agreement or under the terms of a Program, shall mean total and permanent disability as defined in Section 22(e)(3) of the Code. For purposes of the Plan, a Participant shall be deemed to have incurred a Disability if the Participant is determined to be totally disabled by the Social Security Administration or in accordance with the applicable disability insurance program of the Company. Notwithstanding the foregoing, if the Participant is a party to a written employment, consulting, or other agreement with the Company or any of its Subsidiaries in which the term “disability” is defined, then “Disability” shall be as such term is defined in the applicable written employment or consulting agreement.

2.16 “Dividend Equivalent” shall mean a right to receive the equivalent value (in cash or Shares) of dividends paid on Shares, awarded under Section 8.1 hereof.

2.17 “Effective Date” shall mean the date the Plan is approved by the Board.

2.18 “Eligible Individual” shall mean any person who is an Employee, a Consultant or a Non-Employee Director, as determined by the Administrator.

2.19 “Employee” shall mean any officer or other employee (within the meaning of Section 3401(c) of the Code) of the Company or any Subsidiary.

2.20 “Equity Restructuring” shall mean a nonreciprocal transaction between the Company and its stockholders, such as a stock dividend, stock split, reverse stock split, spin-off, rights offering or recapitalization through a large, nonrecurring cash dividend, that affects the number or kind of Shares (or other securities of the Company) or the share price of Common Stock (or other securities) and causes a change in the per share value of the Common Stock underlying outstanding stock-based Awards.

2.21 “Exchange Act” shall mean the Securities Exchange Act of 1934, as amended from time to time.

2.22 “Expiration Date” shall have the meaning given to such term in Section 11.1(b).

2.23 “Fair Market Value” shall mean, as of any given date, the value of a Share, determined as follows:

(a) if the Common Stock is listed on any established stock exchange or a national market system, including, without limitation, Nasdaq, its Fair Market Value shall be the closing sales price for such stock (or the closing bid, if no sales were reported) as quoted on such exchange or system on the day immediately preceding the day of determination (or, if the determination is made after the close of business for trading, then on the day of determination) (or, if no closing sales price or closing bid was reported on that date, as applicable, on the last trading date such closing sales price or closing bid was reported), as reported in The Wall Street Journal or such other source as the Administrator deems reliable;

(b) if the Common Stock is regularly quoted on an automated quotation system (including the OTCQB market) or by a recognized securities dealer, its Fair Market Value shall be the closing sales price for such stock (or the mean between the high bid and low asked prices for the Common Stock, if selling prices are not reported), as quoted on such system or by such securities dealer on the day immediately preceding the day of determination (or, if the determination is made after the close of business for trading, then on the day of determination) (or, if no such prices were reported on that date, as applicable, on the last date such prices were reported), as reported in The Wall Street Journal or such other source as the Administrator deems reliable; or

(c) in the absence of an established market for the Common Stock, the Fair Market Value shall be determined by the Administrator in good faith, using such criteria as it shall determine, in its sole discretion, to be appropriate for valuation, provided that the determination shall be consistent with the requirements of Sections 422 and 409A of the Code, if applicable.

2.24 “Greater Than 10% Stockholder” shall mean an individual then-owning (within the meaning of Section 424(d) of the Code) more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or any “parent corporation” or “subsidiary corporation” (as defined in Sections 424(e) and 424(f) of the Code, respectively).

2.25 “Incentive Stock Option” shall mean an Option that is intended to qualify as an incentive stock option and conforms to the applicable provisions of Section 422 of the Code.

2.26 “Non-Employee Director” shall mean a Director of the Company who is not an Employee.

2.27 “Non-Qualified Stock Option” shall mean an Option that is not an Incentive Stock Option or which is designated as an Incentive Stock Option but does not meet the applicable requirements of Section 422 of the Code.

2.28 “Option” shall mean a right to purchase Shares at a specified exercise price, granted under Article 5 hereof. An Option shall be either a Non-Qualified Stock Option or an Incentive Stock Option; provided, however, that Options granted to Non-Employee Directors and Consultants shall only be Non-Qualified Stock Options.

2.29 “Organizational Documents” shall mean, collectively, (a) the Company’s articles of incorporation, certificate of incorporation, bylaws or other similar organizational documents relating to the creation and governance of the Company, and (b) the Committee’s charter or other similar organizational documentation relating to the creation and governance of the Committee.

2.30 “Other Incentive Award” shall mean an Award denominated in, linked to or derived from Shares or value metrics related to Shares, granted pursuant to Section 8.5 hereof.

2.31 “Participant” shall mean a person who has been granted an Award pursuant to the Plan.

2.32 “Performance Share” shall mean a contractual right awarded under Section 8.4 hereof to receive a number of Shares or the Fair Market Value of such number of Shares in cash based on the attainment of specified performance goals or other criteria determined by the Administrator.

2.33 “Plan” shall mean this BioRestorative Therapies, Inc. 2021 Stock Incentive Plan, as it may be amended, supplemented, and restated from time to time.

2.34 “Program” shall mean any program adopted by the Administrator pursuant to the Plan containing the terms and conditions intended to govern a specified type of Award granted under the Plan and pursuant to which such type of Award may be granted under the Plan.

2.35 “Restricted Stock” shall mean an award of Shares made under Article 7 hereof that is subject to certain restrictions and may be subject to risk of forfeiture.

2.36 “Restricted Stock Unit” shall mean a contractual right awarded under Section 8.3 hereof to receive in the future a Share or the Fair Market Value of a Share in cash.

2.37 “Securities Act” shall mean the Securities Act of 1933, as amended.

2.38 “Share Limit” shall have the meaning provided in Section 3.1(a) hereof.

2.39 “Shares” shall mean shares of Common Stock.

2.40 “Stock Appreciation Right” shall mean an Award entitling the Participant (or other person entitled to exercise pursuant to the Plan) to exercise all or a specified portion thereof (to the extent then exercisable pursuant to its terms) and to receive from the Company an amount determined by multiplying the difference obtained by subtracting the exercise price per share of such Award from the Fair Market Value on the date of exercise of such Award by the number of Shares with respect to which such Award shall have been exercised, subject to any limitations the Administrator may impose.

2.41 “Stock Payment” shall mean a payment in the form of Shares awarded under Section 8.2 hereof.

2.42 “Subsidiary” shall mean (a) a corporation, association or other business entity of which fifty percent (50%) or more of the total combined voting power of all classes of capital stock is owned, directly or indirectly, by the Company and/or by one or more Subsidiaries, (b) any partnership or limited liability company of which fifty percent (50%) or more of the equity interests are owned, directly or indirectly, by the Company and/or by one or more Subsidiaries, and (c) any other entity not described in clauses (a) or (b) above of which fifty percent (50%) or more of the ownership or the power (whether voting interests or otherwise), pursuant to a written contract or agreement, to direct the policies and management or the financial and the other affairs thereof, are owned or controlled by the Company and/or by one or more Subsidiaries.

2.43 “Substitute Award” shall mean an Award granted under the Plan in connection with a corporate transaction, such as a merger, combination, consolidation or acquisition of property or stock, in any case, upon the assumption of, or in substitution for, an outstanding equity award previously granted by a company or other entity that is a party to such transaction; provided, however, that in no event shall the term “Substitute Award” be construed to refer to an award made in connection with the cancellation and repricing of an Option or Stock Appreciation Right.

2.44 “Termination of Service” shall mean, unless otherwise determined by the Administrator:

(a) As to a Consultant, the time when the engagement of a Participant as a Consultant to the Company and its Subsidiaries is terminated for any reason, with or without cause, including, without limitation, by resignation, discharge, death, Disability or retirement, but excluding terminations where the Consultant simultaneously commences or remains in employment and/or service as an Employee and/or Director of the Company or any Subsidiary.

(b) As to a Non-Employee Director, the time when a Participant who is a Non-Employee Director ceases to be a Director for any reason, including, without limitation, a termination by resignation, failure to be elected, removal, death, Disability or retirement, but excluding terminations where the Participant simultaneously commences or remains in employment and/or service as an Employee of and/or Consultant to the Company or any Subsidiary.

(c) As to an Employee, the time when the employee-employer relationship between a Participant and the Company and its Subsidiaries is terminated for any reason, including, without limitation, a termination by resignation, discharge, death, Disability or retirement, but excluding terminations where the Participant simultaneously commences or remains in service as a Consultant to and/or Director of the Company or any Subsidiary.

The Administrator, in its sole discretion, shall determine the effect of all matters and questions relating to any Termination of Service, including, without limitation, whether a Termination of Service has occurred, whether any Termination of Service resulted from a discharge for Cause and whether any particular leave of absence constitutes a Termination of Service; provided, however, that, with respect to Incentive Stock Options, unless the Administrator otherwise provides in the terms of any Program, Award Agreement or otherwise, or as otherwise required by Applicable Law, a leave of absence, change in status from an employee to an independent contractor or other change in the employee-employer relationship shall constitute a Termination of Service only if, and to the extent that, such leave of absence, change in status or other change interrupts employment for the purposes of Section 422(a)(2) of the Code. For purposes of the Plan, a Participant's employee-employer relationship or consultancy relationship shall be deemed to be terminated in the event that the Subsidiary employing or contracting with such Participant ceases to remain a Subsidiary following any merger, sale of stock or other corporate transaction or event (including, without limitation, a spin-off).

## ARTICLE 3

### SHARES SUBJECT TO THE PLAN

#### 3.1 Number of Shares.

(a) Subject to Sections 3.1(b) and 11.2 hereof, the aggregate number of Shares which may be issued or transferred pursuant to Awards under the Plan is Six Million Eight Hundred Fifty Thousand (6,850,000) Shares (the "Share Limit"). No more than Six Million Eight Hundred Fifty Thousand (6,850,000) Shares may be issued upon the exercise of Incentive Stock Options.

(b) If any Shares subject to an Award are forfeited or expire or such Award is settled for cash (in whole or in part), the Shares subject to such Award shall, to the extent of such forfeiture, expiration or cash settlement, again be available for future grants of Awards under the Plan and shall be added back to the Share Limit in the same number of Shares as were debited from the Share Limit in respect of the grant of such Award (as may be adjusted in accordance with Section 11.2 hereof). In addition, the following Shares shall be added back to the Share Limit and will be available for future grants of Awards: (i) Shares tendered by a Participant or withheld by the Company in payment of the exercise price of an Option or Stock Appreciation Right; (ii) Shares tendered by the Participant or withheld by the Company to satisfy any tax withholding obligation with respect to an Award; and (iii) Shares subject to a Stock Appreciation Right that are not issued in connection with the stock settlement of the stock appreciation right on exercise thereof. Any Shares forfeited by the Participant or repurchased by the Company under Section 7.4 hereof at the same price paid by the Participant so that such Shares are returned to the Company will again be available for Awards. The payment of Dividend Equivalents in cash in conjunction with any outstanding Awards shall not be counted against the Shares available for issuance under the Plan. Notwithstanding the provisions of this Section 3.1(b), no Shares may again be optioned, granted or awarded if such action would cause an Incentive Stock Option to fail to qualify as an incentive stock option under Section 422 of the Code.

(c) Substitute Awards shall not reduce the Shares authorized for grant under the Plan, except to the extent required by reason of Section 422 of the Code. Additionally, in the event that a company acquired by the Company or any Subsidiary, or with which the Company or any Subsidiary combines, has shares available under a pre-existing plan approved by its stockholders and not adopted in contemplation of such acquisition or combination, the shares available for grant pursuant to the terms of such pre-existing plan (as adjusted, to the extent appropriate, using the exchange ratio or other adjustment or valuation ratio or formula used in such acquisition or combination to determine the consideration payable to the holders of common stock of the entities party to such acquisition or combination) may be used for Awards under the Plan and shall not reduce the Shares authorized for grant under the Plan to the extent that grants of Awards using such available shares are (i) permitted without stockholder approval under the rules of the principal securities exchange on which the Common Stock is then listed, if applicable, and (ii) made only to individuals who were not employed by or providing services to the Company or its Subsidiaries immediately prior to such acquisition or combination.

#### ARTICLE 4

##### GRANTING OF AWARDS

4.1 Participation. The Administrator may, from time to time, select from among all Eligible Individuals, those to whom one or more Awards shall be granted and shall determine the nature and amount of each Award, which shall not be inconsistent with the requirements of the Plan. No Eligible Individual or other Person shall have any right to be granted an Award pursuant to the Plan.

4.2 Award Agreement. Each Award shall be evidenced by an Award Agreement stating the terms and conditions applicable to such Award, consistent with the requirements of the Plan and any applicable Program. Award Agreements evidencing Incentive Stock Options shall contain such terms and conditions as may be necessary to meet the applicable provisions of Section 422 of the Code.

4.3 At-Will Service. Nothing in the Plan or in any Program or Award Agreement hereunder shall confer upon any Participant any right to continue as an Employee, Director or Consultant of the Company or any Subsidiary, or shall interfere with or restrict in any way the rights of the Company or any Subsidiary, which rights are hereby expressly reserved, to discharge any Participant at any time for any reason whatsoever, with or without Cause, and with or without notice, or to terminate or change all other terms and conditions of any Participant's employment or engagement, except to the extent expressly provided otherwise in a written agreement between the Participant and the Company or any Subsidiary.

4.4 Stand-Alone and Tandem Awards. Awards granted pursuant to the Plan may, in the sole discretion of the Administrator, be granted either alone, in addition to, or in tandem with, any other Award granted pursuant to the Plan. Awards granted in addition to or in tandem with other Awards may be granted either at the same time as or at a different time from the grant of such other Awards.

#### ARTICLE 5

##### GRANTING OF OPTIONS AND STOCK APPRECIATION RIGHTS

5.1 Granting of Options and Stock Appreciation Rights to Eligible Individuals. The Administrator is authorized to grant Options and Stock Appreciation Rights to Eligible Individuals from time to time, in its sole discretion, on such terms and conditions as it may determine which shall not be inconsistent with the Plan.

5.2 Qualification of Incentive Stock Options. No Incentive Stock Option shall be granted to any person who is not an Employee of the Company or any “parent corporation” or “subsidiary corporation” of the Company (as defined in Sections 424(e) and 424(f) of the Code, respectively). No person who qualifies as a Greater Than 10% Stockholder may be granted an Incentive Stock Option unless such Incentive Stock Option conforms to the applicable provisions of Section 422 of the Code. Any Incentive Stock Option granted under the Plan may be modified by the Administrator, with the consent of the Participant, to disqualify such Option from treatment as an “incentive stock option” under Section 422 of the Code. To the extent that the aggregate fair market value of stock with respect to which “incentive stock options” (within the meaning of Section 422 of the Code, but without regard to Section 422(d) of the Code) are exercisable for the first time by a Participant during any calendar year under the Plan and all other plans of the Company or any “parent corporation” or “subsidiary corporation” of the Company (as defined in Section 424(e) and 424(f) of the Code, respectively) exceeds one hundred thousand dollars (\$100,000), the Options shall be treated as Non-Qualified Stock Options to the extent required by Section 422 of the Code. The rule set forth in the preceding sentence shall be applied by taking Options and other “incentive stock options” into account in the order in which they were granted and the fair market value of stock shall be determined as of the time the respective options were granted. In addition, to the extent that any Options otherwise fail to qualify as Incentive Stock Options, such Options shall be treated as Nonqualified Stock Options. Any interpretations and rules under the Plan with respect to Incentive Stock Options shall be consistent with the provisions of Section 422 of the Code.

5.3 Option and Stock Appreciation Right Exercise Price. The exercise price per Share subject to each Option and Stock Appreciation Right shall be set by the Administrator, but shall not be less than one hundred percent (100%) of the Fair Market Value of a Share on the date the Option or Stock Appreciation Right, as applicable, is granted (or, as to Incentive Stock Options, on the date the Option is modified, extended or renewed for purposes of Section 424(h) of the Code). In addition, in the case of Incentive Stock Options granted to a Greater Than 10% Stockholder, such price shall not be less than one hundred ten percent (110%) of the Fair Market Value of a Share on the date the Option is granted (or the date the Option is modified, extended or renewed for purposes of Section 424(h) of the Code). Notwithstanding the foregoing, in the case of an Option or Stock Appreciation Right that is a Substitute Award, the exercise price per share of the Shares subject to such Option or Stock Appreciation Right, as applicable, may be less than the Fair Market Value per share on the date of grant; provided that the exercise price of any Substitute Award shall be determined in accordance with the applicable requirements of Sections 424 and 409A of the Code.

5.4 Option and SAR Term. The term of each Option and the term of each Stock Appreciation Right shall be set by the Administrator in its sole discretion; provided, however, that the term shall not be more than ten (10) years from the date the Option or Stock Appreciation Right, as applicable, is granted, or five (5) years from the date an Incentive Stock Option is granted to a Greater Than 10% Stockholder. Except as limited by the requirements of Section 409A or Section 422 of the Code, and subject to the limitations set forth in the previous sentence, the Administrator may extend the term of any outstanding Option or Stock Appreciation Right, and may extend the time period during which vested Options or Stock Appreciation Rights may be exercised, in connection with any Termination of Service of the Participant or otherwise.

#### 5.5 Termination of Services.

(a) Unless otherwise provided in an Award Agreement, if a Participant has a Termination of Service for any reason other than for Cause or due to death or Disability, the Participant may exercise any vested outstanding Option or Stock Appreciation Right, to the extent exercisable on the date of Termination of Service, at any time within three months after the date of such Termination of Service.

(b) Unless otherwise provided in an Award Agreement, if a Participant has a Termination of Service due to death or Disability, the Participant (or in the case of death, the Participant's estate or the beneficiary who acquired the right to exercise the Option or Stock Appreciation Right by bequest or inheritance or otherwise by reason of the death of the Participant) may exercise any vested outstanding Option or Stock Appreciation Right, to the extent exercisable on the date of Termination of Service, at any time within twelve months after the date of such Termination of Service.

(c) Unless otherwise provided in an Award Agreement, if a Participant has a Termination of Service for Cause, any Option or Stock Appreciation Right held by the Participant under the Plan, to the extent not exercised prior to the Termination of Service, and whether or not vested, will terminate immediately.

(d) Notwithstanding the foregoing, nothing in this Section 5.5 will extend the exercise period for any Option or Stock Appreciation Right beyond the stated term of the Option or Stock Appreciation Right.

#### 5.6 Option and SAR Vesting.

(a) The terms and conditions pursuant to which an Option or Stock Appreciation Right vests in the Participant and becomes exercisable shall be determined by the Administrator and set forth in the applicable Award Agreement. Such vesting may be based on service with the Company or any Subsidiary, specified performance goals, or any other criteria selected by the Administrator. At any time after the grant of an Option or Stock Appreciation Right, the Administrator may, in its sole discretion and subject to whatever terms and conditions it selects, accelerate the vesting of the Option or Stock Appreciation Right.

(b) Unless otherwise permitted by the Plan, no portion of an Option or Stock Appreciation Right which is unexercisable at a Participant's Termination of Service shall thereafter become exercisable.

5.7 Substitution of Stock Appreciation Rights. The Administrator may, in its sole discretion, substitute an Award of Stock Appreciation Rights for an outstanding Option at any time prior to or upon exercise of such Option; provided, however, that such Stock Appreciation Rights shall be exercisable with respect to the same number of Shares for which such substituted Option would have been exercisable, and shall also have the same exercise price and remaining term as the substituted Option.

### ARTICLE 6

#### EXERCISE OF OPTIONS AND STOCK APPRECIATION RIGHTS

6.1 Exercise and Payment. An exercisable Option or Stock Appreciation Right may be exercised in whole or in part. However, an Option or Stock Appreciation Right shall not be exercisable with respect to fractional shares and the Administrator may require that, by the terms of the Option or Stock Appreciation Right, a partial exercise must be with respect to a minimum number of Shares. Payment of the amounts payable with respect to Stock Appreciation Rights pursuant to this Article 6 shall be in cash, Shares (based on its Fair Market Value as of the date the Stock Appreciation Right is exercised), or a combination of both, as determined by the Administrator.

6.2 Manner of Exercise. All or a portion of an exercisable Option or Stock Appreciation Right shall be deemed exercised upon delivery of all of the following to the Secretary of the Company, the Administrator or such other person or entity designated by the Administrator, or his, her or its office, as applicable:

(a) A written or electronic notice complying with the applicable rules established by the Administrator stating that the Option or Stock Appreciation Right, or a portion thereof, is exercised. The notice shall be signed by the Participant or other person then entitled to exercise the Option or Stock Appreciation Right or such portion thereof;

(b) Such representations and documents as the Administrator, in its sole discretion, deems necessary or advisable to effect compliance with Applicable Law. The Administrator may, in its sole discretion, also take such additional actions as it deems appropriate to effect such compliance including, without limitation, placing legends on share certificates and issuing stop-transfer notices to agents and registrars;

(c) In the event that the Option or Stock Appreciation Right shall be exercised pursuant to Section 9.3 hereof by any person or persons other than the Participant, appropriate proof of the right of such person or persons to exercise the Option or Stock Appreciation Right, as determined in the sole discretion of the Administrator; and

(d) Full payment of the exercise price and applicable withholding taxes for the Shares with respect to which the Option or Stock Appreciation Right, or portion thereof, is exercised, in a manner permitted by the Administrator in accordance with Sections 9.1 and 9.2 hereof.

6.3 Notification Regarding Disposition. The Participant shall give the Company prompt written or electronic notice of any disposition of Shares acquired by exercise of an Incentive Stock Option which occurs within (a) two (2) years after the date of granting (including the date the Option is modified, extended or renewed for purposes of Section 424(h) of the Code) of such Option to such Participant, or (b) one (1) year after the date of transfer of such Shares to such Participant.

## **ARTICLE 7**

### **RESTRICTED STOCK**

#### **7.1 Award of Restricted Stock**

(a) The Administrator is authorized to grant Restricted Stock to Eligible Individuals, and shall determine the terms and conditions, including the restrictions applicable to each award of Restricted Stock, which terms and conditions shall not be inconsistent with the Plan or any applicable Program, and may impose such conditions on the issuance of such Restricted Stock as it deems appropriate.



(b) The Administrator shall establish the purchase price, if any, and form of payment for Restricted Stock; provided, however, that if a purchase price is charged, such purchase price shall be no less than the par value of the Shares to be purchased, unless otherwise permitted by Applicable Law. In all cases, legal consideration shall be required for each issuance of Restricted Stock to the extent required by Applicable Law.

7.2 Rights as Stockholders. Subject to Section 7.4 hereof, upon issuance of Restricted Stock, the Participant shall have, unless otherwise provided by the Administrator, all the rights of a stockholder with respect to the Shares, subject to the restrictions in the Plan, an applicable Program or in the applicable Award Agreement, including the right to receive all dividends and other distributions paid or made with respect to the Shares; provided, however, that, in the sole discretion of the Administrator, any extraordinary distributions with respect to the Shares may be subject to the restrictions set forth in Section 7.3 hereof. In addition, with respect to Restricted Stock that is subject to performance-based vesting (including the continuation of services for a specified period of time), dividends which are paid prior to vesting shall only be paid out to the Participant to the extent that the performance-based vesting conditions are subsequently satisfied and the share of Restricted Stock vests.

7.3 Restrictions. All shares of Restricted Stock (including any shares received by Participants thereof with respect to shares of Restricted Stock as a result of stock dividends, stock splits or any other form of recapitalization) shall be subject to such restrictions and vesting requirements as the Administrator shall provide in the applicable Program or Award Agreement. By action taken after the Restricted Stock is issued, the Administrator may, on such terms and conditions as it may determine to be appropriate, accelerate the vesting of such Restricted Stock by removing any or all of the restrictions imposed by the terms of any Program or by the applicable Award Agreement.

7.4 Repurchase or Forfeiture of Restricted Stock. Except as otherwise determined by the Administrator, if no purchase price was paid by the Participant for the Restricted Stock, upon a Termination of Service, the Participant's rights in unvested Restricted Stock then subject to restrictions shall lapse and be forfeited, and such Restricted Stock shall be surrendered to the Company and cancelled without consideration on the date of such Termination of Service. If a purchase price was paid by the Participant for the Restricted Stock, upon a Termination of Service the Company shall have the right to repurchase from the Participant the unvested Restricted Stock then-subject to restrictions at a cash price per share equal to the price paid by the Participant for such Restricted Stock or such other amount as may be specified in an applicable Program or the applicable Award Agreement. The Administrator in its sole discretion may provide that, upon certain events, including without limitation a Change in Control, the Participant's death, retirement or Disability, any other specified Termination of Service or any other event, the Participant's rights in unvested Restricted Stock shall not terminate, such Restricted Stock shall vest and cease to be forfeitable and, if applicable, the Company shall cease to have a right of repurchase.

7.5 Certificates/Book Entries for Restricted Stock. Restricted Stock granted pursuant to the Plan may be evidenced in such manner as the Administrator shall determine. Certificates or book entries evidencing shares of Restricted Stock must include an appropriate legend referring to the terms, conditions, and restrictions applicable to such Restricted Stock, and the Company may, in its sole discretion, retain physical possession of any stock certificate until such time as all applicable restrictions lapse.

7.6 Section 83(b) Election. If a Participant makes an election under Section 83(b) of the Code to be taxed with respect to the Restricted Stock as of the date of transfer of the Restricted Stock rather than as of the date or dates upon which the Participant would otherwise be taxable under Section 83(a) of the Code, the Participant shall be required to deliver a copy of such election to the Company promptly after filing such election with the Internal Revenue Service.

## ARTICLE 8

### DIVIDEND EQUIVALENTS; STOCK PAYMENTS; RESTRICTED STOCK UNITS; PERFORMANCE SHARES; OTHER INCENTIVE AWARDS

#### 8.1 Dividend Equivalents.

(a) Subject to Section 8.1(b) hereof, Dividend Equivalents may be granted by the Administrator, either alone or in tandem with another Award, based on dividends declared on Common Stock, to be credited as of dividend payment dates during the period between the date the Dividend Equivalents are granted to a Participant and the date such Dividend Equivalents terminate or expire, as determined by the Administrator. Such Dividend Equivalents shall be converted to cash or additional Shares by such formula and at such time and subject to such limitations as may be determined by the Administrator. In addition, Dividend Equivalents with respect to an Award that is subject to performance-based vesting that are based on dividends paid prior to the vesting of such Award shall only be paid out to the Participant to the extent that the performance-based vesting conditions are subsequently satisfied and the Award vests.

(b) Notwithstanding the foregoing, no Dividend Equivalents shall be payable with respect to Options or Stock Appreciation Rights.

8.2 Stock Payments. The Administrator is authorized to make one or more Stock Payments to any Eligible Individual. The number or value of Shares of any Stock Payment shall be determined by the Administrator and may be based upon one or more specific performance criteria or any other specific criteria, including service to the Company or any Subsidiary, determined by the Administrator. Stock Payments may, but are not required to, be made in lieu of base salary, bonus, fees or other cash compensation otherwise payable to such Eligible Individual.

8.3 Restricted Stock Units. The Administrator is authorized to grant Restricted Stock Units to any Eligible Individual. The number and terms and conditions of Restricted Stock Units shall be determined by the Administrator. The Administrator shall specify the date or dates on which the Restricted Stock Units shall become fully vested and nonforfeitable, and may specify such conditions to vesting as it deems appropriate, including conditions based on one or more specific performance criteria or other specific criteria, including service to the Company or any Subsidiary, in each case, on a specified date or dates or over any period or periods, as determined by the Administrator. The Administrator shall specify, or may permit the Participant to elect, the conditions and dates upon which the Shares underlying the Restricted Stock Units shall be issued, which dates shall not be earlier than the date as of which the Restricted Stock Units vest and become nonforfeitable and which conditions and dates shall be consistent with the applicable provisions of Section 409A of the Code or an exemption therefrom. On the distribution dates, the Company shall issue to the Participant one unrestricted, fully transferable Share (or the Fair Market Value of one such Share in cash) for each vested and nonforfeitable Restricted Stock Unit.

8.4 Performance Share Awards. Any Eligible Individual selected by the Administrator may be granted one or more Performance Share awards which shall be denominated in a number or range of Shares and the vesting of which may be linked to any specific performance criteria (in each case on a specified date or dates or over any period or periods determined by the Administrator) and/or time-vesting or other criteria, as determined by the Administrator.

8.5 Other Incentive Awards. The Administrator is authorized to grant Other Incentive Awards to any Eligible Individual, which Awards may cover Shares or the right to purchase Shares or have a value derived from the value of, or an exercise or conversion privilege at a price related to, or that are otherwise payable in or based on, Shares, stockholder value or stockholder return, in each case, on a specified date or dates or over any period or periods determined by the Administrator. Other Incentive Awards may be linked to such specific performance criteria as determined appropriate by the Administrator. Other Incentive Awards may be paid in cash, Shares, or a combination of cash and Shares, as determined by the Administrator.

8.6 Other Terms and Conditions. All applicable terms and conditions of each Award described in this Article 8, including without limitation, as applicable, the term, vesting conditions and exercise/purchase price applicable to the Award, shall be set by the Administrator in its sole discretion, provided, however, that the value of the consideration paid by a Participant for an Award, if any, shall not be less than the par value of a Share, unless otherwise permitted by Applicable Law.

8.7 Exercise upon Termination of Service. Awards described in this Article 8 are exercisable or distributable, as applicable, only while the Participant is an Employee, Director or Consultant, as applicable. Except as otherwise provided in the Plan, the Administrator, however, in its sole discretion may provide that such Award may be exercised or distributed subsequent to a Termination of Service as provided under an applicable Program, Award Agreement, payment deferral election and/or in certain events, including without limitation, a Change in Control, the Participant's death, retirement or Disability or any other specified Termination of Service.

## ARTICLE 9

### ADDITIONAL TERMS OF AWARDS

9.1 Payment. The Administrator shall determine the method or methods by which payments by any Participant with respect to any Awards granted under the Plan shall be made, including, without limitation: (a) cash or check, (b) Shares (including, in the case of payment of the exercise price of an Award, Shares issuable pursuant to the exercise of the Award) held for such minimum period of time as may be established by the Administrator, in each case, having a Fair Market Value on the date of delivery equal to the aggregate payments required, (c) other form of legal consideration acceptable to the Administrator, or (d) any combination of the foregoing. The Administrator shall also determine the methods by which Shares shall be delivered or deemed to be delivered to Participants.

#### 9.2 Tax Withholding and Tax Bonuses.

(a) The Company and its Subsidiaries shall have the authority and the right to deduct or withhold, or require a Participant to remit to the Company or a Subsidiary, an amount sufficient to satisfy federal, state, local and foreign taxes (including the Participant's social security, Medicare and any other employment tax obligation) required by law to be withheld with respect to any taxable event concerning a Participant arising in connection with any Award. The Administrator may in its sole discretion and in satisfaction of the foregoing requirement allow a Participant to satisfy such obligations by any payment means described in Section 9.1 hereof, including without limitation, by allowing such Participant to elect to have the Company or a Subsidiary withhold Shares otherwise issuable under an Award (or allow the surrender of Shares). Notwithstanding anything in this Section 9.2 to the contrary, the Company shall not allow a Participant to make any such election if the election would cause a violation of Section 409A of the Code.

(b) The Committee, in its discretion, shall have the authority, at the time of grant of any Award under the Plan or at any time thereafter, to approve cash bonuses to designated Participants to be paid upon their exercise or receipt of (or the lapse of restrictions relating to) Awards in order to provide funds to pay all or a portion of federal and state taxes due as a result of such exercise or receipt (or the lapse of such restrictions). The Committee shall have full authority in its discretion to determine the amount of any such tax bonus. Notwithstanding the foregoing, tax bonuses shall not be granted with respect to Awards that are Stock Appreciation Rights or Options.

### 9.3 Transferability of Awards.

(a) No Award under the Plan may be sold, pledged, assigned or transferred in any manner other than by will or the laws of descent and distribution, unless and until such Award has been exercised, or the Shares underlying such Award have been issued, and all restrictions applicable to such Shares have lapsed. No Award or interest or right therein shall be liable for or otherwise subject to the debts, contracts or engagements of the Participant or the Participant's successors in interest or shall be subject to disposition by transfer, alienation, anticipation, pledge, hypothecation, encumbrance, assignment or any other means whether such disposition be voluntary or involuntary or by operation of law by judgment, levy, attachment, garnishment or any other legal or equitable proceedings (including bankruptcy) unless and until such Award has been exercised, or the Shares underlying such Award have been issued, and all restrictions applicable to such Shares have lapsed, and any attempted disposition of an Award prior to the satisfaction of these conditions shall be null and void and of no effect.

(b) During the lifetime of the Participant, only the Participant may exercise any exercisable portion of an Award granted to him under the Plan. Notwithstanding the foregoing, a Non-Qualified Stock Option granted under the Plan may be transferred, in whole or in part, during a Participant's lifetime, upon the approval of the Administrator, to a Participant's "family members" (as such term is defined in Rule 701(c)(3) of the Securities Act and General Instructions A(1)(a)(5) to Form S-8) through a gift or domestic relations order. The transferred portion of a Non-Qualified Stock Option may only be exercised by the person or entity who acquires a proprietary interest in such Option pursuant to the transfer. The terms applicable to the transferred portion shall be the same as those in effect for the Option immediately prior to such transfer and shall be set forth in such documents issued to the transferee as the Administrator may deem appropriate. After the death of the Participant, any exercisable portion of an Award may, prior to the time when such portion becomes unexercisable under the Plan or the applicable Program or Award Agreement, be exercised by the Participant's personal representative or by any person empowered to do so under the deceased Participant's will or under the then-applicable laws of descent and distribution.

(c) Notwithstanding Section 9.3(a) hereof, a Participant may, in the manner determined by the Administrator, designate a beneficiary to exercise the rights of the Participant and to receive any distribution with respect to any Award upon the Participant's death. A beneficiary, legal guardian, legal representative, or other person claiming any rights pursuant to the Plan is subject to all terms and conditions of the Plan and any Program or Award Agreement applicable to the Participant, and to any additional restrictions deemed necessary or appropriate by the Administrator. If the Participant is married or a domestic partner in a domestic partnership qualified under Applicable Law and resides in a "community property" state, a designation of a person other than the Participant's spouse or domestic partner, as applicable, as his or her beneficiary with respect to more than fifty percent (50%) of the Participant's interest in the Award shall not be effective without the prior written or electronic consent of the Participant's spouse or domestic partner. If no beneficiary has been designated or survives the Participant, payment shall be made to the person entitled thereto pursuant to the Participant's will or the laws of descent and distribution. Subject to the foregoing, a beneficiary designation may be changed or revoked by a Participant at any time provided the change or revocation is delivered to the Administrator in writing prior to the Participant's death.

#### 9.4 Conditions to Issuance of Shares.

(a) The Administrator shall determine the methods by which Shares shall be delivered or deemed to be delivered to Participants. Notwithstanding anything herein to the contrary, neither the Company nor its Subsidiaries shall be required to issue or deliver any certificates or make any book entries evidencing Shares pursuant to the exercise of any Award, unless and until the Administrator has determined, with advice of counsel, that the issuance of such Shares is in compliance with Applicable Law, and the Shares are covered by an effective registration statement or applicable exemption from registration. In addition to the terms and conditions provided herein, the Administrator may require that a Participant make such reasonable covenants, agreements, and representations as the Administrator, in its discretion, deems advisable in order to comply with any such Applicable Law.

(b) All Share certificates delivered pursuant to the Plan and all Shares issued pursuant to book entry procedures are subject to any stop-transfer orders and other restrictions as the Administrator deems necessary or advisable to comply with Applicable Law. The Administrator may place legends on any Share certificate or book entry to reference restrictions applicable to the Shares.

(c) The Administrator shall have the right to require any Participant to comply with any timing or other restrictions with respect to the settlement, distribution or exercise of any Award, including a window-period limitation, as may be imposed in the sole discretion of the Administrator.

(d) No fractional Shares shall be issued and the Administrator shall determine, in its sole discretion, whether cash shall be given in lieu of fractional Shares or whether such fractional Shares shall be eliminated by rounding down.

(e) The Company, in its sole discretion, may (i) retain physical possession of any stock certificate evidencing Shares until any restrictions thereon shall have lapsed and/or (ii) require that the stock certificates evidencing such Shares be held in custody by a designated escrow agent (which may but need not be the Company) until the restrictions thereon shall have lapsed, and that the Participant deliver a stock power, endorsed in blank, relating to such Shares.

(f) Notwithstanding any other provision of the Plan, unless otherwise determined by the Administrator or required by Applicable Law, the Company and/or its Subsidiaries may, in lieu of delivering to any Participant certificates evidencing Shares issued in connection with any Award, record the issuance of Shares in the books of the Company (or, as applicable, its transfer agent or stock plan administrator).

9.5 Market Stand-Off. In connection with any underwritten public offering by the Company of its equity securities pursuant to an effective registration statement filed under the Securities Act, including the Company's initial public offering, the Participant will not directly or indirectly sell, make any short sale of, loan, hypothecate, pledge, offer, grant or sell any Option or other contract for the purchase of, any Option or other contract for the sale of, or otherwise dispose of or transfer, or agree to engage in any of the foregoing transactions with respect to, any Shares acquired under this Plan or any Award issued under this Plan without the prior written consent of the Company or its underwriters. Such restriction (the "**Market Stand-Off**") will be in effect for such period of time following the date of the final prospectus for the offering as may be requested by the Company or such underwriters. In no event, however, will such period exceed a) 180 days or b) such other period as may be requested by the Company or the underwriters to accommodate regulatory restrictions on (i) the publication or other distribution of research reports and (ii) analyst recommendations and opinions, including, but not limited to, the restrictions contained in NASD Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto). In the event of the declaration of a stock dividend, a spin-off, a stock split, an adjustment in conversion ratio, a recapitalization or a similar transaction affecting the Company's outstanding securities without receipt of consideration, any new, substituted or additional securities which are by reason of such transaction distributed with respect to any Stock shall be subject to the Market Stand-Off. The Company may impose stop-transfer instructions with respect to any and all Stock or Options previously referred to in this Section until the end of the applicable stand-off period. The Company's underwriters will be beneficiaries of the agreement set forth in this Section. A Participant will be subject to this Section only if the directors and officers of the Company are subject to similar arrangements.

#### 9.6 Forfeiture and Claw-Back Provisions.

(a) Unless otherwise provided in an Award Agreement: (i) any proceeds, gains or other economic benefit actually or constructively received by the Participant upon any receipt or exercise of the Award, or upon the receipt or resale of any Shares underlying the Award, must be paid to the Company, and (ii) the Award shall terminate and any unexercised portion of the Award (whether or not vested) shall be forfeited, if (x) a Termination of Service occurs within six months following receipt or exercise of the Award, (y) the Participant at any time engages in any activity in competition with the Company, or which is inimical, contrary or harmful to the interests of the Company, as further defined by the Administrator or (z) the Participant incurs a Termination of Service for Cause; and

(b) All Awards (including any proceeds, gains or other economic benefit actually or constructively received by a Participant upon any receipt or exercise of any Award or upon the receipt or resale of any Shares underlying the Award) shall be subject to the applicable provisions of any claw-back policy implemented by the Company, whether implemented prior to or after the grant of such Award, including without limitation, any claw-back policy adopted to comply with the requirements of Applicable Law, to the extent set forth in such claw-back policy and/or in the applicable Award Agreement.

9.7 Leave of Absence. Unless the Administrator provides otherwise, vesting of Awards granted hereunder shall not be suspended during any unpaid leave of absence.

### ARTICLE 10

#### ADMINISTRATION

10.1 Administrator. The Committee (or another committee or a subcommittee of the Board assuming the functions of the Committee under the Plan) shall administer the Plan (except as otherwise permitted herein) unless otherwise determined by the Board. Except as may otherwise be provided in the Organizational Documents, appointment of Committee members shall be effective upon acceptance of appointment, Committee members may resign at any time by delivering written or electronic notice to the Board, and vacancies in the Committee may only be filled by the Board. Notwithstanding the foregoing, (a) the full Board, acting by a majority of its members in office, shall conduct the general administration of the Plan with respect to Awards granted to Non-Employee Directors of the Company and (b) the Board or Committee may delegate its authority hereunder to the extent permitted by Section 10.6 hereof.

10.2 Duties and Powers of Administrator. It shall be the duty of the Administrator to conduct the general administration of the Plan in accordance with its provisions. The Administrator shall have the power to interpret the Plan and all Programs and Award Agreements, and to adopt such rules for the administration, interpretation and application of the Plan and any Program as are not inconsistent with the Plan, to interpret, amend or revoke any such rules and to amend any Program or Award Agreement provided that the rights or obligations of the holder of the Award that is the subject of any such Program or Award Agreement are not materially adversely affected by such amendment, unless the consent of the Participant is obtained or such amendment is otherwise permitted under Section 9.5, Section 11.2, Section 11.7, or Section 11.10 hereof. Without limiting the generality of the foregoing, the Administrator shall have the power to reduce the exercise price of an Option granted pursuant to the Plan (either directly or pursuant to the cancellation of the Option and the regrant of an Option) to an exercise price equal to the Fair Market Value of a Share at the time of the exercise price reduction or Option regrant. Any such interpretations and rules with respect to Incentive Stock Options shall be consistent with the provisions of Section 422 of the Code. In its sole discretion, the Board may at any time and from time to time exercise any and all rights and duties of the Committee in its capacity as the Administrator under the Plan.

10.3 Action by the Committee. Unless otherwise established by the Board or in the Organizational Documents or as required by Applicable Law, a majority of the Administrator shall constitute a quorum and the acts of a majority of the members present at any meeting at which a quorum is present, and acts approved in writing by a majority of the members of the Administrator in lieu of a meeting, shall be deemed the acts of the Administrator. Each member of the Administrator is entitled to, in good faith, rely or act upon any report or other information furnished to that member by any officer or other employee of the Company or any Subsidiary, the Company's independent certified public accountants, or any executive compensation consultant or other professional retained by the Company to assist in the administration of the Plan.

10.4 Authority of Administrator. Subject to any specific designation in the Plan and Applicable Law, the Administrator has the exclusive power, authority and sole discretion to:

(a) Designate Eligible Individuals to receive Awards;

(b) Determine the type or types of Awards to be granted to each Eligible Individual;

(c) Determine the number of Awards to be granted and the number of Shares to which an Award will relate;

(d) Determine the terms and conditions of any Award granted pursuant to the Plan, including, but not limited to, the exercise price, grant price, or purchase price, any specific performance criteria, any restrictions or limitations on the Award, any schedule for vesting, lapse of forfeiture restrictions or restrictions on the exercisability of an Award, and accelerations or waivers thereof, and any provisions related to non-competition and recapture of gain on an Award, based in each case on such considerations as the Administrator in its sole discretion determines;

(e) Determine whether, to what extent, and under what circumstances an Award may be settled in, or the exercise price of an Award may be paid in cash, Shares, other Awards, or other property, or an Award may be canceled, forfeited, or surrendered;

(f) Prescribe the form of each Award Agreement, which need not be identical for each Participant;

(g) Decide all other matters that must be determined in connection with an Award;

(h) Establish, adopt, or revise any Programs, rules and regulations as it may deem necessary or advisable to administer the Plan;

(i) Interpret the terms of, and any matter arising pursuant to, the Plan, any Program or any Award Agreement; and

(j) Make all other decisions and determinations that may be required pursuant to the Plan or as the Administrator deems necessary or advisable to administer the Plan.

10.5 Decisions Binding. The Administrator's interpretation of the Plan, any Awards granted pursuant to the Plan, any Program, any Award Agreement and all decisions and determinations by the Administrator with respect to the Plan are final, binding, and conclusive on all parties.

10.6 Delegation of Authority. To the extent permitted by Applicable Law, the Board or Committee may from time to time delegate to a committee of one or more members of the Board or one or more officers of the Company the authority to grant or amend Awards or to take other administrative actions pursuant to this Article 10; provided, however, that in no event shall an officer of the Company be delegated the authority to grant Awards to, or amend Awards held by, officers of the Company (or Directors) to whom authority to grant or amend Awards has been delegated hereunder; provided, further, that any delegation of administrative authority shall only be permitted to the extent it is permissible under the Organizational Documents, and other Applicable Law. Any delegation hereunder shall be subject to the restrictions and limits that the Board or Committee specifies at the time of such delegation or that are otherwise included in the applicable Organizational Documents, and the Board or Committee, as applicable, may at any time rescind the authority so delegated or appoint a new delegatee. At all times, the delegatee appointed under this Section 10.6 shall serve in such capacity at the pleasure of the Board or the Committee, as applicable, and the Board or the Committee may abolish any committee at any time and re-vest in itself any previously delegated authority.

## ARTICLE 11

### MISCELLANEOUS PROVISIONS

#### 11.1 Amendment, Suspension or Termination of the Plan.

(a) Except as otherwise provided in this Section 11.1, the Plan may be wholly or partially amended or otherwise modified, suspended or terminated at any time or from time to time by the Board; provided that, except as provided in Section 9.5, Section 11.2, Section 11.7, or Section 11.10 hereof, no amendment, suspension or termination of the Plan shall, without the consent of the Participant, impair any rights or obligations under any Award theretofore granted or awarded, unless the Award itself otherwise expressly so provides.

(b) No Awards may be granted or awarded during any period of suspension or after termination of the Plan, and notwithstanding anything herein to the contrary, in no event may any Award be granted under the Plan after the tenth (10<sup>th</sup>) anniversary of the date on which the Plan was adopted by the Board (the "Expiration Date"). Any Awards that are outstanding on the Expiration Date shall remain in force according to the terms of the Plan, the applicable Program and the applicable Award Agreement.



(c) A Participant shall not have the right to a change in the exercise price of an Option, an increase in the exercise period for exercise of an Option, or a change to the number of securities received on exercise of an Option.

11.2 Changes in Common Stock or Assets of the Company, Acquisition or Liquidation of the Company and Other Corporate Events.

(a) In the event of any stock dividend, stock split, combination or exchange of shares, merger, consolidation or other distribution (other than normal cash dividends) of Company assets to stockholders, or any other change affecting the shares of the Company's stock or the share price of the Company's stock other than an Equity Restructuring, the Administrator may make equitable adjustments, if any, to reflect such change with respect to (i) the aggregate number and kind of shares that may be issued under the Plan; (ii) the number and kind of Shares (or other securities or property) subject to outstanding Awards; (iii) the terms and conditions of any outstanding Awards (including, without limitation, any applicable performance targets or criteria with respect thereto); and/or (iv) the grant or exercise price per share for any outstanding Awards under the Plan.

(b) In the event of any transaction or event described in Section 11.2(a) hereof or any unusual or nonrecurring transactions or events affecting the Company, any Subsidiary, or the financial statements of the Company or any Subsidiary, or of changes in Applicable Law or Applicable Accounting Standards, the Administrator, in its sole discretion, and on such terms and conditions as it deems appropriate, either by the terms of the Award or by action taken prior to the occurrence of such transaction or event, is hereby authorized to take any one or more of the following actions whenever the Administrator determines that such action is appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan or with respect to any Award under the Plan, to facilitate such transactions or events or to give effect to such changes in Applicable Law or Applicable Accounting Standards:

(i) To provide for the termination of any such Award in exchange for an amount of cash and/or other property, if any, equal to the amount that would have been attained upon the exercise of such Award or realization of the Participant's rights (and, for the avoidance of doubt, if as of the date of the occurrence of the transaction or event described in this Section 11.2, the Administrator determines in good faith that no amount would have been attained upon the exercise of such Award or realization of the Participant's rights, then such Award may be terminated by the Company without payment);

(ii) To provide that such Award be assumed by the successor or survivor corporation, or a parent or subsidiary thereof, or shall be substituted for by similar options, rights or awards covering the stock of the successor or survivor corporation, or a parent or subsidiary thereof, with appropriate adjustments as to the number and kind of shares and applicable exercise or purchase price;

(iii) To make adjustments in the number and type of securities subject to outstanding Awards and Awards which may be granted in the future and/or in the terms, conditions and criteria included in such Awards (including the grant or exercise price, as applicable);

(iv) To provide that such Award shall be exercisable or payable or fully vested with respect to all securities covered thereby, notwithstanding anything to the contrary in the Plan or an applicable Program or Award Agreement;

(v) To replace such Award with other rights or property selected by the Administrator in its sole discretion; and/or

(vi) To provide that the Award cannot vest, be exercised or become payable after such event.

(c) In connection with the occurrence of any Equity Restructuring, and notwithstanding anything to the contrary in Sections 11.2(a) and 11.2(b) hereof:

(i) The number and type of securities subject to each outstanding Award and the exercise price or grant price thereof, if applicable, shall be equitably adjusted; and/or

(ii) The Administrator shall make such equitable adjustments, if any, as the Administrator in its discretion may deem appropriate to reflect such Equity Restructuring with respect to the aggregate number and kind of shares that may be issued under the Plan.

The adjustments provided under this Section 11.2(c) shall be nondiscretionary and shall be final and binding on the affected Participant and the Company.

(d) Except as may otherwise be provided in any applicable Award Agreement or other written agreement entered into between the Company (or a Subsidiary) and a Participant, if a Change in Control occurs and a Participant's outstanding Awards are not continued, converted, assumed, or replaced by the surviving or successor entity in such Change in Control, then, immediately prior to the Change in Control, such outstanding Awards, to the extent not continued, converted, assumed, or replaced, shall become fully vested and, as applicable, exercisable, and all forfeiture, repurchase and other restrictions on such Awards shall lapse. Upon, or in anticipation of, a Change in Control, the Administrator may cause any and all Awards outstanding hereunder to terminate at a specific time in the future, including but not limited to the date of such Change in Control, and shall give each Participant the right to exercise such Awards during a period of time as the Administrator, in its sole and absolute discretion, shall determine. For the avoidance of doubt, if the value of an Award that is terminated in connection with this Section 11.2(d) is zero or negative at the time of such Change in Control, such Award shall be terminated upon the Change in Control without payment of consideration therefor.

(e) The Administrator may, in its sole discretion, include such further provisions and limitations in any Award, agreement or certificate, as it may deem equitable and in the best interests of the Company that are not inconsistent with the provisions of the Plan.

(f) Unless otherwise determined by the Administrator, no adjustment or action described in this Section 11.2 or in any other provision of the Plan shall be authorized to the extent it would (i) cause the Plan to violate Section 422(b)(1) of the Code or (ii) cause an Award to fail to be exempt from or fail to comply with Section 409A of the Code.

(g) The existence of the Plan, any Program, any Award Agreement and/or any Award granted hereunder shall not affect or restrict in any way the right or power of the Company or the stockholders of the Company or any Subsidiary to make or authorize any adjustment, recapitalization, reorganization or other change in the Company's or such Subsidiary's capital structure or its business, any merger or consolidation of the Company or any Subsidiary, any issue of stock or of options, warrants or rights to purchase stock or of bonds, debentures, preferred or prior preference stocks whose rights are superior to or affect the Common Stock, the securities of any Subsidiary, or the rights thereof or which are convertible into or exchangeable for Common Stock or securities of any Subsidiary, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

(h) In the event of any pending stock dividend, stock split, combination or exchange of shares, merger, consolidation or other distribution (other than normal cash dividends) of Company assets to stockholders, or any other change affecting the Shares or the share price of the Common Stock including any Equity Restructuring, for reasons of administrative convenience, the Company in its sole discretion may refuse to permit the exercise of any Award during a period of thirty (30) days prior to the consummation of any such transaction.

11.3 Approval of Plan by Stockholders. The Plan shall be submitted for the approval of the Company's stockholders within twelve (12) months after the date of the Board's initial adoption of the Plan. Awards may be granted or awarded prior to such stockholder approval; and, provided that if such approval has not been obtained at the end of said 12-month period, no Options previously granted or awarded under the Plan shall qualify as Incentive Stock Options.

11.4 No Stockholders Rights. Except as otherwise provided herein or in an applicable Program or Award Agreement, a Participant shall have none of the rights of a stockholder with respect to Shares covered by any Award until the Participant becomes the record owner of such Shares, including the right to participate in any new issues of stock of the Company.

11.5 Paperless Administration. In the event that the Company establishes, for itself or using the services of a third party, an automated system for the documentation, granting or exercise of Awards, such as a system using an internet website or interactive voice response, then the paperless documentation, granting or exercise of Awards by a Participant may be permitted through the use of such an automated system.

11.6 Effect of Plan upon Other Compensation Plans. The adoption of the Plan shall not affect any other compensation or incentive plans in effect for the Company or any Subsidiary. Nothing in the Plan shall be construed to limit the right of the Company or any Subsidiary: (a) to establish any other forms of incentives or compensation for Employees, Directors or Consultants of the Company or any Subsidiary or (b) to grant or assume options or other rights or awards otherwise than under the Plan in connection with any proper corporate purpose including without limitation, the grant or assumption of options in connection with the acquisition by purchase, lease, merger, consolidation or otherwise, of the business, stock or assets of any corporation, partnership, limited liability company, firm or association.

11.7 Compliance with Laws. The Plan, the granting and vesting of Awards under the Plan, the issuance and delivery of Shares and the payment of money under the Plan or under Awards granted or awarded hereunder are subject to compliance with all Applicable Law and to such approvals by any listing, regulatory or governmental authority as may, in the opinion of counsel for the Company, be necessary or advisable in connection therewith. Any securities delivered under the Plan shall be subject to such restrictions, and the person acquiring such securities shall, if requested by the Company, provide such assurances and representations to the Company as the Company may deem necessary or desirable to assure compliance with all Applicable Law. The Administrator, in its sole discretion, may take whatever actions it deems necessary or appropriate to effect compliance with Applicable Law, including, without limitation, placing legends on share certificates and issuing stop-transfer notices to agents and registrars. Notwithstanding anything to the contrary herein, the Administrator may not take any actions hereunder, and no Awards shall be granted, that would violate Applicable Law. To the extent permitted by Applicable Law, the Plan and Awards granted or awarded hereunder shall be deemed amended to the extent necessary to conform to such Applicable Law.

11.8 Titles and Headings, References to Sections of the Code or Exchange Act. The titles and headings of the sections in the Plan are for convenience of reference only and, in the event of any conflict, the text of the Plan, rather than such titles or headings, shall control. References to sections of the Code or the Exchange Act shall include any amendment or successor thereto.

11.9 Governing Law. The Plan and any Programs or Award Agreements hereunder shall be administered, interpreted and enforced under the internal laws of the State of Delaware without regard to conflicts of laws thereof.

11.10 Section 409A. To the extent that the Administrator determines that any Award granted under the Plan is subject to Section 409A of the Code, the Plan, any applicable Program and the Award Agreement covering such Award shall be interpreted in accordance with Section 409A of the Code. Notwithstanding any provision of the Plan to the contrary, in the event that, following the Effective Date, the Administrator determines that any Award may be subject to Section 409A of the Code, the Administrator may adopt such amendments to the Plan, any applicable Program and the Award Agreement or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, that the Administrator determines are necessary or appropriate to avoid the imposition of taxes on the Award under Section 409A of the Code, either through compliance with the requirements of Section 409A of the Code or with an available exemption therefrom. The Company makes no representations or warranties as to the tax treatment of any Award under Section 409A of the Code or otherwise. The Company shall have no obligation under this Section 11.10 or otherwise to take any action (whether or not described herein) to avoid the imposition of taxes, penalties or interest under Section 409A of the Code with respect to any Award and shall have no liability to any Participant or any other person if any Award, compensation or other benefits under the Plan are determined to constitute non-compliant, "nonqualified deferred compensation" subject to the imposition of taxes, penalties and/or interest under Section 409A of the Code.

11.11 No Rights to Awards. No Eligible Individual or other person shall have any claim to be granted any Award pursuant to the Plan, and neither the Company nor the Administrator is obligated to treat Eligible Individuals, Participants or any other persons uniformly.

11.12 Unfunded Status of Awards. The Plan is intended to be an "unfunded" plan for incentive compensation. With respect to any payments not yet made to a Participant pursuant to an Award, nothing contained in the Plan or any Program or Award Agreement shall give the Participant any rights that are greater than those of a general creditor of the Company or any Subsidiary.

11.13 Indemnification. To the extent allowable pursuant to Applicable Law and the Organizational Documents, each member of the Board and any officer or other employee to whom authority to administer any component of the Plan is delegated shall be indemnified and held harmless by the Company from any loss, cost, liability, or expense that may be imposed upon or reasonably incurred by such member in connection with or resulting from any claim, action, suit, or proceeding to which he or she may be a party or in which he or she may be involved by reason of any action or failure to act pursuant to the Plan and against and from any and all amounts paid by him or her in satisfaction of judgment in such action, suit, or proceeding against him or her; provided, however, that he or she gives the Company an opportunity, at its own expense, to handle and defend the same before he or she undertakes to handle and defend it on his or her own behalf. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such persons may be entitled pursuant to the Organizational Documents, as a matter of law, or otherwise, or any power that the Company may have to indemnify them or hold them harmless.

11.14 Relationship to other Benefits. No payment pursuant to the Plan shall be taken into account in determining any benefits under any pension, retirement, savings, profit sharing, group insurance, welfare or other benefit plan of the Company or any Subsidiary except to the extent otherwise expressly provided in writing in such other plan or an agreement thereunder.

11.15 Expenses. The expenses of administering the Plan shall be borne by the Company and its Subsidiaries.

## SECTION 302 CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

I, Lance Alstodt, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of BioRestorative Therapies, Inc.
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report.
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 12, 2024

*/s/ Lance Alstodt*

Lance Alstodt  
Principal Executive Officer

## SECTION 302 CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

I, Robert Kristal, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of BioRestorative Therapies, Inc.
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report.
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 12, 2024

*/s/ Robert Kristal*

Robert Kristal

Principal Financial Officer

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**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER  
AND PRINCIPAL FINANCIAL OFFICER  
PURSUANT TO  
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to 18 U.S.C. § 1350, the undersigned officers of BioRestorative Therapies, Inc. (the “Company”) hereby certify that the Company’s Quarterly Report on Form 10-Q for the period ended September 30, 2024 (the “Report”) fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 12, 2024

*/s/ Lance Alstodt*

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Lance Alstodt  
Principal Executive Officer

*/s/ Robert Kristal*

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Robert Kristal  
Principal Financial Officer

The foregoing certification is being furnished solely pursuant to 18 U.S.C. § 1350 and is not being filed as part of the Report or as a separate disclosure document.

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