

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

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended **September 30, 2013**

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: **000-54586**

**BOSTON THERAPEUTICS, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**27-0801073**

(I.R.S. Employer  
Identification No.)

**1750 Elm Street, Suite 103, Manchester, NH**

(Address of principal executive offices)

**03104**

(Zip Code)

**603-935-9799**

(Registrant's telephone number, including area code)

33 South Commercial Street Manchester, NH 03101

(Former address)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

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

Large accelerated filer  Accelerated filer   
Non-accelerated filer  Smaller Reporting Company

(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

| Class                                     | Outstanding at November 4, 2013 |
|---|---------------------------------|
| Common Stock, \$0.001 par value per share | 37,138,406 shares               |

**BOSTON THERAPEUTICS, INC.**  
**FORM 10-Q**

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*Except as otherwise required by the context, all references in this report to "we", "us", "our", "BTI" or "Company" refer to the consolidated operations of Boston Therapeutics, Inc., a Delaware corporation, formerly called Avanyx Therapeutics, Inc., and its wholly owned subsidiaries.*

**PART I - FINANCIAL INFORMATION**

**Item 1. Unaudited Condensed Financial Statements**

Boston Therapeutics, Inc.  
Balance Sheet (Unaudited)  
September 30, 2013 and December 31, 2012

|   | September 30,<br>2013 | December 31,<br>2012 |
|---|-----------------------|----------------------|
| <b>ASSETS</b>   |                       |                      |
| Cash and cash equivalents   | \$ 3,863,556          | \$ 552,315           |
| Accounts receivable   | 217,118               | 17,351               |
| Prepaid expenses and other current assets   | 69,136                | 9,073                |
| Inventory   | 189,972               | 16,809               |
| Total current assets  | <u>4,339,782</u>      | <u>595,548</u>       |
| Property and equipment, net   | 10,277                | 7,075                |
| Intangible assets   | 712,500               | 760,714              |
| Goodwill  | 69,782                | 69,782               |
| Other assets  | 2,125                 | 2,125                |
| Total assets  | <u>\$ 5,134,466</u>   | <u>\$ 1,435,244</u>  |
| <b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>   |                       |                      |
| <b>Current liabilities:</b>   |                       |                      |
| Accounts payable  | \$ 114,819            | \$ 294,187           |
| Accrued expenses and other current liabilities  | 227,502               | 146,774              |
| Total current liabilities   | 342,321               | 440,961              |
| Advances - related parties  | 297,820               | 297,820              |
| Total liabilities   | <u>640,141</u>        | <u>738,781</u>       |
| <b>COMMITMENTS AND CONTINGENCIES (Note 7)</b>   |                       |                      |
| <b>Stockholders' equity:</b>  |                       |                      |
| Preferred stock, \$0.001 par value, 5,000,000 shares authorized, none issued and outstanding  | -                     | -                    |
| Common stock, \$0.001 par value, 200,000,000 and 100,000,000 shares authorized at September 30, 2013 and December 31, 2012, respectively; 37,094,546 and 18,745,706 shares issued and outstanding at September 30, 2013 and December 31, 2012, respectively | 37,094                | 18,746               |
| Additional paid-in capital  | 9,458,162             | 3,375,116            |
| Accumulated deficit   | (5,000,931)           | (2,697,399)          |
| Total stockholders' equity  | <u>4,494,325</u>      | <u>696,463</u>       |
| Total liabilities and stockholders' equity  | <u>\$ 5,134,466</u>   | <u>\$ 1,435,244</u>  |

See accompanying notes to unaudited condensed financial statements

Boston Therapeutics, Inc.  
Statement of Operations (Unaudited)  
For the Three and Nine Months Ended September 30, 2013 and 2012

|   | For the Three<br>Months Ended |                          | For the Nine Months<br>Ended |                          |
|---|-------------------------------|--------------------------|------------------------------|--------------------------|
|   | September<br>30,<br>2013      | September<br>30,<br>2012 | September<br>30,<br>2013     | September<br>30,<br>2012 |
| Revenue   | \$ 217,520                    | \$ 2,520                 | \$ 242,974                   | \$ 23,750                |
| Cost of goods sold                                    | 118,515                       | 9,120                    | 174,424                      | 40,877                   |
| Gross margin  | <u>99,005</u>                 | <u>(6,600)</u>           | <u>68,550</u>                | <u>(17,127)</u>          |
| Operating expenses:                                   |                               |                          |                              |                          |
| Research and development                              | 151,946                       | 26,116                   | 200,428                      | 145,668                  |
| Sales and marketing                                   | 102,840                       | 93,519                   | 251,236                      | 227,597                  |
| General and administrative                            | 954,261                       | 234,632                  | 1,904,008                    | 498,603                  |
| Total operating expenses                              | <u>1,209,047</u>              | <u>354,267</u>           | <u>2,355,672</u>             | <u>871,868</u>           |
| Operating loss  | (1,110,042)                   | (360,867)                | (2,287,122)                  | (888,995)                |
| Interest expense                                      | (4,842)                       | (5,166)                  | (14,431)                     | (13,522)                 |
| Foreign currency loss                                 | (1,979)                       | (301)                    | (1,979)                      | (3,211)                  |
| Net loss  | <u>\$ (1,116,863)</u>         | <u>\$ (366,334)</u>      | <u>\$ (2,303,532)</u>        | <u>\$ (905,728)</u>      |
|   |                               |                          |                              |                          |
| Net loss per share- basic and diluted                 | \$ (0.04)                     | \$ (0.02)                | \$ (0.11)                    | \$ (0.05)                |
| Weighted average shares outstanding basic and diluted | 26,025,815                    | 17,348,206               | 21,411,649                   | 16,619,598               |

See accompanying notes to unaudited condensed financial statements

Boston Therapeutics, Inc.  
Statement of Cash Flows (Unaudited)  
For the Nine Months Ended September 30, 2013 and 2012

|  | <b>For the Nine Months Ended</b> |                          |
|--|----------------------------------|--------------------------|
|  | <b>September 30,</b>             | <b>September 30,</b>     |
|  | <b>2013</b>                      | <b>2012</b>              |
| <b>Cash flows from operating activities:</b>   |                                  |                          |
| Net loss   | \$ (2,303,532)                   | \$ (905,728)             |
| <b>Adjustments to reconcile net loss to net cash used in operating activities:</b>       |                                  |                          |
| Depreciation and amortization  | 49,710                           | 48,526                   |
| Stock-based compensation   | 857,851                          | 161,504                  |
| Issuance of common stock and common stock warrants for consulting services               | 104,115                          | 53,550                   |
| <b>Changes in operating assets and liabilities:</b>                                      |                                  |                          |
| Accounts receivable  | (199,767)                        | -                        |
| Inventory  | (173,163)                        | (398)                    |
| Prepaid expenses and other current assets  | (60,063)                         | (11,358)                 |
| Accounts payable   | (179,368)                        | 9,947                    |
| Accrued expenses   | 80,728                           | 33,039                   |
| <b>Net cash used in operating activities</b>   | <b><u>(1,823,489)</u></b>        | <b><u>(610,918)</u></b>  |
| <b>Cash flows from investing activities:</b>   |                                  |                          |
| Purchase of property and equipment   | (4,698)                          | (7,756)                  |
| <b>Net cash used in investing activities</b>   | <b><u>(4,698)</u></b>            | <b><u>(7,756)</u></b>    |
| <b>Cash flows from financing activities:</b>   |                                  |                          |
| Proceeds from advances-related parties   | -                                | 40,000                   |
| Proceeds from issuance of common stock and common stock warrants (net of issuance costs) | 5,139,428                        | 522,000                  |
| <b>Net cash provided by financing activities</b>   | <b><u>5,139,428</u></b>          | <b><u>562,000</u></b>    |
| <b>Net increase (decrease) in cash and cash equivalents</b>                              | <b>3,311,241</b>                 | <b>(56,674)</b>          |
| <b>Cash and cash equivalents, beginning of period</b>                                    | <b>552,315</b>                   | <b>225,995</b>           |
| <b>Cash and cash equivalents, end of period</b>  | <b><u>\$ 3,863,556</u></b>       | <b><u>\$ 169,321</u></b> |
| <b>Supplemental disclosure of cash flow information</b>                                  |                                  |                          |
| <b>Cash paid during the period for:</b>  |                                  |                          |
| Interest   | <u>\$ -</u>                      | <u>\$ -</u>              |
| Income taxes   | <u>\$ -</u>                      | <u>\$ -</u>              |

**See accompanying notes to unaudited condensed financial statements**

## 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

### Company Overview

Boston Therapeutics, headquartered in Manchester, NH, (OTC: BTHE) is a leader in the field of complex carbohydrate chemistry. The Company's initial product pipeline is focused on developing and commercializing therapeutic molecules for diabetes: PAZ320, a non-systemic chewable therapeutic compound designed to reduce post-meal glucose elevation; IPOXYN™, an injectable anti-necrosis drug specifically designed to treat lower limb ischemia associated with diabetes; SUGARDOWN®, a non-systemic chewable complex carbohydrate designed to moderate post-meal blood glucose, and BTI-7, a new, chewable dose form of the diabetes drug metformin hydrochloride.

The accompanying financial statements have been prepared assuming the Company will continue as a going concern. The Company has limited resources and operating history. As shown in the accompanying financial statements, the Company has an accumulated deficit of approximately \$5,001,000 as of September 30, 2013. The future of the Company is dependent upon its ability to obtain financing and upon future profitable operations from the development of its new business opportunities. During July and September 2013, the Company conducted four closings of its private placement of securities with accredited investors pursuant to which the investors purchased in aggregate 17,659,007 shares of the Company's common stock and warrants to purchase 8,829,484 additional shares of common stock at an exercise price of \$0.50 per share for total gross proceeds of \$5,297,698. Management has plans to seek additional capital through private placements and public offerings of its common stock. There can be no assurance that the Company will be successful in accomplishing its objectives. Without such additional capital, the Company may be required to cease operations.

These conditions raise substantial doubt about the Company's ability to continue as a going concern. The financial statements do not include any adjustments relating to the recoverability and classification of recorded assets, or the amounts of and classification of liabilities that might be necessary in the event the Company cannot continue in existence.

### Basis of Presentation

The accompanying unaudited condensed financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("US GAAP") for interim financial information and the rules of the Securities and Exchange Commission for quarterly reports on Form 10-Q. It is suggested that these condensed financial statements be read in conjunction with the Company's financial statements for its year ended December 31, 2012 included in its Form 10-K. In the opinion of management, the statements contain all adjustments, including normal recurring adjustments necessary in order to present fairly the financial position as of September 30, 2013 and the results of operations for the three and nine month periods ended September 30, 2013 and 2012.

The year-end balance sheet data was derived from the audited financial statements but does not include all disclosures required by accounting principles generally accepted in the United States of America. The results disclosed in the Statements of Operations for the three and nine month periods ended September 30, 2013 are not necessarily indicative of the results to be expected for the full fiscal year.

### Use of Estimates

The preparation of financial statements in conformity with US GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - continued**

Accounts Receivable

Accounts receivable is stated at the amount management expects to collect from outstanding balances. Management establishes a reserve for doubtful accounts based on its assessment of the current status of individual accounts. Balances that remain outstanding after management has used reasonable collection efforts are written off against the allowance. There were no allowances for doubtful accounts as of September 30, 2013 and December 31, 2012. At September 30, 2013 the Company has one customer that accounts for 100% of its accounts receivable. The Company believes there is minimal risk associated with this receivable.

Inventory

Inventory consists of raw materials, work-in-process and finished goods of SUGARDOWN®. Inventories are stated at the lower of cost (first-in, first-out) or market, not in excess of net realizable value. The Company adjusts the carrying value of its inventory for excess and obsolete inventory. The Company continues to monitor the valuation of its inventory.

Revenue Recognition

The Company generates revenues from sales of SUGARDOWN®. Revenue is recognized when there is persuasive evidence that an arrangement exists, the price is fixed and determinable, the product is shipped and collectability is reasonably assured. Revenue is recognized as product is shipped from an outside fulfillment operation. In practice, the Company has not experienced or granted significant returns of product. Shipping fees charged to customers are included in revenue and shipping costs are included in costs of sales.

During the three and nine months ended September 30, 2013, one customer accounted for 100% and 97% of the Company's revenue, respectively.

Stock-Based Compensation

Stock-based compensation, including grants of employee and non-employee stock options and modifications to existing stock options, is recognized in the income statement based on the estimated fair value of the awards. The Company uses the Black-Scholes option pricing model to determine the fair value of options granted and recognizes the compensation cost of share-based awards on a straight-line basis over the vesting period of the award.

The determination of the fair value of share-based payment awards utilizing the Black-Scholes model is affected by the stock price and a number of assumptions, including expected volatility, expected life, risk-free interest rate and expected dividends. The Company does not have a history of market prices of the common stock as, and as such volatility is estimated using historical volatilities of similar public entities. The expected life of the awards is estimated based on the simplified method. The risk-free interest rate assumption is based on observed interest rates appropriate for the terms of our awards. The dividend yield assumption is based on history and expectation of paying no dividends. Forfeitures are estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates. Stock-based compensation expense is recognized in the financial statements on a straight-line basis over the vesting period, based on awards that are ultimately expected to vest.

The Company grants stock options to non-employee consultants from time to time in exchange for services performed for the Company. Equity instruments granted to non-employees are subject to periodic revaluation over their vesting terms. In general, the options vest over the contractual period of the respective consulting arrangement and, therefore, the Company revalues the options periodically and records additional compensation expense related to these options over the remaining vesting period.

Loss per Share

Basic net loss per share is computed based on the net loss for the period divided by the weighted average actual shares outstanding during the period. Diluted net loss per share is computed based on the net loss for the period divided by the weighted average number of common shares and common equivalent shares outstanding during each period unless the effect of such common equivalent shares would be anti-dilutive. Common stock equivalents represent the dilutive effect of the assumed exercise of certain outstanding stock options using the treasury stock method. The weighted average number of common shares for the three and nine months ended September 30, 2013 did not include 5,886,400 and 11,633,337 options and warrants, respectively, because of their anti-dilutive effect. The weighted average number of common shares for the three and nine months ended September 30, 2012 did not include 1,878,400 and 20,000 options and warrants, respectively, because of their anti-dilutive effect.

## 2. INVENTORIES

Inventories consist of material, labor and manufacturing overhead and are recorded at the lower of cost, using the weighted average cost method, or net realizable value.

The components of inventories at September 30, 2013 and December 31, 2012, net of inventory reserves, were as follows:

|                 | 2013              | 2012             |
|-----------------|-------------------|------------------|
| Raw materials   | \$ 31,311         | \$ 13,125        |
| Work in process | 2,077             | -                |
| Finished goods  | 156,584           | 3,684            |
|                 | <u>\$ 189,972</u> | <u>\$ 16,809</u> |

The Company periodically reviews quantities of inventory on hand and compares these amounts to expected usage of each particular product or product line. The Company records, as a charge to cost of sales, any amounts required to reduce the carrying value to net realizable value.

## 3. STOCKHOLDERS' EQUITY

The Company is authorized to issue up to 5,000,000 shares of its \$0.001 par value preferred stock and up to 200,000,000 shares of its \$0.001 par value common stock. On May 31, 2013, record holders of 56% of the issued and outstanding voting common stock authorized the Company to amend its certificate of incorporation to increase the number of common shares from 100,000,000 to 200,000,000. The amendment went into effect September 7, 2013.

### Common Stock

On May 7, 2012 the Company issued 20,000 shares of common stock at a price per share of \$1.10 and issued a warrant to purchase an additional 20,000 shares of common stock at \$1.15 per share for gross proceeds of \$22,000. The warrant associated with the subscription agreement is exercisable immediately and has a five year term. The Company has evaluated these warrants for proper classification based on terms of the warrant agreement and has determined that equity classification is appropriate. The Company estimated the relative fair value of the warrant to be \$8,754 using the Black Scholes model, which has been recorded as a component of permanent equity in additional paid in capital.

During May 2012 the Company entered into a consulting agreement under which it is required to pay the consultant a monthly fee consisting of 25,000 shares of restricted common stock beginning May 21, 2012 through May 21, 2013. As of December 31, 2012 the Company has issued 150,000 shares due under this agreement for services rendered during June through November 2012 with a fair value of \$76,500. An accrual in the amount of \$14,000 representing the fair value of the 33,333 unissued shares for services rendered in December 2012 is included in the accompanying December 31, 2012 balance sheet.

During June 2012 the Company issued 80,000 shares of its common stock with a fair value of \$40,800 in exchange for professional consulting services.

On June 29, 2012 the Company issued 1,000,000 shares to an affiliate of Advance Pharmaceutical Co., Ltd. (APC) in a private placement for net proceeds of \$500,000. APC is licensed to distribute SUGARDOWN® in Hong Kong, China and Macau. The Company reviewed the private placement issuance and determined that the issuance price of \$0.50 per share approximates fair value as of the date of issuance.

During July 2012 the Company entered into a consulting agreement under which it is required to pay the consultant a monthly fee consisting of \$4,000 paid in cash and 7,500 shares of restricted common stock. As of December 31, 2012 the Company has issued the 22,500 total shares due under this agreement for services rendered during July, August and September 2012 with an aggregate fair value of \$11,475. The agreement was terminated as of September 30, 2012.



### 3. STOCKHOLDERS' EQUITY - continued

#### Common Stock - continued

On November 13, 2012 the Company issued 1,250,000 shares of its common stock at a price per share of \$0.50 and issued a warrant to purchase 625,000 additional shares for \$1.00 per share for gross proceeds of \$625,000. The warrant associated with the subscription agreement is exercisable immediately and has a five year term. The Company has evaluated these warrants for proper classification based on terms of the warrant agreement and has determined that equity classification is appropriate. The Company estimated the relative fair value of the warrant to be \$124,019 using the Black Scholes model, which has been recorded as a component of permanent equity in additional paid in capital.

On January 22, 2013 the Company issued 45,833 shares of its common stock with a fair value of \$19,250 in exchange for consulting services incurred in fiscal 2012 and January of 2013. As of December 31, 2012, the Company had accrued \$14,000 representing the fair value of the 33,333 unissued shares for services rendered in December 2012 which was included in the accompanying December 31, 2012 balance sheet. The agreement was terminated in January 2013.

On March 14, 2013 the Company issued 500,000 shares of its common stock at a price per share of \$0.50 and issued a warrant to purchase 250,000 additional shares for \$1.00 per share for gross proceeds of \$250,000. The warrant associated with the subscription agreement is exercisable immediately and has a five year term. The Company has evaluated these warrants for proper classification based on terms of the warrant agreement and has determined that equity classification is appropriate. The Company estimated the relative fair value of the warrant to be \$35,457 using the Black Scholes model, which has been recorded as a component of permanent equity in additional paid in capital.

On April 29, 2013 the Company issued a warrant to purchase 100,000 of common stock for \$1.00 per share in exchange for consulting services rendered. The warrant associated with the consulting agreement is exercisable immediately and has a five year term. The Company has evaluated these warrants for proper classification based on terms of the warrant agreement and has determined that equity classification is appropriate. The Company estimated the fair value of the warrant to be \$19,865 using the Black Scholes model, which has been recorded as a component of permanent equity in additional paid in capital.

On April 30, 2013 the Company issued 52,000 shares of its common stock with a fair value of \$28,080 in exchange for consulting services rendered during February through April 2013 in connection with two separate consulting agreements.

On June 28, 2013 the Company issued 40,000 shares of its common stock with a fair value of \$14,000 in exchange for consulting services rendered during May and June in connection with two separate consulting agreements.

Between July and September 2013, the Company conducted four closings of its private placement of securities with accredited investors pursuant to which the investors purchased in aggregate 17,659,007 shares of the Company's common stock and warrants to purchase an additional 8,829,484 shares of common stock at an exercise price of \$0.50 per share (the Investor Warrants) for total gross proceeds of \$5,297,698. In addition, the Company issued warrants to the Placement Agent in exchange for services to purchase in aggregate 1,808,849 shares for \$0.30 per share (the Placement Agent Warrants). The Investor Warrants and Placement Agent Warrants are exercisable immediately and have a five year term. The Company has evaluated these warrants for proper classification based on terms of the warrant agreements and has determined that equity classification is appropriate. The Company estimated the relative fair value of the Investor Warrants associated with the investor subscription agreements and Placement Agent Warrants as \$1,279,093 and \$288,101, respectively, using the Black Scholes model, which has been recorded as a component of permanent equity in additional paid in capital. In addition, issuance costs paid by the Company in connection with the private placement offering totaled \$408,270.

During September 2013 the Company issued 52,000 shares of its common stock with a fair value of \$22,920 in exchange for consulting services rendered during July through September 2013 in connection with two separate consulting agreements.

#### 4. STOCK OPTION PLAN AND STOCK-BASED COMPENSATION

During the year ended December 31, 2010, the Company adopted a stock option plan entitled “The 2010 Stock Plan” (2010 Plan) under which the Company may grant options to purchase up to 5,000,000 shares of common stock. On September 7, 2013, the 2010 plan was amended to increase the number of shares of common stock issuable under the 2010 Plan to 7,500,000. As of September 30, 2013 and December 31, 2012, there were 578,400 options outstanding under the 2010 Plan.

During the year ended December 31, 2011, the Company adopted a non-qualified stock option plan entitled “2011 Non-Qualified Stock Plan” (2011 Plan) under which the Company may grant options to purchase 2,100,000 shares of common stock. In December 2012, the 2011 Plan was amended to increase the number of shares of common stock issuable under the 2011 Plan to 12,000,000 shares. During the period ended March 31, 2013, the 2011 Plan was amended to increase the number of shares of common stock issuable under the 2011 Plan to 17,500,000. As of September 30, 2013 and December 31, 2012, there were 5,308,000 and 7,130,000 options outstanding under the 2011 Plan, respectively.

Under the terms of the stock plans, the Board of Directors shall specify the exercise price and vesting period of each stock option on the grant date. Vesting of the options is typically three to four years and the options typically expire in five to seven years.

The fair value of stock options granted or revalued for three and nine months ended September 30, 2013 and 2012 was calculated with the following assumptions:

|                         | 2013            | 2012            |
|-------------------------|-----------------|-----------------|
| Risk-free interest rate | 0.47% - 1.55%   | 0.31% - 1.27%   |
| Expected dividend yield | 0%              | 0%              |
| Volatility factor       | 85%             | 90%             |
| Expected life of option | 3.25 to 6 years | 2.90 to 7 years |

The weighted-average fair value of stock options granted during the periods ended September 30, 2013 and 2012, under the Black-Scholes option pricing model was \$0.21 per share.

The Company recognized \$472,820 and \$44,638 of stock-based compensation costs in the accompanying statement of operations for the three months ended September 30, 2013 and 2012, respectively. The three months ended September 30, 2013 includes additional compensation expense of \$252,345 relating to the future vesting of options per the terms of a terminated employee’s employment agreement. The Company recognized \$857,851 and \$161,504 of stock-based compensation costs in the accompanying statement of operations for the nine months ended September 30, 2013 and 2012, respectively. No actual tax benefit was realized from stock option exercises during these periods. As of September 30, 2013, there was approximately \$213,000 of unrecognized compensation expense related to non-vested stock option awards that is expected to be recognized over a weighted average period of 1.06 years.

The following table summarizes the Company’s stock option activity during the nine months ended September 30, 2013:

|                                      | Shares           | Exercise Price per Share | Weighted Average Exercise Price per Share |
|--------------------------------------|------------------|--------------------------|---|
| Outstanding as of December 31, 2012  | 7,708,400        | \$ 0.10-1.85             | \$ 0.42                                   |
| Granted                              | 708,000          | 0.42-1.00                | 0.68                                      |
| Exercised                            | -                | -                        | -   |
| Options forfeited/cancelled          | (2,530,000)      | 0.50-1.00                | 0.51                                      |
| Outstanding as of September 30, 2013 | <u>5,886,400</u> | <u>\$ 0.10-1.85</u>      | <u>\$ 0.42</u>                            |

**4. STOCK OPTION PLAN AND STOCK-BASED COMPENSATION - continued**

The following table summarizes information about stock options that are vested or expected to vest at September 30, 2013:

| Vested or Expected to Vest |                   |   |   |                           |                   | Exercisable Options                       |   |                           |  |
|----------------------------|-------------------|---|---|---------------------------|-------------------|---|---|---------------------------|--|
| Exercise Price             | Number of Options | Weighted Average Exercise Price Per Share | Weighted Average Remaining Contractual Life (Years) | Aggregate Intrinsic Value | Number of Options | Weighted Average Exercise Price Per Share | Weighted Average Remaining Contractual Life (Years) | Aggregate Intrinsic Value |  |
| \$ 0.10                    | 1,800,000         | \$ 0.10                                   | 3.13  | \$ 1,026,000              | 1,612,500         | \$ 0.10                                   | 3.15  | \$ 919,125                |  |
| 0.42                       | 98,000            | 0.42                                      | 7.26  | 24,500                    | -                 | 0.42                                      | -   | -                         |  |
| 0.50                       | 3,330,000         | 0.50                                      | 2.09  | 566,100                   | 2,371,668         | 0.50                                      | 2.34  | 403,184                   |  |
| 0.57                       | 400,000           | 0.57                                      | 4.87  | 40,000                    | 83,280            | 0.57                                      | 4.87  | 8,328                     |  |
| 1.00                       | 180,000           | 1.00                                      | 2.32  | -                         | 135,000           | 1.00                                      | 1.63  | -                         |  |
| 1.85                       | 78,400            | 1.85                                      | 2.00  | -                         | 78,400            | 1.85                                      | 2.00  | -                         |  |
| <b>\$ 0.10-1.85</b>        | <b>5,886,400</b>  | <b>\$ 0.41</b>                            | <b>2.69</b>   | <b>\$ 1,656,600</b>       | <b>4,280,848</b>  | <b>\$ 0.39</b>                            | <b>2.67</b>   | <b>\$ 1,330,637</b>       |  |

The weighted-average remaining contractual life for stock options exercisable at September 30, 2013 is 2.67 years. At September 30, 2013, the Company has 12,192,000 and 6,921,600 options available for grant under the 2011 Plan and 2010 Plan, respectively. The intrinsic value for fully vested, exercisable options was \$1,330,637 and \$418,000 at September 30, 2013 and December 31, 2012, respectively. No actual tax benefit was realized from stock option exercises during these periods.

## 5. RELATED PARTY TRANSACTIONS

Through December 31, 2011, the CEO advanced \$257,820 to BTI to fund start-up costs and operations of the Company. Advances by the CEO carry an interest rate of 6.5% and were due on June 29, 2013. On May 7, 2012, the Company's CEO and President entered into promissory notes to advance to the Company an aggregate of \$40,000. The notes accrue interest at 6.5% per year were due June 30, 2013. On August 6, 2012, the outstanding notes of \$297,820 were amended to extend the maturity dates to June 29, 2014. On August 2, 2013, the outstanding notes of \$297,820 were amended to extend the maturity dates to June 29, 2015.

As of September 30, 2013 and December 31, 2012, \$58,568 and \$44,090, respectively, of accrued interest had been included in accrued expenses on the accompanying balance sheet.

## 6. INTANGIBLE ASSETS

The SUGARDOWN® technology and provisional patents are being amortized on a straight-line basis over their useful lives of 14 years. Goodwill is not amortized, but is evaluated annually for impairment.

Intangible assets consist of the following at September 30, 2013 and December 31, 2012:

|   | 2013              | 2012              |
|---|-------------------|-------------------|
| SUGARDOWN® technology and provisional patents | \$ 900,000        | \$ 900,000        |
| Less accumulated amortization                 | (187,500)         | (139,286)         |
| Intangible assets, net                        | <u>\$ 712,500</u> | <u>\$ 760,714</u> |

Amortization expense was \$16,071 and \$48,213 for the three and nine months ended September 30, 2013 and 2012, respectively.

## 7. COMMITMENTS AND CONTINGENCIES

The Company entered into a three year lease agreement for their office lease facility commencing July 1, 2012, with escalating rental payments. On February 21, 2013, the Company amended the lease agreement to extend the lease through March 2018 and increase rental space. The effects of variable rent disbursements have been expensed on a straight-line basis over the life of the lease. The Company recognized rent expense of \$10,132 and \$59,372 during the three and nine months ended September 30, 2013, respectively. The Company recognized rent expense of \$7,326 and \$9,890 during the three and nine months ended September 30, 2012, respectively. As of September 30, 2013 and December 31, 2012, there was \$25,635 and \$2,267, respectively, of deferred rent included in accrued expenses and other current liabilities in the accompanying balance sheets.

Future minimum lease payments under all non-cancelable operating leases as of September 30, 2013 are as follows:

| Fiscal year |           |                |
|-------------|-----------|----------------|
| 2013        | \$        | 14,634         |
| 2014        |           | 60,093         |
| 2015        |           | 62,169         |
| 2016        |           | 64,299         |
| 2017        |           | 66,519         |
| 2018        |           | 16,770         |
|             | <u>\$</u> | <u>284,484</u> |

## **8. SUBSEQUENT EVENTS**

The Company has evaluated events and transactions that occurred from September 30, 2013 through the date of filing, for possible disclosure and recognition in the financial statements. Except as discussed below, the Company did not have any material subsequent events that impact its financial statements or disclosures.

In October 2013, the Company conducted an additional closing of its private placement of securities to related parties and affiliates resulting in the purchase of 153,334 shares of the Company's common stock and warrants to purchase 76,666 additional shares of common stock at an exercise price of \$0.50 per share for total gross proceeds of \$46,000.

## Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

*The following discussion and analysis is based on, and should be read in conjunction with the unaudited condensed consolidated financial statements and the notes thereto included elsewhere in this Form 10-Q. This Quarterly Report on Form 10-Q contains "forward-looking statements" within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended. These statements are often identified by the use of words such as "may," "will," "expect," "believe," "anticipate," "intend," "could," "estimate," or "continue," and similar expressions or variations. Such forward-looking statements are subject to risks, uncertainties and other factors that could cause actual results and the timing of certain events to differ materially from future results expressed or implied by such forward-looking statements. The forward-looking statements in this Quarterly Report on Form 10-Q represent our views as of the date of this Quarterly Report on Form 10-Q. We anticipate that subsequent events and developments will cause our views to change. However, while we may elect to update these forward-looking statements at some point in the future, we have no current intention of doing so except to the extent required by applicable law. You should, therefore, not rely on these forward-looking statements as representing our views as of any date subsequent to the date of this Report on Form 10-Q.*

### Overview

Boston Therapeutics, headquartered in Manchester, NH, (OTC: BTHE) is a leader in the field of complex carbohydrate chemistry. The Company's initial product pipeline is focused on developing and commercializing therapeutic molecules for diabetes: PAZ320, a non-systemic chewable complex carbohydrate-based, drug candidate designed to moderate post-meal blood glucose; IPOXYN, an injectable, anti-necrosis drug specifically designed to treat lower limb ischemia associated with diabetes; SUGARDOWN®, a non-systemic tablet designed to reduce the post prandial glucose in the blood, and BTI -7, a new, chewable dose form of the diabetes drug metformin hydrochloride.

The accompanying financial statements have been prepared assuming the Company will continue as a going concern. The Company has limited resources and operating history. As shown in the accompanying financial statements, as of September 30, 2013, the Company has an accumulated deficit of approximately \$5,001,000. The future of the Company is dependent upon its ability to obtain financing and upon future profitable operations from the development of its new business opportunities.

Management has plans to seek additional capital through private placements and public offerings of its common stock. There can be no assurance that the Company will be successful in accomplishing its objectives. Without such additional capital, the Company may be required to cease operations.

These conditions raise substantial doubt about the Company's ability to continue as a going concern. The financial statements do not include any adjustments relating to the recoverability and classification of recorded assets, or the amounts of and classification of liabilities that might be necessary in the event the Company cannot continue in existence.

## **Results of Operation**

### ***Three Months Ended September 30, 2013 compared to September 30, 2012***

#### **Revenue**

Revenue for the three months ended September 30, 2013 was \$217,520, an increase of \$215,000 as compared to revenue of \$2,520 for the three months ended September 30, 2012. The increase was primarily the result of shipments of SUGARDOWN® to one customer.

#### **Gross Margin**

Gross margin for the three months ended September 30, 2013 was \$99,005 as compared to negative gross margin of (\$6,600) for the three months ended September 30, 2012. The increase is primarily related to the shipment of product during the quarter. The negative gross margin for the three months ended September 30, 2012 was primarily the result of fixed overhead costs related to moving to a new fulfillment operations and manufacturing scale-up from small to production grade equipment exceeding revenue.

#### **Research and Development**

Research and development expense for the three months ended September 30, 2013 was \$151,946, an increase of \$125,830 as compared to \$26,116 for the three months ended September 30, 2012. The increase is primarily the result of increased research and development activity in preparation for PAZ320's Phase II trial in France and PAZ320's Phase III international trial.

#### **Sales and Marketing**

Sales and marketing expense for the three months ended September 30, 2013 was \$102,840, an increase of \$9,321 or 10% as compared to \$93,519 for the three months ended September 30, 2012. The expense consists primarily of costs incurred with third parties for product marketing and public relations.

#### **General and Administrative**

General and administrative expense for the three months ended September 30, 2013 was \$954,261, an increase of \$719,629 as compared to \$234,632 for the three months ended September 30, 2012. Approximately \$407,000 of the increase is related to stock-based compensation which includes \$252,000 of expense due to the future vesting of options per the terms of a terminated employee's employment agreement and expense associated with option grants during 2012 and 2013. Consulting and professional services increased \$135,000 for investor relations and maintenance of the SUGARDOWN® website, accounting and legal professional fees increased \$91,000 and payroll and payroll related expense increased \$82,000 due to additional personnel.

### ***Nine Months Ended September 30, 2013 compared to September 30, 2012***

#### **Revenue**

Revenue for the nine months ended September 30, 2013 was \$242,974, an increase of \$219,224 as compared to revenue of \$23,750 for the nine months ended September 30, 2012. The increase was the result of shipments of SUGARDOWN® to one customer primarily in the third quarter.

#### **Gross Margin**

Gross margin for the nine months ended September 30, 2013 was \$68,550 as compared to negative gross margin of (\$17,127) for the nine months ended September 30, 2012. The increase is primarily related to the shipment of product during the third quarter. The negative gross margin for the nine months ended September 30, 2012 was primarily the result of fixed overhead costs related to moving to a new fulfillment operations and manufacturing scale-up from small to production grade equipment exceeding revenue.

#### **Research and Development**

Research and development expense for the nine months ended September 30, 2013 was \$200,428, an increase of \$54,760 as compared to \$145,668 for the nine months ended September 30, 2012. The increase is primarily the result of increased research and development activity in preparation for PAZ320's Phase II trial in France and PAZ320's Phase III international trial.

## **Sales and Marketing**

Sales and marketing expense for the nine months ended September 30, 2013 was \$251,236, an increase of \$23,639 or 10% as compared to \$227,597 for the nine months ended September 30, 2012. The expense consists primarily of costs incurred with third parties for product marketing and public relations.

## **General and Administrative**

General and administrative expense for the nine months ended September 30, 2013 was \$1,904,008, an increase of \$1,405,405 as compared to \$498,603 for the nine months ended September 30, 2012. Approximately \$677,000 of the increase is related to stock-based compensation which includes \$252,000 of expense due to the future vesting of options per the terms of a terminated employee's employment agreement and expense associated with option grants during 2012 and 2013. Additionally, consulting and professional fees increased approximately \$345,000 for investor relations and maintenance of the SUGARDOWN® website, payroll and related payroll expense increased \$162,000 due to additional personnel, accounting and legal professional fees increased \$114,000 due to increased business operations and rent expense increased \$50,000 due to the new office facility.

## **LIQUIDITY AND CAPITAL RESOURCES**

*As of September 30, 2013*

As of September 30, 2013, we had cash of \$3,863,556 and accounts payable and accrued expenses and other current liabilities of \$342,321. During the interim period ended September 30, 2013, the Company raised \$5,297,698 in private placements of unregistered common stock and warrants to purchase common stock. On August 2, 2013, the outstanding notes of \$297,820 were amended to extend the maturity dates to June 29, 2015. We have received minimal revenues from the SUGARDOWN® product.

We plan to seek additional capital through private placements and public offerings of our common stock. There can be no assurance that the Company will be successful in accomplishing its objectives. Without such additional capital, the Company may be required to cease operations.

We anticipate that our cash resources will be sufficient to fund our operations into the near term. However, changes may occur that would cause us to consume our existing capital prior to that time, including the scope and progress of our research and development efforts. Additionally, actual costs may ultimately vary from our current expectations, which could materially impact our use of capital and our forecast of the period of time through which our financial resources will be adequate to support our operations.

Our CEO also contributed a provisional patent, a patent and know-how to the Company. We intend to use these and other assets to attract investors in order to raise the capital required to fund operations. Even if we are able to continue our operations, the failure to obtain financing could have a substantial adverse effect on our business and financial results. In the future, we may be required to seek additional capital by selling debt or equity securities, and we may be required to cease operations, or otherwise be required to bring cash flows in balance when we approach a condition of cash insufficiency. The sale of additional equity or debt securities, if accomplished, may result in dilution to our then shareholders. We provide no assurance that financing will be available in amounts or on terms acceptable to us, or at all.

## **OFF-BALANCE SHEET ARRANGEMENTS**

We do not have any off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that are material to our investors.

## **CRITICAL ACCOUNTING POLICIES**

See Note 1 Summary of Significant Accounting Policies, of the Notes to Condensed Consolidated Financial Statements in Part I, Item 1 herein for a discussion of critical accounting policies.



### **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

As a “smaller reporting company” as defined by Item 10 of Regulation S-K, we are not required to provide the information requested by this item, as provided by Regulation S-K Item 305(e).

### **Item 4. Controls and Procedures**

#### **Disclosure Controls and Procedures**

Pursuant to Rules 13a-15(b) and 15-d-15(b) under the Securities Exchange Act of 1934, as amended (“Exchange Act”), the Company carried out an evaluation, with the participation of the Company’s management, including the Company’s Chief Executive Officer and Chief Financial Officer (“CEO/CFO”) (the Company’s principal financial and accounting officer), of the effectiveness of the Company’s disclosure controls and procedures as of the end of the period covered by this report. The term “disclosure controls and procedures”, as defined under Rules 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company’s management, including its principal executive and principal financial officer, as appropriate to allow timely decisions regarding required disclosure. Based upon the evaluation of the disclosure controls and procedures at the end of the period covered by this report, the Company’s CEO/CFO concluded that the Company’s disclosure controls and procedures were not effective due to a material weakness in the Company’s internal control over financial reporting as discussed below.

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

The Company has evaluated the changes in its internal control over financial reporting that occurred during the quarter ended September 30, 2013 and concluded that the following matters have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

As of September 30, 2013, there was a material weakness in the Company’s internal control over financial reporting due to the fact that the Company did not have a process established to ensure adequate levels of review of accounting and financial reporting matters, which resulted in our closing process not identifying all required adjustments in a timely fashion.

Although the Company has hired consultants to assist with SEC reporting and accounting matters, we expect that the Company will need to hire accounting personnel with the requisite knowledge to improve the levels of review of accounting and financial reporting matters. The Company may experience delays in doing so and any such additional employees would require time and training to learn the Company’s business and operating processes and procedures. For the near-term future, until such personnel are in place, this will continue to constitute a material weakness in the Company’s internal control over financial reporting that could result in material misstatements in the Company’s financial statements not being prevented or detected. The Company’s management, including the Company’s CEO/CFO, does not expect that the Company’s internal control over financial reporting will prevent all errors and all fraud. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree or compliance with the policies or procedures may deteriorate.

## PART II - OTHER INFORMATION

### Item 1. Legal Proceedings

None.

### Item 1A. Risk Factors

There have not been any material changes from the risk factors previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2012.

### Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

The only unregistered sales of equity securities made by the Company during the quarter ended September 30, 2013 and not previously reported on Form 8-K are as follows:

During September 2013 the Company issued 52,000 shares of its common stock with a fair value of \$22,920 in exchange for consulting services rendered during July through August 2013 in connection with two separate consulting agreements.

Each of the preceding sales and issuances was made in reliance on the exemption from registration provided by Section 4(2) of the Securities Act for transactions not involving a public offering.

### Item 3. Defaults Upon Senior Securities

None.

### Item 4. (Removed and Reserved)

### Item 5. Other Information

None.

## Item 6. Exhibits

| <u>Exhibit No.</u>   | <u>Title of Document</u>   |
|----------------------|--|
| 3.1                  | Certificate of Amendment to Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on September __, 2013)  |
| <a href="#">4.1</a>  | Form of Investor Warrant*  |
| <a href="#">4.2</a>  | Form of Private Placement Warrant*   |
| <a href="#">10.1</a> | Boston Therapeutics, Inc. Amended and Restated 2010 Stock Plan*  |
| <a href="#">10.2</a> | Unit Purchase Agreement between Boston Therapeutics, Inc. and the investors named therein dated as of July 23, 2013, as amended*   |
| <a href="#">10.3</a> | Registration Rights Agreement between Boston Therapeutics, Inc. and the investors named therein dated as of July 23, 2013, as amended*   |
| <a href="#">31.1</a> | Certification of Principal Executive Officer pursuant to Rule 13a-14 and Rule 15d-14(a), promulgated under the Securities and Exchange Act of 1934, as amended*  |
| <a href="#">31.2</a> | Certification of Principal Financial Officer pursuant to Rule 13a-14 and Rule 15d-14(a), promulgated under the Securities and Exchange Act of 1934, as amended*  |
| <a href="#">32.1</a> | Certification pursuant to Section 906 of Sarbanes Oxley Act of 2002 (Chief Executive Officer)**  |
| <a href="#">32.2</a> | Certification pursuant to Section 906 of Sarbanes Oxley Act of 2002 (Chief Financial Officer)**  |
| 101                  | The following financial statements from the Quarterly Report on Form 10-Q of Boston Therapeutics, Inc. for the quarter ended September 30, 2013 formatted in XBRL: (i) Condensed Balance Sheets (unaudited), (ii) Condensed Statements of Operations (unaudited), (iii) Condensed Statements of Cash Flows (unaudited), and (iv) Notes to Condensed Financial Statements (unaudited), tagged as blocks of text.* |

\*Filed as an exhibit hereto.

\*\*These certificates are furnished to, but shall not be deemed to be filed with, the Securities and Exchange Commission.

**SIGNATURES**

In accordance with the requirements of the Exchange Act, the registrant caused this report to be signed on its behalf by the undersigned, there unto duly authorized.

**BOSTON THERAPEUTICS, INC.**

Date: November 13, 2013

By: /s/ David Platt  
David Platt  
Chief Executive Officer and Chief Financial Officer

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NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.

**COMMON STOCK PURCHASE WARRANT**

**BOSTON THERAPEUTICS, INC.**

Warrant Shares: \_\_\_\_\_ Initial Exercise Date: \_\_\_\_\_

THIS COMMON STOCK PURCHASE WARRANT (the "**Warrant**") certifies that, for value received, \_\_\_\_\_ (the "**Holder**") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the date hereof (the "**Initial Exercise Date**") and on or prior to the close of business on the five year anniversary of the Initial Exercise Date (the "**Termination Date**") but not thereafter, to subscribe for and purchase from Boston Therapeutics, Inc., a Delaware corporation (the "**Company**"), up to \_\_\_\_\_ shares (the "**Warrant Shares**") of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. For the purposes hereof, in addition to the terms defined elsewhere in this Warrant, (a) capitalized terms not otherwise defined herein shall have the meanings set forth in the Purchase Agreement and (b) the following terms shall have the following meanings:

"**Business Day**" means any day except any Saturday, any Sunday, any day which shall be a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

"**Common Stock Equivalents**" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive Common Stock.

**"Offering"** shall bear such meaning as ascribed to it in the Subscription Agreement.

**"Person"** means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

**"Purchase Agreement"** means the Unit Purchase Agreement, dated as of August 6, 2013 among the Company and the original Holder, as amended, modified or supplemented from time to time in accordance with its terms.

**"Securities Act"** means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

**"Subscription Agreement"** means the Subscription Agreement, dated as of \_\_\_\_\_ among the Company and the original Holder, as amended, modified or supplemented from time to time in accordance with its terms.

**"Trading Day"** means a day on which the New York Stock Exchange is open for business.

**"Trading Market"** means the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE MKT, LLC, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange or the OTC Bulletin Board, or the other OTC markets, including the OTCQX, OTCQB and OTC Pink markets.

**"VWAP"** means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a national securities exchange, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the trading market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. New York City time to 4:02 p.m. New York City time); (b) if the Common Stock is quoted on the OTC Bulletin Board, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the OTC Bulletin Board; (c) if the Common Stock is not then listed or quoted for trading on the OTC Bulletin Board and if prices for the Common Stock are then reported on the OTC markets, including the OTCQX, OTCQB and OTC Pink markets, or in the "Pink Sheets" published by Pink Sheets, LLC (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported; or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company; provided that in each case where Bloomberg L.P. data is being relied upon, Holder shall provide to the Company a copy of such information for the Company's records

Section 2.

Exercise.

a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company (or such other office or agency of the Company as it may designate by notice in writing to the registered Holder at the address of the Holder appearing on the books of the Company) of a duly executed notice of exercise ("**Notice of Exercise**") form annexed hereto; and, within 3 Trading Days of the date said Notice of Exercise is delivered to the Company, the Company shall have received payment of the aggregate Exercise Price of the shares thereby purchased by wire transfer or cashier's check drawn on a United States bank. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within 3 Trading Days of the date the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. In the event of any dispute or discrepancy, the records of the Company shall be controlling and determinative in the absence of manifest error.

b) Exercise Price. The exercise price per share of the Common Stock under this Warrant shall be **\$0.50**, subject to adjustment hereunder (the "**Exercise Price**").

c) Exercise Limitations. Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise, the Holder (together with the Holder's affiliates, and any other person or entity acting as a group together with the Holder or any of the Holder's affiliates), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of this Section, beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. Holder is solely responsible for any schedules required to be filed in accordance therewith. The Company shall have no obligation to verify or confirm the accuracy of such filings. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The "**Beneficial Ownership Limitation**" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of Warrant Shares issuable upon exercise of this Warrant. The Holder, upon not less than 61 days' prior notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2.3, provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of Warrant Shares upon exercise of this Warrant held by the Holder and the provisions of this Section 2.3 shall continue to apply. Any such increase or decrease will not be effective until the 61<sup>st</sup> day after such notice is delivered to the Company. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.



d) Mechanics of Exercise.

i. Delivery of Certificates Upon Exercise. Certificates for shares purchased hereunder shall be transmitted by the Company's transfer agent (the "Transfer Agent") to the Holder by crediting the account of the Holder's prime broker with the Depository Trust Company through its Deposit Withdrawal Agent Commission ("DWAC") system if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the resale of the Warrant Shares by the Holder or (B) the shares are eligible for resale without volume or manner-of-sale limitations pursuant to Rule 144, and otherwise by physical delivery of certificates to the address specified by the Holder in the Notice of Exercise within 4 Trading Days from the delivery to the Company of the Notice of Exercise Form, surrender of this Warrant (if required) and payment of the aggregate Exercise Price as set forth above (the "Warrant Share Delivery Date"). For the avoidance of doubt, in the absence of an effective registration statement permitting the resale of the Warrant Shares or the eligibility of the Warrant Shares for resale without volume or manner-of-sale limitations pursuant to Rule 144, the Warrant Shares issuable upon exercise of this Warrant may be issued as unregistered shares with a customary Rule 144 restrictive legend. This Warrant shall be deemed to have been exercised on the date the Exercise Price is received by the Company. The Warrant Shares shall be deemed to have been issued, and Holder or any other person so designated to be named therein shall be deemed to have become a holder of record of such shares for all purposes, as of the date the Warrant has been exercised by payment to the Company of the Exercise Price and all taxes required to be paid by the Holder, if any, pursuant to Section 2(e)(vi) prior to the issuance of such shares, have been paid. If the Company is obligated to and fails for any reason to deliver to the Holder certificates evidencing the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Warrant Shares subject to such exercise, \$10 per Trading Day (increasing to \$20 per Trading Day on the seventh Trading Day after such liquidated damages begin to accrue) for each Trading Day after such Warrant Share Delivery Date until such certificates are delivered.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the certificate or certificates representing Warrant Shares, deliver to Holder a new Warrant evidencing the rights of Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder a certificate or the certificates representing the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

v. Charges, Taxes and Expenses. Issuance of certificates for Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event certificates for Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the assignment form ("Assignment Form") attached hereto duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto.

vi. Closing of Books. The Company will not close its shareholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise make a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any Warrant Shares issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of shareholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to the other subsections of this Section 3, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

c) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company effects any merger or consolidation of the Company with or into another Person, (ii) the Company effects any sale of all or substantially all of its assets in one or a series of related transactions, (iii) any tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to tender or exchange their shares for other securities, cash or property or (iv) the Company effects any reclassification of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property (each "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation (any such shares of Common Stock are referred to as "Securities Consideration"), and any additional consideration (the "Alternate Consideration") receivable as a result of such merger, consolidation or disposition of assets by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such event. If holders of Common Stock are given any choice as to Securities Consideration and Alternate Consideration to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. The terms of any agreement pursuant to which a Fundamental Transaction is effected shall include terms requiring any such successor or surviving entity to comply with the provisions of this Section 3(c) in connection with any subsequent transaction analogous to a Fundamental Transaction.

d) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

e) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly mail to the Holder a notice setting forth the Exercise Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any shareholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, of any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be mailed to the Holder at its last address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to mail such notice or any defect therein or in the mailing thereof shall not affect the validity of the corporate action required to be specified in such notice. The Holder is entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice.

Section 4.

Transfer of Warrant.

a) Transferability. Subject to compliance with any applicable securities laws and the conditions set forth in Section 4(d) herein and to the provisions of the Subscription Agreement and Purchase Agreement, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. The Warrant, if properly assigned, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the Initial Exercise Date and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "Warrant Register"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

d) Transfer Restrictions. If, at the time of the surrender of this Warrant in connection with any transfer of this Warrant, the transfer of this Warrant shall not be either (i) registered pursuant to an effective registration statement under the Securities Act and under applicable state securities or blue sky laws or (ii) eligible for resale without volume or manner-of-sale restrictions pursuant to Rule 144, the Company may require, as a condition of allowing such transfer, that the Holder or transferee of this Warrant, as the case may be, comply with the provisions of the Subscription Agreement and Purchase Agreement.

Section 5. Call Provision. Subject to the provisions of this Section 5, if during the period commencing on the Initial Exercise Date and ending on the two year anniversary of the final closing of the Offering ("Redemption Period"), the VWAP for the Company's Common Stock as reported by Bloomberg L.P. for each of fifteen (15) consecutive Trading Days (each such period, a "Measurement Period", the fifteenth consecutive Trading Day of which shall not fall on a date later than the last day of the Redemption Period), exceeds \$2.00, subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock, then the Company may upon forty five (45) days prior written notice (the "Redemption Notice"), call for redemption ("Call") of this Warrant solely with respect to Covered Shares (as defined below) then outstanding; provided that such Redemption Notice is delivered to the Holder within five (5) business days after the end of the Measurement Period. If the conditions set forth herein for such Call are satisfied, then this Warrant (with respect to Covered Shares only) for which a Notice of Exercise shall not have been received by the Redemption Date (as defined below) will be cancelled at 6:00 p.m. (New York City time) on the 45th day after the date the Redemption Notice is delivered to the Holder (such date, the "Redemption Date"). In furtherance thereof, the Company covenants and agrees that it will honor all Notices of Exercise with respect to Warrant Shares subject to a Redemption Notice that are tendered prior to 6:00 p.m. (New York City time) on the Redemption Date. For the purposes hereof, "Covered Shares" means those Warrant Shares which, from the date of the delivery of the Redemption Notice through and including the Redemption Date, are covered by an effective registration statement under the Securities Act providing for the resale of such Warrant Shares and the prospectus of such registration statement is available for use by the Holder for the resale of such Warrant Shares. Notwithstanding anything to the contrary set forth in this Warrant, this Warrant shall not be cancelled (and any Redemption Notice will be void) with respect to any Warrant Shares which are not Covered Shares.

Section 6. Miscellaneous.

a) No Rights as Shareholder Until Exercise. This Warrant does not entitle the Holder to any voting rights or other rights as a shareholder of the Company prior to the exercise hereof.

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then, such action may be taken or such right may be exercised on the next succeeding Business Day.

d) Authorized Shares.

The Company covenants that, during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock one hundred (100%) of the number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. In case such amount of Common Stock is insufficient at any time, the Company shall call and hold a special meeting to increase the number of authorized shares of common stock. Management of the Company shall recommend to shareholders to vote in favor of increasing the number of authorized shares of common stock.

The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of executing stock certificates to execute and issue the necessary certificates for the Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its amended and restated certificate of incorporation, as amended or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Purchase Agreement.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice Holder's rights, powers or remedies, notwithstanding the fact that all rights hereunder terminate on the Termination Date. If the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of Holder, shall give rise to any liability of Holder for the purchase price of any Common Stock or as a shareholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of all Holders from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.



n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

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IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**BOSTON THERAPEUTICS, INC.**

By: \_\_\_\_\_  
Name: Kenneth A. Tasse  
Title: President

**NOTICE OF EXERCISE**

TO: BOSTON THERAPEUTICS, INC.

(1) The undersigned hereby elects to purchase \_\_\_\_\_ Warrant Shares of the Company pursuant to the terms of the attached Warrant, and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Please issue a certificate or certificates representing said Warrant Shares in the name of the undersigned or in such other name as is specified below:

\_\_\_\_\_

The Warrant Shares shall be delivered to the following DWAC Account Number or by physical delivery of a certificate to:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(3) Accredited Investor. The undersigned is an "accredited investor" as defined in Regulation D promulgated under the Securities Act of 1933, as amended.

[SIGNATURE OF HOLDER]

Name of Investing

Entity: \_\_\_\_\_

*Signature of Authorized Signatory of Investing*

Entity: \_\_\_\_\_

Name of Authorized

Signatory: \_\_\_\_\_

Title of Authorized

Signatory: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

**ASSIGNMENT FORM**

(To assign the foregoing warrant, execute  
this form and supply required information.  
Do not use this form to exercise the warrant.)

FOR VALUE RECEIVED, [\_\_\_\_\_] all of or [\_\_\_\_\_] shares of the foregoing Warrant and all rights evidenced thereby are  
hereby assigned to

\_\_\_\_\_ whose address is

\_\_\_\_\_.

\_\_\_\_\_

Dated: \_\_\_\_\_, \_\_\_\_\_

Holder's Signature: \_\_\_\_\_

Holder's Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature Guaranteed: \_\_\_\_\_

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank or trust company. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.



NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.

**COMMON STOCK PURCHASE WARRANT**

**BOSTON THERAPEUTICS, INC.**

Warrant Shares: \_\_\_\_\_

Initial Exercise Date: \_\_\_\_\_

THIS COMMON STOCK PURCHASE WARRANT (the "**Warrant**") certifies that, for value received, \_\_\_\_\_ (the "**Holder**") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the date hereof (the "**Initial Exercise Date**") and on or prior to the close of business on the five year anniversary of the Initial Exercise Date (the "**Termination Date**") but not thereafter, to subscribe for and purchase from Boston Therapeutics, Inc., a Delaware corporation (the "**Company**"), up to \_\_\_\_\_ shares (the "**Warrant Shares**") of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. For the purposes hereof, in addition to the terms defined elsewhere in this Warrant, (a) capitalized terms not otherwise defined herein shall have the meanings set forth in the Purchase Agreement and (b) the following terms shall have the following meanings:

"**Business Day**" means any day except any Saturday, any Sunday, any day which shall be a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

"**Common Stock Equivalents**" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive Common Stock.

“**Person**” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

“**Securities Act**” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“**Trading Day**” means a day on which the New York Stock Exchange is open for business.

“**Trading Market**” means the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE MKT, LLC, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange or the OTC Bulletin Board, or the other OTC markets, including the OTCQX, OTCQB and OTC Pink markets.

“**VWAP**” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a national securities exchange, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the trading market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. New York City time to 4:02 p.m. New York City time); (b) if the Common Stock is quoted on the OTC Bulletin Board, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the OTC Bulletin Board; (c) if the Common Stock is not then listed or quoted for trading on the OTC Bulletin Board and if prices for the Common Stock are then reported on the OTC markets, including the OTCQX, OTCQB and OTC Pink markets, or in the “Pink Sheets” published by Pink Sheets, LLC (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported; or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company; provided that in each case where Bloomberg L.P. data is being relied upon, Holder shall provide to the Company a copy of such information for the Company's records.

## Section 2.

### Exercise.

a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company (or such other office or agency of the Company as it may designate by notice in writing to the registered Holder at the address of the Holder appearing on the books of the Company) of a duly executed notice of exercise (“**Notice of Exercise**”) form annexed hereto; and, within 3 Trading Days of the date said Notice of Exercise is delivered to the Company, the Company shall have received payment of the aggregate Exercise Price of the shares thereby purchased by wire transfer or cashier's check drawn on a United States bank unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within 3 Trading Days of the date the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. In the event of any dispute or discrepancy, the records of the Company shall be controlling and determinative in the absence of manifest error.

b) **Exercise Price.** The exercise price per share of the Common Stock under this Warrant shall be **\$0.30**, subject to adjustment hereunder (the "**Exercise Price**").

c) The Holder, at its option, may exercise this Warrant in a cashless exercise transaction pursuant to this subsection (c) (a "**Cashless Exercise**"). In order to effect a Cashless Exercise, the Holder shall surrender this Warrant at the principal office of the Company together with Notice of Exercise, completed and executed, indicating Holder's election to effect a Cashless Exercise, in which event the Company shall issue Holder a number of shares of Common Stock computed using the following formula:

$$X = Y (A-B)/A$$

where: X = the number of shares of Common Stock to be issued to Holder.

Y = the number of shares of Common Stock for which this Warrant is being exercised.

A = the Market Price of one (1) share of Common Stock (for purposes of this Section 2(c), where "Market Price," means the VWAP of one (1) share of the Company's Common Stock during the three (3) consecutive Trading Day period immediately preceding the Date of Exercise.

B = the Exercise Price.

For purposes of Rule 144 and sub-section (d)(3)(ii) thereof, it is intended, understood and acknowledged that the Common Stock issued upon exercise of this Warrant in a Cashless Exercise transaction shall be deemed to have been acquired at the time this Warrant was issued. Moreover, it is intended, understood and acknowledged that the holding period for the Common Stock issued upon Exercise of this Warrant in a Cashless Exercise transaction shall be deemed to have commenced on the date this Warrant was issued.



In the case of a dispute as to the determination of the closing price or the VWAP of the Company's Common Stock or the arithmetic calculation of the Exercise Price or Market Price, the Company shall submit the disputed determinations or arithmetic calculations via facsimile within four (4) business days of receipt, or deemed receipt, of the Notice of Exercise, or other event giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation within two (2) business days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two (2) business days submit via facsimile (i) the disputed determination of the closing price or the VWAP of the Company's Common Stock to an independent, reputable investment bank selected by the Company and approved by the Holder, which approval shall not be unreasonably withheld or delayed or (ii) the disputed arithmetic calculation of the Exercise Price, Market Price to the Company's independent, outside accountant, or another accounting firm of national standing selected by the Company. The Company shall cause the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than the later of (i) five (5) business days from the time it receives the disputed determinations or calculations or (ii) five (5) business days from the selection of the investment bank and accounting firm, as applicable. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

d) Exercise Limitations. Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise, the Holder (together with the Holder's affiliates, and any other person or entity acting as a group together with the Holder or any of the Holder's affiliates), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of this Section, beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. Holder is solely responsible for any schedules required to be filed in accordance therewith. The Company shall have no obligation to verify or confirm the accuracy of such filings. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The "**Beneficial Ownership Limitation**" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of Warrant Shares issuable upon exercise of this Warrant. The Holder, upon not less than 61 days' prior notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2.3, provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of Warrant Shares upon exercise of this Warrant held by the Holder and the provisions of this Section 2.3 shall continue to apply. Any such increase or decrease will not be effective until the 61<sup>st</sup> day after such notice is delivered to the Company. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

e) Mechanics of Exercise.

i. Delivery of Certificates Upon Exercise. Certificates for shares purchased hereunder shall be transmitted by the Company's transfer agent (the "Transfer Agent") to the Holder by crediting the account of the Holder's prime broker with the Depository Trust Company through its Deposit Withdrawal Agent Commission ("DWAC") system if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the resale of the Warrant Shares by the Holder or (B) the shares are eligible for resale without volume or manner-of-sale limitations pursuant to Rule 144, and otherwise by physical delivery of certificates to the address specified by the Holder in the Notice of Exercise within 4 Trading Days from the delivery to the Company of the Notice of Exercise Form, surrender of this Warrant (if required) and payment of the aggregate Exercise Price as set forth above (the "Warrant Share Delivery Date"). For the avoidance of doubt, in the absence of an effective registration statement permitting the resale of the Warrant Shares or the eligibility of the Warrant Shares for resale without volume or manner-of-sale limitations pursuant to Rule 144, the Warrant Shares issuable upon exercise of this Warrant may be issued as unregistered shares with a customary Rule 144 restrictive legend. This Warrant shall be deemed to have been exercised on the date the Exercise Price is received by the Company. The Warrant Shares shall be deemed to have been issued, and Holder or any other person so designated to be named therein shall be deemed to have become a holder of record of such shares for all purposes, as of the date the Warrant has been exercised by payment to the Company of the Exercise Price and all taxes required to be paid by the Holder, if any, pursuant to Section 2(e)(vi) prior to the issuance of such shares, have been paid. If the Company is obligated to and fails for any reason to deliver to the Holder certificates evidencing the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Warrant Shares subject to such exercise, \$10 per Trading Day (increasing to \$20 per Trading Day on the seventh Trading Day after such liquidated damages begin to accrue) for each Trading Day after such Warrant Share Delivery Date until such certificates are delivered.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the certificate or certificates representing Warrant Shares, deliver to Holder a new Warrant evidencing the rights of Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder a certificate or the certificates representing the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

v. Charges, Taxes and Expenses. Issuance of certificates for Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event certificates for Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the assignment form ("**Assignment Form**") attached hereto duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto.

vi. Closing of Books. The Company will not close its shareholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

### Section 3.

#### Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise make a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any Warrant Shares issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of shareholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to the other subsections of this Section 3, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

c) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company effects any merger or consolidation of the Company with or into another Person, (ii) the Company effects any sale of all or substantially all of its assets in one or a series of related transactions, (iii) any tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to tender or exchange their shares for other securities, cash or property or (iv) the Company effects any reclassification of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property (each "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation (any such shares of Common Stock are referred to as "Securities Consideration"), and any additional consideration (the "Alternate Consideration") receivable as a result of such merger, consolidation or disposition of assets by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such event. If holders of Common Stock are given any choice as to the Securities Consideration and Alternate Consideration to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. The terms of any agreement pursuant to which a Fundamental Transaction is effected shall include terms requiring any such successor or surviving entity to comply with the provisions of this Section 3(c) in connection with any subsequent transaction analogous to a Fundamental Transaction.

d) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

e) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly mail to the Holder a notice setting forth the Exercise Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any shareholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, of any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be mailed to the Holder at its last address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to mail such notice or any defect therein or in the mailing thereof shall not affect the validity of the corporate action required to be specified in such notice. The Holder is entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice.

Section 4. Transfer of Warrant.

a) Transferability. Subject to compliance with any applicable securities laws and the conditions set forth in Section 4(d) herein and to the provisions of the Subscription Agreement and Purchase Agreement, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. The Warrant, if properly assigned, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the Initial Exercise Date and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "Warrant Register"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

d) Transfer Restrictions. If, at the time of the surrender of this Warrant in connection with any transfer of this Warrant, the transfer of this Warrant shall not be either (i) registered pursuant to an effective registration statement under the Securities Act and under applicable state securities or blue sky laws or (ii) eligible for resale without volume or manner-of-sale restrictions pursuant to Rule 144, the Company may require, as a condition of allowing such transfer, that the Holder or transferee of this Warrant, as the case may be, comply with the provisions of the Subscription Agreement and Purchase Agreement.

Section 5. Registration Rights. The shares of Common Stock issuable upon exercise of this Warrant shall have the same registration rights as the investors signatory to that certain Registration Rights Agreement entered into with the Company dated as of August 6, 2013.

Section 6. Miscellaneous.

a) No Rights as Shareholder Until Exercise. This Warrant does not entitle the Holder to any voting rights or other rights as a shareholder of the Company prior to the exercise hereof.

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then, such action may be taken or such right may be exercised on the next succeeding Business Day.

d) Authorized Shares.

The Company covenants that, during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock one hundred (100%) of the number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. In case such amount of Common Stock is insufficient at any time, the Company shall call and hold a special meeting to increase the number of authorized shares of common stock. Management of the Company shall recommend to shareholders to vote in favor of increasing the number of authorized shares of common stock.

The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of executing stock certificates to execute and issue the necessary certificates for the Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its amended and restated certificate of incorporation, as amended or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Purchase Agreement.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice Holder's rights, powers or remedies, notwithstanding the fact that all rights hereunder terminate on the Termination Date. If the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of Holder, shall give rise to any liability of Holder for the purchase price of any Common Stock or as a shareholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.



j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of all Holders from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

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IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**BOSTON THERAPEUTICS, INC.**

By: \_\_\_\_\_

Name: Kenneth A. Tasse

Title: President

**NOTICE OF EXERCISE**

TO: BOSTON THERAPEUTICS, INC.

(1) The undersigned hereby elects to purchase \_\_\_\_\_ Warrant Shares of the Company pursuant to the terms of the attached Warrant, and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Please issue a certificate or certificates representing said Warrant Shares in the name of the undersigned or in such other name as is specified below:

\_\_\_\_\_

The Warrant Shares shall be delivered to the following DWAC Account Number or by physical delivery of a certificate to:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Cashless Exercise Elected:

[SIGNATURE OF HOLDER]

Name of Investing

Entity: \_\_\_\_\_

*Signature of Authorized Signatory of Investing*

Entity: \_\_\_\_\_

Name of Authorized

Signatory: \_\_\_\_\_

Title of Authorized

Signatory: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

**ASSIGNMENT FORM**

(To assign the foregoing warrant, execute  
this form and supply required information.  
Do not use this form to exercise the warrant.)

FOR VALUE RECEIVED, [\_\_\_\_] all of or [\_\_\_\_\_] shares of the foregoing Warrant and all rights evidenced thereby are hereby assigned to

\_\_\_\_\_ whose address is  
\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_, \_\_\_\_\_

Holder's Signature: \_\_\_\_\_

Holder's Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature Guaranteed: \_\_\_\_\_

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank or trust company. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

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**AMENDED AND RESTATED BOSTON THERAPEUTICS, INC.  
2010 STOCK PLAN**

**1. Establishment, Purpose and Term of Plan.**

1.1 **Establishment.** The Boston Therapeutics, Inc. 2010 Stock Plan (formerly, Avanyx Therapeutics, Inc. 2010 Stock Plan (the “Plan”) was originally adopted by the Company effective as of June 16, 2010 (the “Effective Date”) and, subject to shareholder approval, was amended and restated on March 18, 2013. The effective date of the amendment and restatement was September 7, 2013.

1.2 **Purpose.** The purpose of the Plan is to advance the interests of the Participating Company Group and its stockholders by providing an incentive to attract, retain and reward persons performing services for the Participating Company Group and by motivating such persons to contribute to the growth and profitability of the Participating Company Group. The Company intends that Awards granted pursuant to the Plan be exempt from or comply with Section 409A of the Code (including any amendments or replacements of such Section), and the Plan shall be so construed.

1.3 **Term of Plan.** The Plan shall continue in effect until its termination by the Committee; provided, however, that, to the extent required by applicable law, all Awards shall be granted, if at all, within ten (10) years from the Effective Date.

**2. Definitions and Construction.**

2.1 **Definitions.** Whenever used herein, the following terms shall have their respective meanings set forth below:

(a) **“Affiliate”** means (i) an entity, other than a Parent Corporation, that directly, or indirectly through one or more intermediary entities, controls the Company or (ii) an entity, other than a Subsidiary Corporation, that is controlled by the Company directly or indirectly through one or more intermediary entities. For this purpose, the term “control” (including the term “controlled by”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the relevant entity, whether through the ownership of voting securities, by contract or otherwise; or shall have such other meaning assigned such term for the purposes of registration on Form S-8 under the Securities Act.

(b) **“Award”** means any Option, Restricted Stock Award, Restricted Stock Unit Award, Stock Appreciation Right, Performance Unit Award, Performance Share Award, Cash-Based Award, or Other Stock-Based Award granted under the Plan.

(c) **“Award Agreement”** means a written or electronic agreement between the Company and a Participant setting forth the terms, conditions and restrictions of the Award granted to the Participant.

(d) **“Board”** means the Board of Directors of the Company.

(e) **“Cause”** means, unless such term or an equivalent term is otherwise defined with respect to an Award by the Participant’s Award Agreement or by a written contract of employment or service, any of the following: (i) the Participant’s theft, dishonesty, willful misconduct, breach of fiduciary duty for personal profit, or falsification of any Participating Company documents or records; (ii) the Participant’s material failure to abide by a Participating Company’s code of conduct or other policies (including, without limitation, policies relating to confidentiality and reasonable workplace conduct); (iii) the Participant’s unauthorized use, misappropriation, destruction or diversion of any tangible or intangible asset or corporate opportunity of a Participating Company (including, without limitation, the Participant’s improper use or disclosure of a Participating Company’s confidential or proprietary information); (iv) any intentional act by the Participant which has a material detrimental effect on a Participating Company’s reputation or business; (v) the Participant’s repeated failure or inability to perform any reasonable assigned duties after written notice from a Participating Company of, and a reasonable opportunity to cure, such failure or inability; (vi) any material breach by the Participant of any employment, service, non-disclosure, non-competition, non-solicitation or other similar agreement between the Participant and a Participating Company, which breach is not cured pursuant to the terms of such agreement; or (vii) the Participant’s conviction (including any plea of guilty or *nolo contendere*) of any criminal act involving fraud, dishonesty, misappropriation or moral turpitude, or which impairs the Participant’s ability to perform his or her duties with a Participating Company.

(f) **“Change in Control”** means, the occurrence of any of the following:

(i) any “person” (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) becomes the “beneficial owner” (as defined in Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of the total combined voting power of the Company’s then-outstanding securities entitled to vote generally in the election of Directors; provided, however, that the following acquisitions shall not constitute a Change in Control: (1) an acquisition by any such person who on the Effective Date is the beneficial owner of more than fifty percent (50%) of such voting power, (2) any acquisition directly from the Company, including, without limitation, a public offering of securities, (3) any acquisition by the Company, (4) any acquisition by a trustee or other fiduciary under an employee benefit plan of a Participating Company or (5) any acquisition by an entity owned directly or indirectly by the stockholders of the Company in substantially the same proportions as their ownership of the voting securities of the Company; or

(ii) an Ownership Change Event or series of related Ownership Change Events (collectively, a “**Transaction**”) in which the stockholders of the Company immediately before the Transaction do not retain immediately after the Transaction direct or indirect beneficial ownership of more than fifty percent (50%) of the total combined voting power of the outstanding securities entitled to vote generally in the election of Directors or, in the case of an Ownership Change Event described in Section 2.1(cc)(iii), the entity to which the assets of the Company were transferred (the “**Transferee**”), as the case may be;

provided, however, that a Change in Control shall be deemed not to include a transaction described in subsections (i) or (ii) of this Section in which a majority of the members of the board of directors of the continuing, surviving or successor entity, or parent thereof, immediately after such transaction is comprised of Incumbent Directors. Notwithstanding the foregoing, to the extent that any amount constituting Section 409A Deferred Compensation would become payable under this Plan by reason of a Change in Control, such amount shall become payable only if the event constituting a Change in Control would also constitute a change in ownership or effective control of the Company or a change in the ownership of a substantial portion of the assets of the Company within the meaning of Section 409A. For purposes of the preceding sentence, indirect beneficial ownership shall include, without limitation, an interest resulting from ownership of the voting securities of one or more corporations or other business entities which own the Company or the Transferee, as the case may be, either directly or through one or more subsidiary corporations or other business entities. The Committee shall have the right to determine whether multiple sales or exchanges of the voting securities of the Company or multiple Ownership Change Events are related, and its determination shall be final, binding and conclusive.

(g) “**Code**” means the Internal Revenue Code of 1986, as amended, and any applicable regulations promulgated thereunder.

(h) “**Committee**” means the Compensation Committee and such other committee or subcommittee of the Board, if any, duly appointed to administer the Plan and having such powers in each instance as shall be specified by the Board. If, at any time, there is no committee of the Board then authorized or properly constituted to administer the Plan, the Board shall exercise all of the powers of the Committee granted herein, and, in any event, the Board may in its discretion exercise any or all of such powers. For purposes of Awards intended to satisfy Section 162(m) of the Code, a committee must be composed of not less than two (2) non-employee directors, within the meaning of Rule 16b-3 of the Exchange Act, and “outside directors,” as defined in Treasury Regulation § 1.162-27.

(i) “**Company**” means Boston Therapeutics, Inc., a Delaware corporation, or any successor corporation thereto.

(j) “**Consultant**” means a person engaged to provide consulting or advisory services (other than as an Employee or a Director) to a Participating Company.

(k) “**Covered Employee**” means any key Employee who is or may become a “covered employee,” as defined in Section 162(m) of the Code, and who is designated, either as an individual Employee or class of Employees, by the Committee within the shorter of: (i) ninety (90) days after the beginning of the Performance Period, or (ii) twenty-five percent (25%) of the Performance Period has elapsed, as a “Covered Employee” under this Plan for such applicable Performance Period.

(l) “**Director**” means a member of the Board.

(m) “**Disability**” means the total and permanent disability of a person as defined in Section 22(e)(3) of the Code, provided that in the case of Awards other than an Incentive Stock Option, the Committee in its discretion may determine whether a permanent and total disability exists in accordance with uniform and nondiscriminatory standards adopted by the Committee from time to time.

(n) “**Dividend Equivalent Right**” means the right of a Participant, granted at the discretion of the Committee or as otherwise provided by the Plan, to receive a credit for the account of such Participant in an amount equal to the cash dividends paid on one share of Stock for each share of Stock represented by an Award held by such Participant.

- (o) **“Employee”** means any person treated as an employee (including an Officer or a Director who is also treated as an employee) in the records of a Participating Company. The Company shall determine in good faith and in the exercise of its discretion whether an individual has become or has ceased to be an Employee and the effective date of such individual’s employment or termination of employment, as the case may be. For purposes of an individual’s rights, if any, under the terms of the Plan as of the time of the Company’s determination of whether or not the individual is an Employee, all such determinations by the Company shall be final, binding and conclusive as to such rights, if any, notwithstanding that the Company or any court of law or governmental agency subsequently makes a contrary determination as to such individual’s status as an Employee.
- (p) **“Exchange Act”** means the Securities Exchange Act of 1934, as amended.
- (q) **“Exchange Program”** means a program under which (i) outstanding Awards are surrendered or cancelled in exchange for Awards of the same type (which may have lower exercise prices and different terms), Awards of a different type, and/or cash, (ii) Participants have the opportunity to transfer any outstanding Awards to a financial institution or other person or entity selected by the Committee, and/or (iii) the exercise price of an outstanding Award is reduced. The Committee will determine the terms and conditions of any Exchange Program in its sole discretion.
- (r) **“Fair Market Value”** means, as of any date, the value of a share of Stock or other property as determined by the Committee, in its discretion, or by the Company, in its discretion, if such determination is expressly allocated to the Company herein, subject to the following:
- (i) If, on such date, the Stock is listed on a national or regional securities exchange or market system, the Fair Market Value of a share of Stock shall be the closing price of a share of Stock (or the mean of the closing bid and asked prices of a share of Stock if the Stock is so quoted instead) as quoted on such national or regional securities exchange or market system, as reported in The Wall Street Journal or such other source as the Company deems reliable. If the relevant date does not fall on a day on which the Stock has traded on such securities exchange or market system, the date on which the Fair Market Value shall be established shall be the last day on which the Stock was so traded prior to the relevant date, or such other appropriate day as shall be determined by the Committee, in its discretion.
- (ii) If, on such date, the Stock is not listed on a national or regional securities exchange or market system, the Fair Market Value of a share of Stock shall be as determined by the Committee using an average Stock price over a five-day trading period determined by the Committee prior to the commencement of such five-day trading period, and subject to the applicable requirements, if any, of Section 409A of the Code.
- (s) **“Incentive Stock Option”** means an Option granted to an Employee under Section 6 that is designated as an Incentive Stock Option (as set forth in the Award Agreement) and that is intended to meet the requirements of Section 422 of the Code, or any successor provision.
- (t) **“Incumbent Director”** means a director who either (i) is a member of the Board as of the Effective Date or (ii) is elected, or nominated for election, to the Board with the affirmative votes of at least a majority of the Incumbent Directors at the time of such election or nomination, but who was not elected or nominated in connection with an actual or threatened proxy contest relating to the election of directors of the Company.
- (u) **“Insider”** means an Officer, a Director of the Company or other person whose transactions in Stock are subject to Section 16 of the Exchange Act.
- (v) **“Insider Trading Policy”** means the written policy of the Company pertaining to the purchase, sale, transfer or other disposition of the Company’s equity securities by Directors, Officers, Employees or other service providers who may possess material, nonpublic information regarding the Company or its securities.
- (w) **“Net-Exercise”** means a procedure by which the Company will reduce the number of shares of Stock issued upon exercise of an Option by the largest whole number of shares of Stock with an aggregate Fair Market Value on the date of exercise that is equal to or less than the aggregate exercise price and will receive cash from the Participant to the extent of any remaining balance of the aggregate exercise price.
- (x) **“Nonstatutory Stock Option”** means an Option granted to a Participant under Section 6 that is not intended to be (as set forth in the Award Agreement) or which does not qualify as an Incentive Stock Option.
- (y) **“Officer”** means any person designated by the Board as an officer of the Company.
- (a) **“Option”** means a right granted under Section 6 to purchase Stock pursuant to the terms and conditions of the Plan. All Options may be Incentive Stock Options or Nonstatutory Stock Options.
- (aa) **“Ownership Change Event”** means the occurrence of any of the following with respect to the Company: (i) the direct or indirect sale or exchange in a single or series of related transactions by the stockholders of the Company of more than fifty percent (50%) of the voting stock of the Company; (ii) a merger or consolidation in which the Company is a party; or (iii) the sale, exchange, or transfer of all or substantially all of the assets of the Company (other than a sale, exchange or transfer to one or more subsidiaries of the Company).



- (bb) **“Parent Corporation”** means any present or future “parent corporation” of the Company, as defined in Section 424(e) of the Code.
- (cc) **“Participant”** means any eligible person who has been granted one or more Awards.
- (dd) **“Participating Company”** means the Company or any Parent Corporation, Subsidiary Corporation or Affiliate.
- (ee) **“Participating Company Group”** means, at any point in time, all entities collectively which are then Participating Companies.
- (ff) **“Performance-Based Compensation”** means compensation under an Award that is intended to satisfy the requirements of Section 162(m) of the Code for certain performance-based compensation paid to Covered Employees. Notwithstanding the foregoing, nothing in this Plan shall be construed to mean that an Award which does not satisfy the requirements for performance-based compensation under Section 162(m) of the Code does not constitute performance-based compensation for other purposes, including Section 409A of the Code.
- (gg) **“Performance-Based Exception”** means the exception for Performance-Based Compensation from the tax deductibility limitations of Section 162(m) of the Code.
- (hh) **“Performance Measures”** means measures as described in Section 19 on which the performance goals are based and which are approved by the Company’s stockholders pursuant to this Plan in order to qualify Awards as Performance-Based Compensation.
- (ii) **“Performance Period”** means the period of time during which the performance goals must be met in order to determine the degree of payout and/or vesting with respect to an Award.
- (jj) **“Restricted Stock Award”** means Stock granted to a Participant pursuant to Section 7.
- (kk) **“Rule 16b-3”** means Rule 16b-3 under the Exchange Act, as amended from time to time, or any successor rule or regulation.
- (ll) **“Section 409A”** means Section 409A of the Code.
- (mm) **“Section 409A Deferred Compensation”** means compensation provided pursuant to the Plan that constitutes deferred compensation subject to and not exempted from the requirements of Section 409A.
- (nn) **“Securities Act”** means the Securities Act of 1933, as amended.
- (oo) **“Service”** means a Participant’s employment or service with the Participating Company Group, whether in the capacity of an Employee, a Director or a Consultant. A Participant’s Service shall not be deemed to have terminated merely because of a change in the capacity in which the Participant renders Service to the Participating Company Group or a change in the Participating Company for which the Participant renders such Service, provided that there is no interruption or termination of the Participant’s Service. Furthermore, a Participant’s Service shall not be deemed to have terminated if the Participant takes any military leave, sick leave, or other bona fide leave of absence approved by the Company. However, if any such leave taken by a Participant exceeds ninety (90) days, then on the ninety-first (91st) day following the commencement of such leave the Participant’s Service shall be deemed to have terminated, unless the Participant’s right to return to Service is guaranteed by statute or contract. Notwithstanding the foregoing, unless otherwise designated by the Company or required by law, a leave of absence shall not be treated as Service for purposes of determining vesting under the Participant’s Award Agreement. A Participant’s Service shall be deemed to have terminated either upon an actual termination of Service or upon the corporation for which the Participant performs Service ceasing to be a Participating Company. Subject to the foregoing, the Company, in its discretion, shall determine whether the Participant’s Service has terminated for purposes of Awards granted under the Plan, and the effective date of and reason for such termination.
- (pp) **“Stock”** means the common stock of the Company, as adjusted from time to time in accordance with Section 4.3.
- (qq) **“Subsidiary Corporation”** means any present or future “subsidiary corporation” of the Company, as defined in Section 424(f) of the Code.
- (rr) **“Vesting Conditions”** mean those conditions established in accordance with the Plan prior to the satisfaction of which shares subject to an Award remain subject to forfeiture or a repurchase option in favor of the Company exercisable for the Participant’s monetary purchase price, if any, for such shares upon the Participant’s termination of Service.

2.2 **Construction.** Captions and titles contained herein are for convenience only and shall not affect the meaning or interpretation of any provision of the Plan. Except when otherwise indicated by the context, the singular shall include the plural and the plural shall include the singular. Use of the term “or” is not intended to be exclusive, unless the context clearly requires otherwise.

### 3. **Administration.**

3.1 **Administration by the Committee.** The Plan shall be administered by the Committee. All questions of interpretation of the Plan, of any Award Agreement or of any other form of agreement or other document employed by the Company in the administration of the Plan or of any Award shall be determined by the Committee, and such determinations shall be final, binding and conclusive upon all persons having an interest in the Plan or such Award, unless fraudulent or made in bad faith. Any and all actions, decisions and determinations taken or made by the Committee in the exercise of its discretion pursuant to the Plan or Award Agreement or other agreement thereunder (other than determining questions of interpretation pursuant to the preceding sentence) shall be final, binding and conclusive upon all persons having an interest therein.

3.2 **Authority of Officers.** Any Officer shall have the authority to act on behalf of the Company with respect to any matter, right, obligation, determination or election which is the responsibility of or which is allocated to the Company herein, provided the Officer has apparent authority with respect to such matter, right, obligation, determination or election.

3.3 **Administration with Respect to Insiders.** With respect to participation by Insiders in the Plan, at any time that any class of equity security of the Company is registered pursuant to Section 12 of the Exchange Act, the Plan shall be administered in compliance with the requirements, if any, of Rule 16b-3.

3.4 **Powers of the Committee.** In addition to any other powers set forth in the Plan and subject to the provisions of the Plan, the Committee shall have the full and final power and authority, in its discretion:

- (a) to determine the persons to whom, and the time or times at which, Awards shall be granted and the number of shares of Stock to be subject to each Award;
- (b) to determine the type of Award granted;
- (c) to determine the Fair Market Value of shares of Stock or other property;
- (d) to determine the terms, conditions and restrictions applicable to each Award (which need not be identical) and any shares acquired pursuant thereto, including, without limitation, (i) the exercise or purchase price of shares pursuant to any Award, (ii) the method of payment for shares purchased pursuant to any Award, (iii) the method for satisfaction of any tax withholding obligation arising in connection with Award, including by the withholding or delivery of shares of Stock, (iv) the timing, terms and conditions of the exercisability or vesting of any Award or any shares acquired pursuant thereto, (v) the time of the expiration of any Award, (vi) the effect of the Participant’s termination of Service on any of the foregoing, and (vii) all other terms, conditions and restrictions applicable to any Award or shares acquired pursuant thereto not inconsistent with the terms of the Plan;
- (e) to determine whether an Award will be settled in shares of Stock, cash, or in any combination thereof;
- (f) to approve one or more forms of Award Agreement;
- (g) to amend, modify, extend, cancel or renew any Award or to waive any restrictions or conditions applicable to any Award or any shares acquired upon the exercise thereof;
- (h) to accelerate, continue, extend or defer the exercisability of any Award or the vesting of any shares acquired upon the exercise thereof, including with respect to the period following a Participant’s termination of Service;
- (i) to prescribe, amend or rescind rules, guidelines and policies relating to the Plan, or to adopt sub-plans or supplements to, or alternative versions of, the Plan, including, without limitation, as the Committee deems necessary or desirable to comply with the laws or regulations of or to accommodate the tax policy, accounting principles or custom of, foreign jurisdictions whose citizens may be granted Awards;
- (j) to correct any defect, supply any omission or reconcile any inconsistency in the Plan or any Award Agreement and to make all other determinations and take such other actions with respect to the Plan or any Award as the Committee may deem advisable to the extent not inconsistent with the provisions of the Plan or applicable law;
- (k) to institute, subject to Board approval and without further approval from the Company’s stockholders, an Exchange Program and determine the terms and conditions thereof;

(l) to establish and/or amend, without further approval from the Company's stockholders, subplans and schedules with such terms and conditions necessary or appropriate to satisfy local law, regulations and customs; and

(m) to determine whether any corporate event or transaction that results in the sale, spin-off or transfer of a Subsidiary, business group, operating unit, division, or similar organization constitutes a termination of employment (or services), and, if so, the effective date of such termination, for purposes of Awards granted under the Plan.

3.5 **Indemnification.** In addition to such other rights of indemnification as they may have as members of the Board or the Committee or as officers or employees of the Participating Company Group, members of the Board or the Committee and any officers or employees of the Participating Company Group to whom authority to act for the Board, the Committee or the Company is delegated shall be indemnified by the Company against all reasonable expenses, including attorneys' fees, actually and necessarily incurred in connection with the defense of any action, suit or proceeding, or in connection with any appeal therein, to which they or any of them may be a party by reason of any action taken or failure to act under or in connection with the Plan, or any right granted hereunder, and against all amounts paid by them in settlement thereof (provided such settlement is approved by independent legal counsel selected by the Company) or paid by them in satisfaction of a judgment in any such action, suit or proceeding, except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such person is liable for gross negligence, bad faith or intentional misconduct in duties; provided, however, that within sixty (60) days after the institution of such action, suit or proceeding, such person shall offer to the Company, in writing, the opportunity at its own expense to handle and defend the same.

3.6 **Consideration.** The Committee may provide the method for payment for shares of Stock purchased pursuant to an Award under any of the following methods as determined by the Committee, in its sole discretion: (a) in cash or its equivalent; (b) by tendering (either by actual delivery or attestation) to the Company for repurchase previously acquired Shares having an aggregate Fair Market Value at the time of exercise equal to the Award price together with an assignment of the proceeds of the Stock repurchase to pay the Award price (provided that any such repurchase of Stock shall be subject to applicable laws); (c) by a cashless (broker-assisted) exercise; (d) by deducting from the shares of Stock issuable to a Participant upon the exercise or settlement of an Award; (e) by Net-Exercise, (f) by promissory note (except for an executive officer or director or equivalent thereof, as prohibited under the Sarbanes-Oxley Act of 2002), (g) by a combination of (a), (b), (c), (d), (e) and/or (f); or (h) any other method approved or accepted by the Committee in its sole discretion.

#### 4. **Shares Subject to Plan.**

4.1 **Maximum Number of Shares Issuable.** Subject to adjustment as provided in Sections 4.2 and 4.3, the maximum aggregate number of shares of Stock that may be issued under the Plan shall be 7,500,000 which shall consist of authorized but unissued or reacquired shares of Stock or any combination thereof. The maximum number of shares of Stock that may be issued as Incentive Stock Options is 7,500,000.

4.2 **Share Counting.** If an outstanding Award for any reason lapses, expires or is terminated or canceled without having been exercised or settled in full, or if shares of Stock acquired pursuant to an Award subject to forfeiture or repurchase are forfeited or repurchased by the Company, then the shares of Stock allocable to the terminated portion of such Award or such forfeited or repurchased shares of Stock shall again be available for issuance under the Plan. Shares withheld or reacquired by the Company in satisfaction of tax withholding obligations pursuant to Section 14.2 shall again be available for issuance under the Plan. If the exercise price of an Option is paid by tender to the Company, or attestation to the ownership, of shares of Stock owned by the Participant, or by means of a Net-Exercise, or if shares of Stock are withheld from the shares of Stock issuable to a Participant upon the exercise or settlement of an Award, then such shares shall again be available for issuance under the Plan. Shares of Stock shall not be deemed to have been issued pursuant to the Plan with respect to any portion of an Award that is settled in cash.

4.3 **Adjustments for Changes in Capital Structure.** Subject to any required action by the stockholders of the Company, in the event of any change in the Stock effected without receipt of consideration by the Company, whether through merger, consolidation, reorganization, reincorporation, recapitalization, reclassification, stock dividend, stock split, reverse stock split, split-up, split-off, spin-off, combination of shares, exchange of shares, or similar change in the capital structure of the Company, or in the event of payment of a dividend or distribution to the stockholders of the Company in a form other than Stock (excepting normal cash dividends) that has a material effect on the Fair Market Value of shares of Stock, appropriate and proportionate adjustments shall be made in the number and class of shares subject to the Plan and to any outstanding Awards, in the maximum share limitations, and in the exercise or purchase price per share of any outstanding Awards in order to prevent dilution or enlargement of Participants' rights under the Plan. For purposes of the foregoing, conversion of any convertible securities of the Company shall not be treated as "effected without receipt of consideration by the Company." If a majority of the shares which are of the same class as the shares that are subject to outstanding Awards are exchanged for, converted into, or otherwise become (whether or not pursuant to an Ownership Change Event) shares of another corporation (the "**New Shares**"), the Committee may unilaterally amend the outstanding Awards to provide that such Awards are for New Shares. In the event of any such amendment, the number of shares subject to, and the exercise or purchase price per share of, the outstanding Awards shall be adjusted in a fair and equitable manner as determined by the Committee, in its discretion. Any fractional share resulting from an adjustment pursuant to this Section shall be rounded down to the nearest whole number, and the exercise price per share shall be rounded up to the nearest whole cent. In no event may the exercise price of any Award be decreased to an amount less than the par value, if any, of the stock subject to the Award. The Committee in its sole discretion, may also make such adjustments in the terms of any Award to reflect, or related to, such changes in the capital structure of the Company or distributions as it deems appropriate. The adjustments determined by the Committee pursuant to this Section shall be final, binding and conclusive.

## 5. Eligibility and Option Limitations.

5.1 **Persons Eligible for Awards.** Awards may be granted only to Employees, Consultants and Directors. Incentive Stock Options may be granted only to Employees of the Company or of any parent or subsidiary corporation (as permitted under Sections 422 and 424 of the Code).

5.2 **Participation in Plan.** Awards are granted solely at the discretion of the Committee. Eligible persons may be granted more than one Award. However, eligibility in accordance with this Section shall not entitle any person to be granted an Award, or, having been granted an Award, to be granted an additional Award.

## 6. Stock Options.

Options shall be evidenced by Award Agreements specifying the number of shares of Stock covered thereby and the terms, conditions and restrictions for such Award, in such form as the Committee shall from time to time establish. Award Agreements evidencing Options may incorporate all or any of the terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

6.1 **Exercise Price.** The exercise price for each Option shall be established in the discretion of the Committee; provided, however, that the exercise price per share for an Option shall be not less than one hundred percent (100%) of the Fair Market Value of a share of Stock on the effective date of grant of the Option. Notwithstanding the foregoing, an Option may be granted with an exercise price lower than the minimum exercise price set forth above if such Option is granted pursuant to an assumption or substitution for another option in a manner that would qualify under the provisions of Sections 424(a) and 409A of the Code. With respect to an Employee who owns, directly or indirectly, more than ten percent (10%) of the total combined voting power of all classes of the stock of the Company, and Subsidiary Corporation, or any Affiliate, the exercise price of Stock subject to an Incentive Stock Option shall be at least equal to one hundred ten percent (110%) of the Fair Market Value of such Stock on the effective date of grant.

6.2 **Exercisability and Term of Options.** Options shall be exercisable at such time or times, or upon such event or events, and subject to such terms, conditions, performance criteria and restrictions as shall be determined by the Committee and set forth in the Award Agreement evidencing such Option; provided, however, that no Option shall be exercisable after the expiration of ten (10) years after the effective date of grant of such Option. Subject to the foregoing, unless otherwise specified by the Committee in the grant of an Option, any Option granted hereunder shall terminate ten (10) years after the effective date of grant of the Option, unless earlier terminated in accordance with its provisions. With respect to an Employee who owns, directly or indirectly, more than ten percent (10%) of the total combined voting power of all classes of the stock of the Company, and Subsidiary Corporation, or any Affiliate, no such Incentive Stock Option shall be exercisable later than the day before the fifth (5<sup>th</sup>) anniversary of the effective date of grant of such Incentive Stock Option.

6.3 **Payment of Exercise Price.** Payment of the exercise price for the number of shares of Stock being purchased pursuant to any Option may be made by any method determined by the Committee, in its sole discretion, and set forth in the Award Agreement. Notwithstanding the foregoing, an Option may not be exercised by tender to the Company, or attestation to the ownership, of shares of Stock to the extent such tender or attestation would constitute a violation of the provisions of any law, regulation or agreement restricting the redemption of the Company's stock. The Company reserves, at any and all times, the right, in the Company's sole and absolute discretion, to establish, decline to approve or terminate any program or procedures for the exercise of Options notwithstanding that such program or procedures may be available to other Participants.

### 6.4 **Effect of Termination of Service.**

(a) **Option Exercisability.** Subject to earlier termination of the Option as otherwise provided herein and unless otherwise provided by the Committee, an Option shall terminate immediately upon the Participant's termination of Service to the extent that it is then unvested and shall be exercisable after the Participant's termination of Service to the extent it is then vested only during the applicable time period determined in accordance with this Section and thereafter shall terminate:

(i) **Disability.** If the Participant's Service terminates because of the Disability of the Participant, the Option, to the extent unexercised and exercisable for vested shares on the date on which the Participant's Service terminated, may be exercised by the Participant (or the Participant's guardian or legal representative) at any time prior to the expiration of six (6) months after the date on which the Participant's Service terminated, but in any event no later than the date of expiration of the Option's term as set forth in the Award Agreement evidencing such Option (the "**Option Expiration Date**").

(ii) **Death.** If the Participant's Service terminates because of the death of the Participant, then the Option, to the extent unexercised and exercisable for vested shares on the date on which the Participant's Service terminated, may be exercised by the Participant's legal representative or other person who acquired the right to exercise the Option by reason of the Participant's death at any time prior to the expiration of six (6) months after the date on which the Participant's Service terminated, but in any event no later than the Option Expiration Date.

(iii) **Termination for Cause.** Notwithstanding any other provision of the Plan to the contrary, if the Participant's Service is terminated for Cause, the Option shall terminate in its entirety and cease to be exercisable immediately upon such termination of Service or act.

(iv) **Other Termination of Service.** If the Participant's Service terminates for any reason, except Disability, death or Cause, the Option, to the extent unexercised and exercisable for vested shares on the date on which the Participant's Service terminated, may be exercised by the Participant at any time prior to the expiration of ninety (90) days (three (3) months in the case of Incentive Stock Options) after the date on which the Participant's Service terminated, but in any event no later than the Option Expiration Date.

(b) **Extension if Exercise Prevented by Law.** Notwithstanding the foregoing, if the exercise of an Option within the applicable time periods set forth in Section 6.4(a) is prevented by the provisions of Section 15 below, the Option shall remain exercisable until thirty (30) days after the date such exercise first would no longer be prevented by such provisions, but in any event no later than the Option Expiration Date.

6.5 **Transferability of Options.** During the lifetime of the Participant, an Option shall be exercisable only by the Participant or the Participant's guardian or legal representative. An Option shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or by the laws of descent and distribution. Notwithstanding the foregoing, to the extent permitted by the Committee, in its discretion, and set forth in the Award Agreement evidencing such Option, an Option shall be assignable or transferable subject to the applicable limitations, if any, described in the General Instructions to Form S-8 under the Securities Act.

6.6 **Incentive Stock Option Limit.** To the extent that the aggregate Fair Market Value of the shares of Stock with respect to which Incentive Stock Options are exercisable for the first time by the Participant during any calendar year (under all plans of the Company and any Parent or Subsidiary) exceeds \$100,000, such Options shall be treated as Nonstatutory Stock Options. For purposes of this Section, Incentive Stock Options shall be taken into account in the order in which they were granted. The Fair Market Value of the shares of Stock shall be determined as of the time the Option with respect to such Shares is granted.

6.7 **Notification of Disqualifying Dispositions.** If any Participant makes any disposition of shares of Stock issued pursuant to the exercise of an Incentive Stock Option under the circumstances described in Code Section 421(b) (relating to certain disqualifying dispositions), such Participant shall notify the Company of such disposition within ten (10) calendar days thereof.

6.8 **162(m) Limit.** For purposes of the Performance-Based Exception, no Participant will be granted an Option covering more than 50,000 shares of Stock during any fiscal year. Notwithstanding the limitation in previous sentence, an Employee may be granted Options covering up to an additional 150,000 shares of Stock in connection with his or her initial service as an Employee.

## 7. **Restricted Stock Awards.**

Restricted Stock Awards shall be evidenced by Award Agreements specifying the number of shares of Stock subject to the Award and the terms, conditions and restrictions for such Award, in such form as the Committee shall from time to time establish. Award Agreements evidencing Restricted Stock Awards may incorporate all or any of the terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

7.1 **Types of Restricted Stock Awards Authorized.** Restricted Stock Awards may be granted upon such conditions as the Committee shall determine, including, without limitation, upon the attainment of one or more performance goals.

7.2 **Purchase Price.** If required by applicable state corporate law, the Participant shall furnish consideration in the form of cash or past services rendered to a Participating Company or for its benefit having a value not less than the par value of the shares of Stock subject to a Restricted Stock Award.

7.3 **Payment of Purchase Price.** Except as otherwise provided below, payment of the purchase price for the number of shares of Stock being purchased pursuant to Section 7.2 shall be made (a) in cash or by check or cash equivalent, (b) by such other consideration as may be approved by the Committee from time to time to the extent permitted by applicable law, or (c) by any combination thereof.

7.4 **Vesting and Restrictions on Transfer.** Shares issued pursuant to any Restricted Stock Award may (but need not) be made subject to Vesting Conditions based upon the satisfaction of such Service requirements, conditions, restrictions or performance criteria as shall be established by the Committee and set forth in the Award Agreement evidencing such Award. During any period in which shares acquired pursuant to a Restricted Stock Award remain subject to Vesting Conditions, such shares may not be sold, exchanged, transferred, pledged, assigned or otherwise disposed of other than pursuant to an Ownership Change Event or as provided in Section 7.7. The Committee, in its discretion, may provide in any Award Agreement evidencing a Restricted Stock Award that, if the satisfaction of Vesting Conditions with respect to any shares subject to such Restricted Stock Award would otherwise occur on a day on which the sale of such shares would violate the provisions of the Insider Trading Policy, then satisfaction of the Vesting Conditions automatically shall be determined on the next trading day on which the sale of such shares would not violate the Insider Trading Policy. Upon request by the Company, each Participant shall execute any agreement evidencing such transfer restrictions prior to the receipt of shares of Stock hereunder and shall promptly present to the Company any and all certificates representing shares of Stock acquired hereunder for the placement on such certificates of appropriate legends evidencing any such transfer restrictions.

7.5 **Voting Rights; Dividends and Distributions.** Except as provided in this Section, Section 7.4 and any Award Agreement, during any period in which shares acquired pursuant to a Restricted Stock Award remain subject to Vesting Conditions, the Participant shall have all of the rights of a stockholder of the Company holding shares of Stock, including the right to vote such shares and to receive all dividends and other distributions paid with respect to such shares. However, in the event of a dividend or distribution paid in shares of Stock or other property or any other adjustment made upon a change in the capital structure of the Company as described in Section 4.3, any and all new, substituted or additional securities or other property (other than normal cash dividends) to which the Participant is entitled by reason of the Participant's Restricted Stock Award shall be immediately subject to the same Vesting Conditions as the shares subject to the Restricted Stock Award with respect to which such dividends or distributions were paid or adjustments were made.

7.6 **Effect of Termination of Service.** The effect of termination of employment on a Participant's Restricted Stock Award shall be set forth in the Award Agreement evidencing such Restricted Stock Award.

7.7 **Nontransferability of Restricted Stock Award Rights.** Rights to acquire shares of Stock pursuant to a Restricted Stock Award shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or the laws of descent and distribution. All rights with respect to a Restricted Stock Award granted to a Participant hereunder shall be exercisable during his or her lifetime only by such Participant or the Participant's guardian or legal representative.

7.8 **Section 83(b) Election.** The Committee may provide in an Award Agreement that a Restricted Stock Award is conditioned upon the Participant making or refraining from making an election with respect to the Award under Section 83(b) of the Code. If a Participant makes an election pursuant to Section 83(b) of the Code concerning a Restricted Stock Award, the Participant shall be required to file promptly a copy of such election with the Company.

7.9 **162(m) Limit.** For purposes of the Performance-Based Exception, no Participant will be granted an aggregate of more than 50,000 shares of Restricted Stock during any fiscal year. Notwithstanding the limitation in previous sentence, an Employee may be granted up to an additional 150,000 shares of Restricted Stock in connection with his or her initial service as an Employee.

8. **RESERVED.**

9. **RESERVED.**

10. **RESERVED.**

11. **RESERVED.**

12. **Standard Forms of Award Agreements.**

12.1 **Award Agreements.** Each Award shall comply with and be subject to the terms and conditions set forth in the appropriate form of Award Agreement approved by the Committee and as amended from time to time. No Award or purported Award shall be a valid and binding obligation of the Company unless evidenced by a fully executed Award Agreement. Any Award Agreement may consist of an appropriate form of Notice of Grant and a form of Agreement incorporated therein by reference, or such other form or forms, including electronic media, as the Committee may approve from time to time.

12.2 **Authority to Vary Terms.** The Committee shall have the authority from time to time to vary the terms of any standard form of Award Agreement either in connection with the grant or amendment of an individual Award or in connection with the authorization of a new standard form or forms; provided, however, that the terms and conditions of any such new, revised or amended standard form or forms of Award Agreement are not inconsistent with the terms of the Plan.

13. **Change in Control.**

13.1 **Effect of Change in Control on Awards.** Subject to the requirements and limitations of Section 409A if applicable, the Committee may provide for any one or more of the following:

(a) **Accelerated Vesting.** The Committee may, in its discretion, provide in any Award Agreement or, in the event of a Change in Control, may take such actions as it deems appropriate to provide for the acceleration of the exercisability, vesting and/or settlement in connection with such Change in Control of each or any outstanding Award or portion thereof and shares acquired pursuant thereto upon such conditions, including termination of the Participant's Service prior to, upon, or following such Change in Control, to such extent as the Committee shall determine.

(b) **Assumption, Continuation or Substitution.** In the event of a Change in Control, the surviving, continuing, successor, or purchasing corporation or other business entity or parent thereof, as the case may be (the "**Acquiror**"), may, without the consent of any Participant, either assume or continue the Company's rights and obligations under each or any Award or portion thereof outstanding immediately prior to the Change in Control or substitute for each or any such outstanding Award or portion thereof a substantially equivalent award with respect to the Acquiror's stock, as applicable. For purposes of this Section, if so determined by the Committee, in its discretion, an Award denominated in shares of Stock shall be deemed assumed if, following the Change in Control, the Award confers the right to receive, subject to the terms and conditions of the Plan and the applicable Award Agreement, for each share of Stock subject to the Award immediately prior to the Change in Control, the consideration (whether stock, cash, other securities or property or a combination thereof) to which a holder of a share of Stock on the effective date of the Change in Control was entitled; provided, however, that if such consideration is not solely common stock of the Acquiror, the Committee may, with the consent of the Acquiror, provide for the consideration to be received upon the exercise or settlement of the Award, for each share of Stock subject to the Award, to consist solely of common stock of the Acquiror equal in Fair Market Value to the per share consideration received by holders of Stock pursuant to the Change in Control. If any portion of such consideration may be received by holders of Stock pursuant to the Change in Control on a contingent or delayed basis, the Committee may, in its sole discretion, determine such Fair Market Value per share as of the time of the Change in Control on the basis of the Committee's good faith estimate of the present value of the probable future payment of such consideration. Any Award or portion thereof which is neither assumed or continued by the Acquiror in connection with the Change in Control nor exercised or settled as of the time of consummation of the Change in Control shall terminate and cease to be outstanding effective as of the time of consummation of the Change in Control.

(c) **Cash-Out of Awards.** The Committee may, in its discretion and without the consent of any Participant, determine that, upon the occurrence of a Change in Control, each or any Award or a portion thereof outstanding immediately prior to the Change in Control and not previously exercised or settled shall be canceled in exchange for a payment with respect to each vested share (and each unvested share, if so determined by the Committee) of Stock subject to such canceled Award in (i) cash, (ii) stock of the Company or of a corporation or other business entity a party to the Change in Control, or (iii) other property which, in any such case, shall be in an amount having a Fair Market Value equal to the Fair Market Value of the consideration to be paid per share of Stock in the Change in Control, reduced by the exercise or purchase price per share, if any, under such Award. If any portion of such consideration may be received by holders of Stock pursuant to the Change in Control on a contingent or delayed basis, the Committee may, in its sole discretion, determine such Fair Market Value per share as of the time of the Change in Control on the basis of the Committee's good faith estimate of the present value of the probable future payment of such consideration. In the event such determination is made by the Committee, the amount of such payment (reduced by applicable withholding taxes, if any) shall be paid to Participants in respect of the vested portions of their canceled Awards as soon as practicable following the date of the Change in Control and in respect of the unvested portions of their canceled Awards in accordance with the vesting schedules applicable to such Awards.

### 13.2 **Federal Excise Tax Under Section 4999 of the Code.**

(a) **Excess Parachute Payment.** In the event that any acceleration of vesting pursuant to an Award and any other payment or benefit received or to be received by a Participant would subject the Participant to any excise tax pursuant to Section 4999 of the Code due to the characterization of such acceleration of vesting, payment or benefit as an “excess parachute payment” under Section 280G of the Code, the Participant may elect, in his or her sole discretion, to reduce the amount of any acceleration of vesting called for under the Award in order to avoid such characterization.

(b) **Determination by Independent Accountants.** To aid the Participant in making any election called for under Section 13.2(a), no later than the date of the occurrence of any event that might reasonably be anticipated to result in an “excess parachute payment” to the Participant as described in Section 13.2(a), the Company shall request a determination in writing by independent public accountants selected by the Company (the “**Accountants**”). As soon as practicable thereafter, the Accountants shall determine and report to the Company and the Participant the amount of such acceleration of vesting, payments and benefits which would produce the greatest after-tax benefit to the Participant. For the purposes of such determination, the Accountants may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. The Company and the Participant shall furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make their required determination. The Company shall bear all fees and expenses the Accountants may reasonably charge in connection with their services contemplated by this Section 13.2(b).

### 14. **Tax Withholding.**

14.1 **Tax Withholding in General.** The Company shall have the right to deduct from any and all payments made under the Plan, or to require the Participant, through payroll withholding, cash payment or otherwise, to make adequate provision for, the federal, state, local and foreign taxes, if any, required by law to be withheld by the Participating Company Group with respect to an Award or the shares acquired pursuant thereto. The Company shall have no obligation to deliver shares of Stock, to release shares of Stock from an escrow established pursuant to an Award Agreement, or to make any payment in cash under the Plan until the Participating Company Group’s tax withholding obligations have been satisfied by the Participant.

14.2 **Withholding in Shares.** The Company shall have the right, but not the obligation, to deduct from the shares of Stock issuable to a Participant upon the exercise or settlement of an Award, or to accept from the Participant the tender of, a number of whole shares of Stock having a Fair Market Value, as determined by the Company, equal to all or any part of the tax withholding obligations of the Participating Company Group. The Fair Market Value of any shares of Stock withheld or tendered to satisfy any such tax withholding obligations shall not exceed the amount determined by the applicable minimum statutory withholding rates.

### 15. **Compliance with Law.**

15.1 **Securities Laws.** The grant of Awards and the issuance of shares of Stock pursuant to any Award shall be subject to compliance with all applicable requirements of federal, state and foreign law with respect to such securities and the requirements of any stock exchange or market system upon which the Stock may then be listed. In addition, no Award may be exercised or shares issued pursuant to an Award unless (a) a registration statement under the Securities Act shall at the time of such exercise or issuance be in effect with respect to the shares issuable pursuant to the Award or (b) in the opinion of legal counsel to the Company, the shares issuable pursuant to the Award may be issued in accordance with the terms of an applicable exemption from the registration requirements of the Securities Act. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company’s legal counsel to be necessary to the lawful issuance and sale of any shares hereunder shall relieve the Company of any liability in respect of the failure to issue or sell such shares as to which such requisite authority shall not have been obtained. As a condition to issuance of any Stock, the Company may require the Participant to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation and to make any representation or warranty with respect thereto as may be requested by the Company.

15.2 **Currency Laws.** The grant of Awards and the issuance of shares of Stock or payment of cash pursuant to any Award shall be compliance with all applicable requirements of foreign law with respect to currency exchange and currency transfer.

### 16. **Compliance with Section 409A.**

16.1 **Awards Subject to Section 409A.** The provisions of this Section shall apply to any Award or portion thereof that is or becomes subject to Section 409A, notwithstanding any provision to the contrary contained in the Plan or the Award Agreement applicable to such Award. Awards subject to Section 409A include, without limitation:



(a) Any Nonstatutory Stock Option having an exercise price per share less than the Fair Market Value determined as of the date of grant of such Option or that permits the deferral of compensation other than the deferral of recognition of income until the exercise or transfer of the Option or the time the shares acquired pursuant to the exercise of the option first become substantially vested.

(b) Any Restricted Stock Award that either provides by its terms, or under which the Participant makes an election, for settlement of all or any portion of the Award either (i) on one or more dates following the end of the Short-Term Deferral Period (as defined below) or (ii) upon or after the occurrence of any event that will or may occur later than the end of the Short-Term Deferral Period.

Subject to U.S. Treasury Regulations promulgated pursuant to Section 409A (“Section **409A Regulations**”) or other applicable guidance, the term “**Short-Term Deferral Period**” means the period ending on the later of (i) the 15th day of the third month following the end of the Company’s fiscal year in which the applicable portion of the Award is no longer subject to a substantial risk of forfeiture or (ii) the 15th day of the third month following the end of the Participant’s taxable year in which the applicable portion of the Award is no longer subject to a substantial risk of forfeiture. For this purpose, the term “**substantial risk of forfeiture**” shall have the meaning set forth in Section 409A Regulations or other applicable guidance.

**16.2 Deferral and/or Distribution Elections.** Except as otherwise permitted or required by Section 409A or Section 409A Regulations or other applicable guidance, the following rules shall apply to any deferral and/or distribution elections (each, an “**Election**”) that may be permitted or required by the Committee pursuant to an Award subject to Section 409A:

(a) All Elections must be in writing and specify the amount (or an objective, nondiscretionary formula determining the amount) of the distribution in settlement of an Award being deferred, as well as the time and form of distribution as permitted by this Plan.

(b) All Elections shall be made by the end of the Participant’s taxable year prior to the year in which services commence for which an Award may be granted to such Participant; provided, however, that if the Award qualifies as “performance-based compensation” for purposes of Section 409A (and is based on a performance period of at least 12 consecutive months), then the Election may be made no later than six (6) months prior to the end of the performance period, provided that the Participant’s service is continuous from the later of the beginning of the performance period or the date on which the performance goals are established through the date such election is made and provided further that no election may be made after the compensation has become readily ascertainable (as provided by Section 409A Regulations).

(c) Elections shall continue in effect until a written election to revoke or change such Election is received by the Company, except that a written election to revoke or change such Election must be made prior to the last day for making an Election determined in accordance with paragraph (b) above or as permitted by Section 16.3.

**16.3 Subsequent Elections.** Except as otherwise permitted or required by Section 409A Regulations or other applicable guidance, any Award subject to Section 409A which permits a subsequent Election to delay the distribution or change the form of distribution in settlement of such Award shall comply with the following requirements:

(a) No subsequent Election may take effect until at least twelve (12) months after the date on which the subsequent Election is made;

(b) Each subsequent Election related to a distribution in settlement of an Award not described in Section 16.4(b), 16.4(c) or 16.4(f) must result in a delay of the distribution for a period of not less than five (5) years from the date such distribution would otherwise have been made; and

(c) No subsequent Election related to a distribution pursuant to Section 16.4(d) shall be made less than twelve (12) months prior to the date of the first scheduled payment under such distribution.

**16.4 Distributions Pursuant to Deferral Elections.** Except as otherwise permitted or required by Section 409A Regulations or other applicable guidance, no distribution in settlement of an Award subject to Section 409A may commence earlier than:

(a) The Participant’s separation from service (as defined by Section 409A Regulations);

(b) The date the Participant becomes Disabled (as defined below);

(c) The Participant’s death;

- (d) A specified time (or pursuant to a fixed schedule) that is either (i) specified by the Committee upon the grant of an Award and set forth in the Award Agreement evidencing such Award or (ii) specified by the Participant in an Election complying with the requirements of Section 16.2 and/or 16.3, as applicable;
- (e) A change in the ownership or effective control of the Company or in the ownership of a substantial portion of the assets of the Company (as defined by Section 409A Regulations); or
- (f) The occurrence of an Unforeseeable Emergency (as defined by Section 409A Regulations).

Notwithstanding anything else herein to the contrary, to the extent that a Participant is a "Specified Employee" (as defined by Section 409A Regulations) of the Company, no distribution pursuant to Section 16.4(a) in settlement of an Award subject to Section 409A may be made before the date (the "**Delayed Payment Date**") which is six (6) months after such Participant's date of separation from service, or, if earlier, the date of the Participant's death. All such amounts that would, but for this paragraph, become payable prior to the Delayed Payment Date shall be accumulated and paid on the Delayed Payment Date.

**16.5 Unforeseeable Emergency.** The Committee shall have the authority to provide in any Award subject to Section 409A for distribution in settlement of all or a portion of such Award in the event that a Participant establishes, to the satisfaction of the Committee, the occurrence of an Unforeseeable Emergency. In such event, the amount(s) distributed with respect to such Unforeseeable Emergency cannot exceed the amounts reasonably necessary to satisfy such Unforeseeable Emergency plus amounts necessary to pay taxes or penalties reasonably anticipated as a result of such distribution(s), after taking into account the extent to which such hardship is or may be relieved through reimbursement or compensation by insurance or otherwise, by liquidation of the Participant's assets (to the extent the liquidation of such assets would not itself cause severe financial hardship), or by cessation of deferrals under the Plan. All distributions with respect to an Unforeseeable Emergency shall be made in a lump sum within 90 days of the occurrence of Unforeseeable Emergency and following the Committee's determination that an Unforeseeable Emergency has occurred.

The occurrence of an Unforeseeable Emergency shall be judged and determined by the Committee. The Committee's decision with respect to whether an Unforeseeable Emergency has occurred and the manner in which, if at all, the distribution in settlement of an Award shall be altered or modified, shall be final, conclusive, and not subject to approval or appeal.

**16.6 Disabled.** The Committee shall have the authority to provide in any Award subject to Section 409A for distribution in settlement of such Award in the event that the Participant becomes Disabled. A Participant shall be considered "**Disabled**" if either:

- (a) the Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, or
- (b) the Participant is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, receiving income replacement benefits for a period of not less than three (3) months under an accident and health plan covering employees of the Participant's employer.

All distributions payable by reason of a Participant becoming Disabled shall be paid in a lump sum or in periodic installments as established by the Participant's Election, commencing within 90 days following the date the Participant becomes Disabled. If the Participant has made no Election with respect to distributions upon becoming Disabled, all such distributions shall be paid in a lump sum within 90 days following the date the Participant becomes Disabled.

**16.7 Death.** If a Participant dies before complete distribution of amounts payable upon settlement of an Award subject to Section 409A, such undistributed amounts shall be distributed to his or her beneficiary under the distribution method for death established by the Participant's Election, or, if the Participant has made no Election with respect to distributions upon death, in a lump sum, within 90 days following the Participant's death and following receipt by the Committee of satisfactory notice and confirmation of the Participant's death.

**16.8 No Acceleration of Distributions.** Notwithstanding anything to the contrary herein, this Plan does not permit the acceleration of the time or schedule of any distribution under this Plan pursuant to any Award subject to Section 409A, except as provided by Section 409A and Section 409A Regulations.

## **17. Amendment or Termination of Plan.**

The Committee may amend, suspend or terminate the Plan at any time. However, without the approval of the Company's stockholders, there shall be no amendment of the Plan that would require approval of the Company's stockholders under any applicable law, regulation or rule, including the rules of any stock exchange or market system upon which the Stock may then be listed. No amendment, suspension or termination of the Plan shall affect any then outstanding Award unless expressly provided by the Committee. Except as provided by the next sentence, no amendment, suspension or termination of the Plan may adversely affect any then outstanding Award without the consent of the Participant. Notwithstanding any other provision of the Plan or any Award Agreement to the contrary, the Committee may, in its sole and absolute discretion and without the consent of any Participant, amend the Plan or any Award Agreement, to take effect retroactively or otherwise, as it deems necessary or advisable for the purpose of conforming the Plan or such Award Agreement to any present or future law, regulation or rule applicable to the Plan, including, but not limited to, Section 409A of the Code and all applicable guidance promulgated thereunder.

## **18. Miscellaneous Provisions.**

18.1 **Repurchase Rights.** Shares issued under the Plan may be subject to one or more repurchase options, or other conditions and restrictions as determined by the Committee in its discretion at the time the Award is granted. The Company shall have the right to assign at any time any repurchase right it may have, whether or not such right is then exercisable, to one or more persons as may be selected by the Company. Upon request by the Company, each Participant shall execute any agreement evidencing such transfer restrictions prior to the receipt of shares of Stock hereunder and shall promptly present to the Company any and all certificates representing shares of Stock acquired hereunder for the placement on such certificates of appropriate legends evidencing any such transfer restrictions.

### **18.2 Forfeiture Events.**

(a) The Committee may specify in an Award Agreement that the Participant's rights, payments, and benefits with respect to an Award shall be subject to reduction, cancellation, forfeiture, or recoupment upon the occurrence of specified events, in addition to any otherwise applicable vesting or performance conditions of an Award. Such events may include, but shall not be limited to, termination of Service for Cause or any act by a Participant, whether before or after termination of Service, that would constitute Cause for termination of Service.

(b) If the Company is required to prepare an accounting restatement due to the material noncompliance of the Company, as a result of misconduct, with any financial reporting requirement under the securities laws, any Participant who knowingly or through gross negligence engaged in the misconduct, or who knowingly or through gross negligence failed to prevent the misconduct, and any Participant who is one of the individuals subject to automatic forfeiture under Section 304 of the Sarbanes-Oxley Act of 2002, shall reimburse the Company the amount of any payment in settlement of an Award earned or accrued during the twelve- (12-) month period following the first public issuance or filing with the United States Securities and Exchange Commission (whichever first occurred) of the financial document embodying such financial reporting requirement.

(c) All outstanding Awards and shares of Stock issued pursuant to an Award held by a Participant will be forfeited in their entirety (including as to any portion of an Award or shares of Stock subject thereto that are vested or as to which any repurchase or resale rights or forfeiture restrictions in favor of the Company or its designee with respect to such Shares have previously lapsed) if the Participant, without the consent of the Company, while employed or in service, as the case may be, or within twelve (12) months after termination of employment or service, establishes an employment or similar relationship with a competitor of a Participating Company or engages in any similar activity (including passive investment, but excluding ownership of 1% or less of the shares of a competitor) that is in conflict with or adverse to the interests of a Participating Company, as determined by the Committee in its sole discretion; provided, that if a Participant has sold shares of Stock issued upon exercise or settlement of an Award within six (6) months prior to the date on which the Participant would otherwise have been required to forfeit such shares of Stock or the Award under this subsection as a result of the Participant's competitive or similar acts, then the Company will be entitled to recover any and all profits realized by the Participant in connection with such sale.

(d) All outstanding Awards and shares of Stock issued pursuant to an Award held by a Participant will be forfeited in their entirety (including as to any portion of an Award or shares of Stock subject thereto that are vested or as to which any repurchase or resale rights or forfeiture restrictions in favor of the Company or its designee with respect to such Shares have previously lapsed) if the Participant, without the consent of the Company, while employed or in service, as the case may be, or within twelve (12) months after termination of employment or service, solicits any employee, client, or vendor to engage in employment or similar relationship with a competitor of a Participating Company or to engage in any similar activity (including passive investment) that is in conflict with or adverse to the interests of a Participating Company, as determined by the Committee in its sole discretion; provided, that if a Participant has sold shares of Stock issued upon exercise or settlement of an Award within six (6) months prior to the date on which the Participant would otherwise have been required to forfeit such shares of Stock or the Award under this subsection as a result of the Participant's acts, then the Company will be entitled to recover any and all profits realized by the Participant in connection with such sale.

18.3 **Provision of Information.** Each Participant shall be given access to information concerning the Company equivalent to that information generally made available to the Company's common stockholders.

18.4 **Rights as Employee, Consultant or Director.** No person, even though eligible pursuant to Section 5, shall have a right to be selected as a Participant, or, having been so selected, to be selected again as a Participant. Nothing in the Plan or any Award granted under the Plan shall confer on any Participant a right to remain an Employee, Consultant or Director or interfere with or limit in any way any right of a Participating Company to terminate the Participant's Service at any time. To the extent that an Employee of a Participating Company other than the Company receives an Award under the Plan, that Award shall in no event be understood or interpreted to mean that the Company is the Employee's employer or that the Employee has an employment relationship with the Company.

18.5 **Rights as a Stockholder.** A Participant shall have no rights as a stockholder with respect to any shares covered by an Award until the date of the issuance of such shares (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). No adjustment shall be made for dividends, distributions or other rights for which the record date is prior to the date such shares are issued, except as provided in Section 4.3 or another provision of the Plan.

18.6 **Delivery of Title to Shares.** Subject to any governing rules or regulations, the Company shall issue or cause to be issued the shares of Stock acquired pursuant to an Award and shall deliver such shares to or for the benefit of the Participant by means of one or more of the following: (a) by delivering to the Participant evidence of book entry shares of Stock credited to the account of the Participant, (b) by depositing such shares of Stock for the benefit of the Participant with any broker with which the Participant has an account relationship, or (c) by delivering such shares of Stock to the Participant in certificate form.

18.7 **Fractional Shares.** The Company shall not be required to issue fractional shares upon the exercise or settlement of any Award.

18.8 **Retirement and Welfare Plans.** Neither Awards made under this Plan nor shares of Stock or cash paid pursuant to such Awards shall be included as "compensation" for purposes of computing the benefits payable to any Participant under any Participating Company's retirement plans (both qualified and non-qualified) or welfare benefit plans unless such other plan expressly provides that such compensation shall be taken into account in computing such benefits.

18.9 **Severability.** If any one or more of the provisions (or any part thereof) of this Plan shall be held invalid, illegal or unenforceable in any respect, such provision shall be modified so as to make it valid, legal and enforceable, and the validity, legality and enforceability of the remaining provisions (or any part thereof) of the Plan shall not in any way be affected or impaired thereby.

18.10 **No Constraint on Corporate Action.** Nothing in this Plan shall be construed to: (a) limit, impair, or otherwise affect the Company's or another Participating Company's right or power to make adjustments, reclassifications, reorganizations, or changes of its capital or business structure, or to merge or consolidate, or dissolve, liquidate, sell, or transfer all or any part of its business or assets; or (b) limit the right or power of the Company or another Participating Company to take any action which such entity deems to be necessary or appropriate.

18.11 **Unfunded Obligation.** Participants shall have the status of general unsecured creditors of the Company. Any amounts payable to Participants pursuant to the Plan shall be unfunded and unsecured obligations for all purposes, including, without limitation, Title I of the Employee Retirement Income Security Act of 1974. No Participating Company shall be required to segregate any monies from its general funds, or to create any trusts, or establish any special accounts with respect to such obligations. The Company shall retain at all times beneficial ownership of any investments, including trust investments, which the Company may make to fulfill its payment obligations hereunder. Any investments or the creation or maintenance of any trust or any Participant account shall not create or constitute a trust or fiduciary relationship between the Committee or any Participating Company and a Participant, or otherwise create any vested or beneficial interest in any Participant or the Participant's creditors in any assets of any Participating Company. The Participants shall have no claim against any Participating Company for any changes in the value of any assets which may be invested or reinvested by the Company with respect to the Plan.

18.12 **Choice of Law.** Except to the extent governed by applicable federal law, the validity, interpretation, construction and performance of the Plan and each Award Agreement shall be governed by the laws of the State of Delaware, without regard to its conflict of law rules.

18.13 **Nontransferability of Awards.** Unless otherwise determined by the Committee, Awards may not be sold, pledged, assigned, hypothecated, transferred, or disposed of in any manner other than by will or the laws of descent and distribution, and may be exercised during the lifetime of the Participant, only by the Participant or the Participant's guardian or legal representative.

**19. Compliance with Section 162(m).**

The Company intends that the Awards granted to Covered Employees shall satisfy the requirements of the Performance-Based Exception, unless otherwise determined by the Committee when the Award is granted. Accordingly, the terms of this Plan, including the definition of Covered Employee and other terms used therein, shall be interpreted in a manner consistent with Section 162(m) of the Code and regulations thereunder. Notwithstanding the foregoing, because the Committee cannot determine with certainty whether a given Participant will be a Covered Employee with respect to a fiscal year that has not yet been completed, the term Covered Employee as used herein shall mean only a person designated by the Committee as likely to be a Covered Employee with respect to a fiscal year. If any provision of the Plan or any Award Agreement designated as intended to satisfy the Performance-Based Exception does not comply or is inconsistent with the requirements of Section 162(m) of the Code or regulations thereunder, such provision shall be construed or deemed amended to the extent necessary to conform to such requirements, and no provision shall be deemed to confer upon the Committee or any other person sole discretion to increase the amount of compensation otherwise payable in connection with such Award upon attainment of the applicable performance objectives. Payment of any amount that the Company reasonably determines would not be deductible by reason of Section 162(m) of the Code shall be deferred until the earlier of the earliest date on which the Company reasonably determines that the deductibility of the payment will not be so limited, or the year following the termination of employment.

19.1 **Performance Measures.** The performance goals upon which the payment or vesting of an Award to a Covered Employee that is intended to qualify as Performance-Based Compensation shall be limited to the following Performance Measures:

- (a) ***Financial Goals.***
  - (i) Revenues
  - (ii) EBITDA
  - (iii) Net Income
  - (iv) Earnings per share
  - (v) Debt level
  - (vi) Cost reduction targets
  - (vii) Cash flow from operations
  - (viii) Equity ratios
  - (ix) Interest generated on cash
  - (x) Weighted average cost of capital
  - (xi) Return on assets
  - (xii) Return on investment
  - (xiii) Capital raised from sales of equity
  - (xiv) Bank loan lines
  - (xv) Capital raised from sales of debt
  - (xvi) Expenses
  - (xvii) Working capital
  - (xviii) Operating or profit margin
  - (xix) Return on equity or capital employed
  - (xx) Booking and billing
- (b) ***Corporate and Other Goals.***
  - (i) Total stockholder return
  - (ii) Goals related to acquisitions
  - (iii) Investments



- (iv) Satisfactory internal or external audits
  - (v) Achievement of balance sheet or income statement objectives
  - (vi) Market share
  - (vii) Assets
  - (viii) Asset sale targets
  - (ix) Number of new customers
  - (x) Increase in customer size
  - (xi) Employee retention/attrition rates
  - (xii) Improvement of financial ratings
  - (xiii) Charge-offs
  - (xiv) Fair Market Value of Stock
  - (xv) Regulatory compliance
  - (xvi) Major exchange listing
- (c) ***Operating Goals.***
- (i) Operating efficiency
  - (ii) Ability of MIS to meet agreed targets
  - (iii) Objective customer satisfaction measures
  - (iv) Limit on mistakes in SCM

Any Performance Measure(s) may be used to measure the performance of the Company, any Subsidiary Corporation, or an Affiliate as a whole or any business unit of the Company, any Subsidiary Corporation, or an Affiliate or any combination thereof, as the Committee may deem appropriate, or any of the above Performance Measures as compared to the performance of a group of comparator companies, or published or special index that the Committee, in its sole discretion, deems appropriate. The Committee also has the authority to provide for accelerated vesting of any Award based on the achievement of performance goals pursuant to the Performance Measures specified in this Section.

Notwithstanding the foregoing, for each Award designed to qualify for the Performance-Based Exception, the Committee shall establish and set forth in the Award the applicable performance goals for that Award no later than the latest date that the Committee may establish such goals without jeopardizing the ability of the Award to qualify for the Performance-Based Exception and the Committee shall be satisfied that the attainment of such Performance Measure(s) shall represent value to the Company in an amount not less than the par value of any related Performance Shares.

19.2 **Evaluation of Performance.** Subject to Section 19.3, the Committee may provide in any such Award that any evaluation of performance may include or exclude any of the following events that occurs during a Performance Period: (a) asset write-downs and other asset revaluations, (b) litigation or claim judgments or settlements, (c) the effect of changes in tax laws, accounting principles, or other laws or provisions affecting reported results, (d) any reorganization and restructuring programs, (e) extraordinary nonrecurring items as described in Accounting Principles Board Opinion No. 30 and/or in management's discussion and analysis of financial condition and results of operations appearing in the Company's annual report to stockholders for the applicable year, (f) acquisitions or divestitures, (g) foreign exchange gains and losses, and (h) changes in material liability estimates. To the extent such inclusions or exclusions affect Awards to Covered Employees, they shall be prescribed in a form that meets the requirements of Section 162(m) of the Code for deductibility.

19.3 **Adjustment of Performance-Based Compensation.** The degree of payout and/or vesting of Awards designed to qualify for the Performance-Based Exception shall be determined based upon the written certification of the Committee as to the extent to which the performance goals and any other material terms and conditions precedent to such payment and/or vesting have been satisfied. The Committee shall have the sole discretion to adjust the determinations of the value and degree of attainment of the pre-established performance goals; provided, however, that the performance goals applicable to Awards which are designed to qualify for the Performance-Based Exception, and which are held by Covered Employees, may not be adjusted so as to increase the payment under the Award (the Committee shall retain the sole discretion to adjust such performance goals upward, or to otherwise reduce the amount of the payment and/or vesting of the Award relative to the pre-established performance goals).

19.4 **Committee Discretion.** In the event that applicable tax and/or securities laws change to permit Committee discretion to alter the governing Performance Measures without obtaining stockholder approval of such changes, the Committee shall have sole discretion to make such changes without obtaining stockholder approval. In addition, in the event that the Committee determines that it is advisable to grant Awards that shall not qualify as Performance-Based Compensation, the Committee may make such grants without satisfying the requirements of Section 162(m) of the Code and base vesting on Performance Measures other than those set forth in Section 19.1.





UNIT PURCHASE AGREEMENT

BY AND AMONG

BOSTON THERAPEUTICS, INC.

AND

THE PURCHASERS PARTY HERETO

August 6, 2013

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**SCHEDULES AND EXHIBITS  
TO  
UNIT PURCHASE AGREEMENT**

|                 |  |
|-----------------|--|
| Schedule 3.6    | Absence of Liabilities   |
| Schedule 3.7.1  | Material Contracts   |
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| Schedule 3.10   | Title to Properties and Assets; Liens                          |
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| Schedule 3.14   | Tax Returns and Payments                                       |
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| Schedule 3.19.1 | Material Collaborators   |
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| Schedule 3.21.2 | Clinical Studies, Tests and Trials                             |
| Schedule 3.26   | Insurance  |
| Exhibit A       | Schedule of Purchasers   |
| Exhibit B       | Form Warrant   |
| Exhibit C       | Funding Instructions   |
| Exhibit D       | Pre-Closing Capitalization of the Company                      |
| Exhibit E       | Form of Legal Opinion  |
| Exhibit F       | Form of Registration Rights Agreement                          |

BOSTON THERAPEUTICS, INC.

UNIT PURCHASE AGREEMENT

THIS UNIT PURCHASE AGREEMENT (the "*Agreement*") is entered into on August 6, 2013 by and among Boston Therapeutics, Inc., a Delaware corporation (the "*Company*") and the purchasers identified on Exhibit A on the date hereof (which purchasers are hereinafter collectively referred to as the "*Purchasers*" and each individually as a "*Purchaser*").

BACKGROUND

- A. Unless otherwise defined in this Agreement, capitalized terms used in this Agreement shall have the respective meanings ascribed to such terms in Section 9.
- B. The Company is offering (the "*Offering*") Units to a limited number of persons who qualify as "accredited investors" as defined in Rule 501 of Regulation D promulgated under the under the Securities Act at a price per Unit of \$100,000.
- C. Each "Unit" shall consist of (a) 333,333 shares of common stock, par value \$0.001 per share, of the Company ("*Common Stock*"), and (b) a warrant (the "*Warrant*") to purchase 166,666 shares of Common Stock at an exercise price of \$0.50 per share for a period of 5 years following the final Closing of the Offering.
- D. The Units are being offered on a "*reasonable efforts, all or none*" basis with respect to the minimum of \$2,000,000 (the "*Minimum Offering Amount*") and thereafter on a "*reasonable efforts*" basis up to the maximum of \$6,000,000 (the "*Maximum Offering Amount*"); provided that the Company may increase the Maximum Offering Amount by an additional \$2,000,000 (the "*Greenshoe Option*") in the sole discretion of the Placement Agent.
- E. The Company desires to issue and sell the Units to each Purchaser in one or more closings (each a "*Closing*" and collectively the "*Closings*") as set forth herein.

NOW, THEREFORE, in consideration of the representations, warranties, covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. AGREEMENT TO SELL AND PURCHASE.

1.1 Authorization of Shares and Warrants. The board of directors of the Company has authorized (i) the sale of up to 80 Units, with each Unit consisting of (a) 333,333 shares of Common Stock and (b) a Warrant to purchase 166,666 shares of Common Stock at an exercise price of \$0.50 per share for a period of 5 years following the final Closing of the Offering, (ii) the issuance of up to 26,666,640 shares of Common Stock included as part of the authorized Units hereunder, (iii) the issuance of Warrants for the purchase of up to 13,333,280 shares of Common Stock, and (iv) the reservation of 13,333,280 shares of the Common Stock to be issued upon exercise of the Warrants (the "*Warrant Shares*").

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1.2 Initial Sale and Purchase of Units. Subject to the terms and conditions hereof, and in reliance upon the representations, warranties and covenants contained herein, at the Initial Closing, the Company shall issue and sell to each Purchaser, and each Purchaser shall purchase from the Company, the number of Units set forth opposite such Purchaser's name on Exhibit A under the "Initial Units" column, at a purchase price of \$100,000 per Unit (subject to appropriate and proportionate adjustment for stock dividends payable in shares of, stock splits and other subdivisions and combinations of, and recapitalizations and like occurrences with respect to, the Common Stock, the "**Per Unit Purchase Price**"). The minimum purchase price by each Purchaser is one Unit, unless the Company and the Placement Agent agree, in their mutual discretion, to allow a Purchaser to purchase a partial Unit.

1.3 Subsequent Sales and Purchases of Common Stock. Subject to the terms and conditions hereof, and in reliance upon the representations, warranties and covenants contained herein, at each subsequent Closing, the Company shall issue and sell to each Purchaser who is identified as a "Subsequent Closing Purchaser" on Exhibit A (each, a "**Subsequent Closing Purchaser**"), and each Subsequent Closing Purchaser shall purchase from the Company, the number Units set forth opposite such Purchaser's name on Exhibit A at the Per Unit Purchase Price.

1.4 Issuance of Warrants. The Warrants shall be in form and substance substantially the same as the form of Warrant in Exhibit B.

## 2. CLOSINGS, DELIVERY AND PAYMENT.

2.1 Initial Closing. Subject to the conditions set forth in Section 5, the initial closing of the sale and purchase of the Units (the "**Initial Closing**"), shall take place electronically on such date and at such time as is agreed between the Company and the Placement Agent (such date the "**Initial Closing Date**"), in no event later than July 31, 2013 (the "**Termination Date**"), which date may be extended without further notice to Purchasers or prospective investors by the Company and Placement Agent, to a date no later than August 31, 2013 (the "**Final Termination Date**") except that in the event the Maximum Offering Amount is sold on or before the Final Termination Date and Laidlaw determines to exercise the Greenshoe Option, the Final Termination Date may be extended to a date no later than September 30, 2013 (the "**Greenshoe Termination Date**"). Subject to the foregoing, at the Initial Closing, the Company may sell up to a maximum of 60 Units, with an option in favor of the Placement Agent to offer an additional 20 Units to cover over-allotments. The Units sold at the Initial Closing are sometimes referred to herein as "**Initial Units**."

2.2 Subsequent Closings. Subject to the conditions set forth in Section 5, each Subsequent Closing shall take place electronically on such date and at such time as is agreed between the Company and the Placement Agent (such date the "**Subsequent Closing Date**"), in no event later than the Termination Date, which date may be extended without further notice to Purchasers or prospective investors by the Company and Placement Agent, to a date no later than the Final Termination Date except that in the event the Maximum Offering Amount is sold on or before the Final Termination Date and Placement Agent determines to exercise the Greenshoe Option, the Final Termination Date may be extended to a date no later than the Greenshoe Option Date. Subject to the foregoing, at Subsequent Closings, the Company may sell up to a maximum of 60 Units less the number of Units sold in all prior Closings, with an option in favor of the Placement Agent to offer an additional 20 Units to cover over-allotments. The Units sold at the Subsequent Closings are sometimes referred to herein as "**Subsequent Units**."

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2.3 Delivery; Payment. At each Closing, subject to the terms and conditions hereof, the Company will deliver to the Purchasers certificates representing the number of shares of Common Stock and corresponding Warrants to be purchased at such Closing by the Purchasers or the Subsequent Closing Purchasers, as the case may be, against payment of the full amount of the Purchase Price therefor in cash by wire transfer of immediately available funds in accordance with instructions attached hereto as Exhibit C, or as the Company shall otherwise direct. Unless otherwise requested by any Purchaser, each Purchaser will receive at such Closing, one (1) certificate registered in its name representing the shares of Common Stock included in the Units purchased by such Purchaser and one (1) Warrant registered in its name to purchase such number of Warrant Shares included in the Units purchased by such Purchaser or Subsequent Closing Purchaser, as the case may be, at such Closing. The Company and the Placement Agent, in their mutual discretion, may allow a Purchaser to purchase a partial Unit, in which case the Purchaser shall receive a certificate representing the appropriate number of shares of Common Stock included in such partial Unit and a partial Warrant for the appropriate number of corresponding Warrant Shares.

### 3. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE COMPANY.

The Company represents, warrants and covenants to each of the Purchasers that the statements made in this Section 3, except as qualified in the disclosure schedules referenced herein and attached hereto (the “*Schedules*”), are true and correct on the date hereof, as of the Initial Closing and shall be true and correct as of the Subsequent Closing, except as qualified by any updated Schedules delivered at the Subsequent Closing in accordance with Section 5.1.1 hereof, all of which qualifications in the Schedules attached hereto and updated Schedules delivered at the Subsequent Closing shall be deemed to be representations, warranties and covenants as if made hereunder. The Schedules shall be arranged to correspond to the numbered paragraphs contained in this Section 3, and the disclosure in any paragraph of the Schedules shall qualify other subsections in Section 3 only to the extent that it is readily apparent from a reading of the disclosure that such disclosure is applicable to such other subsections. For purposes of this Section 3, “knowledge” shall mean the personal knowledge of any of the Company’s officers or directors or what they would have known upon having made reasonable inquiry.

3.1 Organization, Good Standing and Qualification. The Company is a corporation duly incorporated, validly existing and in good standing under the corporate laws of the State of Delaware. The Company has all requisite corporate power and authority to own and operate its properties and assets. The Company has all requisite corporate power and authority to execute and deliver this Agreement and the other Transaction Documents to which it is a party, and to issue and sell the Units, and to carry out the provisions of this Agreement, the other Transaction Documents and the Certificate and to carry on its business as currently conducted and as currently proposed to be conducted. The Company is duly qualified, is authorized to do business and is in good standing in the State of New Hampshire, which is the only jurisdiction in which the nature of the Company’s activities and properties (both owned and leased) makes such qualification necessary; and the Company has not failed to qualify in any jurisdiction where failure to be so qualified has had, or could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on any of the business, properties, assets, financial condition, results of operations, prospects or Liabilities of the Company, taken as a whole (a “*Material Adverse Effect*”).

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3.2 Subsidiaries. The Company has no Subsidiaries. The Company is not a participant in any joint venture, partnership or similar arrangement.

### 3.3 Capitalization Matters.

3.3.1. Immediately prior to the Initial Closing, the total authorized capital stock of the Company, consists of: (a) 100,000,000 shares of Common Stock, of which 19,363,539 shares are issued and outstanding; and (b) 5,000,000 shares of Preferred Stock, of which none are issued and outstanding.

3.3.2. Immediately prior to the Initial Closing, the authorized, issued and outstanding capital stock of the Company is as set forth in Exhibit D hereto and (a) all issued and outstanding shares of capital stock of the Company have been duly authorized and validly issued, (b) are fully paid and nonassessable, and (c) were issued in compliance with all applicable state and federal laws concerning the issuance of securities. Except for the securities issued or issuable pursuant to this Agreement, (i) there are no outstanding securities of the Company which contain any preemptive, redemption or similar provisions, nor is any holder of securities of the Company entitled to preemptive or similar rights arising out of any agreement or understanding with the Company, and there are no contracts, commitments, understandings or arrangements by which the Company is or may become bound to redeem any of its outstanding capital stock, (ii) the Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement; and (iii) except as set forth in Exhibit D there are no outstanding options, warrants, agreements, convertible securities, preemptive rights or other rights to subscribe for or to purchase or acquire, any shares of capital stock of the Company or contracts, commitments, understandings, or arrangements by which the Company is or may become bound to issue any shares of capital stock, or securities or rights convertible or exchangeable into shares of capital stock. Except as otherwise required by law, there are no restrictions upon the voting or transfer of any of the shares of capital stock of the Company pursuant to its Organizational Documents or any agreement or other instruments to which it is a party or by which it is bound. The issuance and sale of the Units as contemplated hereby will not obligate the Company to issue shares of Common Stock or other securities to any other person (other than the Purchasers and the Placement Agent) and will not result in the adjustment of the exercise, conversion, exchange or reset price of any outstanding security. There are no proxies, stockholder agreements, or any other agreements between the Company and any stockholder of the Company or, to the knowledge of the Company, among any of the stockholders of the Company, including agreements relating to the voting, transfer, redemption or repurchase of any securities of the Company. The Company does not have any outstanding shareholder purchase rights or "poison pill" or any similar arrangement in effect giving any person the right to purchase any equity interest in the Company upon the occurrence of certain events.

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3.3.3. The shares of Common Stock and Warrants comprising the Units are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Encumbrances other than restrictions on transfer provided for in the Transaction Documents. The Warrant Shares, when issued and paid for in accordance with the terms of the Warrants, will be validly issued, fully paid and nonassessable, free and clear of all Encumbrances imposed by the Company other than restrictions on transfer provided for in the Transaction Documents. The Company has reserved a sufficient number of shares for issuance of the shares of Common Stock and Warrant Shares, free and clear of all Encumbrances, except for restrictions on transfer set forth in the Transaction Documents or imposed by applicable securities laws.

3.4 Authorization; Binding Obligations. All actions by or on behalf of the Company necessary for the authorization of this Agreement and the other Transaction Documents, the performance of all obligations of the Company hereunder and thereunder at each Closing and the authorization, sale, issuance and delivery of the Units pursuant hereto have been taken. This Agreement (assuming due execution and delivery by the Purchasers) and the other Transaction Documents (assuming due execution and delivery by all other parties thereto), when executed and delivered, will be valid and binding obligations of the Company and enforceable against it in each case in accordance with their respective terms, except (a) as limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws of general application affecting enforcement of creditors' rights, (b) general principles of equity that restrict the availability of equitable remedies, and (c) to the extent that the enforceability of the indemnification provisions of Section 7 may be limited by applicable law. The execution, delivery and performance of, and the consummation of the transactions contemplated by, this Agreement and the other Transaction Documents, including without limitation the sale, issuance and delivery of the Units, have not resulted and will not result in (x) any violation of, or default under, or conflict with, or constitute, with or without the passage of time or the giving of notice or both, any violation of, or default under, or give rise to any right of termination, cancellation or acceleration under (i) any term or provision of (A) the Company's Organizational Documents, (B) any Contract, agreement, instrument, arrangement or understanding of the Company, or (C) any Order to which the Company is a party or by which it or its properties or assets are bound or (ii) any Requirement of Law applicable to the Company or its properties or assets or (y) the creation of any Encumbrance upon any of the properties or assets of the Company.

3.5 Shell Company Status; SEC Reports; Financial Statements. The Company has never been an issuer subject to Rule 144(i) under the Securities Act. The Company has filed all reports required to be filed by it under the Securities Act and Securities Exchange Act of 1934, as amended (the "*Exchange Act*"), including pursuant to Section 13(a), 13(e), 14 or 15(d) thereof, for the twenty-four (24) months preceding the date hereof (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein being collectively referred to herein as the "*SEC Reports*") on a timely basis or has timely filed a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act and the rules and regulations of the SEC promulgated thereunder, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Reports (the "*Financial Statements*") comply in all material respects with applicable accounting requirements and the rules and regulations of the SEC with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles ("*GAAP*") applied on a consistent basis during the periods involved, except as may be otherwise specified in such financial statements or the footnotes thereto, and fairly present in all material respects the financial position of the Boston Entities as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments. There is no transaction, arrangement, or other relationship between the Company and an unconsolidated or other off balance sheet entity that is not disclosed in its financial statements that should be disclosed in accordance with GAAP and that would be reasonably likely to have a Material Adverse Effect.

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3.6 Absence of Liabilities. Except for (a) obligations to the Placement Agent under an Engagement Agreement dated March 11, 2013, as modified by that certain first engagement agreement modification dated May 15, 2013 and that certain second engagement agreement modification dated May 28, 2013 (the “**PA Engagement**”), (b) obligations which in any individual case do not exceed \$5000 and which, in the aggregate, do not exceed \$50,000, and (c) obligations identified in Schedule 3.6, all of the Company’s Liabilities are reflected or disclosed in the audited financial statements of the Company for the year ended December 31, 2012. Except for indemnification obligations under the PA Engagement, obligations under the Transaction Documents, and obligations identified on Schedule 3.6, the Company is not a guarantor or indemnitor of any Liability of any other Person. Except for operating leases for personal or real property entered into in the ordinary course of business which do not require payments of more than \$50,000 in the aggregate during any fiscal year, the Company has not issued any instruments, entered into any agreements, commitments or arrangements or incurred any obligations that would have, or would reasonably be expected to have, the effect of providing the Company with “off balance sheet” financing.

3.7 Agreements; Action.

3.7.1. Disclosure. Schedule 3.7.1 sets forth a complete and accurate list of all the following Contracts, exclusive of (a) this Agreement and the other Transaction Documents, (b) the PA Engagement, and (c) other contracts that do not exceed the materiality threshold defined in clause (f) of this Section 3.7, which the Company and its properties or assets are a party or otherwise bound (each a “**Material Contract**”):

(a) Contracts not made in the ordinary course of business;

(b) each Contract pursuant to which the Company (x) is granted rights to, or ownership in, any Intellectual Property by any other Person (excluding “shrink wrap” licenses for generally available, commercial, off-the-shelf Software that has not been modified), (y) purchases components, raw materials, equipment, instruments, and other supplies and machinery that are material to its businesses, or supplies any other Person with any components, raw materials, equipment, instruments, and other supplies and machinery, or (z) grants another person rights to, or ownership in, any Intellectual Property;

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(c) Contracts relating to any feasibility, preclinical, clinical or other study, test or trial conducted by or on behalf of, or sponsored by, the Company or in which the Company or any of its drug compounds or pharmaceutical products (collectively, the “**Products**”) is participating;

(d) Contracts relating to the manufacture or production of any of the Products;

(e) To the knowledge of the Company, contracts among one or more stockholders of the Company which by their respective terms require performance after the date hereof;

(f) Contracts or commitments involving future expenditures, actual or potential, in excess of \$50,000 after the date hereof;

(g) Contracts or commitments (other than any of the same with the Placement Agent) for the performance of services for the Company by a third party which has a term of one (1) year or more;

(h) Contracts or commitments to perform services which obligates the Company to perform services which has a term of one (1) year or more;

(i) Contracts or commitments relating to commission arrangements with any other Person;

(j) Contracts (A) to employ, engage or terminate officers or other personnel and other Contracts with present or former officers, directors and other personnel of the Company which by their respective terms require performance after the date hereof, or (B) that will result in the payment by the Company of, or the creation of any Liability on the part of the Company to pay, any severance, termination, “golden parachute,” or other similar payments to any present or former officers, directors or other personnel following termination of employment or engagement or otherwise;

(k) indemnification agreements;

(l) any lease under which the Company is either lessor or lessee of personal property requiring annual lease payments (including rent and any other charges) in excess of \$50,000, and any lease under which the Company is either lessor or lessee of any real property, including any Real Property Lease;

(m) promissory notes, loans, agreements, indentures, evidences of indebtedness, letters of credit, guarantees, or other instruments relating to an obligation to pay money, whether the Company is the borrower, lender or guarantor thereunder (excluding credit provided by the Company in the ordinary course of business to purchasers of its products or services and obligations to pay vendors in the ordinary course of business and consistent with past practice);

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(n) Contracts containing covenants limiting the freedom of the Company to engage in any activity anywhere in the world;

(o) Contracts between the Company and any United States federal, state or local government or any foreign government, or any Governmental or Regulatory Authority, or any agency or department thereof, or with any educational institution or part thereof;

(p) any Contract or commitment for any charitable or political contribution by the Company;

(q) any power of attorney granted by the Company in favor of any Person;

(r) Contracts pertaining to any joint ventures, partnerships or similar arrangements;

(s) any Contract or other arrangement with an Affiliate; and

(t) any Contract not otherwise required to be listed pursuant to Subsections (a) – (s) above and with respect to which the consequences of a default, non-renewal or termination could reasonably be expected to have a Material Adverse Effect in the absence of a replacement Contract or arrangement therefor.

3.7.2. The Company has made available true and complete copies of all of the Material Contracts to the Purchasers. Each of the Material Contracts is (a) in full force and effect, (b) a valid and binding obligation of, and is enforceable in accordance with its terms against the Company and, to the knowledge of the Company, each of the other parties thereto, except as such enforceability may be limited by bankruptcy, insolvency, moratorium or other law affecting the enforcement of creditors' rights generally or by general equitable principles, (c) except for those Material Contracts disclosed pursuant to Section 3.7.1(a) and identified as such, was made in the ordinary course of business, and (d) contains no provision or covenant prohibiting or limiting the ability of the Company to operate its business in the manner in which it is currently operated.

3.7.3. The Company has in all material respects performed the obligations required to be performed by it to date under each Material Contract to which it is a party and is not in default or breach thereof, and no event or condition has occurred, whether with or without the passage of time or the giving of notice, or both, that would constitute such a breach or default. Neither the Company nor any other party to any Material Contract has provided any notice to the other party or to the Company, as applicable, of its intent to terminate, withdraw its participation in, or not renew any such Material Contract. The Company has not, and to the knowledge of the Company, no other party to any Material Contract has, threatened to terminate, withdraw from participation in, or not renew any such Material Contract. To the knowledge of the Company, no other party to any Material Contract is in breach or default under any provision thereof, and no event or condition has occurred, whether with or without the passage of time or the giving of notice, or both, that would constitute such a breach or default.

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3.7.4. Except as set forth on Schedule 3.7.4, no Consent of any party to any Material Contract is required in connection with the transactions contemplated by this Agreement and the other Transaction Documents.

3.7.5. The execution, delivery and performance of this Agreement and the other Transaction Documents do not and will not (a) result in or give to any Person any right of termination, non-renewal, cancellation, withdrawal, acceleration or modification in or with respect to any Material Contract, (b) result in or give to any Person any additional rights or entitlement to increased, additional, accelerated or guaranteed payments under any such Material Contract or (c) result in the creation or imposition of any Liability or any Encumbrances upon the Boston Intellectual Property or the Company's assets under the terms of any such Material Contract.

3.7.6. Neither the Company nor any representative thereof has engaged in the past twelve (12) months in any discussions regarding, and is not a party to or otherwise bound by any Contract in respect of, (a) any purchase, lease, license or other acquisition of any other Person, whether by equity purchase, merger, consolidation, reorganization or otherwise, or all or substantially all of the assets of any other Person, or the entering into by the Company of any share exchange with any other Person, (b) any change of control transaction with respect to the Company, or (c) liquidation with respect to the Company.

3.8 Compliance with Laws. The Company is not in violation of, or in default under, any Requirement of Law applicable to it, or any Order issued or pending against it or by which it or any of its properties are bound, except for such violations or defaults that have not had, and could not reasonably be expected to have, a Material Adverse Effect.

3.9 Changes. Except as set forth on Schedule 3.8, since December 31, 2012 there has not been:

3.9.1. any effect, event, condition or circumstance (including, without limitation, the initiation of any litigation or other legal, regulatory or investigative proceeding) against the Company that individually or in the aggregate, with or without the passage of time, the giving of notice, or both, has had or could reasonably be expected to have a Material Adverse Effect;

3.9.2. any resignation or termination of any director, officer, employee or consultant of the Company, and the Company has not received notification of any impending resignation from any such Person;

3.9.3. any material change in the contingent obligations of the Company by way of guaranty, endorsement, indemnity, warranty or otherwise;

3.9.4. any material damage, destruction or loss adversely affecting the assets, properties, business, financial condition or prospects of the Company, whether or not covered by insurance;

3.9.5. any waiver by the Company of a valuable right or of any debt;

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3.9.6. any change in any compensation arrangement or agreement with any employee, consultant, officer, director or stockholder of the Company that would increase the cost of any such agreement or arrangement to the Company by more than \$10,000 in each instance;

3.9.7. any labor organization activity of the employees of the Company;

3.9.8. any declaration or payment of any dividend or other distribution of the assets of the Company;

3.9.9. any change in the accounting methods or practices followed by the Company;

3.9.10. any development, event, change, condition or circumstance that constitutes, whether with or without the passage of time or the giving of notice or both, a default under the Company's outstanding debt obligations; or

3.9.11. any Contract or commitment made by the Company to do any of the foregoing.

3.10 Title to Properties and Assets; Liens, etc. Except as set forth on Schedule 3.10, the Company has good and marketable title to its properties and assets, has a valid license in all properties and assets licensed by it, including the properties and assets reflected as owned in the most recent balance sheet included in the Financial Statements, and has a valid leasehold interest in its leasehold estates, in each case subject to no Encumbrance, other than those resulting from Taxes which have not yet become delinquent or those of the lessors of leased property or assets. All facilities, machinery, equipment, fixtures, vehicles and other properties owned, leased or used by the Company are in good operating condition and repair, ordinary wear and tear excepted and are fit and usable for the purposes for which they are being used. The Company is in compliance with all terms of each lease to which it is a party or is otherwise bound.

### 3.11 Intellectual Property.

3.11.1. All registrations and applications for registration of all Owned Intellectual Property and all Licensed Intellectual Property (collectively, the "***Boston Intellectual Property*** ") and applications in process for the Owned Intellectual Property and the Licensed Intellectual Property of the Company are identified on Schedule 3.11.1, identifying with respect to each such item of Boston Intellectual Property, (a) the owner(s) thereof, (b) the jurisdiction(s) of registration, (c) the applicable registration or serial number, if any, (d) the date of expiration, if any, and (e) in the case of Licensed Intellectual Property, whether the Company's rights with respect thereto are exclusive. Except as set forth on Schedule 3.11.1 and identified as such, the Company has not licensed any Intellectual Property to or from any Person. All of the registrations and applications for registration of the Boston Intellectual Property are valid, subsisting and in full force and effect, and all actions and payments necessary for the maintenance and continuation of such Boston Intellectual Property have been taken or paid on a timely basis. The Company owns or possesses sufficient legal rights to use all of the Boston Intellectual Property and the exclusive right to use all Owned Intellectual Property and all Licensed Intellectual Property which is identified in Schedule 3.11.1 as being exclusively licensed to the Company.

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3.11.2. To the knowledge of the Company, the business as currently conducted and as proposed to be conducted by the Company has not and will not constitute any infringement of the Intellectual Property rights of any other Person. To the knowledge of the Company, the development of Product candidates and the use, manufacture or sale of the Company's Products based on the Boston Intellectual Property does not, and will not, infringe the Intellectual Property rights of any third Person. To the knowledge of the Company, no employee or agent of the Company has misappropriated the Intellectual Property rights of any Person.

3.11.3. There are no outstanding options or other rights to acquire any Boston Intellectual Property. To the knowledge of the Company, each licensor of the Licensed Intellectual Property is the sole and exclusive owner of such Licensed Intellectual Property and has the sole and exclusive right and authority to grant licenses to such Licensed Intellectual Property.

3.11.4. The Company has not received any communications alleging or suggesting that it has violated or, by conducting its business as currently conducted or proposed to be conducted, would infringe or misappropriate any of the Intellectual Property rights of any other Person.

3.11.5. It is not necessary to the business of the Company, as currently conducted or as proposed to be conducted, to utilize any inventions, trade secrets or proprietary information of any of its employees, agents, developers, consultants or contractors made prior to their employment by or service to the Company, except for inventions, trade secrets or proprietary information that have been assigned or licensed to the Company.

3.11.6. Since the date of the Company's incorporation, there has not been any sale, assignment or transfer of any Boston Intellectual Property or other intangible assets of the Company.

3.11.7. No Boston Intellectual Property is subject to any interference, reissue, reexamination, opposition or cancellation proceeding or any other Legal Proceeding or subject to or otherwise bound by any outstanding Order or Contract (other than in the case of any Licensed Intellectual Property, the Contract pursuant to which the Company licenses the rights to such Licensed Intellectual Property) that restricts in any manner the use, transfer or licensing thereof by the Company or may affect the validity, use or enforceability of such Boston Intellectual Property. To the Company's knowledge, there is no fact or circumstance that would render any portion of the Boston Intellectual Property invalid or unenforceable.

3.11.8. Each current and former officer, employee, agent, developer, consultant and contractor who (a) has had or has access to any Boston Intellectual Property has executed a confidentiality and nondisclosure agreement that protects the confidentiality of the trade secrets of the Boston Intellectual Property; and (b) contributed to or participated in the creation and/or development of the Boston Intellectual Property either: (i) is a party to a "work made for hire" agreement under which the Company is deemed to be the original owner/author of all right, title and interest in the Intellectual Property created or developed by such Person; or (ii) has executed an assignment or an agreement to assign in favor of the Company of all such Person's right, title and interest in the Intellectual Property.

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3.11.9. The execution and delivery of this Agreement and the other Transaction Documents and consummation of the transactions contemplated hereby and thereby will not result in the breach of, or create on behalf of any third party the right to terminate or modify, any license, sublicense, agreement or permission: (a) relating to or affecting any Boston Intellectual Property; or (b) pursuant to which the Company is granted a license or otherwise authorized to use any third party Intellectual Property.

3.11.10. To the knowledge of the Company, no Person is infringing, violating, misappropriating or making unauthorized use of any of the Boston Intellectual Property. The Company has enforced and taken such commercially reasonable steps as are necessary to protect and preserve all rights in the Boston Intellectual Property against the infringement, violation, misappropriation and unauthorized use thereof by any Person. The Company has the right to: (a) bring actions for past, present and future infringement, dilution, misappropriation or unauthorized use of any Boston Intellectual Property owned or licensed by the Company, injury to goodwill associated with the use of any such Boston Intellectual Property, unfair competition or trade practices violations of and other violation of such Boston Intellectual Property; and (b) with respect to the Boston Intellectual Property owned exclusively by the Company, receive all proceeds from the foregoing set forth in subsection (a) hereof, including, without limitation, licenses, royalties income, payments, claims, damages and proceeds of suit.

3.12 Compliance with Other Instruments. The Company is not in violation or default of any term of its Organizational Documents, as amended to date, or of any provision of any Contract to which it is party or by which it is bound or of any Order applicable to the Company, except for violations or defaults of any Contract (other than any Material Contract), which individually or in the aggregate has not had, or would not reasonably be expected to have, a Material Adverse Effect.

3.13 Litigation. There is no Legal Proceeding pending or, to the knowledge of the Company, threatened against the Company or any investigation of the Company, nor is the Company aware of any fact that would make any of the foregoing reasonably likely to arise. The Company is not a party or subject to the provisions of any Order. There is no Legal Proceeding by the Company currently pending or that the Company intends to initiate.

#### 3.14 Tax Returns and Payments.

3.14.1. Except as set forth on Schedule 3.14, the Company has timely filed all Tax Returns required to be filed by it, and has timely paid all Taxes owed (whether or not shown on any Tax Return). Any failure to file any Tax Return with any Governmental or Regulatory Authority has not had and shall not have, individually or in the aggregate, a Material Adverse Effect. All such Tax Returns were complete and correct, and such Tax Returns correctly reflected the facts regarding the income, business, assets, operations, activities, status and other matters of the Company and any other information required to be shown thereon. The Company has withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any Employee, creditor, independent contractor, shareholder, member or other third party. The Company has established adequate reserves for all Taxes accrued but not yet payable. The Company has not been audited by nor have issues been raised or adjustments made or proposed by any tax authority in connection with any such Taxes or Tax Returns. No deficiency assessment with respect to or proposed adjustment of the Company's Taxes is pending or, to the knowledge of the Company, threatened. There is no tax lien (other than for current Taxes not yet due and payable), imposed by any taxing authority, outstanding against the assets, properties or the business of the Company.

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3.14.2. The Company has not agreed to make any adjustment under Section 481(a) of the Internal Revenue Code of 1986, as amended (the “*Code*”) (or any corresponding provision of state, local or foreign tax law) by reason of a change in accounting method or otherwise, and the Company will not be required to make any such adjustment as a result of the transactions contemplated by this Agreement. The Company has not been or is a party to any tax sharing or similar agreement, or any joint venture, partnership, limited liability company, or other arrangement or Contract which could be treated as a partnership for federal income tax purposes. The Company is not and has never been, a “United States real property holding corporation” as that term is defined in Section 897 of the Code.

### 3.15 Employees.

3.15.1. All of the employees of the Company (the “*Employees*”) are identified on Schedule 3.15.1. The Company has no, nor has ever had any, collective bargaining agreements with any of its employees; (b) there is no labor union organizing activity pending or, to the knowledge of the Company, threatened with respect to the Company; (c) except as set forth on Schedule 3.15.1 no Employee has or is subject to any agreement or Contract to which the Company is a party (including, without limitation, licenses, covenants or commitments of any nature) regarding his or her employment or engagement; (d) to the best of the Company’s knowledge, no Employee is subject to any Order that would interfere with his or her duties to the Company or that would conflict with the Company’s businesses as currently conducted and as proposed to be conducted; (e) no Employee is in violation of any term of any employment contract, proprietary information agreement or any other agreement relating to the right of any such Person to be employed by, or to contract with, the Company; (f) to the best of the Company’s knowledge, the continued employment by the Company of its present Employees, and the performance of their respective duties, will not result in any violation of any term of any employment contract, proprietary information agreement or any other agreement relating to the right of any such individual to be employed by, or to contract with, the Company, and the Company has not received any written notice alleging that such violation has occurred; (g) except as set forth on Schedule 3.15.1 no Employee or consultant has been granted the right to continued employment by or service to the Company or to any compensation following termination of employment with or service to the Company; and (h) the Company has no present intention to terminate the employment or engagement or service of any officer or any significant Employee or consultant.

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3.15.2. There are no outstanding or, to the knowledge of the Company, threatened claims against the Company or any Affiliate (whether under federal or state law, under any employment agreement, or otherwise) asserted by any present or former Employee of or consultant to the Company. The Company is not in violation of any law or Requirement of Law concerning immigration or the employment of persons other than U.S. citizens.

### 3.16 Pension and Other Employee Benefit Plans.

Except for its Amended and Restated 2010 Stock Plan and its Amended and Restated 2011 Non-Qualified Stock Plan, the Company does not now nor has it ever sponsored or maintained any plans, funds, policies, programs or arrangements on behalf of any Employee or former employee constituting an “employee benefit plan” within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“*ERISA*”) and not excepted by Section 4 of ERISA (the foregoing being collectively called “*Employee Benefit Plans*”). All employment Taxes, premiums for employee benefits provided through insurance, and all other compensation and benefits to which Employees are entitled, have been timely paid or provided as applicable, and there is no liability for any such payments, contributions or premiums.

3.17 Registration Rights. Except as required pursuant to the Registration Rights Agreement and the Engagement Agreement between the Company and the Placement Agent, the Company is under no obligation, nor has it granted any rights that have not been terminated, to register any of its currently outstanding securities or any of its securities that may hereafter be issued.

3.18 Real Property. The Company does not have any interest in any real estate, except that the Company leases the property described on Schedule 3.18 (the “*Leased Real Property*”). The Leased Real Property is adequate for the operations of the Company’s business as currently conducted and as contemplated to be conducted. True and complete copies of the lease agreement (the “*Real Property Lease*”) pertaining to the Leased Real Property have been made available to the Purchasers. Except as set forth in Schedule 3.18, the Company has paid all amounts due from it, and is not in default under the Real Property Lease and there exists no condition or event, which, with the passage of time, giving of notice or both, would reasonably be expected to give rise to a default under or breach of the Real Property Lease.

### 3.19 Relationships with Collaborators and Suppliers.

3.19.1. Collaborators. Set forth on Schedule 3.19.1 is a list of the material collaborators, research partners and other material service providers of the Company that are not disclosed in Schedule 3.7.1. For the purposes of this Section “material collaborators” means scientific research collaborators who work with the Company and whose work is expected to impact the development of the Boston Intellectual Property and/or the Products, and includes, without limitation, any Person to whom the Company has licensed any of the Boston Intellectual Property (collectively, the “*Collaborators*”). To the best of the Company’s knowledge, the Company maintains good working relationships with all of the Collaborators. The Company has made available to the Purchasers a list of its Contracts with the Collaborators as set forth on Schedule 3.19.1. None of such Collaborators has terminated or indicated an intention or plan or, to the knowledge of the Company, threatened to terminate its Contract with the Company, or to materially reduce the purchases of products or services from the Company historically made by such Collaborator.

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3.19.2. Suppliers. Set forth on Schedule 3.19.2 is a list of the material suppliers of the Company. For the purposes of this Section, “material suppliers” means suppliers who provide an essential and material element necessary for the research and development of the Boston Intellectual Property or required for the Products (collectively, the “**Suppliers**”). Except as set forth on Schedule 3.19.2, none of such Suppliers has terminated or indicated an intention or plan or, to the knowledge of the Company, threatened to terminate its Contract with the Company or to materially reduce the supply of products or services to the Company historically provided by such Supplier.

3.20 Budget. The Company’s budget most recently made available by the Company to the Purchasers (the “**Budget**”) was prepared in good faith by the Company, and, based on the Company's experience and the assumptions used in preparing such Budget, constitutes a reasonable estimate of the costs and expenses expected to be incurred by the Company during the time period covered thereby. Nothing has come to the attention of Company’s management that would cause such estimated expenses to no longer be reasonable estimates. The assumptions used in the preparation of such estimated expenses were fair and reasonable when made and continue to be fair and reasonable as of the date hereof.

### 3.21 Permits; Regulatory.

3.21.1. No Regulatory Approval or Consent of, or any designation, declaration or filing with, any Governmental or Regulatory Authority or any other Person is required in connection with the valid execution, delivery and performance of this Agreement and the other Transaction Documents (including, without limitation, the issuance of the Units), except such Regulatory Approvals, Consents, designations, declarations or filings that have been duly and validly obtained or filed, or with respect to any filings that must be made after the Initial Closing or the Subsequent Closing as will be filed in a timely manner. The Company has all franchises, Permits, licenses and any similar authority necessary for the conduct of its business as now being conducted, including, without limitation, the Food and Drug Administration (“**FDA**”) of the U.S. Department of Health and Human Services.

3.21.2. Schedule 3.21.2 lists each feasibility, preclinical, clinical and other study, test and trial being conducted by or on behalf of or sponsored by the Company or in which the Company or any of its Products is participating. The feasibility, preclinical, clinical and other studies, tests and trials conducted by or on behalf of or sponsored by the Company or in which the Company or any of its Products have participated were and, if still pending, are being conducted in accordance with standard medical and scientific research procedures, the protocols established and approved therefor and all applicable Requirements of Law. The Company has no knowledge of any other studies or tests the results of which are inconsistent with or otherwise call into question the results of the above referenced studies and tests.

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3.21.3. Neither the Company nor, to the knowledge of the Company, any other Person has received any notice or other correspondence or communication from the FDA or any other Governmental or Regulatory Authority or other Person requiring the termination, suspension or modification of any of the above referenced feasibility, preclinical or clinical studies, tests or trials or alleging a violation of any applicable Requirements of Law in connection therewith, or any Products.

3.21.4. The Company has filed or caused to be filed and, to the knowledge of the Company, each other Person which has conducted or is conducting any feasibility, preclinical, clinical or other study, test or trial for or on behalf of the Company or any such study, test or trial that is being sponsored by the Company has filed all required notices and other reports, including adverse experience reports.

3.21.5. The Company, or its designated agents (for and on its behalf), owns or has the exclusive right to use all material regulatory documents. For the purposes of this Section, "material regulatory documents" means all study, test and trial data and information and all correspondence and reports made to Governmental or Regulatory Authorities relating to or in connection with the Products or any feasibility, preclinical, clinical or other study, test or trial with respect thereto, which data, information, correspondence and reports are necessary or required to obtain approval from such Governmental or Regulatory Authority to conduct any feasibility, preclinical, clinical or other study, test or trial with respect to, or to manufacture, market or sell, any of the Products.

3.21.6. Neither the Company nor, to the knowledge of the Company, any other Person has received any notice or other correspondence or communication that any Governmental or Regulatory Authority (including, without limitation, the FDA) has commenced or, to the knowledge of the Company, threatened to initiate any action to withdraw or to hinder approval for a Product or to limit the ability of the Company or any other Person to manufacture (or to have manufactured for it by a third party) any Product or to request the recall of any Product, or commenced or threatened to initiate any action to enjoin production of such Product at any facility.

3.21.7. To the best of the Company's knowledge, all manufacturing and production operations conducted by the Company (or by third parties on its behalf including, without limitation, any manufacturing or production being done by any third party in connection with any feasibility, preclinical, clinical or other study, test or trial for or on its behalf or any such study, test or trial that is being sponsored by the Company or in which it or any of its Products is participating), if any, relating to the manufacture or production of the Products are being conducted in compliance with all applicable Requirements of Law including to the extent mandated by relevant regulatory agencies, without limitation, current Good Manufacturing Practices or similar foreign requirements.

3.21.8. Neither the Company nor, to the knowledge of the Company, any other Person has received (a) any reports of inspection observations, (b) any establishment inspection reports or (c) any warning letters or any other documents from the FDA or any other Governmental or Regulatory Authority relating to the Products and/or arising out of the conduct of the Company or any Person which has conducted or is conducting any feasibility, preclinical, clinical or other study, test or trial for or on behalf of the Company or any such study, test or trial that is being sponsored by the Company or in which any of its Products is participating that assert a material violation or material non-compliance with any applicable Requirements of Law (including, without limitation, those of the FDA).

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3.21.9. In addition:

(a) neither the Company nor to the knowledge of the Company, any other Person that manufactures, tests or distributes any Product has made, with respect to any Product, an untrue statement of a material fact or fraudulent statement to the FDA or any other Governmental or Regulatory Authority or failed to disclose a material fact required to be disclosed to the FDA or any other Governmental or Regulatory Authority;

(b) to the knowledge of the Company, no officer, employee or agent of the Company has made and, no officer, employee or agent of any other Person that manufactures, tests or distributes any Product has made, with respect to any Product, an untrue statement of a material fact or fraudulent statement to the FDA or any other Governmental or Regulatory Authority or failed to disclose a material fact required to be disclosed to the FDA or any other Governmental or Regulatory Authority;

(c) the Company has not been convicted of any crime;

(d) to the knowledge of the Company, no officer, employee or agent of the Company has been convicted of any felony;

(e) neither the Company nor, to the knowledge of the Company, any other Person that manufactures, tests or distributes any Product has engaged in any conduct for which debarment is mandated by 21 U.S.C. §335a(a) or any similar Requirement of Law or authorized by 21 U.S.C. §335a(b) or any similar Requirement of Law;

(f) to the knowledge of the Company, no officer, employee or agent of the Company, and no officer, employee or agent of any other Person that manufactures, tests or distributes any Product has engaged in any conduct for which debarment is mandated by 21 U.S.C. §335a(a) or any similar Requirement of Law or authorized by 21 U.S.C. §335a(b) or any similar Requirement of Law; and

(g) where and when applicable, the Company and, to the knowledge of the Company, any other Persons that manufacture, test or distribute any Product are and have been in substantial compliance with the Medicare Anti-kickback Statute, 42 U.S.C. §1320a-7b(b) and implementing regulations codified at 42 C.F.R. §1001 and with all similar Requirements of Law.

3.21.10. Neither the Company nor, to the knowledge of the Company, any other Person that manufactures, tests or distributes any Product, received any notice, correspondence or any other communication that the FDA or any other Governmental or Regulatory Authority has commenced, or threatened to initiate, any action to place a clinical hold on a clinical investigation of any Product, withdraw its approval that clinical investigations of any Product proceed or request the recall of any Product, or commenced, or overtly threatened to initiate, any adverse regulatory action against the Company, the Person who manufactures, test or distributes the Product, or any of their respective agents, licensees or contract research organizations.

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3.22 Environmental and Safety Laws. The Company has not caused or allowed, or contracted with any party for, the generation, use, transportation, treatment, storage or disposal of any Hazardous Substances in connection with the operation of its business or otherwise, except in compliance with all applicable Environmental Laws. To the best of the Company's knowledge, the Company and the operation of its business are in compliance with all applicable Environmental Laws. To the best of the Company's knowledge, all of the Leased Real Property and all other real property which the Company occupies (the "**Premises**") is in compliance with all applicable Environmental Laws and Orders or directives of any Governmental or Regulatory Authority having jurisdiction under such Environmental Laws, including, without limitation, any Environmental Laws or Orders or directives with respect to any cleanup or remediation of any release or threat of release of Hazardous Substances. The Company and the operation of its business is and has been in compliance with all applicable Environmental Laws. To the knowledge of the Company, there have occurred no and there are no events, conditions, circumstances, activities, practices, incidents, or actions that may give rise to any common law or statutory liability, or otherwise form the basis of any Legal Proceeding, any Order, any remedial or responsive action, or any investigation or study involving or relating to the Company, based upon or related to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling, or the emission, discharge, release or threatened release into the environment, of any pollutants, contaminants, chemicals, or industrial, toxic or Hazardous Substance. To the knowledge of the Company, (a) there is no asbestos contained in or forming a part of any building, structure or improvement comprising a part of any of the Leased Real Property, (b) there are no polychlorinated byphenyls (PCBs) present, in use or stored on any of the Leased Real Property, and (c) no radon gas or the presence of radioactive decay products of radon are present on, or underground at any of the Leased Real Property at levels beyond the minimum safe levels for such gas or products prescribed by applicable Environmental Laws. The Company has obtained and is maintaining in full force and effect all necessary Permits, licenses and approvals required by all Environmental Laws applicable to the Premises and the business operations conducted thereon, and is in compliance with all such Permits, licenses and approvals. The Company has not caused or allowed a release, or a threat of release, of any Hazardous Substance onto, at or near the Premises, and, to the knowledge of the Company, neither the Premises nor any property at or near the Premises has ever been subject to a release, or a threat of release, of any Hazardous Substance.

3.23 Offering Valid. Assuming the accuracy of the representations and warranties of the Purchasers contained in the subscription agreements entered into by each Purchaser in connection with this Agreement, the offer, sale and issuance of the Common Stock and the Warrants will be exempt from the registration requirements of the Securities Act of 1933, as amended (the "**Securities Act**"), and will be exempt from registration and qualification) under applicable state securities laws.

3.24 Full Disclosure. All information furnished, to be furnished or caused to be furnished to the Purchasers with respect to the Company and its businesses, assets, properties, financial position and performance and Liabilities applicable for the purposes of or in connection with this Agreement or any of the other Transaction Documents or any of the transactions contemplated hereby or thereby is or, if furnished after the date of this Agreement and before the applicable Closing Date, shall be true and complete in all material respects and, does not, and if furnished after the date of this Agreement and before such applicable Closing Date, shall not, contain any untrue statement of material fact or fail to state any material fact necessary to make such statement not misleading.

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3.25 Minute Books. A copy of the minute books of the Company was made available to the Purchasers for inspection, which contains minutes of all meetings of directors and stockholders and all actions by written consent without a meeting by the directors and stockholders since January 1, 2010, and accurately reflect all actions taken by the directors (and any committee of the directors) and stockholders with respect to all transactions referred to in such minutes.

3.26 Insurance. Schedule 3.26 sets forth a list of all policies or binders of fire, casualty, liability, product liability, worker's compensation, vehicular or other insurance held by the Company concerning its assets and/or its businesses (specifying for each such insurance policy the insurer, the policy number or covering note number with respect to binders, and each pending claim thereunder of more than \$5,000). Such policies and binders are valid and in full force and effect. The Company is not in default with respect to any provision contained in any such policy or binder or has failed to give any notice or present any claim of which it has notice under any such policy or binder in a timely fashion; and it has not received or given a notice of cancellation or non-renewal with respect to any such policy or binder. None of the applications for such policies or binders contain any material inaccuracy, and all premiums for such policies and binders have been paid when due. The Company has no knowledge of any state of facts or the occurrence of any event that could reasonably be expected to form the basis for any claim against it not fully covered by the policies referred to on Schedule 3.26. The Company has not has received written notice from its insurance carriers that any insurance premiums will be materially increased after the applicable Closing Date or that any insurance coverage listed on Schedule 3.26 will not be available after such Closing Date on substantially the same terms as now in effect.

3.27 Investment Company Act. The Company is not an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

3.28 Foreign Payments; Undisclosed Contract Terms.

3.28.1. To the knowledge of the Company, the Company has not made any offer, payment, promise to pay or authorization for the payment of money or an offer, gift, promise to give, or authorization for the giving of anything of value to any Person in violation of the Foreign Corrupt Practices Act of 1977, as amended and the rules and regulations promulgated thereunder.

3.28.2. To the knowledge of the Company, there are no understandings, arrangements, agreements, provisions, conditions or terms relating to, and there have been no payments made to any Person in connection with any agreement, Contract, commitment, lease or other contractual undertaking of the Company which are not expressly set forth in such contractual undertaking.

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3.29 No Broker. Other than commissions (including fees, expenses and warrants) payable to the Placement Agent, the Company has not has employed any broker or finder, or incurred any liability for any brokerage or finders fees in connection with the sale of the Units, or the Common Stock and Warrants underlying the Units pursuant to this Agreement or the other Transaction Documents.

3.30 No General Solicitation. Neither the Company nor any of its Affiliates, nor any person acting on their behalf, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D under the Securities Act) in connection with the offer or sale of the Units.

3.31 No Integrated Offering. Neither the Company nor any of its Affiliates, nor to the knowledge of the Company any person acting on their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would require registration of any of the shares of Common Stock, Warrants and Warrant Shares (collectively, the "*Securities*") under the Securities Act or that is likely to cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of the Securities Act or any applicable shareholder approval provisions, including without limitation, under the rules and regulations of any exchange or automated quotation system on which any of the securities of the Company are listed or designated. Neither the Company nor any of its Affiliates, nor to the Company's knowledge any person acting on their behalf has taken any action or steps referred to in the preceding sentence that would require registration of any of the Securities under the Securities Act or cause the offering of the Securities to be integrated with other offerings.

3.32 Dilution. The Company's executive officers and directors understand the nature of the Securities being sold hereby and recognize that the issuance of the Securities will have a dilutive effect on the equity holdings of other holders of the Company's equity or rights to receive equity of the Company. The Company's Board of Directors has concluded, in its good faith business judgment that the issuance of the Securities is in the best interests of the Company. The Company specifically acknowledges that its obligation to issue Warrant Shares is binding upon the Company and enforceable regardless of the dilution such issuance may have on the ownership interests of other stockholders of the Company or parties entitled to receive equity of the Company.

3.33 Application of Takeover Protections. The Company has taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's Organization Documents or the laws of its state of incorporation that is or could become applicable to the Purchasers as a result of the Purchasers and the Company fulfilling their obligations or exercising their rights under this Agreement, including, without limitation, the Company's issuance of the Securities and the Purchasers' ownership of the Securities.

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3.34 Listing and Maintenance Requirements. The Common Stock is registered pursuant to Section 12(b) or 12(g) of the Exchange Act, and the Company has taken no action designed to, or which to its knowledge is likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act nor has the Company received any notification that the SEC is contemplating terminating such registration. The Company has not, in the 12 months preceding the date hereof, received notice from any trading market on which the Common Stock is or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such trading market. The Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in compliance with all such listing and maintenance requirements.

3.35 DTC Status. The Company's transfer agent (the "*Transfer Agent*") is a participant in and the Common Stock is eligible for transfer pursuant to the Depository Trust Company Automated Securities Transfer Program.

3.36 OFAC. Neither the Company nor, to the Company's knowledge, any director, officer, agent, employee, affiliate or person acting on its behalf, is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("*OFAC*"); and the Company will not directly or indirectly use the proceeds of the sale of the Units, or lend, contribute or otherwise make available such proceeds to any joint venture partner or other person or entity, towards any sales or operations in Cuba, Iran, Syria, Sudan, Myanmar or any other country sanctioned by OFAC or for the purpose of financing the activities of any person currently subject to any U.S. sanctions.

3.37 Material Non-Public Information. Except with respect to the transactions contemplated hereby that will be publicly disclosed, the Company has not provided any Purchaser or its agents or counsel with any information that the Company believes constitutes material non-public information.

#### 4. REPRESENTATIONS AND WARRANTIES OF THE PURCHASERS.

Each of the Purchasers hereby severally, and not jointly, represents and warrants to the Company that each such Purchaser's representations in the subscription agreement entered into in connection with this Agreement are true and correct as of the Closing.

#### 5. CONDITIONS TO THE CLOSING.

5.1 Conditions to Purchasers' Obligations at the Closings. The obligations of the Purchasers to consummate the transactions contemplated herein to be consummated at the Initial Closing and of the Subsequent Closing, as the case may be, are subject to the satisfaction, on or prior to the date of such Closing, of the conditions set forth below and applicable thereto, which satisfaction shall be determined, or may be waived in writing, by the Purchasers or Subsequent Closing Purchasers, as the case may be, who are entitled to purchase at least a majority of the Units to be purchased at such Closing:

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5.1.1. Representations, Warranties and Covenants; Performance of Obligations. Each of the representations, warranties and covenants of the Company contained herein shall be true and correct on and as of the Initial Closing Date. As of the Initial Closing, the Company shall have performed and complied with the covenants and provisions of this Agreement required to be performed or complied with by it at or prior to the Initial Closing Date. As to the Subsequent Closings, each of the representations, warranties and covenants of the Company contained herein shall be true and correct on and as of the Subsequent Closing Date; except to the extent any such representation, warranty or covenant expressly speaks as of an earlier date, in which case such representation, warranty or covenant shall be true and correct in all material respects as of such earlier date; provided however, that notwithstanding the foregoing, the Company shall only be required to update the Schedules by the delivery to the Subscribers by the Company of an amended Schedule with respect to any information that is of a material nature as of such proposed Closing Date. As to the Subsequent Closings, the Company shall have performed and complied with the covenants and provisions of this Agreement and the other Transaction Documents required to be performed or complied with by it at or prior to the Subsequent Closing Date. At each Closing, the Purchasers participating in such Closing shall have received certificates of the Company dated as of the date of such Closing, signed by the president or chief executive officer of the Company, certifying as to the fulfillment of the conditions set forth in this Section 5.1 and the truth and accuracy of the representations, warranties and covenants of the Company contained herein (as qualified by the most recently delivered Schedules) as of the Initial Closing Date and, as to each Subsequent Closing, the Subsequent Closing Date.

5.1.2. Issuance in Compliance with Laws. The sale and issuance of the Units shall be legally permitted by all laws and regulations to which any of the Purchasers and the Company are subject.

5.1.3. Filings, Consents, Permits, and Waivers. The Company and the Purchasers shall have made all filings and obtained any and all Consents, Permits, waivers and Regulatory Approvals necessary for consummation of the transactions contemplated by the Agreement and the other Transaction Documents, except for such filings as are not due to be made until after the applicable Closing.

5.1.4. Reservation of Warrant Shares. The Warrant Shares shall have been duly authorized and reserved for issuance by the Board of Directors.

5.1.5. Registration Rights Agreement. Concurrently with the issuance of the Units occurring at each Closing, the Registration Rights Agreement, substantially in the form attached hereto as Exhibit F (the “**Registration Rights Agreement**”), shall have been executed and delivered by the Company and each Purchaser and any Subsequent Closing Purchasers.

5.1.6. Legal Opinion. At each Closing, the Placement Agent and the Purchasers or the Subsequent Closing Purchasers, as the case may be, shall have received a legal opinion addressed to each of them, dated as of such Closing Date, substantially in the form attached hereto as Exhibit E from Seyfarth Shaw LLP.

5.1.7. Proceedings and Documents. All corporate and other proceedings in connection with the transactions contemplated at the Closings and all documents and instruments incident to such transactions shall be reasonably satisfactory in substance and form to the Purchasers or the Subsequent Closing Purchasers, as the case may be, and their counsel, and the Purchasers or the Subsequent Closing Purchasers, as the case may be, and their counsel shall have received all such counterpart originals or certified or other copies of such documents as they may reasonably request.

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5.1.8. Proceedings and Litigation. No action, suit or proceeding shall have been commenced by any Person against any party hereto seeking to restrain or delay the purchase and sale of the Units or the other transactions contemplated by this Agreement or any of the other Transaction Documents.

5.1.9. No Material Adverse Effect. Since the date hereof, there shall not have occurred any effect, event, condition or circumstance (including, without limitation, the initiation of any litigation or other legal, regulatory or investigative proceeding) that individually or in the aggregate, with or without the passage of time, the giving of notice, or both, that has had, or could reasonably be expected to have, a Material Adverse Effect or which could adversely affect the Company's ability to perform its respective obligations under this Agreement or any of the other Transaction Documents.

5.1.10. No Suspensions of Trading in Common Stock; Listing. Trading in the Common Stock shall not have been suspended by the SEC or any trading market (except for any suspensions of trading of not more than one trading day solely to permit dissemination of material information regarding the Company) at any time since the date of execution of this Agreement, and the Common Stock shall have been at all times since such date listed for trading on a trading market.

5.1.11. Updated Disclosures. As to the Subsequent Closing, to the extent required by Section 5.1.1, the Company must have delivered to the Purchasers amended Schedules and such amended Schedules do not reveal any information or the occurrence, since the Initial Closing Date, of any effect, event, condition or circumstance, which individually, or in the aggregate, has had or could reasonably be expected to have, a Material Adverse Effect and do not include any state of facts that occur as a result of the breach by the Company of any of its obligations under this Agreement or any of the other Transaction Documents.

5.1.12. Payment of Purchase Price. As to the Initial Closing, each Purchaser shall have delivered to the Company the total purchase price to be paid for such Purchaser's Initial Units, in the amount set forth opposite such Purchaser's name on Exhibit A, which shall be no less than \$2,000,000 in aggregate gross proceeds. As to each Subsequent Closing, each Subsequent Closing Purchaser shall have delivered to the Company the total purchase price to be paid for such Subsequent Closing Purchaser's Subsequent Units.

5.1.13. Delivery of Documents at the Initial Closing. The Company shall have executed and delivered the following documents, on or prior to the Initial Closing Date:

(a) Certificates. Certificates representing the Common Stock to be purchased and sold on the Initial Closing Date;

(b) Warrants: Executed Warrants, in substantially the form of Exhibits B, for the Warrants to be issued on the Initial Closing Date;

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(c) Legal Opinion. The legal opinion required by Section 5.1.6 hereof;

(d) Secretary's Certificate. A certificate of the Secretary of the Company (i) attaching and certifying as to the Company's Certificate of Incorporation (the "Certificate"), (ii) attaching and certifying as to the Bylaws of the Company in effect at the Initial Closing, (iii) attaching and certifying as to copies of resolutions by the Board of Directors of the Company authorizing and approving this Agreement and the other Transaction Documents and the transactions contemplated hereby and thereby including without limitation, the issuance and delivery of the Units; and (iv) certifying as to the incumbency of the officers of the Company executing this Agreement and the other Transaction Documents; and

5.1.14. Delivery of Documents at the Subsequent Closing. The Company shall have executed and delivered the following documents, on or prior to the Subsequent Closing:

(a) Certificates. Certificates representing the Common Stock to be purchased and sold on the Subsequent Closing Date;

(b) Warrants: Executed Warrants, in substantially the form of Exhibits B, for the Warrants to be issued on the Subsequent Closing Date;

(c) Legal Opinion. The legal opinion required by Section 5.1.6 hereof; and

(d) Secretary's Certificate. A Certificate of the Secretary of the Company (i) certifying that the resolutions by the Board of Directors of the Company authorizing and approving this Agreement and the other Transaction Documents delivered at the Initial Closing have not been modified in any way or rescinded and are otherwise in effect as of the Subsequent Closing, (ii) certifying as to the incumbency of the officers of the Company executing any documents contemplated by this Agreement to be executed and delivered by the Company at the Subsequent Closing, and (iii) attaching and certifying as to (x) the Certificate as in effect at the Subsequent Closing, and (y) the Bylaws of the Company in effect at the Subsequent Closing.

5.2 Conditions to Obligations of the Company at the Closings. The obligation of the Company to consummate the transactions contemplated herein to be consummated at the Initial Closing or the Subsequent Closing, as the case may be, is subject to the satisfaction, on or prior to the date of such Closing of the conditions set forth below and applicable thereto, any of which may be waived in writing by the Company:

5.2.1. Representations and Warranties; Performance of Obligations. Each of the representations and warranties of the Purchasers contained herein shall be true and correct on and as of the Initial Closing Date. As of the Initial Closing Date, the Purchasers shall have performed and complied with the covenants and provisions of this Agreement required to be performed or complied with by them at or prior to the Initial Closing Date. As to the Subsequent Closing, each of the representations and warranties of the Purchaser(s) contained herein shall be true and correct on and as of the Subsequent Closing Date. As to the Subsequent Closing, the Subsequent Closing Purchaser(s) shall have performed and complied with the covenants and provisions of this Agreement required to be performed and complied with by them at or prior to the Subsequent Closing Date.

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5.2.2. Proceedings and Litigation. No action, suit or proceeding shall have been commenced by any Governmental Authority against any party hereto seeking to restrain or delay the purchase and sale of the Units or the other transactions contemplated by this Agreement.

5.2.3. Qualifications. All Permits, if any, that are required in connection with the lawful issuance and sale of the Units pursuant to this Agreement shall be obtained and effective as of the Initial Closing or Subsequent Closing, as applicable.

## 6. CERTAIN COVENANTS OF THE PARTIES.

### 6.1 Transfer Restrictions.

6.1.1. The Securities may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of Securities other than pursuant to an effective registration statement or Rule 144 promulgated under the Securities Act, to the Company or to an affiliate of a Purchaser or in connection with, the Company may require the transferor thereof to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Securities under the Securities Act. As a condition of transfer, any such transferee shall agree in writing to be bound by the terms of this Agreement, and shall have the rights of a Purchaser under this Agreement.

6.1.2. The Purchaser agrees to the imprinting, so long as is required by this Section 5.1, of a legend on any of the Securities, including the Shares, substantially in the following form:

[NEITHER] THIS SECURITY [NOR THE SECURITIES INTO WHICH THIS SECURITY IS [EXERCISABLE] [CONVERTIBLE]] HAS [NOT] BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY.

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6.1.3. Certificates evidencing the shares of Common Stock and Warrant Shares shall not contain any legend (including the legend set forth in Section 6.1.2 hereof), (a) following any sale of such shares of Common Stock or Warrant Shares pursuant to Rule 144, or (b) if such shares of Common Stock or Warrant Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such shares of Common Stock and Warrant Shares and without volume or manner-of-sale restrictions, (c) following any sale of such shares of Common Stock or Warrant Shares, pursuant to the plan of distribution in an effective registration statement (in compliance with any prospectus delivery requirements), or (d) if such legend is not required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission) (the “**Removal Date**”). The Company shall cause its counsel at its own expense to issue a legal opinion to the Transfer Agent promptly after the Removal Date if required by the Transfer Agent to effect the removal of the legend hereunder as permitted by applicable law then in effect. The Company agrees that following the Removal Date, it will, no later than five (5) trading days following the delivery by a Purchaser to the Company or the Transfer Agent of a certificate representing shares of Common Stock or Warrant Shares, as the case may be, issued with a restrictive legend, together with any reasonable certifications requested by the Company, the Company’s counsel or the Transfer Agent (such fifth (5th) trading day, the “**Legend Removal Date**”), deliver or cause to be delivered to such Purchaser a certificate representing such shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 6. Certificates for shares of Common Stock and Warrant Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser’s prime broker with the Depository Trust Company System as directed by such Purchaser if the Transfer Agent is then a participant in such system and either (i) there is an effective registration statement permitting the resale of such shares of Common Stock or Warrant Shares by the Purchaser (and the Purchaser provides the Company or the Company’s counsel with any requested certifications with respect to future sales of such shares) or (ii) the shares are eligible for resale by the Purchaser without volume limitations and may be sold without the requirement for the Company to be in compliance with Rule 144(c)(1) of the 1933 Act.

6.1.4. In addition to any other rights available to a Purchaser, if the Company fails to deliver to a Purchaser unlegended shares of Common Stock or Warrant Shares as required pursuant to this Agreement and after the Legend Removal Date such Purchaser, or a broker on such Purchaser’s behalf, purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such Purchaser of the shares of Common Stock or Warrant Shares that such Purchaser was entitled to receive from the Company (a “**Buy-In**”), then the Company shall promptly pay in cash to such Purchaser (in addition to any remedies available to or elected by such Purchaser) the amount by which (a) such Purchaser’s total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (b) the aggregate purchase price of the shares of Common Stock or Warrant Shares delivered to the Company for reissuance as unlegended shares (which amount shall be paid as liquidated damages and not as a penalty). For example, if a Purchaser purchases shares of Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to shares of Common Stock or Warrant Shares delivered to the Company for reissuance as unlegended shares having an aggregate purchase price of \$10,000, the Company shall be required to pay the Purchaser \$1,000, plus interest. The Purchaser shall provide the Company written notice indicating the amounts payable to the Purchaser in respect of the Buy-In. For purposes of this Agreement, the “purchase price” of a (a) share of Common Stock shall be the \$0.30 (subject to appropriate adjustments for any stock dividend, stock split, stock combination, reclassification or similar transaction after the date hereof) and (B) Warrant Share shall be the Exercise Price (as defined in the Warrants).

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6.1.5. In addition to such Purchaser's other available remedies, the Company shall pay to such Purchaser, in cash, as partial liquidated damages and not as a penalty, for each \$1,000 of shares of Common Stock or Warrant Shares (based on the purchase price of such shares of Common Stock and Warrant Shares) delivered for removal of the restrictive legend, \$10 per trading day (increasing to \$20 per trading day five (5) trading days after such damages have begun to accrue) for each trading day after the fifth (5th) trading day following the Legend Removal Date until such certificate is delivered without a legend. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Company's failure to deliver certificates representing any Securities as required by the Transaction Documents, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

#### 6.2 Furnishing of Information: Public Information.

6.2.1. Until no Purchaser owns any Securities, the Company covenants to file all periodic reports with the SEC pursuant to Section 15(d) of the Exchange Act or alternatively, if registered under Section 12(b) or 12(g) of the Exchange Act, maintain the registration of the Common Stock under Section 12(b) or 12(g) of the Exchange Act and to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act. . As long as the Purchaser owns Securities, if the Company is not required to file reports pursuant to such laws, it will prepare and furnish to the Purchasers and make publicly available in accordance with Rule 144(c) such information as is required for the Purchasers to sell the Securities under Rule 144. The Company further covenants that it will take such further action as any holder of Securities may reasonably request, to the extent required from time to time to enable such person to sell such Securities without registration under the Securities Act within the requirements of the exemption provided by Rule 144.

6.2.2. At any time during the period commencing from the date that is 6 months after the date hereof and ending on 36 months after the Final Closing Date, if the Company shall fail for any reason to satisfy the current public information requirement under Rule 144(c) (a "**Public Information Failure**") then, in addition to such Purchaser's other available remedies, the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Securities, an amount in cash equal to two percent (2.0%) of the pro-rata portion of such Purchaser's Purchase Price of unsold shares of Common Stock and Warrants on the day of a Public Information Failure and on every thirtieth (30th) day (prorated for periods totaling less than thirty days) thereafter until the earlier of (A) the date such Public Information Failure is cured and (B) such time that such public information is no longer required for the Purchasers to transfer their shares of Common Stock and Warrant Shares pursuant to Rule 144. The payments to which a Purchaser shall be entitled pursuant to this Section 6.2.2 are referred to herein as "Public Information Failure Payments". Public Information Failure Payments shall be paid on the earlier of (Y) the last day of the calendar month during which such Public Information Failure Payments are incurred, and (Z) the third (3rd) business day after the event or failure giving rise to the Public Information Failure Payments is cured. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Public Information Failure, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief. Notwithstanding anything herein to the contrary, the maximum payment hereunder shall not exceed twelve (12%) percent of such Purchaser's Purchase Price.

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6.3 Listing of Securities. The Company agrees, (i) if the Company applies to have the Common Stock traded on any other trading market, it will include in such application the shares of Common Stock and any Warrant Shares of each Purchaser, and will take such other action as is necessary or desirable to cause such shares of Common Stock and any Warrant Shares to be listed on such other trading market as promptly as possible, and (ii) it will take all action reasonably necessary to continue the listing and trading of its Common Stock on a Trading Market (as defined in the Warrant) and will comply in all material respects with the Company's reporting, filing and other obligations under the bylaws or rules of any such Trading Market (as defined in the Warrant).

6.4 Reservation of Shares. The Company shall at all times while the Warrants are outstanding maintain a reserve from its duly authorized shares of Common Stock of a number of shares of Common Stock sufficient to allow for the issuance of Warrant Shares.

6.5 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof, or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction and customary and reasonable indemnity, if requested. The applicants for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs associated with the issuance of such replacement securities. If a replacement certificate or instrument evidencing any securities is requested due to a mutilation thereof, the Company may require delivery of such mutilated certificate or instrument as a condition precedent to any issuance of a replacement.

6.6 Securities Laws; Publicity. The Company shall, by 8:30 a.m. (New York City time) on the trading day immediately following a Closing hereunder, file a Current Report on Form 8-K disclosing the material terms of the transactions contemplated hereby and including the Transaction Documents as exhibits thereto to the extent required by law. The Company shall not publicly disclose the name of Purchaser, or include the name of any Purchaser in any filing with the SEC or any regulatory agency or trading market, without the prior written consent of Purchaser, except: (a) as required by federal securities law in connection with the filing of final Transaction Documents (including signature pages thereto) with the SEC and (b) to the extent such disclosure is required by law, in which case the Company shall provide the Purchaser with prior notice of such disclosure permitted under this clause (b).

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6.7 Form D; Blue Sky Filings. The Company agrees to timely file a Form D with respect to the Securities as required under Regulation D promulgated under the Securities Act and to provide a copy thereof, promptly upon request of the Purchaser. The Company shall take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for, or to qualify the Securities for, sale to the Purchaser at the Closing under applicable securities or “Blue Sky” laws of the states of the United States, and shall provide evidence of such actions promptly upon request of any Purchaser.

6.8 Equal Treatment of Purchasers. No consideration (including any modification of any Transaction Document) shall be offered or paid to any person to amend or consent to a waiver or modification of any provision of any of the Transaction Documents unless the same consideration is also offered to all of the parties to the Transaction Documents.

6.9 Non-Public Information. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company covenants and agrees that neither it, nor any other person acting on its behalf, will provide Purchaser or its agents or counsel with any information that the Company believes constitutes material non-public information, unless prior thereto Purchaser shall have executed a written agreement regarding the confidentiality and use of such information. The Company understands and confirms that Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company.

6.10 Use of Proceeds. The Company shall use the net proceeds from the sale of the Securities hereunder for working capital purposes and shall not use such proceeds for: (a) the satisfaction of any portion of the Company’s debt (other than payment of trade payables in the ordinary course of the Company’s business and prior practices), (b) the redemption of any Common Stock or Common Stock Equivalents (as defined in the Warrant) or (c) the settlement of any outstanding litigation.

6.11 Commercially Reasonable Efforts. Upon the terms and subject to the conditions set forth in this Agreement, the parties to this Agreement shall use their respective good faith commercially reasonable efforts to take, or cause to be taken, without any party being obligated to incur any material internal costs or make any payment or payments to any third party or parties which, individually or in the aggregate, are material and are not otherwise legally required to be made, all actions, and to do or cause to be done, and to assist and cooperate with the other parties in doing, all things necessary, proper or advisable for such party to consummate and make effective, in the most expeditious manner practicable, each Closing and the other transactions contemplated hereunder.

## 7. INDEMNIFICATION AND EXPENSES.

7.1 The Company Indemnification. The Company shall indemnify and hold harmless each Purchaser and any of such Purchaser’s Affiliates and any Person which controls, is controlled by, or under common control with (within the meaning of the Securities Act) such Purchaser or any such Affiliate, and each of their respective directors and officers, and the successors and assigns and executors and estates of any of the foregoing (each, an “*Indemnified Party*”, and collectively, the “*Indemnified Parties*”) from and against all Indemnified Losses imposed upon, incurred by, or asserted against any of the Indemnified Parties resulting from, relating to or arising out of:

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7.1.1. any representation or warranty made in this Agreement or any of the other Transaction Documents or in any certificate or other instrument delivered by or on behalf of the Company not being true and correct in any material respect when made;

7.1.2. any breach or non-fulfillment of any covenant or agreement to be performed by the Company under this Agreement or the other Transaction Documents;

7.1.3. any third party action or claim against any Indemnified Party arising out of any misrepresentation or breach described in Section 7.1.1 or Section 7.1.2; or

7.1.4. any third party action or claim relating in any way to the Indemnified Party's status as a security holder of the Company, as a Person which controls, is controlled by or under common control with (within the meaning of the Securities Act) any such Indemnified Party or as a director or officer of any of the foregoing (including, without limitation, any and all Indemnifiable Losses arising under the Securities Act, the Exchange Act, or similar securities law, or any other Requirements of Law or otherwise, which relate directly or indirectly to the registration, purchase, sale or ownership of any securities of the Company or to any fiduciary obligation owed with respect thereto), including, without limitation, in connection with any action or claim relating to any action taken or omitted to be taken or alleged to have been taken or omitted to have been taken by such Indemnified Party as a security holder; provided that the Company shall not be obligated to indemnify or hold harmless any Indemnified Party under this Section 7.1.4 against any Indemnified Losses resulting from or arising out of any such action or claim if it has been adjudicated by a final and non-appealable determination of a court or other trier of fact of competent jurisdiction that such Indemnified Losses were the result of (a) a breach of such Indemnified Party's fiduciary duty, (b) any action or omission made by the Indemnified Party in bad faith, (c) such Indemnified Party's willful misconduct, or (d) any criminal action on the part of such Indemnified Party.

7.2 Attorneys' Fees and Expenses. If any action at law or in equity (including arbitration) is necessary to enforce or interpret the terms of this Agreement or any Transaction Document, the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled as determined by such court, equity or arbitration proceeding.

## 8. MISCELLANEOUS.

8.1 Governing Law; Submission to Jurisdiction; Waiver of Trial by Jury. This Agreement shall be governed in all respects by the laws of the State of New York without regard to the conflict of laws principles of the State of New York or any other jurisdiction. No suit, action or proceeding with respect to this Agreement or any of the Transaction Documents may be brought in any court or before any similar authority other than in a court of competent jurisdiction in the State of New York and the parties hereby submit to the exclusive jurisdiction of such courts for the purpose of such suit, proceeding or judgment. Each of the parties hereto hereby irrevocably waives any right which it may have had to bring such an action in any other court, domestic or foreign, or before any similar domestic or foreign authority and agrees not to claim or plead the same. Each of the parties hereto hereby irrevocably and unconditionally waives trial by jury in any legal action or proceeding in relation to this Agreement or any of the Transaction Documents and for any counterclaim therein.

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8.2 Survival of Representations, Warranties and Covenants. The representations, warranties and covenants made by the Company and the representations and warranties of the Purchasers herein at each Closing shall survive such Closing. All statements contained in any certificate or other instrument delivered by or on behalf of any party to this Agreement, pursuant to or in connection with the transactions contemplated by this Agreement or any of the other Transaction Documents shall be deemed to be representations, warranties and covenants made by such party as of the date of such certificate or other instrument.

8.3 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; *provided* that no party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of each other party. Notwithstanding the foregoing (a) any Purchaser may assign or transfer, in whole or, from time to time, in part, the right to purchase all or any portion of the Units to one or more of its Affiliates (subject to Affiliate qualification as an Accredited Investor) and (b) any Purchaser may assign or transfer any of its rights or obligations under this Agreement, in whole or from time to time in part, to the Company or any other Purchaser or any Affiliate of any other Purchaser. As a condition of any transfer pursuant to this Section 8.3, the transferee must agree in writing for the benefit of all parties to this Agreement (which writing shall be in form and substance reasonably acceptable to all parties to this Agreement) to be bound by the terms and conditions of this Agreement and all other Transaction Documents with respect to any Common Stock being transferred hereunder.

8.4 Entire Agreement. This Agreement, the Exhibits and Schedules hereto, the other Transaction Documents and each of the Exhibits delivered pursuant thereto constitute the full and entire understanding and agreement between the parties hereto with regard to the subject matter hereof and thereof and no party hereto shall be liable or bound to any other party hereto in any manner by any representations, warranties, covenants and agreements except as specifically set forth herein and therein.

8.5 Severability. If any provision of the Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

8.6 Amendment and Waiver. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by the Company and the Purchasers (and, to the extent of any assignment under Section 8.3 hereof, their respective permitted assigns and any permitted assigns thereof) holding a majority of the voting power of the then outstanding Common Stock and Warrant Shares purchased under this Agreement held by such holders, with each outstanding share of Common Stock having one vote and each outstanding Warrant Share having one vote.

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8.7 Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to any party, upon any breach, default or noncompliance by another party under this Agreement, the other Transaction Documents, shall impair any such right, power or remedy, nor shall it be construed to be a waiver of any such breach, default or noncompliance, or any acquiescence therein, or of or in any similar breach, default or noncompliance thereafter occurring. Any waiver or approval of any kind or character on any Purchaser's part of any breach, default or noncompliance under this Agreement, the other Transaction Documents or any waiver on such party's part of any provisions or conditions of the Agreement, the other Transaction Documents, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement, the other Transaction Documents, or otherwise afforded to any party, shall be cumulative and not alternative.

8.8 Notices. All notices, requests, demands and other communications given or made in accordance with the provisions of this Agreement shall be addressed (i) if to a Purchaser, at such Purchaser's address, fax number or email address, as furnished to the Company on the signature page below or as otherwise furnished to the Company by the Purchaser in writing, or (ii) if to the Company, to the attention of the President at such address, fax number or email address furnished to the Purchasers on the signature page below or as otherwise furnished by the Company in writing, and shall be made or sent by a personal delivery or overnight courier, by registered, certified or first class mail, postage prepaid, or by facsimile or electronic mail with confirmation of receipt, and shall be deemed to be given on the date of delivery when made by personal delivery or overnight courier, 48 hours after being deposited in the U.S. mail, or upon confirmation of receipt when sent by facsimile or electronic mail. Any party may, by written notice to the other, alter its address, number or respondent, and such notice shall be considered to have been given three (3) days after the overnight delivery, airmailing, faxing or sending via e-mail thereof.

8.9 Expenses. The Company shall pay all costs and expenses that it incurs with respect to the preparation, negotiation, execution, delivery and performance of this Agreement, including, without limitation, any costs and expenses of its counsel. The Company shall pay the reasonable fees and expenses of independent counsel for the Placement Agent with respect to the negotiation and execution of this Agreement and the other Transaction Documents.

8.10 Titles and Subtitles. The titles of the sections and subsections of the Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

8.11 Counterparts; Execution by Facsimile Signature. This Agreement may be executed in any number of counterparts (including execution by facsimile), each of which shall be an original, but all of which together shall constitute one instrument. This Agreement may be executed by facsimile signature(s) which shall be binding on the party delivering same, to be followed by delivery of originally executed signature pages.

8.12 Acknowledgment. Any investigation or other examination that may have been made at any time by or on behalf of a party to whom representations, warranties and covenants are made in this Agreement or in any other Transaction Documents shall not limit, diminish, supersede, act as a waiver of, or in any other way affect the representations, warranties, covenants and indemnities contained in this Agreement and the other Transaction Documents, and the respective parties may rely on the representations, warranties, covenants and indemnities made to them in this Agreement and the other Transaction Documents irrespective of and notwithstanding any information obtained by them in the course of any investigation, examination or otherwise, whether before or after any Closing.

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8.13 Publicity. Except as otherwise required by law or applicable stock exchange rules, no announcement or other disclosure, public or otherwise, concerning the transactions contemplated by this Agreement shall be made, either directly or indirectly, by any party hereto which mentions another party (or parties) hereto without the prior written consent of such other party (or parties), which consent shall not be unreasonably withheld, delayed or conditioned.

8.14 No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer on any person other than the parties hereto or their respective successors and assigns any rights, remedies, obligations or Liabilities under or by reason of this Agreement.

8.15 Pronouns. All pronouns contained herein, and any variations thereof, shall be deemed to refer to the masculine, feminine or neutral, singular or plural, as to the identity of the parties hereto may require.

## 9. DEFINITIONS.

As used in this Agreement, the following terms shall have the meanings herein specified:

9.1 "**Affiliate**" shall mean, with respect to any Person specified: (i) any Person that directly or indirectly through one or more intermediaries controls, is controlled by or under common control with the Person specified; (ii) any director, officer, or Subsidiary of the Person specified; and (iii) the spouse, parents, children, siblings, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law of the Person specified, whether arising by blood, marriage or adoption, and any Person who resides in the specified Person's home. For purposes of this definition and without limitation to the previous sentence, (x) "control" (including, with correlative meanings, the terms "controlled by" and "under common control with") of a Person means the power, direct or indirect, to direct or cause the direction of management and policies of such Person, whether through ownership of voting securities, by contract or otherwise, and (y) any Person beneficially owning, directly or indirectly, more than ten percent (10%) or more of any class of voting securities or similar interests of another Person shall be deemed to be an Affiliate of that Person.

9.2 "**Agreement**" shall have the meaning set forth in the preamble to this Agreement.

9.3 "**Boston Intellectual Property**" shall have the meaning set forth in Section 3.11.1.

9.4 "**Budget**" shall have the meaning set forth in Section 3.20.

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9.5 “*Certificate*” shall have the meaning set forth in Section 5.1.13.

9.6 “*Closing*” shall mean the Initial Closing or the Subsequent Closing, as applicable.

9.7 “*Code*” shall have the meaning set forth in Section 3.14.2.

9.8 “*Collaborators*” shall have the meaning set forth in Section 3.19.1.

9.9 “*Closing Date*” shall mean the Initial Closing Date or the Subsequent Closing Date, as applicable.

9.10 “*Common Stock*” shall have the meaning set forth in the preamble to this Agreement.

9.11 “*Company*” shall have the meaning set forth in the preamble to this Agreement.

9.12 “*Consents*” shall mean any consents, waivers, approvals, authorizations, or certifications from any Person or under any Contract, Organizational Document or Requirement of Law, as applicable.

9.13 “*Contracts*” shall mean any indentures, indebtedness, contracts, leases, agreements, instruments, licenses, undertakings and other commitments, whether written or oral.

9.14 “*Copyrights*” shall mean all copyrights, copyrightable works, mask works and databases, including, without limitation, any computer software (object code and source code), Internet web-sites and the content thereof, and any other works of authorship, whether statutory or common law, registered or unregistered, and registrations for and pending applications to register the same including all reissues, extensions and renewals thereto, and all moral rights thereto under the laws of any jurisdiction.

9.15 “*Employees*” shall have the meaning set forth in 3.15.1.

9.16 “*Employee Benefit Plans*” shall have the meaning set forth in Section 0.

9.17 “*Encumbrances*” shall mean any security interests, liens, encumbrances, pledges, mortgages, conditional or installment sales Contracts, title retention Contracts, transferability restrictions and other claims or burdens of any nature whatsoever.

9.18 “*Environmental Laws*” shall mean any Federal, state or local law or ordinance or Requirement of Law or regulation pertaining to the protection of human health or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sections 9601, et seq., the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Sections 11001, et seq., and the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901, et seq.

9.19 “*ERISA*” shall have the meaning set forth in Section 0.

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9.20 ***Exempt Issuance***” means the issuance of (a) shares of Common Stock or options to employees, consultants, officers or directors of the Company pursuant to any stock or option plan duly adopted by a majority of the non-employee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose, (b) securities upon the exercise or exchange of or conversion of any Warrants issued in the Offering and/or other securities exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Warrant, provided that such securities have not been amended since the date of this Warrant to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities and (c) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the disinterested directors of the Company, provided that any such issuance shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities.

9.21 ***FDA***” shall have the meaning set forth in Section 3.21.1.

9.22 ***Final Closing***” shall mean the last Closing under this Agreement.

9.23 ***Financial Statements***” shall have the meaning set forth in Section 3.4.

9.24 ***Governmental or Regulatory Authority***” shall mean any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the government of the United States or of any foreign country, any state or any political subdivision of any such government (whether state, provincial, county, city, municipal or otherwise).

9.25 ***Hazardous Substances***” shall mean oil and petroleum products, asbestos, polychlorinated biphenyls, urea formaldehyde and any other materials classified as hazardous or toxic under any Environmental Laws.

9.26 ***Indemnified Losses***” shall mean all losses, Liabilities, obligations, claims, demands, damages, penalties, settlements, causes of action, costs and expenses arising out of any third party claim or action against an Indemnified Party, including, without limitation, the actual costs paid in connection with an Indemnified Party’s investigation and evaluation of any claim or right asserted against such Indemnified Party and all reasonable attorneys’, experts’ and accountants’ fees, expenses and disbursements and court costs including, without limitation, those incurred in connection with the Indemnified Party’s enforcement of the indemnification provisions of Section 7 of this Agreement.

9.27 ***Indemnified Party***” shall have the meaning set forth in Section 7.1.

9.28 ***Initial Closing***” shall have the meaning set forth in Section 2.1.

9.29 ***Initial Closing Date***” shall have the meaning set forth in Section 2.1.

9.30 ***Initial Units***” shall have the meaning set forth in Section 2.1.

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9.31 “**Intellectual Property**” shall mean all Copyrights, Patents, Trademarks, technology, trade secrets, know-how, inventions, methods, techniques and other intellectual property.

9.32 “**Leased Real Property**” shall have the meaning set forth in Section 3.18.

9.33 “**Legal Proceeding**” shall mean any action, suit, arbitration, claim or investigation by or before any Governmental or Regulatory Authority, any arbitration or alternative dispute resolution panel, or any other legal, administrative or other proceeding.

9.34 “**Liabilities**” shall mean all obligations and liabilities including, without limitation, direct or indirect indebtedness, guaranties, endorsements, claims, losses, damages, deficiencies, costs, expenses, or responsibilities, in any of the foregoing cases, whether fixed or unfixed, known or unknown, asserted or unasserted, choate or inchoate, liquidated or unliquidated, or secured or unsecured.

9.35 “**Licensed Intellectual Property**” shall mean all Copyrights, Patents, Trademarks, technology rights and licenses, trade secrets, know-how, inventions, methods, techniques and other intellectual property any one or more Boston Entities have or has the right to use in connection with its business or their respective businesses, as applicable, pursuant to license, sublicense, agreement or permission.

9.36 “**Material Adverse Effect**” shall have the meaning set forth in Section 3.1.

9.37 “**Material Contract**” shall have the meaning set forth in Section 3.7.1.

9.38 “**Order**” shall mean any judgment, order, writ, decree, stipulation, injunction or other determination whatsoever of any Governmental or Regulatory Authority, arbitrator or any other Person whose finding, ruling or holding is legally binding or is enforceable as a matter of right (in any case, whether preliminary or final and whether voluntarily imposed or consented to).

9.39 “**Organizational Documents**” shall mean, with respect to any Person, such Person’s articles or certificate of incorporation, by-laws or other governing or constitutive documents, if any.

9.40 “**Owned Intellectual Property**” shall mean all Copyrights, Patents, Trademarks, technology, trade secrets, know-how, inventions, methods, techniques and other intellectual property owned by the Company or any of its Subsidiaries.

9.41 “**Patents**” shall mean patents and patent applications (including, without limitation, provisional applications, utility applications and design applications), including, without limitation, reissues, patents of addition, continuations, continuations-in-part, substitutions, additions, divisionals, renewals, registrations, confirmations, re-examinations, certificates of inventorship, extensions and the like, any foreign or international equivalent of any of the foregoing, and any domestic or foreign patents or patent applications claiming priority to any of the above.

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9.42 "**Permits**" shall mean all licenses, permits, certificates of authority, authorizations, approvals, registrations, franchises, rights, Orders, qualifications and similar rights or approvals granted or issued by any Governmental or Regulatory Authority relating to the Business.

9.43 "**Per Unit Purchase Price**" shall have the meaning set forth in Section 1.2.

9.44 "**Person**" shall mean any individual, corporation, partnership, firm, joint venture, association, limited liability company, limited liability partnership, joint-stock company, trust, unincorporated organization or Governmental or Regulatory Authority.

9.45 "**Placement Agent**" shall mean Laidlaw & Company (UK) Ltd.

9.46 "**Premises**" shall have the meaning set forth in Section 3.22.

9.47 "**Products**" shall have the meaning set forth in Section 3.7.1(c).

9.48 "**Purchase Price**" shall mean the "Total Purchase Price Amount" set forth in Exhibit A for each respective Purchaser.

9.49 "**Purchasers**" and "**Purchaser**" shall have the meaning set forth in the preamble to this Agreement.

9.50 "**Real Property Leases**" shall have the meaning set forth in Section 3.18.

9.51 "**Registration Rights Agreement**" shall have the meaning set forth in Section 5.1.5.

9.52 "**Regulatory Approvals**" shall mean all Consents from all Governmental or Regulatory Authorities.

9.53 "**Requirement of Law**" shall mean any provision of law, statute, treaty, rule, regulation, ordinance or pronouncement having the effect of law, and any Order.

9.54 "**Schedules**" shall have the meaning set forth in the preamble to Section 3.

9.55 "**SEC**" shall mean Securities and Exchange Commission.

9.56 "**Securities Act**" shall have the meaning set forth in Section 3.23.

9.57 "**Subsequent Closing**" shall mean the funding which occurs on the Subsequent Closing Date.

9.58 "**Subsequent Closing Date**" shall have the meaning set forth in Section 2.2.

9.59 "**Subsequent Closing Purchaser**" shall have the meaning set forth in Section 1.3.

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9.60 “**Subsequent Units**” shall have the meaning set forth in Section 2.2.

9.61 “**Subsidiaries**” and “**Subsidiary**” shall mean, with respect to any Person (including the Company), any corporation, partnership, association or other business entity of which more than 50% of the issued and outstanding stock or equivalent thereof having ordinary voting power is owned or controlled by such Person, by one or more Subsidiaries or by such Person and one or more Subsidiaries of such Person.

9.62 “**Suppliers**” shall have the meaning set forth in Section 3.19.2.

9.63 “**Tax Returns**” shall mean any declaration, return, report, estimate, information return, schedule, statements or other document filed or required to be filed in connection with the calculation, assessment or collection of any Taxes or, when none is required to be filed with a taxing authority, the statement or other document issued by, a taxing authority.

9.64 “**Taxes**” shall mean (i) any tax, charge, fee, levy or other assessment including, without limitation, any net income, gross income, gross receipts, sales, use, *ad valorem*, transfer, franchise, profits, payroll, employment, social security, unemployment, excise, estimated, stamp, occupancy, occupation, property or other similar taxes, including any interest or penalties thereon, and additions to tax or additional amounts imposed by any federal, state, local or foreign Governmental or Regulatory Authority, domestic or foreign or (ii) any Liability for the payment of any taxes, interest, penalty, addition to tax or like additional amount resulting from the application of Treasury Regulation §1.1502-6 or comparable Requirement of Law.

9.65 “**Trademarks**” shall mean trademarks, service marks, trade names, corporate names, company names, business names, fictitious business names, trade styles, uniform resource locators (URLs), domain names, trade dress, any other names and locators associated with the Internet, other source of business identifiers, whether registered or unregistered and whether or not currently in use, and registrations, applications to register and all of the goodwill of the business related to the foregoing.

9.66 “**Transaction Documents**” shall mean this Agreement, the Warrant, the Registration Rights Agreement and all other documents, certificates and instruments executed and delivered at any Closing.

9.67 “**Units**” shall have the meaning set forth in the preamble to this Agreement.

9.68 “**Warrant Shares**” shall have the meaning set forth in Section 1.1.

**[SIGNATURES ON FOLLOWING PAGES]**

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IN WITNESS WHEREOF, the parties hereto have executed this Unit Purchase Agreement as of the date set forth in the first paragraph hereof.

**COMPANY:**

**BOSTON THERAPEUTICS, INC.**

By: \_\_\_\_\_

Name: Kenneth A. Tasse

Title: President

Address: 1750 Elm Street, Suite 103  
Manchester, NH 03104

Tel: 603 935 9799

Fax: 603 685 4784

email: Ken.Tasse@bostonti.com

**PURCHASERS:**

The Purchasers set forth on Exhibit A to the Agreement have executed a Subscription Agreement with the Company which provides, among other things, that by executing the Subscription Agreement each Purchaser is deemed to have executed the UNIT PURCHASE AGREEMENT in all respects and is bound to purchase the Units set forth in such Subscription Agreement and Exhibit A to the Agreement.

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FORM OF WARRANT

EXHIBIT B

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FUNDING INSTRUCTIONS

EXHIBIT C

Please make your subscription payment payable to the order of "Signature Bank, as Escrow Agent for Boston Therapeutics, Inc."  
Account No. 1502013854

**For wiring funds directly to the escrow account,  
use the following instructions:**

Signature Bank  
261 Madison Avenue  
New York, NY 10016  
Acct. Name:

Signature Bank as Escrow Agent for  
Boston Therapeutics, Inc.

ABA Number: 026013576  
SWIFT Code: SIGNUS33  
A/C Number: 1502013854

FBO: Purchaser Name  
Social Security Number  
Address

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PRE-INITIAL CLOSING CAPITALIZATION

EXHIBIT D

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FORM OF LEGAL OPINION

EXHIBIT E

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FORM OF REGISTRATION RIGHTS AGREEMENT

EXHIBIT F

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**BOSTON THERAPEUTICS, INC.  
REGISTRATION RIGHTS AGREEMENT**

**T H I S** REGISTRATION RIGHTS AGREEMENT (the “*Agreement*”), dated as of August 30, 2013, is made by and between Boston Therapeutics, Inc., a Delaware corporation (the “*Company*”) and the undersigned investor (the “*Investor*”).

**RECITALS**

**WHEREAS**, in connection with that certain Subscription Agreement of even date herewith by and between the Company and the Investor (the “*Subscription Agreement*”) and Unit Purchase Agreement of even date herewith by and between the Company and the Investor (the “*Purchase Agreement*”), the Investor purchased from the Company, certain units (the “*Units*”), each Unit consisting of (a) 333,333 shares (the “*Shares*”) of common stock, par value \$0.001 per share, of the Company (“*Common Stock*”), and (b) a warrant (the “*Warrant*”) to purchase 166,666 shares of Common Stock at an exercise price of \$0.50 per share for a period of 5 years following the final Closing of the Offering.

**WHEREAS**, to induce the Investor to purchase the Units, the Company has agreed to grant the Investor certain rights with respect to registration of Registrable Securities under the Securities Act pursuant to the terms of this Agreement.

**AGREEMENT**

**NOW, THEREFORE**, the Company and the Investor hereby covenant and agree as follows:

1. Recitals. The recitals set forth above are true and correct and are incorporated herein by reference.
2. Certain Definitions. As used in this Agreement, the following terms shall have the following respective meanings:

“*Agreement*” shall have the meaning set forth in the Preamble hereof.

“*Automatic Registration Statement*” shall have the meaning set forth in **Section 3(a)** of this Agreement.

“*Closing*” shall mean the closing of the sale of the Units in which the Investor Purchased the Units.

“*Closing Date*” means the date on which the Closing occurred.

“*Commission*” shall mean the Securities and Exchange Commission, or any other federal agency at the time administering the Securities Act.

“*Company*” shall have the meaning set forth in the Preamble hereof.

**“Effectiveness Date”** shall mean that date which is sixty (60) days following the Filing Date (in case of a no SEC review) or one hundred eighty (180) days following the Filing Date (in the case of an SEC review).

**“Effectiveness Period”** shall have the meaning set forth in **Section-3(a)** of this Agreement.

**“Exchange Act”** shall mean the Securities Exchange Act of 1934, as amended.

**“Filing Date”** shall mean with respect to the Automatic Registration Statement required hereunder, that date which is forty five (45) days following the Final Closing Date and, with respect to any additional Registration Statements which may be required herein, the earliest practical date on which the Company is permitted by SEC Guidance to file such additional Registration Statement related to the Registrable Securities.

**“Final Closing Date”** means closing date of the Offering after which the Company ceases to offer for sale the Units.

**“Investor”** shall have the meaning set forth in the Preamble hereof.

**“Offering”** shall have the meaning set forth in the Subscription Agreement.

**“Piggyback Registration”** shall have the meaning set forth in **Section 4(a)** of this Agreement.

**“Prospectus”** means the prospectus included in a Registration Statement (including, without limitation, a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated by the Commission pursuant to the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by a Registration Statement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

**“Purchase Agreement”** shall have the meaning set forth in the Preamble hereof.

**“Purchase Price”** shall have the meaning set forth in the Purchase Agreement.

**“Register,” “registered” and “registration”** each shall refer to a registration of the Registrable Securities effected by preparing and filing a Registration Statement or statements or similar documents in compliance with the Securities Act and the declaration or ordering of effectiveness of such Registration Statement or document by the Commission.

**“Registrable Securities”** shall mean (a) all Shares, (b) all Warrant Shares then issuable upon exercise of the Warrant delivered to Investor in connection with the Offering (assuming on such date the Warrants are exercised in full without regard to any exercise limitations therein), (c) all shares of Common Stock issuable upon exercise of the warrants to be issued to Laidlaw and its agents in connection with the Offering (assuming on such date such warrants are exercised in full without regard to any exercise limitations therein), and (d) any securities issued or then issuable upon any stock split, dividend or other distribution, recapitalization or similar event with respect to the foregoing provided, however, that any such Registrable Securities shall cease to be Registrable Securities (i) when subject to an effective Registration Statement under the Securities Act as provided for hereunder, (ii) upon any sale pursuant to a Registration Statement or Rule 144 under the Securities Act or (iii) at such time such securities become eligible for resale without volume or manner-of-sale restrictions and without current public information pursuant to Rule 144 as set forth in a written opinion letter to such effect, addressed, delivered and acceptable to the Transfer Agent and the affected Investors.

**“Registration Statement”** means any registration statement required to be filed hereunder pursuant to Sections 3 or 4 and any additional registration statements contemplated herein, including (in each case) the Prospectus, amendments and supplements to any such registration statement or Prospectus, including pre- and post-effective amendments, all exhibits thereto, and all material incorporated by reference or deemed to be incorporated by reference in any such registration statement.

**“Rule 415”** means Rule 415 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

**“Rule 424”** means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

**“SEC Guidance”** means (i) any publicly-available written or oral guidance, comments, requirements or requests of the Commission staff and (ii) the Securities Act.

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

**“Shares”** shall have the meaning set forth in the Preamble hereof.

**“Subscription Agreement”** shall have the meaning set forth in the first Recital hereof.

**“Warrant”** shall have the meaning set forth in the Preamble hereof.

**“Warrant Shares”** shall mean the shares of Common Stock to be issued upon exercise of the Warrants.

Capitalized terms used but not defined herein shall have the meanings set forth in the Subscription Agreement.

3. Automatic Registration.

(a) On or prior to the Filing Date, the Company shall prepare and file with the Commission a registration statement (the “*Automatic Registration Statement*”) covering the resale of all of the Registrable Securities for an offering to be made on a continuous basis pursuant to Rule 415. The Automatic Registration Statement required hereunder shall be on Form S-1 or Form S-3, as applicable, and shall contain substantially the “Plan of Distribution” attached hereto as Annex A. Subject to the terms of this Agreement, the Company shall use its best efforts to cause the Automatic Registration Statement to be declared effective under the Securities Act as promptly as possible after the filing thereof, but in any event not later than the Effectiveness Date, and shall use its best efforts to keep the Automatic Registration Statement continuously effective under the Securities Act until the date when all Registrable Securities covered by the Registration Statement (i) have been sold thereunder or pursuant to Rule 144 or (ii) may be sold without volume or manner-of-sale restrictions pursuant to Rule 144 and without the requirement for the Company to be in compliance with the current public information requirement under Rule 144, as determined by counsel to the Company pursuant to a written opinion letter to such effect, addressed and acceptable to the Company’s transfer agent and the Investor (the “Effectiveness Period”). The maximum amount of Registrable Securities that may be included in the Automatic Registration Statement at any one time shall be limited by Rule 415 as required by the Commission. In the event that there is a limitation by the Commission on the number of Registrable Securities that may be included for registration at one time, the Company shall promptly so advise the Investor and use its best efforts to file an additional Automatic Registration Statement covering such ineligible Registrable Securities, on a pro-rata basis, within 30 days of the date such securities become eligible and cause such Automatic Registration Statement to be declared effective by the Commission as soon as reasonably practicable.

(b) At any time after the Automatic Registration Statement has become effective, the Company may, upon giving prompt written notice of such action to the Investor, suspend the use of any such Automatic Registration Statement if, in the good faith judgment of the Company, the use of the Automatic Registration Statement covering the Registrable Securities would be detrimental to the Company or its stockholders at such time and the Company concludes, as a result, that it is in the best interests of the Company or its stockholders to suspend the use of such Automatic Registration Statement at such time. The Company shall have the right to suspend such Automatic Registration Statement for a period of not more than thirty (30) consecutive days from the date the Company notifies the Investor of such suspension, with such suspension not to exceed an aggregate of sixty (60) days (whether or not consecutive) during any 12-month period. In the case of the suspension of any effective Automatic Registration Statement, the Investor, immediately upon receipt of notice thereof from the Company, will discontinue any sales of Registrable Securities pursuant to such Registration Statement until advised in writing by the Company that the use of such Automatic Registration Statement may be resumed.

(c) If: (i) the Automatic Registration Statement is not filed on or prior to its Filing Date (if the Company files the Automatic Registration Statement without affording the Holders the opportunity to review and comment on the same as required by Section 5(a) herein, the Company shall be deemed to have not satisfied this clause (i)), (ii) a Registration Statement registering for resale all of the Registrable Securities is not declared effective by the Commission by the Effectiveness Date (unless the reason for such non-registration of all or any portion of the Registrable Securities is as a result of SEC Guidance under Rule 415 or similar rule which limits the number of Registrable Securities which may be included in a registration statement with respect to the Holders), or (iii) after the effective date of a Registration Statement, such Registration Statement ceases for any reason to remain continuously effective as to all Registrable Securities included in such Registration Statement, or the Investors are otherwise not permitted to utilize the prospectus therein to resell such Registrable Securities, for more than ten (10) consecutive calendar days or more than an aggregate of fifteen (15) calendar days (which need not be consecutive calendar days) during any 12-month period (any such failure or breach being referred to as an “*Event*”, and for purposes of clause (i) and (iv), the date on which such Event occurs, and for purpose of clause (iii) the date on which such ten (10) or fifteen (15) calendar day period, as applicable, is exceeded being referred to as “*Event Date*”), then, in addition to any other rights the Investors may have hereunder or under applicable law, on each such Event Date and on each monthly anniversary of each such Event Date (if the applicable Event shall not have been cured by such date) until the applicable Event is cured, the Company shall pay to each Investor an amount in cash, as partial liquidated damages and not as a penalty, equal to 1.0% of the aggregate purchase price paid by such Holder pursuant to the Subscription Agreement and Purchase Agreement. The parties agree that the maximum aggregate liquidated damages payable to an Investor under this Agreement shall be 6% of the aggregate Purchase Price paid by such Investor pursuant to the Purchase Agreement. If the Company fails to pay any partial liquidated damages pursuant to this Section in full within seven days after the date payable, the Company will pay interest thereon at a rate of 18% per annum (or such lesser maximum amount that is permitted to be paid by applicable law) to the Investor, accruing daily from the date such partial liquidated damages are due until such amounts, plus all such interest thereon, are paid in full. The partial liquidated damages pursuant to the terms hereof shall apply on a daily pro rata basis for any portion of a month prior to the cure of an Event. Notwithstanding the foregoing, no payments shall be owed with respect to any period during which all of the holder’s Registrable Shares may be sold by such holder under Rule 144 without volume or manner-of-sale restrictions pursuant to Rule 144 and without the requirement for the Company to be in compliance with the current public information requirement under Rule 144.

#### 4. Piggyback Registrations.

(a) With respect to any Registrable Securities not otherwise included in the Automatic Registration Statement or any other Registration Statement as a result of any limitation imposed by the Commission under Rule 415 (the “*Excluded Registrable Securities*”), whenever the Company proposes to register (including, for this purpose, a registration effected by the Company for other shareholders) any of its securities under the Securities Act (other than pursuant to (i) an Automatic Registration pursuant to **Section 3** hereof or (ii) registration pursuant to a registration statement on Form S-4 or S-8 or any successor forms thereto), and the registration form to be used may be used for the registration of Registrable Securities (a “*Piggyback Registration*”), the Company will give written notice to the holder of Excluded Securities of its intention to effect such a registration and will, subject to the provisions of **Subsection 4(b)** hereof, include in such registration all Excluded Registrable Securities with respect to which the Company has received a written request for inclusion therein within twenty (20) days after the receipt of the Company’s notice.

(b) If a Piggyback Registration is an underwritten secondary registration on behalf of holders of the Company’s securities, and the managing underwriters advise the Company in writing that in their opinion the number of securities requested to be included in such registration exceeds the number which can be sold in such offering without adversely affecting the marketability of the offering, the Company will include in such registration a pro rata share of Excluded Registrable Securities requested to be included in such Registration Statement as calculated by dividing the number of Excluded Registrable Securities requested to be included in such Registration Statement by the number of the Company’s securities requested to be included in such Registration Statement by all selling security holders. In such event, the holder of Excluded Registrable Securities shall continue to have registration rights under this Agreement with respect to any Excluded Registrable Securities not so included in such Registration Statement.

(c) Notwithstanding the foregoing, if, at any time after giving a notice of Piggyback Registration and prior to the effective date of the Registration Statement filed in connection with such registration, the Company shall determine for any reason not to register or to delay registration of such securities, the Company may, at its election, give written notice of such determination to each record holder of Excluded Registrable Securities and, following such notice, (i) in the case of a determination not to register, shall be relieved of its obligation to register any Excluded Registrable Securities in connection with such registration, and (ii) in the case of determination to delay registering, shall be permitted to delay registering any Excluded Registrable Securities for the same period as the delay in registering such other securities.

5. Registration Procedures. If and whenever the Company is required to affect the registration of any Registrable Securities under the terms herein, the Company will:

(a) not less than five (5) trading days prior to the filing of each Registration Statement and not less than one (1) trading day prior to the filing of any related Prospectus or any amendment or supplement thereto (including any document that would be incorporated or deemed to be incorporated therein by reference), the Company shall (i) furnish to each seller of Registrable Securities copies of all such documents proposed to be filed, which documents (other than those incorporated or deemed to be incorporated by reference) will be subject to the review of such sellers, and (ii) cause its officers and directors, counsel and independent registered public accountants to respond to such inquiries as shall be necessary, in the reasonable opinion of respective counsel to each seller of Registrable Securities, to conduct a reasonable investigation within the meaning of the Securities Act. Notwithstanding the above, the Company shall not be obligated to provide each seller of Registrable Securities advance copies of any universal shelf registration statement registering securities in addition to those required hereunder, or any Prospectus prepared thereto.

(b) prepare and file with the Commission the Registration Statement with respect to such securities and use its best efforts to cause such Registration Statement to become effective in an expeditious manner;

(c) (i) prepare and file with the Commission such amendments, including post-effective amendments, to a Registration Statement and the Prospectus used in connection therewith as may be necessary to keep a Registration Statement continuously effective as to the applicable Registrable Securities for the Effectiveness Period and prepare and file with the Commission such additional Registration Statements in order to register for resale under the Securities Act all of the Registrable Securities, (ii) cause the related Prospectus to be amended or supplemented by any required Prospectus supplement (subject to the terms of this Agreement), and, as so supplemented or amended, to be filed pursuant to Rule 424, (iii) respond as promptly as reasonably possible to any comments received from the Commission with respect to a Registration Statement or any amendment thereto and provide as promptly as reasonably possible to each seller of Registrable Securities true and complete copies of all correspondence from and to the Commission relating to a Registration Statement (provided that, the Company shall excise any information contained therein which would constitute material non-public information regarding the Company), and (iv) comply in all material respects with the applicable provisions of the Securities Act and the Securities and Exchange Act of 1934, as amended, with respect to the disposition of all Registrable Securities covered by a Registration Statement during the applicable period in accordance (subject to the terms of this Agreement) with the intended methods of disposition by each seller of Registrable Securities thereof set forth in such Registration Statement as so amended or in such Prospectus as so supplemented.

(d) if during the Effectiveness Period, the number of Registrable Securities at any time exceeds 100% of the number of shares of Common Stock then registered in a Registration Statement, then the Company shall file as soon as reasonably practicable, but in any case prior to the applicable Filing Date, an additional Registration Statement covering the resale by the Holders of not less than the number of such Registrable Securities.

(e) furnish to each seller of Registrable Securities and to each underwriter such number of copies of the Registration Statement and the Prospectus included therein (including each preliminary prospectus) as such persons reasonably may request in order to facilitate the intended disposition of the Registrable Securities covered by such Registration Statement;

(f) use its commercially reasonable efforts (i) to register or qualify the Registrable Securities covered by such Registration Statement under the state securities or "blue sky" laws of such jurisdictions as the sellers of Registrable Securities or, in the case of an underwritten public offering, the managing underwriter, reasonably shall request, (ii) to prepare and file in those jurisdictions such amendments (including post-effective amendments) and supplements, and take such other actions, as may be necessary to maintain such registration and qualification in effect at all times for the period of distribution contemplated thereby and (iii) to take such further action as may be necessary or advisable to enable the disposition of the Registrable Securities in such jurisdictions, provided, that the Company shall not for any such purpose be required to qualify generally to transact business as a foreign corporation in any jurisdiction where it is not so qualified or to consent to general service of process in any such jurisdiction;

(g) use its commercially reasonable efforts to list the Registrable Securities covered by such Registration Statement with any securities exchange on which the common stock of the Company is then listed;

(h) immediately notify each seller of Registrable Securities and each underwriter under such Registration Statement, at any time when a Prospectus relating thereto is required to be delivered under the Securities Act, of the happening of any event of which the Company has knowledge as a result of which the Prospectus contained in such Registration Statement, as then in effect, includes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances then existing and promptly amend or supplement such Registration Statement to correct any such untrue statement or omission;



(i) promptly notify each seller of Registrable Securities of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose and make every reasonable effort to prevent the issuance of any stop order and, if any stop order is issued, to obtain the lifting thereof at the earliest possible time;

(j) if the offering is an underwritten offering, enter into a written agreement with the managing underwriter selected in the manner herein provided in such form and containing such provisions as are usual and customary in the securities business for such an arrangement between such underwriter and companies of the Company's size and investment stature, including, without limitation, customary indemnification and contribution provisions;

(k) if the offering is an underwritten offering, at the request of any seller of Registrable Securities, furnish to such seller on the date that Registrable Securities are delivered to the underwriters for sale pursuant to such registration: (i) a copy of an opinion, dated such date, of counsel representing the Company for the purposes of such registration, addressed to the underwriters, stating that such Registration Statement has become effective under the Securities Act and that (A) to the knowledge of such counsel, no stop order suspending the effectiveness thereof has been issued and no proceedings for that purpose have been instituted or are pending or contemplated under the Securities Act, (B) the Registration Statement, the related Prospectus and each amendment or supplement thereof comply as to form in all material respects with the requirements of the Securities Act (except that such counsel need not express any opinion as to financial statements or other financial or statistical information contained therein) and (C) to such other effects as reasonably may be requested by counsel for the underwriters; and (ii) a copy of a letter dated such date from the independent public accountants retained by the Company, addressed to the underwriters, stating that they are independent registered public accountants within the meaning of the Securities Act and that, in the opinion of such accountants, the financial statements of the Company included in the Registration Statement or the Prospectus, or any amendment or supplement thereof, comply as to form in all material respects with the applicable accounting requirements of the Securities Act, and such letter shall additionally cover such other financial matters (including information as to the period ending no more than five business days prior to the date of such letter) with respect to such registration as such underwriters reasonably may request;

(l) take all actions reasonably necessary to facilitate the timely preparation and delivery of certificates (not bearing any legend restricting the sale or transfer of such securities) representing the Registrable Securities to be sold pursuant to the Registration Statement and to enable such certificates to be in such denominations and registered in such names as each seller of Registrable Securities or any underwriters may reasonably request; and

(m) take all other reasonable actions necessary to expedite and facilitate the registration of the Registrable Securities pursuant to the Registration Statement.

6. Obligations of Investor. The Investor shall furnish to the Company such information regarding such Investor, the number of Registrable Securities owned and proposed to be sold by it, the intended method of disposition of such securities and any other information as shall be required to effect the registration of the Registrable Securities, and cooperate with the Company in preparing the Registration Statement and in complying with the requirements of the Securities Act.

7. Expenses.

(a) All expenses incurred by the Company in complying with Sections 3, 4 and 5 including, without limitation, all registration and filing fees (including the fees of the Commission and any other regulatory body with which the Company is required to file), printing expenses, fees and disbursements of counsel and independent public accountants for the Company, fees and expenses (including counsel fees) incurred in connection with complying with state securities or "blue sky" laws, and fees of transfer agents and registrars are called "Registration Expenses." All underwriting discounts and selling commissions applicable to the sale of Registrable Securities are called "Selling Expenses."

(b) The Company will pay all Registration Expenses in connection with any Registration Statement filed hereunder, and the Selling Expenses in connection with each such Registration Statement shall be borne by the participating sellers in proportion to the number of Registrable Securities sold by each or as they may otherwise agree.

(c) Notwithstanding anything herein to the contrary, at the request of any Investor, the Company shall employ its counsel at the Company's expense to prepare any and all legal opinions necessary for the prompt removal of restrictive legends from certificates representing Registrable Securities as, when and to the extent such legends may be removed in compliance with the Securities Act and/or Rule 144.

8. Indemnification and Contribution.

(a) In the event of a registration of any of the Registrable Securities under the Securities Act pursuant to the terms of this Agreement, the Company will indemnify and hold harmless and pay and reimburse, each seller of such Registrable Securities thereunder, each underwriter of such Registrable Securities thereunder and each other person, if any, who controls such seller or underwriter within the meaning of the Securities Act, against any losses, claims, damages or liabilities, joint or several, to which such seller, underwriter or controlling person may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in any Registration Statement under which such Registrable Securities were registered under the Securities Act pursuant hereto or any preliminary prospectus or final prospectus contained therein, or any amendment or supplement thereof, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or any violation or alleged violation of the Securities Act or any state securities or "blue sky" laws and will reimburse each such seller, each such underwriter and each such controlling person for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, that the Company will not be liable in any such case if and to the extent that any such loss, claim, damage or liability arises out of or is based upon the Company's reliance on an untrue statement or alleged untrue statement or omission or alleged omission so made in conformity with information furnished by any such seller, any such underwriter or any such controlling person in writing specifically for use in such Registration Statement or prospectus.

(b) In the event of a registration of any of the Registrable Securities under the Securities Act pursuant hereto, each seller of such Registrable Securities thereunder, severally and not jointly, will indemnify and hold harmless the Company, each person, if any, who controls the Company within the meaning of the Securities Act, each officer of the Company who signs the Registration Statement, each director of the Company, each underwriter and each person who controls any underwriter within the meaning of the Securities Act, against all losses, claims, damages or liabilities, joint or several, to which the Company or such officer, director, underwriter or controlling person may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon reliance on any untrue statement or alleged untrue statement of any material fact contained in the registration statement under which such Registrable Securities were registered under the Securities Act pursuant hereto or any preliminary prospectus or final prospectus contained therein, or any amendment or supplement thereof, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse the Company and each such officer, director, underwriter and controlling person for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided that such seller will be liable hereunder in any such case if and only to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with information pertaining to such seller, as such, furnished in writing to the Company by such seller specifically for use in such Registration Statement or prospectus; and provided, further, that the liability of each seller hereunder shall be limited to the proceeds received by such seller from the sale of Registrable Securities covered by such Registration Statement. Notwithstanding the foregoing, the indemnity provided in this **Section 8(b)** shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or expense if such settlement is effected without the consent of such indemnified party and provided further, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage or liability (or action in respect thereof) arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission in such Registration Statement, which untrue statement or alleged untrue statement or omission or alleged omission is completely corrected in an amendment or supplement to the Registration Statement and the undersigned indemnitees thereafter fail to deliver or cause to be delivered such Registration Statement as so amended or supplemented prior to or concurrently with the sale of the Registrable Securities to the person asserting such loss, claim, damage or liability (or actions in respect thereof) or expense after the Company has furnished the undersigned with the same.

(c) Promptly after receipt by an indemnified party hereunder of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party hereunder, notify the indemnifying party in writing thereof, but the omission so to notify the indemnifying party shall not relieve it from any liability which it may have to such indemnified party other than under this **Section 8** and shall only relieve it from any liability which it may have to such indemnified party under this **Section 8** if and to the extent the indemnifying party is materially prejudiced by such omission. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate in and, to the extent it shall wish, to assume and undertake the defense thereof with counsel reasonably satisfactory to such indemnified party, and, after notice from the indemnifying party to such indemnified party of its election so to assume and undertake the defense thereof, the indemnifying party shall not be liable to such indemnified party under this **Section 8** for any legal expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation and of liaison with counsel so selected; provided that if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded based upon written advice of its counsel that there may be reasonable defenses available to it that are different from or additional to those available to the indemnifying party or if the interests of the indemnified party reasonably may be deemed to conflict with the interests of the indemnifying party, the indemnified party shall have the right to select a separate counsel and to assume such legal defenses and otherwise to participate in the defense of such action, with the expenses and fees of such separate counsel and other expenses related to such participation to be reimbursed by the indemnifying party as incurred.

(d) In order to provide for just and equitable contribution to joint liability under the Securities Act in any case in which either (i) any holder of Registrable Securities exercising rights under this Agreement, or any controlling person of any such holder, makes a claim for indemnification pursuant to this **Section 8** but it is judicially determined (by the entry of a final judgment or decree by a court of competent jurisdiction and the expiration of time to appeal or the denial of the last right of appeal) that such indemnification may not be enforced in such case notwithstanding the fact that this **Section 8** provides for indemnification in such case, or (ii) contribution under the Securities Act may be required on the part of any such selling holder or any such controlling person in circumstances for which indemnification is provided under this **Section 8**; then, and in each such case, the Company and such holder will contribute to the aggregate losses, claims, damages or liabilities to which they may be subject (after contribution from others) in such proportion so that such holder is responsible for the portion represented by the percentage that the public offering price of its Registrable Securities offered by the Registration statement bears to the public offering price of all securities offered by such Registration statement, and the Company is responsible for the remaining portion; provided, that, in any such case, (A) no such holder will be required to contribute any amount in excess of the public offering price of all such Registrable Securities offered by it pursuant to such Registration statement and (B) no person or entity guilty of fraudulent misrepresentation (within the meaning of Section 12(f) of the Securities Act) will be entitled to contribution from any person or entity who was not guilty of such fraudulent misrepresentation.

9. Changes in Capital Stock. If, and as often as, there is any change in the capital stock of the Company by way of a stock split, stock dividend, combination or reclassification, or through a merger, consolidation, reorganization or recapitalization, or by any other means, appropriate adjustment shall be made in the provisions hereof so that the rights and privileges granted hereby shall continue as so changed.

10. Representations and Warranties of the Company. The Company represents and warrants to the Investor as follows:

(a) The execution, delivery and performance of this Agreement by the Company have been duly authorized by all requisite corporate action and will not violate any provision of law, any order of any court or other agency of government, the Certificate of Incorporation or Bylaws of the Company or any provision of any indenture, agreement or other instrument to which it or any of its properties or assets is bound, conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the Company or its subsidiaries.

(b) This Agreement has been duly executed and delivered by the Company and constitutes the legal, valid and binding obligation of the Company, enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency or other laws affecting the rights of creditors generally and to general equitable principles and the availability of specific performance.

11. Rule 144 Requirements. The Company agrees to:

(a) make and keep current public information about the Company available, as those terms are understood and defined in Rule 144 under the Securities Act;

(b) use its best efforts to file with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements); and

(c) furnish to any holder of Registrable Securities upon request (i) a written statement by the Company as to its compliance with the reporting requirements of Rule 144 and of the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), (ii) a copy of the most recent annual or quarterly report of the Company, and (iii) such other reports and documents of the Company as such holder may reasonably request to avail itself of any similar rule or regulation of the Commission allowing it to sell any such securities without registration.

12. Termination. All of the Company's obligations to register Registrable Shares under **Sections 3, 4, and 5** hereof shall terminate upon the date on which the Investor holds no Registrable Securities or all of the Registrable Securities are eligible for resale without volume or manner-of-sale restrictions pursuant to Rule 144 and without the requirement for the Company to be in compliance with the current public information requirement under Rule 144, as determined by counsel to the Company pursuant to a written opinion letter to such effect, addressed and acceptable to the Company's transfer agent and the Investor.

13. Miscellaneous.

(a) All covenants and agreements contained in this Agreement by or on behalf of any of the parties hereto shall bind and inure to the benefit of the respective successors and assigns of the parties hereto (including without limitation transferees of any Registrable Securities), whether so expressed or not.

(b) All notices, requests, consents and other communications hereunder shall be in writing and shall be delivered in person, mailed by certified mail, return receipt requested, postage prepaid, addressed or sent by a nationally recognized overnight courier service: (i) if to the Company, at 1750 Elm Street, Suite 103, Manchester, NH 03104, Attn.: President; and (ii) if to any holder of Registrable Securities, to such holder at such address as may have been furnished to the Company or its counsel in writing by such holder; or, in any case, at such other address or addresses as shall have been furnished, in writing to the Company or its counsel (in the case of a holder of Registrable Securities) or to the holders of Registrable Securities (in the case of the Company) in accordance with the provisions of this paragraph. Any notice or other communication or deliveries hereunder shall be deemed given and effective upon actual receipt by the party to whom such notice is required to be given.

(c) This Agreement shall be governed by and construed under the laws of the State of New York, without giving effect to principles of conflicts of laws. The Company and Investor (i) agree that any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted exclusively in in New York State Supreme Court, County of New York, or in the United States District Court for the Southern District of New York, (ii) waive any objection which the Company or Investor may have now or hereafter to the venue of any such suit, action or proceeding, and (iii) irrevocably consent to the jurisdiction of any such federal or state court in any such suit, action or proceeding. The Company and Investor further agree to accept and acknowledge service of any and all process which may be served in any such suit, action or proceeding and agree that service of process upon the Company or Investor mailed by certified mail, return receipt requested, postage prepaid, to, in the case of the Company, the Company's address, and in the case of the Investor, to the Investor's address as set forth on the Company's books and records, shall be deemed in every respect effective service of process upon the Company, in any such suit, action or proceeding. THE PARTIES HERETO AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY DOCUMENT OR AGREEMENT CONTEMPLATED HEREBY.

(d) In the event of a breach by the Company or by the Investor, of any of their obligations under this Agreement, the Investor or the Company, as the case may be, in addition to being entitled to exercise all rights granted by law and under this Agreement, including recovery of damages, will be entitled to specific performance of its rights under this Agreement. The Company and the Investor agree that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall waive the defense that a remedy at law would be adequate.

(e) This Agreement may not be amended or modified without the written consent of the Company and the Investor.

(f) Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof. No waiver shall be effective unless and until it is in writing and signed by the party granting the waiver.

(g) This Agreement may be executed in two or more counterparts (including by facsimile or .pdf transmission) each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission of a copy of this Agreement bearing the signature of the party so delivering this Agreement.

(h) If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall attach only to such provision and shall not in any manner affect or render illegal, invalid or unenforceable any other provision of this Agreement, and this Agreement shall be carried out as if any such illegal, invalid or unenforceable provision were not contained herein.

(i) This Agreement constitutes the entire agreement among the Company and the Investor relative to the subject matter hereof and supersedes in its entirety any and all prior agreements, understandings and discussions with respect thereto.

(j) The headings of the sections of this Agreement are for convenience and shall not by themselves determine the interpretation of this Agreement.

[Signature Page Follows]

**Signature Page to the Registration Rights Agreement**

**Investor:**

The Investor set forth on Exhibit A to the Agreement has executed a Subscription Agreement with the Company which provides, among other things, that by executing the Subscription Agreement such Investor is deemed to have executed the REGISTRATION RIGHTS AGREEMENT in all respects and is bound by its terms.

**THE COMPANY:**

BOSTON THERAPEUTICS, INC.

By: \_\_\_\_\_

Name:

Title:

Dated: \_\_\_\_\_, 2013



Plan of Distribution

Each Selling Stockholder (the “**Selling Stockholders**”) of the securities and any of their pledgees, assignees and successors-in-interest may, from time to time, sell any or all of their securities covered hereby on the [principal Trading Market] or any other stock exchange, market or trading facility on which the securities are traded or in private transactions. These sales may be at fixed or negotiated prices. A Selling Stockholder may use any one or more of the following methods when selling securities:

- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the securities as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- settlement of short sales entered into after the effective date of the registration statement of which this prospectus is a part;
- in transactions through broker-dealers that agree with the Selling Stockholders to sell a specified number of such securities at a stipulated price per security;
- through the writing or settlement of options or other hedging transactions, whether through an options exchange or otherwise;
- a combination of any such methods of sale; or
- any other method permitted pursuant to applicable law.

The Selling Stockholders may also sell securities under Rule 144 under the Securities Act of 1933, as amended (the “**Securities Act**”), if available, rather than under this prospectus.

Broker-dealers engaged by the Selling Stockholders may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the Selling Stockholders (or, if any broker-dealer acts as agent for the purchaser of securities, from the purchaser) in amounts to be negotiated, but, except as set forth in a supplement to this Prospectus, in the case of an agency transaction not in excess of a customary brokerage commission in compliance with FINRA Rule 2440; and in the case of a principal transaction a markup or markdown in compliance with FINRA IM-2440.

In connection with the sale of the securities or interests therein, the Selling Stockholders may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the securities in the course of hedging the positions they assume. The Selling Stockholders may also sell securities short and deliver these securities to close out their short positions, or loan or pledge the securities to broker-dealers that in turn may sell these securities. The Selling Stockholders may also enter into option or other transactions with broker-dealers or other financial institutions or create one or more derivative securities which require the delivery to such broker-dealer or other financial institution of securities offered by this prospectus, which securities such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The Selling Stockholders and any broker-dealers or agents that are involved in selling the securities may be deemed to be “underwriters” within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the securities purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act. Each Selling Stockholder has informed the Company that it does not have any written or oral agreement or understanding, directly or indirectly, with any person to distribute the securities. In no event shall any broker-dealer receive fees, commissions and markups which, in the aggregate, would exceed eight percent (8%).

The Company is required to pay certain fees and expenses incurred by the Company incident to the registration of the securities. The Company has agreed to indemnify the Selling Stockholders against certain losses, claims, damages and liabilities, including liabilities under the Securities Act.

Because Selling Stockholders may be deemed to be “underwriters” within the meaning of the Securities Act, they will be subject to the prospectus delivery requirements of the Securities Act including Rule 172 thereunder. In addition, any securities covered by this prospectus which qualify for sale pursuant to Rule 144 under the Securities Act may be sold under Rule 144 rather than under this prospectus. The Selling Stockholders have advised us that there is no underwriter or coordinating broker acting in connection with the proposed sale of the resale securities by the Selling Stockholders.

We agreed to keep this prospectus effective until the earlier of (i) the date on which the securities may be resold by the Selling Stockholders without registration and without regard to any volume or manner-of-sale limitations by reason of Rule 144, without the requirement for the Company to be in compliance with the current public information under Rule 144 under the Securities Act or any other rule of similar effect or (ii) all of the securities have been sold pursuant to this prospectus or Rule 144 under the Securities Act or any other rule of similar effect. The resale securities will be sold only through registered or licensed brokers or dealers if required under applicable state securities laws. In addition, in certain states, the resale securities covered hereby may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

Under applicable rules and regulations under the Exchange Act, any person engaged in the distribution of the resale securities may not simultaneously engage in market making activities with respect to the common stock for the applicable restricted period, as defined in Regulation M, prior to the commencement of the distribution. In addition, the Selling Stockholders will be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, including Regulation M, which may limit the timing of purchases and sales of securities of the common stock by the Selling Stockholders or any other person. We will make copies of this prospectus available to the Selling Stockholders and have informed them of the need to deliver a copy of this prospectus to each purchaser at or prior to the time of the sale (including by compliance with Rule 172 under the Securities Act).

REGISTRATION RIGHTS AGREEMENT

EXHIBIT A

| Name of Purchaser | Units | Common Stock | Warrant Shares | Total Purchase<br>Price Amount |
|-------------------|-------|--------------|----------------|--------------------------------|
|                   |       |              | \$             |                                |



**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO RULE 13a-14**

I, David Platt, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Boston Therapeutics, 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; and
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 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.

Dated: November 13, 2013

By: /s/ David Platt  
David Platt  
Chief Executive Officer

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**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO RULE 13a-14**

I, David Platt, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Boston Therapeutics, 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; and
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 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.

Dated: November 13, 2013

By: /s/ David Platt  
David Platt  
Chief Financial Officer





CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of Boston Therapeutics, Inc. (the "Company") for the quarter ending September 30, 2013 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), David Platt, Chief Executive Officer of the Company, hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to his knowledge:

- (1) The report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: November 13, 2013

By: /s/ David Platt  
David Platt  
Chief Executive Officer



CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of Boston Therapeutics, Inc. (the "Company") for the quarter ending September 30, 2013 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), David Platt, Chief Financial Officer of the Company, hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to his knowledge:

- (1) The report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: November 13, 2013

By: /s/ David Platt  
David Platt  
Chief Financial Officer

