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

FORM 8-K

CURRENT REPORT

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

Date of Report (date of earliest event reported): **December 31, 2020**

Heat Biologics, Inc.

(Exact name of registrant as specified in charter)

Delaware
(State or other jurisdiction of incorporation)

001-35994	**26-2844103**
(Commission File Number)	*(IRS Employer Identification No.)*

627 Davis Drive, Suite 400
Morrisville, North Carolina 27560
(Address of principal executive offices and zip code)

(919) 240-7133
(Registrant's telephone number including area code)

N/A
(Former Name and Former Address, if Changed Since Last Report)

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

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12(b) under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.0002 par value per share	HTBX	The Nasdaq Stock Market (The Nasdaq Capital Market)

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

Emerging growth company ☐

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

Item 1.01. Entry into a Material Definitive Agreement

License Agreement Amendments

On December 31, 2020, Zolovax, Inc. ("Zolovax"), a wholly-owned subsidiary of Heat Biologics, Inc. (the "Company") entered into an Exclusive License Agreement (the "License Agreement") with the University of Miami ("UM") for the license and development of a portfolio of patents leveraging its UMIP-510 platform to target the COVID-19 virus and other infectious diseases. The License Agreement grants Zolovax exclusive, worldwide rights to research, develop, make, use or sell Licensed Products (as defined in the License Agreement) based upon patent-related rights. The term of the license is the later of the length of the last to expire patent or fifteen (15) years from the date of the first sale of a Licensed Product unless terminated earlier. As consideration for the rights granted in the License Agreement, Zolovax paid an upfront fee of $2,500, is obligated to pay certain annual payments and to pay royalties equal to a percentage (in the low-to-mid single digits) of net sales of Licensed Products. These royalty rates are subject to reduction if additional license rights from third parties are required to commercialize the Licensed Products. In the event of a sublicense to a third party, Zolovax is obligated to pay royalties to UM equal to a percentage of sublicense income. The License Agreement provides for diligence milestones that include Investigational New Drug ("IND") submission to the Food and Drug Administration ("FDA") or European Medicines Agency ("EMA") within twenty four months of the effective date of the License Agreement, dosing first patient in a Phase 1 clinical trial within nine months of approval of an IND, and making commercially reasonable efforts towards obtaining regulatory marketing approval for a Licensed Product form either the FDA or EMA. The License Agreement also provides for commercial milestone payments of up to an aggregate of $7,750,000 upon the achievement of $10,00,000, $100,000,000 and $500,000,000 of cumulative net sales of License Products. The License Agreement provides that Zolovax may terminate the License Agreement upon ninety days' notice to UM, UM has the right to terminate the License Agreement if Zolovax has engaged in certain bankruptcy events and each party has the right to terminate the License Agreement if the other party commits a material breach of the terms of the License Agreement, and such breach remains uncured for thirty days.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Effective January 4, 2021, William Ostrander, was promoted to Chief Financial Officer. Mr. Ostrander, age 53 joined the Company in September 2019 as the Company's Vice President of Finance and Secretary in September 2019. Mr. Ostrander has over 22 years of experience in financial management at public and private companies. From November 2014 until joining the Company, Mr. Ostrander served as Executive Director of Finance at Liquidia Technologies, a publicly-traded biopharmaceutical company. Prior to that, he served as Senior Director of Finance and Accounting at KBI Biopharma, a biopharmaceutical contract services company. He also served as Manager of Finance at LexisNexis Risk Solutions, a data analytics solutions company. Prior to that, he served as Controller of Seisint Inc., a private information products company that was acquired by LexisNexis. He also served as Senior Manager, Finance and held other accounting and finance positions for Boca Research, a data communications hardware manufacturer. Mr. Ostrander holds a B.S. in Finance from Central Michigan University.

In connection with Mr. Ostrander's new role as the Company's Chief Financial Officer, effective January 4, 2021, the Company entered into an amendment (the "Ostrander Amendment") to the Offer Letter, dated September 23, 2019, as amended on January 1, 2020. Pursuant to the Ostrander Amendment, Mr. Ostrander's base salary has been increased to $275,000 (the "Base Salary") and his bonus target has been increased to 30% of his Base Salary. In addition to a cash bonus equal to his target bonus paid at year end, on January 4, 2021, based upon the recommendations and guidance of the independent third party compensation consultant retained by the Compensation Committee, Mr. Ostrander was awarded a ten-year option to purchase 51,487 share of common stock (the closing price of the Company's common stock on the Nasdaq Capital Market on the date of the grant), at an exercise price of $5.67, of which one third vests immediately, one third vests on the one year anniversary of the date of grant and one third vests on the two year anniversary of the date of grant.

On January 4, 2021, we entered into a new employment agreement with Jeffrey Wolf (the "Wolf Agreement") to continue to serve as our Chief Executive Office and President, which agreement replaces the employment agreement that we had entered into with Mr. Wolf on December 18, 2009, as amended on November 22, 2011, and further amended on each of January 20, 2014, January 11, 2016, January 1, 2017 and January 2, 2020.Purusnat to the terms of the Wolf Agreement, Mr. Wolf will receive an annual base salary of $540,000 per year. He also may receive, at the sole discretion of the board, an additional cash performance-based bonuses equal to up to 50% of his then outstanding base salary at the end of each year and a discretionary equity award, with the actual amount of his bonus to be increased in the sole discretion of the Board of Directors. In addition, he is to receive (i) an incentive cash bonus in an amount equal to 2% of the Transaction Consideration (as defined in the agreement) paid in connection with the consummation of a Change in Control (as defined in the agreement), provided that such Change in Control results in the stockholders of the Company receiving (or being entitled to receive, whether upon the consummation of the Change in Control or at a future date) transaction consideration worth at least 125% of the average closing trading price of the Company's common stock during the 20 trading-day period immediately preceding the consummation of the Change in Control and (ii) an equity bonus in the form of additional stock options or restricted stock units or shares of restricted stock equal to 2% of the total fully-diluted equity of the Company if the market capitalization of the Company is equal to or exceeds a valuation of $500 million or more for fifteen (15) business days or longer. In addition, subject to certain condition, Mr. Wolf may also be entitled to receive equity in newly formed subsidiaries of the Company. If the Wolf Agreement is terminated for death or disability (as defined in the Wolf Agreement), he (or his estate in the event of death) will receive any unpaid base salary through the date of death or disability, any unpaid target bonus earned through date of termination and he shall be entitled to exercise any vested awards for the shorter of 24 months after termination and the remaining term of the award. If Mr. Wolf's employment is terminated by us other than for Cause (as defined in the agreement) or by him for Good Reason (as defined in the Wolf Agreement), he will receive a payment of an amount equal to one (1) times his annual base salary plus his annual target bonus amount for the year of termination assuming payment in full of the annual target bonus, accelerated vesting of all unvested equity awards, extension of the time period in which to exercise awards equal to the lesser of 24 months after termination or the remaining term of the award and payment of COBRA premiums for the earlier or twelve months, the date he becomes eligible for other group benefits or his rights to COBRA expire. In addition, in the event the Company terminates Mr. Wolf's employment upon or at any time in connection with a Change of Control Transaction (as defined in the Wolf Agreement), Mr. Wolf is entitled to a lump sum cash payment equal to 24 months of his current base pay, a cash payment equal to a pro-rated amount of his target annual target bonus for the year preceding termination, payment in full for COBRA for 12 months following termination and immediate vesting of the unvested portion of any outstanding equity awards and a period to exercise the awards equal to the lesser of 12 months after termination or the remaining term of the award. If within one year after the occurrence of a Change in Control, the Executive terminates his employment for Good Reason or the Company terminates his employment for any reason other than death, disability of cause Mr. Wolf is entitled to a lump sum cash payment equal to 24 months of his current base pay, a cash payment equal to his full target annual target bonus, payment in full for COBRA for 12 months following termination and immediate vesting of the unvested portion of any outstanding equity awards and a period to exercise the awards equal to the lesser of 24 months after termination or the remaining term of the award. Under the Wolf Agreement, Mr. Wolf has also agreed to non-competition provisions.

In addition to a cash bonus paid at year end, on January 4, 2021, based upon the recommendations and guidance of the independent third party compensation consultant retained by the Compensation Committee, Mr. Wolf was awarded a ten year option to purchase 147,980 shares of common stock, at an exercise price of $5.67 (the closing price of the Company's common stock on the Nasdaq Capital Market on the date of the grant) all of which vests on the two year anniversary of the date of grant and 228,100 shares of restricted stock, of which half vests immediately and the remaining half vests on the one year anniversary of the date of grant.

On January 4, 2021, based upon the recommendations and guidance of the independent third party compensation consultant retained by the Compensation Committee, the Board also awarded the following equity compensation to the non-executive members of the Board and its Committees: John K.A. Prendergast, Ph.D., the lead independent director, was awarded 138,272 shares of restricted common stock (including a one-time equity refresher of 105,820 shares of restricted common stock); John Monahan, Ph.D., was awarded an option to purchase 65,217 shares of common stock (including a one-time equity refresher of an option to purchase 45,766 shares of common stock), and Edward B. Smith, III was awarded an option to purchase 65,217 shares of common stock (including a one-time equity refresher of an option to purchase 45,766 shares of common stock). Each option is exercisable for a period of ten years from the date of grant, vests immediately and has an exercise price of $5.67 per share (the closing price of the Company's common stock on the Nasdaq Capital Market on the date of the grant). The annual cash compensation for directors for 2021 is to remain the same as it was for the prior year as disclosed in the Company's 2020 proxy statement other than the annual cash retainer that was increased by $5,000 per non-executive director year to $40,000 per non-executive director per year.

On December 31, 2020, the Company entered into a Separation Agreement with Jeff T. Hutchins, Ph.D., the Company's former Chief Scientific and Operating Officer (the "Hutchins Separation Agreement") which provides for a payment to Dr. Hutchins of $110,000. The separation agreement contains non-disparagement obligations, non-solicitation and a standard release of claims on the part of Dr. Hutchins.

The foregoing summaries of each of the License Agreement, the Ostrander Amendment, the Wolf Agreement, the form of Restricted Stock Agreement and the Hutchins Separation Agreement, does not purport to be complete and each is qualified in its entirety by reference to the License Agreement, the Ostrander Amendment, the Wolf Agreement and the Hutchins Separation Agreement, a copy of each of which is filed as Exhibit 10.1, 10.2, 10.3, 10.4 and 10.5 to this Current Report on Form 8-K.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

The following exhibits are filed with this Current Report on Form 8-K.

Exhibit Number	Exhibit Description
10.1+	Exclusive License Agreement between the University of Miami and Zolovax, Inc. dated as of December 31, 2020.
10.2	Amendment to Offer Letter between Heat Biologics, Inc. and William Ostrander, dated as of January 4, 2021.
10.3	Employment Agreement between Heat Biologics, Inc. and Jeffrey Wolf, dated as of January 4, 2021.
10.4	Form of Restricted Stock Agreement
10.5	Separation Agreement dated December 31, 2020 between Heat Biologics, Inc. And Jeff Hutchins.

+ Certain portions of this exhibit (indicated by "[***]") have been omitted pursuant to confidential treatment.

SIGNATURES

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

Dated: January 6, 2021

HEAT BIOLOGICS, INC.

By: /s/ Jeffrey Wolf
Name: Jeffrey Wolf
Title: Chairman, President and Chief Executive Officer

CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY [***], HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) WOULD LIKELY CAUSE COMPETITIVE HARM IF PUBLICLY DISCLOSED.

UNIVERSITY OF MIAMI

EXCLUSIVE LICENSE AGREEMENT

This Exclusive License Agreement (this "Agreement") is entered into and made effective as of the last dated signature below (the "Effective Date") between University of Miami, a Florida not-for-profit corporation, having business offices at 1951 NW 7th Avenue, Suite 300, Miami, Florida 33136 ("UNIVERSITY") and Zolovax, Inc., a Delaware corporation and subsidiary of Heat Biologics Inc., having business offices at 627 Davis Drive, Suite 400, Morrisville, North Carolina 27560 ("LICENSEE"). For purposes of this Agreement, each of UNIVERSITY and LICENSEE may be individually referred to as a "Party" and collectively referred to as the "Parties."

BACKGROUND

UNIVERSITY has been assigned and is a co-owner with LICENSEE of the rights and title to certain inventions as described in patent applications and the UNIVERSITY invention disclosure document in Appendix A. UNIVERSITY wants to have the invention perfected and marketed as soon as possible so that resulting products may be available for public use and benefit. LICENSEE wants to acquire an exclusive license for the Patent Rights to exploit Licensed Products the invention(s) disclosed or claimed in the Patent Rights, in the Territory and in the Field of Use as set forth and defined below.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

AGREEMENT

1. DEFINITIONS

1.1 "Affiliate" shall mean any corporation or other business entity controlled by, controlling or under common control with UNIVERSITY or LICENSEE. For this purpose, "control" shall mean direct or indirect beneficial ownership of at least a fifty percent (50%) of the equity interests of, or at least a fifty percent (50%) interest in the income of such corporation or other business entity, or any business entity that is more than fifty percent (50%) owned by a business entity that owns more than fifty percent (50%) of LICENSEE, or such other relationship as in fact, constitutes actual control.

1.2 "Field of Use" shall mean all fields.

1.3 "Licensed Product" shall mean any product or process, or portion thereof, made, developed, used, or sold by LICENSEE, Affiliate, or Sublicensee of LICENSEE that:

(a) is covered by (1) an issued, unexpired claim contained in the Patent Rights that has not been revoked or held unenforceable or invalid by a decision of a court or governmental authority of competent jurisdiction from which no appeal can be taken, or with respect to which an appeal is not taken within the time allowed for appeal, and that has not been disclaimed or admitted to be invalid or unenforceable through reissue, disclaimer or otherwise, or (2) a pending claim contained in the Patent Rights that has not been abandoned, disclaimed, allowed to lapse or finally determined to be unallowable by the applicable government authority in a decision from which no appeal can be taken or from which no appeal is taken within the time allowed for

appeal in the country in which any such product is made, used, or sold, or which pending claim has not been pending for more than seven (7) years, as calculated from the filing of a non-provisional national application for prosecution. For clarity, the pendency of a provisional or Patent Cooperation Treaty application shall not count towards the pendency time and the filing of a divisional and/or continuation shall not restart the pendency calculation. If a claim that has been pending for more than seven years subsequently grants, it shall be treated as an issued, unexpired claim, as outlined in Section 1.3(a)(1);

(b) is manufactured by using a process that is covered by (1) an issued, unexpired claim contained in the Patent Rights that has not been revoked or held unenforceable or invalid by a decision of a court or governmental authority of competent jurisdiction from which no appeal can be taken, or with respect to which an appeal is not taken within the time allowed for appeal, and that has not been disclaimed or admitted to be invalid or unenforceable through reissue, disclaimer or otherwise, or (2) a pending claim contained in the Patent Rights that has not been abandoned, disclaimed, allowed to lapse or finally determined to be unallowable by the applicable government authority in a decision from which no appeal can be taken or from which no appeal is taken within the time allowed for appeal in the country in which any such product is made, used or sold; or which pending claim has not been pending for more than seven (7) years, as calculated from the filing of a non-provisional national application for prosecution. For clarity, the pendency of a provisional or Patent Cooperation Treaty application shall not count towards the pendency time and the filing of a divisional and/or continuation shall not restart the pendency calculation. If a claim that has been pending for more than seven years subsequently grants, it shall be treated as an issued, unexpired claim, as outlined in Section 1.3(b)(1); or

(c) employs Technology.

1.4 "Net Sales" shall be calculated as set forth in this section, and shall mean gross amounts invoiced by LICENSEE, or its Affiliates or Sublicensees, on commercial sales of Licensed Products, thereof to third parties (excluding Sublicensees or Affiliates), less deductions for the following, determined in accordance with generally accepted accounting principles, consistently and strictly applied:

(a) sales and excise taxes, value added taxes, and duties which fall due and are paid by the purchaser as a direct consequence of such sales and any other governmental charges imposed upon the importation, use or sale of Licensed Products, but only to the extent that such taxes and duties are actually included and itemized in the gross sales amounts invoiced to and specifically paid by the purchaser over and above the price of the Licensed Products;

(b) trade, quantity and cash discounts actually allowed and taken;

(c) allowances or credits to customers on account of shelf adjustments, failure to supply, rejection, withdrawal, recall or return of Licensed Products or on account of retroactive price reductions affecting Licensed Products, to the extent that such allowances or credits are actually allowed and taken;

(d) any charges for freight, postage, shipping or transportation or for shipping insurance;

(e) rebates and charge backs specifically related to Licensed Products on an actual credited or paid basis, including those granted to government agencies (such rebates and charge backs to be accrued as an estimate in the month in which the related

Licensed Products are sold by using generally accepted accounting principles) to the extent that such rebates and charge backs are actually allowed and taken.

1.5 "Non-Royalty Sublicensing Consideration" shall mean any and all consideration of any kind (e.g., cash or in-kind consideration) received by LICENSEE from a Sublicensee, including without limitation licensing fees and milestone payments, but excluding any consideration solely on account of:

(a) royalties on product sales (for clarity, royalties on product sales by Sublicensees will be treated as if LICENSEE made the sale of such product);

(b) investments in LICENSEE equity to the extent such equity is purchased for fair market value;

(c) direct research and development expenses incurred by LICENSEE and required to be incurred by LICENSEE under the sublicense;

(d) debt on arm's length terms; and

(e) reimbursement of out-of-pocket patent prosecution for the Patent Rights.

1.6 "Patent Rights" shall mean UNIVERSITY's share of:

(a) the patents and patent applications specifically set forth in Appendix A and any United States patents that issue therefrom or on inventions originally disclosed therein (including any and all divisionals, continuations, and continuations-in-part solely to the extent that all of the claims of any such continuations-in-part are wholly supported by the patents, patent applications and/or invention disclosures set forth in Appendix A) together with post-grant proceedings, re-examinations or reissue of such United States patents, and any extensions of or supplementary protection certificates referencing any of the foregoing; and

(b) any foreign (non-United States) patents and patent applications claiming priority to any patents or patent applications specifically set forth in Appendix A and any patents issuing therefrom or on inventions originally disclosed therein (including any and all divisionals, continuations, and continuations-in-part solely to the extent that all of the claims of any such continuations-in-part are wholly supported by the patents, patent applications, or invention disclosures set forth in Appendix A) together with any oppositions, re-examinations or reissues of such foreign patents, and any extensions of or supplementary protection certificates referencing any of the foregoing.

1.7 "Sublicensee(s)" shall mean any third party to whom LICENSEE has granted a license to make, have made, use, import, sell, or have sold Licensed Products under the Patent Rights or the Technology (a "Sublicense").

1.8 "Technology" shall mean all proprietary information and data directly related to the claims of the patent applications listed in Appendix A that is known by [***] in the course of her employment with UNIVERSITY on or before the Effective Date, as evidenced by contemporaneous written documents, reasonably necessary to practice, use, or otherwise derive the benefits of the Patent Rights, but not disclosed, claimed, or covered in the Patent Rights, including but not limited to information, data, techniques, know-how, biological materials, methods, protocols, and the like, to the extent they exist or have been developed on or before the Effective Date; provided, however, that Technology shall not include the Confidential Information of LICENSEE. Furthermore, "Technology" shall also include any information contained in the Patent Rights in the

event that no patent claims are granted or if a patent claim(s) is/are pending for longer than seven (7) years, subject to the provisions of Section 1.3(a) and Section 1.3(b).

1.9 "Territory" shall mean the world.

2. GRANT

2.1 LICENSE GRANTS.

(a) UNIVERSITY hereby grants to LICENSEE, and LICENSEE hereby accepts, an exclusive license in the Territory for the Field of Use, under the Patent Rights to research, develop, make, have made, use, sell, or import the Licensed Products described or claimed in the Patent Rights.

(b) UNIVERSITY hereby grants to LICENSEE, and LICENSEE hereby accepts, an exclusive, worldwide license in the Field of Use under the Technology to research, develop, make, have made, use, sell, or import Licensed Products.

(c) Any transfer of the right and license granted under Section 2.1 (a) or Section 2.1 (b) by LICENSEE to any corporation or business entity controlling the LICENSEE is prohibited unless a prior written consent from the UNIVERSITY is obtained, provided that such consent shall not be unreasonably withheld.

(d) UNIVERSITY disclaims any grant of rights, implied or otherwise, that are not expressly stated herein.

2.2 RETAINED RIGHTS.

(a) UNIVERSITY retains on behalf of itself, a non-exclusive, royalty-free, perpetual, irrevocable, worldwide right to practice, make, and use Patent Rights or Technology for any non-profit purposes, including educational, and research purposes, including sponsored research and collaborations between UNIVERSITY and commercial entities. Should another non-profit, academic, or research institution request a non-commercial license for Patent Rights or Technology, and should UNIVERSITY have a desire to provide such, UNIVERSITY shall allow LICENSEE to comment on the terms of which to provide such license, such terms to be limited to the retained rights of UNIVERITY, and UNIVERSITY shall not provide any Confidential Information of LICENSEE to any such non-profit, academic, or research institution.

(b) UNIVERSITY retains the right to publish any information obtained in UNIVERSITY's use of Patent Rights or Technology; however, no fewer than thirty (30) days prior to UNIVERSITY submitting any publication incorporating Patent Rights or Technology, UNIVERSITY shall provide LICENSEE with a substantially complete version of the proposed publication. If LICENSEE has any comments or objections to the proposed publication, LICENSEE shall submit such notice to UNIVERSITY no later than thirty (30) days after receiving the proposed publication from UNIVERSITY. UNIVERSITY and LICENSEE shall discuss in good faith to resolve any objections to the proposed publication; provided, however, that under no circumstances shall UNIVERSITY include in any publication any LICENSEE Confidential Information. Upon LICENSEE's request, UNIVERSITY shall delay such publication or presentation for a period, not to exceed sixty (60) days, to allow for filing of intellectual property protection. If UNIVERSITY does not receive any notice from LICENSEE within fifteen (15) days of submitting the proposed publication to LICENSEE, LICENSEE will be deemed to have no objection to the submission of the proposed publication.

(c) The publication or presentation of Patent Rights or Technology by UNIVERSITY or its employees in research journals, conferences, or the like shall not be considered to be the granting of additional licenses to develop and commercialize the Patent Rights or Technology.

2.3 SUBLICENSING.

(a) Subject to the terms and conditions of this Section and otherwise as set forth in the Agreement, LICENSEE may grant or allow Sublicenses through multiple tiers, provided that 1) any such Sublicense shall be an arm's length transaction to an entity not under the control of LICENSEE, or any of its directors or controllers, and 2) LICENSEE has requested and obtained the prior written approval of UNIVERSITY, which approval shall not be unreasonably withheld. Each Sublicensee shall agree in writing with LICENSEE to accept the conditions and restrictions agreed to by LICENSEE in this Agreement. Sublicenses with any exclusivity must include diligence requirements commensurate with the diligence requirements under this Agreement. Any Sublicense shall state that it is subject to the termination of this Agreement. LICENSEE shall have the same responsibility for the activities of any Sublicensee as if the activities were directly those of LICENSEE.

(b) For clarity, royalties on Net Sales negotiated and agreed upon under this Agreement are "pass-through" by nature. An earned royalty is calculated as a percentage of Net Sales of Licensed Products of LICENSEE or Sublicensees.

(c) LICENSEE will pay to UNIVERSITY twenty percent (20%) of all Non-Royalty Sublicensing Consideration.

(d) LICENSEE shall provide UNIVERSITY with a copy of each Sublicense and any other agreement that transfers intellectual property rights granted hereunder to a third party (other than routine research and development agreements, such as agreements with contract research organizations), within five (5) days following the execution of the Sublicense or such other agreement.

(e) Notwithstanding the Sublicensee's payment obligations to LICENSEE, LICENSEE shall be directly responsible for all royalties and payments due pursuant to this Agreement.

3. ROYALTIES AND OTHER CONSIDERATION

3.1 CONSIDERATION. In consideration of the license herein granted, LICENSEE shall pay fees and royalties to UNIVERSITY as follows:

(a) License issue fee of two thousand five hundred dollars ($2,500) is due to UNIVERSITY within thirty (30) days of the Effective Date.

(b) Running royalty on the annual Net Sales of Licensed Products shall be payable on a country-by-country basis according to the following table:

	Running royalty due to UNIVERSITY
For Net Sales of Licensed Products subject to Section 1.3(a) or Section 1.3(b)	[***]
For Net Sales of Licensed Products subject to Section 1.3(c)	[***]

If, during the development of a Licensed Product, LICENSEE discovers that it is reasonably necessary to obtain a license to intellectual property rights from a third party in order to commercialize such Licensed Product, then LICENSEE may reduce the running royalty due to UNIVERSITY provided:

(i) LICENSEE notifies UNIVERSITY of the necessity to obtain such third party license(s);

(ii) the reduction in royalties due to UNIVERSITY shall be reduced by only the amount of royalties due to third parties on Net Sales, but in no circumstance shall the running royalty due by LICENSEE to UNIVERSITY drop below [***]of Net Sales when Licensed Products are subject to pending or granted Patent Rights and [***]; and

(iii)any reductions in the running royalty shall be determined on a Licensed Product-by-Licensed Product basis.

(c) Further, if a Licensed Product is sold or provided as part of a system, package, or combination product or service that involve one or more products or services not covered by the Patent Rights or Technology (each, a "Combination Product"), Net Sales shall be calculated by multiplying the Net Sales of such Combination Product by the fraction A/(A+B), where "A" is the average unit selling price during the period in which Net Sales are being calculated for the Licensed Product included in such Combination Product when sold separately from any other products or services not covered by the Patent Rights or Technology, and "B" is the total average unit selling price of the Combination Product during the same period. In the event that no market price is available for the Licensed Product included in such Combination Product when supplied or priced separately, UNIVERSITY and LICENSEE shall use best efforts to determine in good faith the fair market value thereof and if they cannot determine the fair market value thereof within ten (10) days of either parties request of a determination they shall select a third party mutually acceptable to make such determination.

(d) On the anniversary date of the Effective Date, LICENSEE must pay UNIVERSITY a minimum annual fee according to the following schedule, which shall be creditable against any royalty payments due pursuant to Section 3.1(b) for that year:

(i) For each year prior to the first sale of LICENSED PRODUCT..... [***]

(ii) For the year in which LICENSED PRODUCT was first offered for sale and every subsequent year until expiration/termination ……..[***]

3.2 CURRENCY. All payments hereunder shall be made in United States dollars. Royalties due on foreign Net Sales shall be computed by converting the royalty in the currency of the country in which the sales were made at the exchange rate for United States dollars prevailing at the close of the business day of the LICENSEE's year for which royalties are being calculated as published the following day in *The Wall Street Journal.*

3.3 PAYMENT TERMS. All payments due hereunder are payable by check or wire transfer to the address listed in Section 18 or using the wiring instructions provided by UNIVERSITY, and shall be deemed received when the complete payment is credited to UNIVERSITY's bank account. Until all funds are received by UNIVERSITY, the payment by LICENSEE is not considered to be complete. No transfer, exchange, collection, or other charges shall be deducted from such payments.

3.4 TAXES. In the event that any taxes, withholding or otherwise, are levied by any taxing authority in connection with accrual or payment of any royalties payable to UNIVERSITY under this Agreement, LICENSEE shall be solely responsible to pay such taxes to the local tax authorities on behalf of UNIVERSITY, as a nonprofit, tax-exempt organization as defined in Section 501(c)(3) of the Internal Revenue Code. Should LICENSEE be required under any law or regulation, of any government entity or authority, to withhold or deduct any portion of the payments due to UNIVERSITY, then the sum payable to UNIVERSITY shall be increased by the amount necessary to yield to UNIVERSITY an amount equal to the sum it would have received had no withholdings or deductions been made. UNIVERSITY shall cooperate reasonably with LICENSEE in the event LICENSEE elects to assert, at its own expense, any exemption from any such tax or deduction.

4.

COMMERCIAL DILIGENCE AND MILESTONES

4.1 DILIGENCE. LICENSEE shall use commercially-reasonable efforts to develop, manufacture, market, and sell Licensed Products in the Territory. LICENSEE agrees to and warrants that:

(a) it has, or will obtain, the expertise necessary to independently evaluate the inventions of the licensed Patent Rights and Technology; and

(b) it will establish and actively and diligently pursue the development plan as described in Appendix C.

4.2 REPORTS. LICENSEE agrees to submit the following:

(a) Annual development reports that summarize LICENSEE's efforts to develop Licensed Products and markets for Licensed Products. Such reports shall be in a format substantially similar to Appendix D and include reasonable assurances by LICENSEE of its intent to actively develop commercial embodiments of the Patent Rights or Technology. In such annual reports, LICENSEE shall specifically describe

how any Licensed Product is related to the Patent Rights and inform UNIVERSITY if LICENSEE intends or commences clinical trials at UNIVERSITY. Furthermore, the report shall include information sufficient to enable UNIVERSITY to ascertain progress by LICENSEE toward meeting the diligence milestones in this Section 4; and

(b) Annual royalty summary reports, including sales by Sublicensees or Affiliates, to UNIVERSITY in a format substantially similar to Appendix E.

For a period of three (3) years from the date of each report pursuant to this Section 4.2(b), LICENSEE shall keep records adequate to verify each such report and licensing payment made to UNIVERSITY under this Agreement. An independent Certified Public Accountant or Accounting Firm selected by UNIVERSITY and acceptable to LICENSEE ("Accountant") may have access, on reasonable notice during regular business hours, not to exceed twice per year, to such records to verify such reports and payments. LICENSEE's acceptance of UNIVERSITY's selection of said Accountant shall not be unreasonably withheld. Such Accountant shall not disclose to UNIVERSITY any information other than that information relating solely to the accuracy of, or necessity for, the reports and payments made hereunder. The fees and expense of the Accountant performing such verification shall be borne by UNIVERSITY, unless the audit reveals an underpayment of royalty by more than five (5%) percent, in which case the costs associated with the audit shall be paid by LICENSEE.

4.3 DILIGENCE MILESTONES. LICENSEE, at its sole expense, shall make commercially-reasonable efforts to accomplish the following:

(a) Within twenty four (24) months from the Effective Date, submit a complete Investigational New Drug application (or equivalent) to the United States Food and Drug Administration ("FDA") or European Medicines Agency ("EMA") for a Licensed Product;

(b) Within nine (9) months of approval of the Investigational New Drug application (or equivalent) in Section 4.3(a), administer the first dose of a Licensed Product to a patient in a clinical trial; and

(c) After approval of an Investigational New Drug application (or equivalent), LICENSEE shall make commercially-reasonable efforts towards obtaining regulatory marketing approval for a Licensed Product from either the FDA or EMA.

If the FDA or other regulatory agency determines that a certain milestone is not necessary for continued development or marketing of a Licensed Product, it shall be treated as if the milestone was met for the purposes of this Agreement.

4.4 COMMERCIAL MILESTONES. The Parties agree to the following milestones and payments. For the avoidance of doubt, if the same milestones are achieved by a Sublicensee, LICENSEE shall pay UNIVERSITY the amount due pursuant to Section 2.4 in addition to the payments listed below. The following milestone payments shall not be creditable towards any other monies UNIVERSITY is due from LICENSEE:

(a) Upon the achievement of $10,000,000 in cumulative Net Sales of Licensed Products, LICENSEE shall pay UNIVERSITY an additional one-time amount of [***];

(b) Upon the achievement of $100,000,000 in cumulative Net Sales of Licensed Products, LICENSEE shall pay UNIVERSITY an additional one-time amount of [***]; and

(c) Upon the achievement of $500,000,000 in cumulative Net Sales of Licensed Products, LICENSEE shall pay UNIVERSITY an additional one-time amount of [***].

5. TERM

5.1 Unless this Agreement is terminated earlier in accordance with Section 13.1, the term of this Agreement shall commence on the Effective Date and remain in effect until the later of:

(a) the date on which all issued patents and filed patent applications within the Patent Rights have expired or been abandoned and no royalties are due pursuant to Section 3; or

(b) fifteen (15) years from the date of the first sale of a Licensed Product.

6. COMPLIANCE WITH LAWS

6.1 COMPLIANCE WITH APPLICABLE LAWS. LICENSEE shall at all times during the term of this Agreement, and for so long as it shall use the Patent Rights or Technology, comply with all laws that may control the import, export, manufacture, use, or other commercial exploitation of the Patent Rights or Technology, or any other activity undertaken pursuant to this Agreement.

6.2 EXPORT CONTROL REGULATIONS. It is understood that UNIVERSITY and LICENSEE are subject to United States laws and regulations controlling the export of technical data, computer software, laboratory prototypes, and other commodities (including the Arms Export Control Act, as amended and the Export Administration Act of 1979), and that their obligations hereunder are contingent on compliance with applicable United States export laws and regulations. The transfer of certain technical data and commodities may require a license from the cognizant agency of the Government or written assurances by LICENSEE that LICENSEE shall not export data or commodities to certain foreign countries without prior approval of such agency. UNIVERSITY neither represents that a license shall or shall not be required, nor that if required that it shall be issued. LICENSEE represents and warrants that it will comply with, and will cause its Sublicensees and Affiliates to comply with, all United States export control laws, rules, and regulations. LICENSEE is solely responsible for any violation of such laws and regulations by itself or its Affiliates or Sublicensees, and it will indemnify, defend, and hold UNIVERSITY harmless for the consequences of any such violation.

7. PATENT PROTECTION

7.1 LICENSEE shall pay for one hundred percent (100%) of the costs of patent preparation, prosecution, and maintenance after the Effective Date, including all interferences, reissues, re-examinations, oppositions, or requests for patent term extensions. LICENSEE shall reimburse UNIVERSITY for one hundred percent (100%) of third party expenses incurred by and paid for by UNIVERSITY in seeking and securing the Patent Rights prior to the Effective Date, according to the schedule set forth in Appendix B.

Subject to UNIVERSITY's authority and during the term of this Agreement, LICENSEE is responsible for the prosecution, maintenance, and enforcement of the Patent Rights in UNIVERSITY's name and for UNIVERSITY's benefit, whereby LICENSEE: i) shall keep UNIVERSITY informed in writing of all material actions taken in this regard to permit UNIVERSITY an opportunity to review and comment thereon; (ii) shall consider in good faith, take into account, and implement the reasonable comments made by

UNIVERSITY; (iii) shall not add inventors who do not have an obligation to assign their ownership interest to UNIVERSITY to any patent or patent application among the Patent Rights without the permission of UNIVERSITY; (iv) shall not abandon prosecution of any pending patent applications or fail to maintain issued patents without providing UNIVERSITY the opportunity to assume control of prosecution and maintenance of the Patent Rights as provided below; and (v) shall notify UNIVERSITY no less than forty-five (45) days, where reasonably practical, prior to any deadline for action set forth by the United States Patent and Trademark Office or its foreign counterparts (a "Patent Office"), and promptly if not reasonably practical. In the event LICENSEE desires to abandon prosecution or maintenance of any Patent Rights filed in a particular country, LICENSEE shall provide UNIVERSITY with no less than sixty (60) days written notice prior to the Patent Office deadline for action in which LICENSEE shall document: (i) the patent/patent application number; (ii) the patent/patent application title; (iii) the country in which such patent/patent applications is issued/pending. Unless otherwise agreed to by the Parties, upon UNIVERSITY's receipt of such written notice, any and all rights granted to LICENSEE by UNIVERSITY to said patent/patent application in said country shall promptly terminate. For clarity, upon such termination of rights under such patent/patent application, UNIVERSITY shall be free to license, sell, assign, dispose of, or take any other action with respect to the rights to said patent/patent application at its sole discretion, and with no obligation to LICENSEE. At LICENSEE's request and expense, UNIVERSITY shall provide to LICENSEE reasonable assistance in the prosecution, maintenance, and enforcement of the Patent Rights.

7.2 Upon written request of UNIVERSITY, LICENSEE shall apprise UNIVERSITY of the "small entity" status of LICENSEE and all Sublicensees and Affiliates with respect to the United States patent laws, and with respect to the patent laws of any other countries, if applicable, and to inform UNIVERSITY of any changes in such status, within thirty (30) days of any such change.

7.3 Upon learning of any infringement of Patent Rights by third parties in any country, LICENSEE and UNIVERSITY will promptly inform each other, as the case may be, in writing of that fact and will supply the other with any available evidence pertaining to the infringement. LICENSEE, at its own expense, shall have the first right to enforce any patent within the Patent Rights against any infringement or alleged infringement thereof, and shall at all times keep UNIVERSITY informed as to the status thereof. Before LICENSEE commences any action with respect to any infringement of the Patent Rights, LICENSEE shall confer with UNIVERSITY and take into consideration the views of UNIVERSITY with respect to such action. LICENSEE shall be entitled to retain all damages recovered in any such suit. If LICENSEE brings suit against an alleged infringer and UNIVERSITY is a necessary party to such suit, UNIVERSITY agrees to be named in such suit at LICENSEE's expense. In the event that UNIVERSITY and LICENSEE mutually agree to bring suit, costs and expenses shall be shared equally and any recovery in excess of expenses shall be shared equally. In any event, no settlement, consent, judgment or other voluntary final disposition of the suit that would materially or adversely affect the interests of the UNIVERSITY may be entered into without the consent of UNIVERSITY, such consent not to be unreasonably withheld or delayed. In the event LICENSEE does not take steps to stop the infringement within ninety (90) days after notice of same by either Party, UNIVERSITY shall have the right to take whatever steps it deems necessary to stop the infringement at its expense and recover damages therefore, and will be entitled to retain all damages so recovered. Each Party shall provide to the Party enforcing any Patent Rights reasonable assistance in such enforcement, at such enforcing Party's request and expense.

8. INDEMNIFICATION AND LIMITATION OF LIABILITY

8.1 INDEMNIFICATION.

(a) LICENSEE will defend, indemnify, and hold harmless the UNIVERSITY, its trustees, officers, faculty, employees, and students (the "UNIVERSITY Indemnitees") against any and all losses, expenses, claims, actions, lawsuits, or judgments thereon (including attorney's fees through the appellate levels) (collectively "Liabilities") that may be brought against UNIVERSITY Indemnities by third parties as a result of, or arising out of: (i) any negligent act or omission of LICENSEE, Sublicensee, or Affiliate, or of any agent or employee thereof; (ii) any breach of this Agreement; or (iii) the use, production, manufacture, sale, lease, consumption, or advertisement by LICENSEE, Sublicensee, or Affiliate, or of any agent or employee thereof, of any Licensed Product; provided however, LICENSEE shall not defend, indemnify, or hold harmless any UNIVERSITY Indemnitee from any Liabilities to the extent that such Liabilities are finally determined to have resulted from the willful negligent acts or omissions of such UNIVERSITY Indemnitee.

(b) LICENSEE will defend, indemnify, and hold harmless the UNIVERSITY Indemnities against any and all judgments or damages arising from any and all third party claims of infringement that may be asserted against UNIVERSITY Indemnities because of the manufacture, use, promotion, or sale of Licensed Products. LICENSEE will bear all costs and expenses incurred in connection with the defense of any such claims or as a result of any settlement made or judgment rendered on the basis of such claims. LICENSEE agrees to provide attorneys, which shall be approved by UNIVERSITY Indemnities at their sole and absolute discretion, to defend against any actions brought or filed against any UNIVERSITY Indemnitee hereunder with respect to the subject of indemnity contained herein, whether or not such actions are rightfully brought; provided however, that any UNIVERSITY Indemnitee shall have the right to retain its own counsel, at the reasonable expense of LICENSEE, if representation of such UNIVERSITY Indemnitee by counsel retained by LICENSEE would be inappropriate because of conflict of interests or otherwise. LICENSEE agrees to keep UNIVERSITY informed of the progress in the defense and disposition of such claim, and to consult with UNIVERSITY prior to any proposed settlement.

8.2 LIMITATION OF LIABILITY.

(a) UNIVERSITY shall have no liability to LICENSEE for any loss or damages LICENSEE may incur as a result of the invalidity of UNIVERSITY's Patent Rights.

(b) UNIVERSITY shall have no responsibility with respect to LICENSEE's own trademarks and trade name, and LICENSEE in respect to the use thereof will defend, indemnify, and hold harmless UNIVERSITY against any and all third party claims.

(c) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, UNIVERSITY SHALL NOT BE LIABLE FOR ANY SPECIAL, LOST PROFIT, EXPECTATION, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, OR OTHER INDIRECT DAMAGES IN CONNECTION WITH ANY CLAIM ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER GROUNDED IN TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, CONTRACT, OR OTHERWISE. UNIVERSITY'S TOTAL LIABILITY FOR ANY AND ALL CLAIMS OR ACTIONS ARISING FROM OR

RELATED TO THIS AGREEMENT WILL IN NO EVENT EXCEED THE TOTAL AMOUNT PAID BY LICENSEE TO UNIVERSITY.

8.3 DISCLAIMER OF WARRANTIES. UNIVERSITY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AND HEREBY DISCLAIMS ALL SUCH WARRANTIES, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION THE CONDITION OF ANY TECHNOLOGY, PATENT RIGHTS, LICENSED PRODUCT, WHETHER TANGIBLE OR INTANGIBLE, LICENSED UNDER THIS AGREEMENT; OR OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OF SUCH TECHNOLOGY, PATENT RIGHTS, LICENSED PRODUCT. UNIVERSITY PROVIDES LICENSEE THE RIGHTS GRANTED UNDER THIS AGREEMENT AS IS AND WITH ALL FAULTS, AND MAKES NO WARRANTY OR REPRESENTATION (i) REGARDING THE VALIDITY OR SCOPE OF THE TECHNOLOGY OR PATENT RIGHTS; (ii) THAT EXPLOITATION OF THE TECHNOLOGY OR PATENT RIGHTS WILL NOT INFRINGE ANY PATENTS OR OTHER INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; OR (iii) THAT ANY THIRD PARTY IS NOT CURRENTLY INFRINGING OR WILL NOT INFRINGE THE PATENT RIGHTS, EXCEPT THAT UNIVERSITY REPRESENTS AND WARRANTS THAT IT CO-OWNS THE PATENT RIGHTS, THAT IT HAS NOT LICENSED THE PATENT RIGHTS OR TECHNOLOGY TO ANY THIRD PARTY AND, TO THE BEST OF ITS KNOWLEDGE, IT IS UNAWARE OF ANY THIRD PARTY INFRINGEMENT.

8.4 SURVIVAL. The provisions of this Section 8 shall survive the expiration or termination of this Agreement for any reason.

9. MARKING AND STANDARDS

9.1 LICENSEE agrees to mark and have its Sublicensees and Affiliates mark, any and all Licensed Products (or their containers or labels) that are made, sold, or otherwise disposed of by LICENSEE, Sublicensees, or Affiliates under the license granted in this Agreement, in accordance with and to the extent required by the applicable patent marking statute; provided that LICENSEE does not need to mark Licensed Products (or their containers or labels) if such Licensed Products are used solely for LICENSEE's own internal research purposes or for validation studies on LICENSEE's behalf.

9.2 LICENSEE shall act in good faith to maintain satisfactory standards with respect to the nature of the Licensed Products manufactured or sold by LICENSEE. LICENSEE shall act in good faith to ensure that all Licensed Products manufactured or sold by it shall be of a quality that is appropriate to the respective industry standards. LICENSEE agrees that similar provisions shall be included by Affiliates and Sublicenses of all tiers.

10. ASSIGNMENT

10.1 PERMITTED ASSIGNMENT. LICENSEE may assign or delegate its rights or obligations under this Agreement only under the following circumstances:

(a) by providing UNIVERSITY with written notice of the proposed assignment, including the proposed assignee's contact information, at least thirty (30) days prior to the date of assignment, and obtaining UNIVERSITY's express written consent to the proposed assignment, which consent shall not be unreasonably withheld; or

(b) as part of a sale or change of control, regardless of whether such a sale or change of control occurs by operation of law or through an asset sale, stock sale, merger or other combination, or any other transfer of: (i) LICENSEE's entire business; or (ii)

that part of LICENSEE's business that exercises all rights granted under this Agreement.

10.2 UNAUTHORIZED ASSIGNMENT. Any attempt by LICENSEE to assign this Agreement that fails to comply with this Section 10 will be null and void.

10.3 SUCCESSORS AND ASSIGNS. This Agreement shall extend to and be binding upon the successors, legal representatives, and permitted assigns of UNIVERSITY and LICENSEE.

11. CONFIDENTIALITY.

11.1 CONFIDENTIAL INFORMATION. From time to time during the term of this Agreement, one Party may disclose or make available (the "Disclosing Party") to the other Party (the "Receiving Party") information about its business affairs, confidential intellectual property, trade secrets, know-how, copyrights, trademarks, designs, data, algorithms, code, patent applications and oral communications relating to the Technology and the Patent Rights, third party confidential information and other sensitive or proprietary information (collectively, "Confidential Information"). Confidential Information shall not include information that, at the time of disclosure and as established by documentary evidence:

(a) is or becomes generally available to and known by the public, other than as a result of, directly or indirectly, any breach of this Section 11 by the Receiving Party or any of its employees, agents, or representatives;

(b) is or becomes available to the Receiving Party on a non-confidential basis from a third party source, provided that such third party is not, and was not, prohibited from disclosing such Confidential Information;

(c) was known by or in the possession of the Receiving Party or its employees, agents, or representatives prior to being disclosed by or on behalf of the Disclosing Party; or

(d) was or is independently developed by the Receiving Party without reference to, or use of, in whole or in part, any of the Disclosing Party's Confidential Information.

11.2 RECEIVING PARTY OBLIGATIONS. The Receiving Party shall:

(a) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care;

(b) not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and

(c) not disclose any such Confidential Information to any person or entity, except to the Receiving Party's employees, agents or representatives who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under this Agreement and who are bound by obligations of confidentiality and restrictions that cover such Confidential Information that are at least as stringent as those set forth in this Agreement.

11.3 COURT OR GOVERNMENT ORDER. Notwithstanding anything in this Agreement to the contrary, Receiving Party may make disclosures of Confidential Information of the Disclosing Party to the extent required to be disclosed pursuant to applicable federal, state or local law or a valid order issued by a court or governmental agency of competent

jurisdiction; provided, that (a) the Receiving Party gives the Disclosing Party prompt written notice of such requirement prior to disclosure, (b) the Receiving Party reasonably cooperates with the Disclosing Party's efforts to limit the scope of the information to be provided or to obtain an order protecting the information from public disclosure, and (c) the Receiving Party discloses only that portion of the Confidential Information that is legally required to be disclosed.

11.4 RETURN OF CONFIDENTIAL INFORMATION. Upon expiration or termination of the Agreement, at the Disclosing Party's written request, the Receiving Party and its employees, agents and representatives shall promptly return to the Disclosing Party all copies, whether in written, electronic or other form or media, of the Disclosing Party's Confidential Information, or destroy all such copies and certify in writing to the Disclosing Party that such Confidential Information has been destroyed.

11.5 REMEDIES. The Receiving Party shall be responsible for any breach of this Section 11 caused by any of its employees, agents, or representatives. The Disclosing Party may seek equitable relief (including injunctive relief) against the Receiving Party to prevent the breach or threatened breach of this Section 11 and to secure its enforcement, in addition to all other remedies available at law.

11.6 SURVIVAL. The provisions of this Section 11 shall survive the expiration or termination of this Agreement for ten (10) years.

12. NOTICE. Any notice, payment, report, or other correspondence required or permitted to be given hereunder shall be mailed by certified mail or delivered by hand to the Party to whom such correspondence is required or permitted to be given hereunder. If mailed, any such notice shall be deemed to have been given when mailed as evidenced by the postmark at the point of mailing. If delivered by hand, any such correspondence shall be deemed to have been given when it is received by the Party to whom such correspondence is given, as evidenced by written and dated receipt of the receiving Party.

All correspondence to LICENSEE shall be addressed to:

Jeff Wolf
Chief Executive Officer
Zolovax, Inc.
627 Davis Drive, Suite 400
Morrisville, NC 27560

All correspondence to UNIVERSITY shall be addressed to:

FOR NOTICE and PAYMENT:

Director
Office of Technology Transfer
University of Miami
1951 NW 7th Avenue, Suite 300
Miami, FL 33136

WITH A COPY FOR NOTICE TO:

Office of the General Counsel
University of Miami
1320 South Dixie Highway, Suite 1250
Gables One Tower
Coral Gables, FL 33146

Either Party may change the address to which correspondence to it is to be addressed by notification as provided herein.

13. MISCELLANEOUS PROVISIONS

13.1

TERMINATION.

(a) LICENSEE shall have the right to terminate this Agreement upon ninety (90) days prior written notice to UNIVERSITY.

(b) UNIVERSITY and LICENSEE shall have the right to terminate this Agreement if the other Party commits a material breach of an obligation under this Agreement and fails to cure any such breach within thirty (30) days of receipt of written notice from the non-breaching Party. A material breach shall include, but not be limited to the following: (i) failure to deliver to UNIVERSITY any payment at the time such payment is due under this Agreement, (ii) failure to meet or achieve milestone schedule, (iii) failure to possess and maintain required insurance coverage, and (iv) delivery of a false report to UNIVERSITY. Such termination shall be effective upon further written notice to the breaching Party after failure by the breaching Party to cure.

(c) The license and rights granted in this Agreement have been granted on the basis of the special capability of LICENSEE to perform research and development work leading to the manufacture and marketing of the Licensed Products. Accordingly, LICENSEE covenants and agrees that in the event any proceedings under Title 11, United States Code, or any amendment thereto, be commenced by or against LICENSEE, and if against LICENSEE, said proceedings shall not be dismissed with prejudice before either an adjudication in bankruptcy or the confirmation of a composition, arrangement, or plan of reorganization, or in the event LICENSEE shall be adjudged insolvent or make an assignment for the benefit of its creditors, or if a writ of attachment or execution be levied upon the license hereby created and not be released or satisfied within ten (10) days thereafter, or if a receiver be appointed in any proceeding or action to which LICENSEE is a party with authority to exercise any of the rights or privileges granted hereunder and such receiver be so discharged within a period of forty-five (45) days after his appointment, any such event shall be deemed to constitute a breach of this Agreement by LICENSEE, and UNIVERSITY, at the election of UNIVERSITY, but not otherwise, ipso facto, and without notice or other action by UNIVERSITY, shall terminate this Agreement and all rights of LICENSEE hereunder and all rights of any and all entities claiming under LICENSEE.

(d) UNIVERSITY may terminate this Agreement immediately if LICENSEE or any of its Sublicensees or Affiliates, directly or indirectly, initiate or prosecute any lawsuit or any other civil or administrative proceeding, or the making of any claim or counterclaim, of any kind in any court, tribunal, agency, or governmental entity anywhere in the world challenging the validity or enforceability of the Patent Rights licensed to it under this Agreement by UNIVERSITY.

(e) Licensee hereby covenants: (a) not to challenge the validity, scope, or enforceability of or otherwise oppose any patent right or patent application included in the “Patent Rights”; (b) that it shall include in all of its sublicense agreements the obligation binding on the sub-licensee under such sublicense agreement not to challenge the validity, scope, or enforceability of or otherwise oppose any such Patent Rights; (c) that it shall include provisions in all sublicense agreements providing that, if the sub-

licensee challenges the validity, scope, or enforceability of or otherwise opposes any such Patent Rights, Licensee may terminate its sublicense agreement with such sub-licensee; and (d) if any such sub-licensee challenges the validity, scope, or enforceability of or otherwise opposes any such Patent Rights, Licensee shall terminate such sublicense agreement, and such sub-licensee shall no longer have any rights under any such Patent Rights. In the event that all or any portion of this Section is invalid, illegal, or unenforceable, then the Parties will use their best efforts to replace the invalid, illegal, or unenforceable provision(s) with valid, legal, and enforceable provision(s).

(f) LICENSEE agrees that breach of terms of this Agreement would immediately and irreparably damage UNIVERSITY in a way not capable of being fully compensated by monetary damages and accordingly, UNIVERSITY is entitled to seek injunctive relief in addition to such other relief to which it may be entitled at law or in equity.

(g) Upon termination of this Agreement for any reason, LICENSEE shall promptly pay to UNIVERSITY any amounts accrued under this Agreement as of the effective date of such termination. Any termination of this Agreement shall be without prejudice to UNIVERSITY's right to recover all amounts accruing to UNIVERSITY under this Agreement prior to such the effective date of termination and cancellation. **Except as otherwise provided, should this Agreement be terminated for any reason, LICENSEE shall have no rights, express or implied, under any of UNIVERSITY' S intellectual property rights that are the subject matter of this Agreement, including Technology, nor have the right to recover any royalties paid to UNIVERSITY hereunder.** Upon termination, LICENSEE shall have the right to dispose of Licensed Products then in their possession and to complete existing contracts for such Licensed Products, so long as contracts are completed within six (6) months from the date of termination, subject to the payment of royalties to UNIVERSITY as provided in Section 3 hereof. LICENSEE agrees to destroy progeny and derivatives thereof remaining in LICENSEE's possession after six (6) months from the date of termination. Failure to terminate on any basis shall not prejudice or impact the UNIVERSITY's rights and ability to subsequently terminate for the same or a related basis.

13.2 INSURANCE.

(a) Prior to the commencement of clinical trials, LICENSEE must maintain commercial general liability insurance in the amounts of not less than one million dollars ($1,000,000) per incident and $1,000,000 annual aggregate. After the commencement of the first clinical trial for the first Licensed Product, but prior to the first commercial sale of a Licensed Product, LICENSEE must maintain commercial general liability insurance of not less than one million dollars ($1,000,000) per incident, and clinical trials liability insurance of not less than three million dollars ($3,000,000). After the first commercial sale of a Licensed Product, LICENSEE must maintain commercial general liability insurance in the amounts of not less than three million dollars ($3,000,000) per incident and five million dollars ($5,000,000) annual aggregate. Immediately prior to the commencement of the first clinical trial for the first Licensed Product, UNIVERSITY, its employees and agents, will be named as additional insured. After the first commercial sale of a Licensed Product, LICENSEE shall maintain products liability/completed operations and clinical trials insurance coverage in the amount of ten million dollars ($10,000,000).

(b) LICENSEE shall not cancel such insurance without thirty (30) days prior notice to UNIVERSITY. Such cancellation shall be cause for termination.

(c) The terms of this Section 13.2 shall survive termination of this Agreement.

13.3 USE OF NAME. LICENSEE shall not, without the prior written consent and approval of UNIVERSITY, use any name, trade name, trademark, or other designation of UNIVERSITY, or any of its trustees, faculty, students, employees, or departments, or any adaptation thereof in any publication, including advertising, promotional, or sales literature, or any other activities or context.

13.4 GOVERNING LAW; VENUE AND DISPUTE RESOLUTION.

(a) This Agreement shall be considered as having been entered into in the State of Florida, United States of America, and shall be construed and interpreted in accordance with the laws of the State of Florida. In any action or proceeding arising out of or relating to this Agreement (an "Action"), each of the Parties hereby irrevocably submits to the jurisdiction of any federal or state court sitting in Miami-Dade County, Florida, and further agrees that any Action shall be heard and determined in such Florida federal court or in such state court. Each Party hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of any Action in Miami-Dade County, Florida.

(b) If a dispute arises between the Parties relating to the interpretation or performance of this Agreement or the grounds for the termination thereof, the Parties agree to hold a meeting, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute prior to pursuing other available remedies. If the dispute remains unresolved forty-five (45) days after the first meeting for the purpose of dispute resolution, then each Party shall have the right to pursue other remedies legally available to resolve the dispute.

13.5 CONSTRUCTION. The captions and section headings of this Agreement are solely for the convenience of reference and shall not affect its interpretation. Unless otherwise specified, terms in the singular shall include terms in the plural, and vice-versa. The term "or" is used in the inclusive sense and means "and/or" unless otherwise specified.

13.6 SEVERABILITY. Should any part or provision of this Agreement be held unenforceable or in conflict with the applicable laws or regulations of any jurisdiction, the invalid or unenforceable part or provision shall be replaced with a provision which accomplishes, to the extent possible, the original business purpose of such part or provision in valid and enforceable manner, and the remainder of this Agreement shall remain binding upon the Parties hereto.

13.7 COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

13.8 SURVIVAL.

(a) The provisions of Sections relating to Definitions, Indemnification and Limitation of Liability, Confidentiality, Notice, and Miscellaneous Provisions shall survive the termination or expiration of this Agreement. and shall remain in full force and effect upon termination or expiration of this Agreement.

(b) The provisions of this Agreement that do not survive termination or expiration hereof shall nonetheless be controlling on, and shall be used in construing and interpreting,

the rights and obligations of the Parties hereto with regard to any dispute, controversy, or claim that may arise under, out of, in connection with, or relating to this Agreement.

(c) Sublicenses in good standing shall survive termination of this license as a direct license from UNIVERSITY, provided that Sublicensees assume the obligations set forth in the definitive agreement. UNIVERSITY will enter into a direct agreement with such Sublicensees upon LICENSEE's written request.

13.9 AMENDMENT. No amendment or modification of the terms of this Agreement shall be binding on either Party unless reduced to writing and signed by an authorized officer of the Party to be bound.

13.10 NON-WAIVER. No failure or delay on the part of a Party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No waiver of any of the provisions of this Agreement shall be effective unless it is in writing, and signed by the Party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be deemed a waiver of any other right hereunder.

13.11 INDEPENDENT CONTRACTOR RELATIONSHIP. This Agreement is not intended to create nor shall be construed to create any relationship between LICENSEE and UNIVERSITY other than that of independent entities contracting for the purpose of effecting provisions of this Agreement. It is further expressly agreed that no work, act, commission or omission of any Party, its agents, servants or employees, pursuant to the terms and conditions of this Agreement, shall be construed to make or render any Party, its agents, servants or employees, an agent, servant, representative, or employee of, or joint venturer with, the other Party. Neither Party shall have any right to bind or obligate the other Party in any way nor shall it represent that it has any right to do so.

13.12 REPRESENTATION BY COUNSEL. Each Party acknowledges that it has had the opportunity to be represented by counsel of such Party's choice with respect to this Agreement. In view of the foregoing and notwithstanding any otherwise applicable principles of construction or interpretation, this Agreement shall be deemed to have been drafted jointly by the Parties and in the event of any ambiguity, shall not be construed or interpreted against the drafting Party.

13.13 NO THIRD PARTY BENEFICIARIES. No third persons or entities are intended to be or are third party beneficiaries of or under this Agreement, including, without limitation, Sublicensees and Affiliates. Nothing in this Agreement shall be construed to create any liability on the part of the Parties or their respective directors, officers, shareholders, employees or agents, as the case may be, to any such third parties for any act or failure to act of any Party hereto.

13.14 CONFLICTS. LICENSEE understands and agrees that UNIVERSITY personnel who are engaged by LICENSEE, whether as consultants, employees or otherwise, or who possess a material financial interest in LICENSEE, are subject to UNIVERSITY's rule regarding outside activities and financial interests set forth in the UNIVERSITY of Miami Faculty Manual and Intellectual Property Policy. Any term or condition of an agreement between LICENSEE and such UNIVERSITY personnel which seeks to vary or override such personnel's obligations to UNIVERSITY may not be enforced against such personnel or UNIVERSITY without the express written consent of an individual authorized to vary or waive such obligations on behalf of

UNIVERSITY. Furthermore, should an interest of LICENSEE conflict with the interest of UNIVERSITY, UNIVERSITY personnel are obligated to resolve such conflicts according to the guidelines and policies set forth by UNIVERSITY.

13.15 ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties hereto respecting the subject matter hereof, and supersedes and terminates all prior agreements respecting the subject matter hereof, whether written or oral, and may be amended only by an instrument in writing executed by both Parties hereto.

13.16 FORCE MAJEURE. Neither Party shall be held responsible for any delay or failure in performance of any part of this Agreement to the extent such delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, act of God, or other similar causes beyond its control and without the fault or negligence of the delayed or non-performing Party. The affected Party will notify the other Party in writing within ten (10) days after the beginning of any such cause that would affect its performance. Notwithstanding, if a Party's performance is delayed for a period exceeding thirty (30) days from the date the other Party receives notice under this paragraph, the non-affected Party will have the right, without any liability to the other Party, to terminate this agreement.

13.17 TAX-EXEMPT STATUS. LICENSEE acknowledges that UNIVERSITY, as a not-for-profit corporation of the State of Florida, holds the status of an exempt organization under the Internal Revenue Code of 1986, as amended. LICENSEE also acknowledges that certain facilities in which the Patent Rights or Technology were developed may have been financed through offerings of tax-exempt bonds. If the Internal Revenue Service determines, or if UNIVERSITY reasonably determines, that any term of this Agreement jeopardizes the tax-exempt status of UNIVERSITY or the bonds used to finance UNIVERSITY facilities, the relevant term is invalid and the Parties shall modify the term accordingly.

13.18 NO OUTSTANDING OR KNOWN FUTURE CLAIMS/CAUSES OF ACTION. Each Party affirms that it has not filed with any governmental agency or court any type of action or report against the other Party, and currently knows of no existing act or omission that may constitute a claim or liability against the other Party. LICENSEE shall not (a) attempt to challenge the validity or enforceability of the intellectual property held or controlled by UNIVERSITY; or (b) directly or indirectly, knowingly assist any third party in an attempt to challenge the validity or enforceability of the intellectual property held or controlled by UNIVERSITY except to comply with any court order or subpoena.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized to be effective as of the Effective Date.

LICENSEE		UNIVERSITY	
/s/ Jeff Wolf	12/31/20	/s/ Norma Sue Kenyon	12/21/20
Signature	Date	Signature	Date
Jeff Wolf		Norma Sue Kenyon, Ph.D.	
Printed Name		Printed Name	
CEO		Vice Provost for Innovation	
Printed Title		Printed Title	

APPENDIX A

TECHNOLOGIES/INTELLECTUAL PROPERTY

UNIVERSITY invention disclosure:

- "Secreted heat shock protein, gp96-Ig vaccine platform against Coronavirus disease 2019 (COVID-19)," UNIVERSITY reference UMIP-510

Patent Applications:

- "IMMUNE-MEDIATED CORONAVIRUS TREATMENTS ", United States provisional application bearing Application No. 62/983,783 and filed on March 2, 2020;
- "IMMUNE-MEDIATED CORONAVIRUS TREATMENTS ", United States provisional application bearing Application No. 62/991,223 and filed on March 18, 2020;
- "IMMUNE-MEDIATED CORONAVIRUS TREATMENTS ", United States provisional application bearing Application No. 63/061,390 and filed on August 5, 2020; and
- "IMMUNE-MEDIATED CORONAVIRUS TREATMENTS ", United States provisional application bearing Application No. 63/064,989 and filed on August 13, 2020.

APPENDIX B

SUMMARY OF CURRENT OUTSTANDING PATENT COSTS

UM Technology Number	Current Outstanding Balance	Payment terms: Outstanding patent
UMIP-510	[***]	N/A

APPENDIX C

Development Plan

A development plan of the scope outlined below shall be submitted to OTT by Licensee prior to the execution of the license agreement. In general, the plan should provide OTT with a summary overview of the activities that Licensee believes are necessary to bring products to the marketplace.

I. Development Program

A. Development activities to be undertaken

(Please break activities into subunits with the date of completion of major milestones)

1. **Preclinical Efficacy Studies in mice and primates**
The efficacy of ZVX-60 in protecting against COVID-19 infection will be tested in mice and primates. The studies will be commenced upon the procurement of cGMP grade material of ZVX-60.
Estimate start of mouse efficacy studies: September 2021
Duration: 4 months
Estimate start of monkey efficacy studies: December 2021
Duration: 4 months

2. **Chemistry and Manufacturing Controls (cGMP Manufacturing)**
ZVX-60 will be manufactured for first-in-human Phase I studies. To this end, Heat Bio will work with Waisman Biomanufacturing to generate a master cell bank
(MCB) and perform clinical manufacturing (including an engineering run) to obtain drug product to support Phase 1 clinical studies. Drug product will be scaled up for large scale production for Phase 2 and 3 studies at Gencure Biomanufacturing Center.
Estimated start of manufacturing: June 2021
Estimated time to completion: 9 months

3. **Regulatory plan**
Heat Bio is working with CTI Clinical Trial and Consulting to prepare pre-IND briefing package and protocol synopsis for the FDA. This will be followed by preparation of an IND document including investigators brochure to initiate first-in-human clinical studies with ZVX-60.
Estimated time of pre-IND submission: May 2021
Estimated time of IND submission: May 2022

4. **Clinical Trials**
i) Phase 1 studies
Estimated start date: June 2022

ii) Phase 2 studies
Estimated start date: January 2023

iii) Phase 3 studies
Estimated start date: October 2023

B. Estimated total development time
Estimated time to clinical development (Phase 1 studies) is 13 months
Estimated time to complete clinical studies (Phase 1,2 and 3) is 2.5-3 years

II. Governmental Approval

Types of submissions required
Initially a pre-IND and IND submission to the FDA will be filed by Heat Bio to initiate first-in-human Phase 1 studies. An End-of-Phase 2 (EOP2) meeting will be set with the agency upon completion and data release of our Phase 2 study. This EOP2 meeting will serve as guidance from the agency for the design of a registration Phase 3 trial.

III. Proposed Market Approach

Market authorization will be pursued with US rights under a BLA filing. A pre-BLA meeting will be conducted prior to BLA filing. Heat will launch ZVX-60 product to market by itself after the successful completion of its Phase 3 clinical program and seeking FDA approval via a BLA meeting. Heat will be seeking market rights in US and worldwide.

IV. Competitive Information

A. Potential competitors
ZVX-60 is a T cell vaccine with a unique and differentiated mechanism of action compared to other vaccines in development and belongs to the class of adjuvanted cell-based vaccine.
The following vaccines in Phase 3 clinical trials are closer to seeking FDA's approval for Emergency Use Authorization (EUA) and can be perceived as the most relevant competitors in the COVID-19 vaccine space.

- Moderna's mRNA-1273
- University of Oxford and AstraZeneca's AZD1222
- Pfizer and BioNTech's BNT162
- J&J's Ad26.CoV2.S
- Novavax's NVX-CoV2373

To date, the above vaccines have demonstrated immunogenicity, safety and tolerability. They have also shown binding antibody and viral neutralization titers comparable to human convalescent sera. Pfizer and Moderna have applied for EUA in the USA and are awaiting the results on their Phase 3 clinical trial. They are likely to be approved by the FDA for use in humans in early to mid 2021.

ZVX-60 would have to demonstrate superior efficacy compared to the above vaccines in order to get regulatory approval.

There are 5 vaccines in Phase 2 clinical trials, 11 in Phase 1/2 clinical trials and 12 in Phase 1 clinical trials that can also be perceived as competition once they start accruing positive safety and efficacy clinical data.

APPENDIX D

Development Report

When appropriate, indicate estimated start date and finish date for activities.

I. Date Development Plan Initiated and Time Period Covered by this Report.

II. Development Report (4-8 paragraphs).

A. Activities completed since last report, including the object and parameters of the development, when it was initiated, when it was completed and the results.

B. Activities currently under investigation, i.e., ongoing activities including object and parameters of such activities, when initiated, and projected date of completion.

III. Future Development Activities (4-8 paragraphs).

A. Activities to be undertaken before next report, including, but not limited to, the type and object of any studies conducted and their projected starting and completion dates.

B. Estimated total development time remaining before a product will be commercialized.

IV. Changes to Initial Development Plan (2-4 paragraphs).

A. Reasons for change.

B. Variables that may cause additional changes.

V. Items to be Provided if Applicable:

A. Information relating to Licensed Products that has become publicly available, e.g., published articles, competing products, patents, etc.

B. Development work being performed by third parties other than Licensee. Be sure to include name of third party, reasons for use of third party, and planned future uses of third parties (including reasons why and type of work).

C. Update of competitive information trends in industry, government compliance (if applicable) and market plan.

D. Information and copies of relevant materials evidencing the status of any patent applications or other protection relating to Licensed Products or the Licensed Patents.

APPENDIX E

Royalty Summary Report

Royalty'Summary'Report'						
	Licensee'Name:'					
	Licensor'Name:					
	Licensor'Ref'No:					
	Licensee'Ref'No:					
	License'Effective'Date:					
	Payment'Method:					
	Minimum'Royalty'Amount:					
	Payment'Terms:					
Sales'Quarter	Specificity	Product'Type/Name	Net'Sales	Minimum'Annual'Royalty'(MAR)'	MAR'Credit	Royalty'Fees

EXHIBIT 10.2

January 4, 2021

William Ostrander
c/o Heat Biologics, Inc.
627 Davis Drive, Suite 400
Morrisville, North Carolina 27560

Re: Amendment to Offer Letter

Dear William:

This Amendment (this "Amendment"), effective as of January 4, 2021, amends the offer letter, dated September 23, 2019, as amended January 1, 2020 (the "Offer Letter"), and is entered into by and between Heat Biologics, Inc. (the "Company") and William Ostrander.

Effective as of the date hereof, the Company has appointed you, and you have agreed to serve as, the Company's Chief Financial Officer. In recognition of your hard work and performance, and the increase in your responsibilities as the Company's Chief Financial Officer, the Company desires to amend the Offer Letter in order to increase your annual base salary to $275,000 and increase your target bonus to 30%, at the discretion of the board of directors of the Company.

For the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to amend the Offer Letter as follows:

The second paragraph of the Offer Letter is hereby deleted in its entirety and replaced with the following two sentences: "As a full-time exempt employee, your base salary will be $275,000 on an annual basis, payable semi-monthly. You will also be eligible to receive an annual bonus up to 30% of your total annual salary."

The provisions of this Amendment to the Offer Letter are severable and if any part or it is found to be unenforceable the other paragraphs shall remain fully valid and enforceable. All other terms of the Offer Letter shall remain in full force and effect. The Offer Letter, as amended by this Amendment, constitutes the entire agreement between the parties with respect to the subject matter thereof.

This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but both of which together shall constitute one and the same instrument.

Sincerely,

/s/ Jeffrey Wolf
Jeffrey Wolf
Chief Executive Officer & President
Heat Biologics, Inc.

Agreed and Accepted,

/s/ William Ostrander
William Ostrander

January 4, 2021
Date

EXHIBIT 10.3

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (the "***Agreement***") between Heat Biologics, Inc., a Delaware corporation, (the "***Company***"), and Jeffrey Wolf (the "***Executive***") is effective as of January 4, 2021 (the "***Effective Date***").

W I T N E S S E T H:

WHEREAS, the Executive has been employed by the Company as its President and Chief Executive Officer pursuant to the terms of an Employment Agreement dated December 18, 2009, as subsequently amended on each of January 20, 2014, January 11, 2016, January 1, 2017 and January 2, 2020 (the "***Prior Employment Agreement***");

WHEREAS, the Company desires to continue to employ the Executive as its President and Chief Executive Officer and the Executive desires to accept such employment, on the terms and conditions set forth in this Agreement; and

WHEREAS, the Company and the Executive have mutually agreed that, as of the Effective Date, this Agreement shall replace the Prior Employment Agreement in its entirety.

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

1. **EMPLOYMENT**.

(a) TERMINATION OF PRIOR EMPLOYMENT AGREEMENT . Effective as of 11:59 p.m. on the day immediately prior to the Effective Date, the Prior Employment Agreement shall automatically terminate and be of no further force and effect.

(b) EMPLOYMENT TERM. The Company hereby offers to continue to employ the Executive, and the Executive hereby accepts continued employment by the Company, upon the terms and conditions set forth in this Agreement, until the termination of the Executive's employment in accordance with Section 10 below, as applicable (the "***Employment Term***").

2. **POSITION & DUTIES**. During the Employment Term, the Executive shall serve as the Company's President and Chief Executive Officer. As President and Chief Executive Officer, the Executive shall have such duties, authorities and responsibilities commensurate with the duties, authorities and responsibilities of persons in similar capacities in similarly sized companies and such other duties and responsibilities as the Company's Board of Directors (the "***Board***") shall designate that are consistent with the Executive's position as President and Chief Executive Officer, including directing, supervising and having responsibility for all aspects of the operations and general affairs of the Company as directed by the Board. The Executive shall report to, and be subject to, the lawful direction of the Board. During the

Employment Term, the Executive shall use his best efforts to perform faithfully and efficiently the duties and responsibilities assigned to the Executive hereunder and devote the necessary business time and attention to the performance of the Executive's duties with the Company. During the Term, the Executive shall also serve, without additional compensation, as a member of the Board and the board of directors of the Company's subsidiaries and in such other executive-level positions or capacities as may, from time to time, be reasonably requested by the Board.

3. **LOCATION**. Unless the parties otherwise agree in writing, at all times during the Employment Term, the Executive's principal place of business for performance of the services under this Agreement shall be in or around Durham, North Carolina.

4. **BASE SALARY**. The Company agrees to pay the Executive a base salary (the "***Base Salary***") at an annual rate of Five Hundred Forty Thousand Dollars ($540,000.00), payable semi-monthly in accordance with the regular payroll practices of the Company. The Executive's Base Salary shall be subject to review and adjustment from time to time by the Board (or a committee thereof) in its sole discretion, but may not be decreased. The base salary as determined herein from time to time shall constitute "Base Salary" for purposes of this Agreement.

5. **BONUS**.

(a) ANNUAL TARGET BONUS. With respect to each calendar year during the Employment Term (beginning in the year of the Effective Date), the Executive will be eligible to earn an annual cash bonus (the "***Annual Target Bonus***") as well as discretionary equity awards. Beginning in the 2021 calendar year and for each full calendar year thereafter, the Executive will be eligible for an Annual Target Bonus of fifty percent (50%) of the Base Salary, which may be increased by the Board based upon performance. The Annual Target Bonus will be based upon the Board's assessment of the Executive's performance and the Company's attainment of targeted goals as set by the Board. The Annual Target Bonus will be subject to applicable payroll deductions and withholdings. The Annual Target Bonus will be paid in December or January at the discretion of the Board.

(b) INCENTIVE BONUSES. Executive will be awarded an (i) incentive cash bonus in the amount equal to 2% of the Transaction Consideration (as defined below) paid in connection with the consummation of a Change in Control (as defined below) during the Term; provided that such Change in Control results in the stockholders of the Company receiving (or being entitled to receive, whether upon the consummation of the Change in Control or at a future date) transaction consideration worth at least 125% of the average closing trading price of the Company's common stock during the twenty (20) trading-day period immediately preceding the consummation of the Change in Control and (ii) an equity bonus in the form of additional stock options or restricted stock units or shares of restricted stock (the type of equity and allocation among the various types of equity to be as mutually determined by the Executive and the Board) equal to 2% of the total fully-diluted equity of the Company if the market capitalization of the Company is equal to or exceeds a valuation of $500 million or more for fifteen (15) business days or longer. The market capitalization shall be determined by the Board based on the closing price of the Company's common stock on each day during such fifteen (15) days period

multiplied by the number of outstanding shares of the Company's common stock on each such day. If the any portion of the equity bonus is an option grant then the exercise price of the option shall be equal to the then current fair market value of the Company's common stock on the date of grant. If the exercise price of any option granted exceeds the closing price of the Company's common stock on the first day of the fifteen (15) day period then Executive shall be awarded in addition to the foregoing award either additional equity or cash having a value equal to the difference between the exercise price on the grant date and the closing price of the Company's common stock on the first date of the fifteen (15) day period multiplied by the number of shares of the Company's common stock outstanding on the grant date. "Transaction Consideration" means an amount of cash and the fair market value of stock, equity, securities or other property paid or set aside for payment to the stockholders of the Company in connection with the Change in Control. In addition "transaction consideration" includes all contingent, conditional or deferred consideration paid or payable in connection with the Change in Control s. The bonus paid pursuant to this paragraph is subject to such withholdings as may be required by law and will be paid within ten (10) days after the date of the consummation of the Change in Control. The terms and conditions of such option grants, including vesting, shall be governed by a stock option agreement or RSU agreement in a form acceptable to the Executive and the Company.

6. **EQUITY**. Except as specifically provided herein, the provisions of any equity awards issued to Executive prior to the Effective Date and any related agreements and the Executive's rights with respect to the grants thereunder shall continue.

Upon the formation of a new subsidiary of the Company and subject to any requisite stockholder approval and Nasdaq approval, provided that the Executive must be employed by or otherwise providing services to the Company and the subsidiary on such formation date, and provided further that when there are other eligible participants as determined by the Executive and the Board of Directors or the Compensation Committee of the Board of Directors, the Company will cause each newly formed subsidiary to establish a Subsidiary Stock Option Plan and Executive shall be awarded a number of Stock Options pursuant to each Subsidiary Stock Option Plan equal to between three and five percent of the issued and outstanding shares of the subsidiary, the exact number to be determined by Company's Board of Directors and its Compensation Committee. Such Shares will be subject to the same restrictions on disposition as are applicable to other initial shareholders of the subsidiary and such other restrictions as may be applicable under federal or state securities laws.

7. **EMPLOYEE BENEFITS**.

(a) BENEFIT PLANS. The Executive shall, in accordance with Company policy and the terms of the applicable Company benefit plan documents, be eligible to participate in any benefit plan or arrangement, including health, life and disability insurance, retirement plans and the like, that may be in effect from time to time and made available to the Company's senior management. All matters of eligibility for coverage or benefits under any benefit plan shall be determined in accordance with the provisions of such plan. The Company reserves the right to change, alter, or terminate any benefit plan in its sole discretion. Notwithstanding the foregoing, in the event that the terms of this Agreement differ from or are in conflict with the Company's general employment policies or practices, this Agreement shall control.

(b) VACATION. The Executive shall be entitled to twenty (20) business days paid vacation and sick leave per year in accordance with the Company's policies and shall be entitled to accrue vacation time during the Employment Term in accordance with the Company's vacation policy. Vacation is to be taken at such intervals as shall be appropriate and consistent with the proper performance of the Executive's duties hereunder. The existing vacation accrued for the past four (4) years to date not to exceed sixty (60) days will rollover into this Agreement.

(c) SUPPLEMENTAL DISABILITY BENEFITS. During the Employment Term, the Company will pay for the applicable premiums for the Executive's coverage under its existing supplemental disability policy.

(d) GENERAL EXPENSE REIMBURSEMENTS. The Company will reimburse the Executive for all reasonable business expenses, including travel, computer and cellular phone costs that the Executive incurs in performing the services hereunder pursuant to the Company's usual expense reimbursement policies and practices, following submission by the Executive of reasonable documentation thereof. All reimbursements provided under this Agreement shall be made in accordance with the requirements of Section 409A (as defined below) to the extent that such reimbursements are subject to Section 409A, including, as applicable, the requirements that (i) any reimbursement is for expenses incurred during the Employment Term, (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense shall be made on or before the last day of the calendar year following the calendar year in which the expense was incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for any other benefit.

(e) INDEMNIFICATION. The Company shall provide the Executive with full advance indemnification to the extent permitted by Delaware law, including indemnification for activities at all subsidiaries.

8. **CONFIDENTIALITY AND POST-EMPLOYMENT OBLIGATIONS**. Executive agrees that the Company's form of Proprietary Information, Inventions, Non-Solicitation and Non-Competition Agreement dated January 4, 2021 (the "***Confidentiality Agreement***"), which Executive had executed remains in full force and effect. The Confidentiality Agreement may be amended by the parties from time to time without regard to this Agreement. The Confidentiality Agreement contains provisions that are intended by the parties to survive and do survive termination of this Agreement.

9. **TERMINATION**. The Executive's employment and the Employment Term shall terminate on the first of the following to occur:

(a) DISABILITY. Upon the 30th day following the Executive's receipt of notice of the Company's termination due to Disability (as defined in this Section); *provided that*, the Executive has not returned to full-time performance of his duties within thirty (30) days after receipt of such notice. If the Company reasonably determines in good faith that the Executive's Disability has occurred during the term of this Agreement, it will give the Executive thirty day's written notice of its intention to terminate his employment. In the event that Executive denies that he is disabled from performing the material functions of his job, Executive may, within

thirty (30) days of the date of notice of the Company's intention to terminate, request that his disability be determined by an independent, licensed physician selected by the Company or its insurers and acceptable to Executive, Executive's acceptance of the physician not to be unreasonably withheld. Promptly following such request by Executive, the Company shall arrange for an examination of Executive and Executive shall cooperate fully in such examination. Executive shall remain employed under all the terms, provisions and conditions of this Agreement, until the physician determines in writing whether Executive is disabled from performing the material functions of his job. In the event that the physician determines that Executive is not disabled from performing the material functions of his job, Executive shall continue with his employment under this Agreement. In the event that the physician determines that Executive is disabled from performing the material functions of his job, Executive's employment shall terminate upon such determination. For purposes of this Agreement, "***Disability***" shall occur when the Board determines that the Executive has become physically or mentally incapable of performing the essential functions of his job duties under this Agreement with or without reasonable accommodation, for ninety (90) consecutive days or one hundred twenty (120) nonconsecutive days in any twelve (12) month period, subject to any applicable law. For purposes of this Section, at the Company's request, the Executive agrees to make himself available and to cooperate in a reasonable examination by an independent qualified physician selected by the Board.

(b) DEATH. Automatically on the date of death of the Executive.

(c) CAUSE. Immediately upon written notice by the Company to the Executive of a termination for Cause. For purposes of this Agreement, "***Cause***" shall mean any one or more of the following events: (a) your conviction (including a guilty plea or a no contest plea) of a felony, or of any other crime involving fraud, dishonesty or moral turpitude; (ii) your conviction of an act of fraud or embezzlement, or the Company's good faith determination corroborated by independent evidence or admission of Executive of commission of an act of material dishonesty against the Company; (iii) your material breach of any written agreement between you and the Company (including but not limited to your Confidential Information and Assignment of Inventions Agreement or any other restrictive covenant agreements) or material breach or material neglect of any statutory or fiduciary duty you owe to the Company as reasonably determined by the Board, in each case, after having provided you with not less than thirty (30) days written notice of same and with the opportunity to cure of the same duration to the extent curable; or (iv) your conduct that constitutes gross insubordination, incompetence or habitual neglect of your duties as reasonably determined by the Board, in each case, after having provided you with not less than thirty (30) days written notice of same and with the opportunity to cure of the same duration to the extent curable.

(d) WITHOUT CAUSE. Upon written notice by the Company to the Executive of an involuntary termination without Cause and other than due to death or Disability.

(e) WITH GOOD REASON. Upon the Executive's notice following the end of the Cure Period (as defined in this Section). For purposes of this Agreement, "***Good Reason***" for the Executive to terminate his employment hereunder shall mean the occurrence of any of the following events without the Executive's consent: (i) a material reduction in the Executive's Base Salary (other than an across-the-board decrease in base salary applicable to all executive

officers of the Company and with the Executive's consent); (ii) a material breach of this Agreement by the Company; (iii) a material reduction in the Executive's duties, authority and responsibilities relative to the Executive's duties, authority, and responsibilities in effect immediately prior to such reduction; or (iv) the relocation of the Executive's principal place of employment, without the Executive's consent, in a manner that lengthens his one-way commute distance by fifty (50) or more miles from his then-current principal place of employment immediately prior to such relocation; *provided, however,* that, any such termination by the Executive shall only be deemed for Good Reason pursuant to this definition if: (1) the Executive gives the Company written notice of his intent to terminate for Good Reason within thirty (30) days following the first occurrence of the condition(s) that he believes constitute(s) Good Reason, which notice shall describe such condition(s); (2) the Company fails to remedy such condition(s) within thirty (30) days following receipt of the written notice (the "***Cure Period***"); and (3) the Executive voluntarily terminates his employment within thirty (30) days following the end of the Cure Period.

(f) WITHOUT GOOD REASON. Upon the expiration of the Transition Period (as defined in this Section) unless otherwise provided by the Company as provided herein, the Executive shall provide thirty (30) days' prior written notice (the "***Transition Period***") to the Company of the Executive's intended termination of employment without Good Reason ("***Voluntary Termination*** "). During the Transition Period, the Executive shall assist and advise the Company in any transition of business, customers, prospects, projects and strategic planning, and the Company shall continue to pay Executive's Base Salary and benefits through the end of the Transition Period. The Company may, in its sole discretion, upon five (5) days prior written notice to the Executive, make such termination of employment effective earlier than the expiration of the Transition Period ("***Early Termination Right***"), but it shall pay the Executive's Base Salary and benefits through the earlier of: the end of the Transition Period, or the date that the Executive accepts full-time employment or a full-time consulting engagement from a third party.

10. **CONSEQUENCES OF TERMINATION**. Any termination payments made and benefits provided under this Agreement to the Executive shall be in lieu of any termination or severance payments or benefits for which the Executive may be eligible under any of the plans, policies or programs of the Company or its affiliates as may be in effect from time to time. Subject to satisfaction of each of the conditions set forth in Section 12, the following amounts and benefits shall be due to the Executive. Any Accrued Amounts (as defined in Section 11(a)) shall be payable on the next regularly scheduled Company payroll date following the date of termination or earlier if required by applicable law.

(a) DISABILITY. Upon employment termination due to Disability, the Company shall pay or provide the Executive: (i) any unpaid Base Salary through the date of termination and any accrued vacation; (ii) any unpaid Annual Target Bonus earned with respect to any calendar year ending on or preceding the date of termination; (iii) reimbursement for any unreimbursed expenses incurred through the date of termination; and (iv) all other payments and benefits to which the Executive may be entitled under the terms of any applicable compensation arrangement or benefit, equity or perquisite plan or program or grant or this Agreement, including but not limited to any applicable insurance benefits (collectively, "***Accrued Amounts***"). In addition, upon the Executive's termination due to Disability, the Executive shall

be entitled to exercise any vested equity award(s) granted to the Executive for a period equal to the shorter of: (i) twenty-four (24) months after termination, or (ii) the remaining term of the award(s).

(b) DEATH. In the event the Employment Term ends on account of the Executive's death, the Executive's estate (or to the extent a beneficiary has been designated in accordance with a program, the beneficiary under such program) shall be entitled to any Accrued Amounts, including but not limited to proceeds from any Company sponsored life insurance programs. In addition, upon the Executive's death, the Company will extend the time period that the Executive's estate (or to the extent a beneficiary has been designated in accordance with a program, the beneficiary under such program) shall be entitled to exercise any vested equity award(s) granted to the Executive for a period equal to the shorter of: (i) twenty-four (24) months after termination, or (ii) the remaining term of the award(s).

(c) TERMINATION FOR CAUSE OR WITHOUT GOOD REASON. If the Executive's employment should be terminated (i) by the Company for Cause, or (ii) by the Executive without Good Reason, the Company shall pay to the Executive any Accrued Amounts only, and shall not be obligated to make any additional payments to the Executive. In addition, upon the Executive's termination by the Company for Cause, or by the Executive without Good Reason, all options not exercised shall terminate.

(d) TERMINATION WITHOUT CAUSE OR FOR GOOD REASON. If the Executive's employment by the Company is terminated by the Company without Cause (and not due to Disability or death) or by the Executive for Good Reason, then the Company shall pay or provide the Executive with the Accrued Amounts and subject to compliance with Section 12:

(i) payment of an amount equal to 1.00 times the sum of Executive's annual Base Salary plus Executive's Annual Target Bonus amount for the year of termination, assuming payment in full of the Annual Target Bonus, which shall be payable to Executive in equal installments in accordance with the Company's normal payroll practices, for twelve (12) months following the date that the release of claims becomes effective and irrevocable;

(ii) effective as of immediately prior to such termination of employment, accelerated vesting of all then unvested equity awards (with any applicable performance-based awards deemed earned at the target level of achievement) with such awards (other than stock options) settled as soon as practicable thereafter and in all events by March 15th of the calendar year following the year in which such termination occurs or to remain exercisable (with respect to stock options) and the Company will extend exercise all equity award(s) granted to the Executive for a period equal to the shorter of: (i) twenty-four (24) months after termination, or (ii) the remaining term of the award(s); and

(iii) subject to Executive's timely election of continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("***COBRA***"), and subject to Executive's copayment of premium amounts at the active employees' rate, the Company shall pay the remainder of the premiums for Executive's participation in the Company's group health plans pursuant to COBRA for a period ending on the earlier of (i) the 12 month anniversary of the date of termination; (ii) Executive becoming eligible for other group

health benefits, or (iii) the expiration of Executive's rights under COBRA; *provided, however*, that in the event that the benefits provided herein would subject the Company or any of its affiliates to any tax or penalty under the Patient Protection and Affordable Care Act or Section 105(h) of the Internal Revenue Code of 1986, as amended (the "***Code***"), Executive and the Company agree to work together in good faith to restructure the foregoing benefit.

11. **CONDITIONS**. Any payments or benefits made or provided pursuant to Section 11 (other than Accrued Amounts) are subject to the Executive's (or, in the event of the Executive's death, the beneficiary's or estate's, or in the event of the Executive's Disability, the guardian's):

(a) compliance with the provisions of Section 8 hereof;

(b) delivery to the Company of an executed waiver and general release of any and all known and unknown claims, and other provisions and covenants, in the form acceptable to the Company (which shall be delivered to the Executive within five (5) business days following the termination date) (the "***General Release***") within twenty-one (21) days of presentation thereof by the Company to the Executive (or a longer period of time if required by law), and permitting the General Release to become effective in accordance with its terms; and

(c) delivery to the Company of a resignation from all offices, directorships and fiduciary positions with the Company, its affiliates and employee benefit plans effective as of the termination date.

Notwithstanding the due date of any post-employment payments, any amounts due following a termination under this Agreement (other than Accrued Amounts) shall not be due until after the expiration of any revocation period applicable to the General Release without the Executive having revoked such General Release, and any such amounts shall be paid or commence being paid to the Executive within fifteen (15) days of the expiration of such revocation period without the occurrence of a revocation by the Executive (or such later date as may be required under Section 19 of this Agreement). Nevertheless (and regardless of whether the General Release has been executed by the Executive), upon any termination of the Executive's employment, the Executive shall be entitled to receive any Accrued Amounts, payable after the date of termination in accordance with the Company's applicable plan, program, policy or payroll procedures. Notwithstanding anything to the contrary in this Agreement, if any severance pay or benefits are deferred compensation under Section 409A (as defined below), and the period during which the Executive may sign the General Release begins in one calendar year and the first payroll date following the period during which the Executive may sign the General Release occurs in the following calendar year, then the severance pay or benefit shall not be paid or the first payment shall not occur until the later calendar year.

12. **CONSEQUENCES OF A CHANGE IN CONTROL**. Notwithstanding any provision of this Section 5 to the contrary, if the Company (or its successor) terminates the employment of Executive upon or at any time in connection with a change in the ownership or effective control of the Company or a change in the ownership of a substantial portion of the Company's assets, each within the meaning of Section 409A (as defined below (each, a "***Change of Control Transaction***")), subject to the Executive's execution of a release in the form of

Exhibit A attached hereto, the Executive shall be entitled to the following severance payments and benefits upon such termination: (i) a lump sum cash payment, within 30 days after termination, equal to twenty-four (24) months of the Executive's then-current Base Salary; (ii) a lump sum cash payment, within thirty (30) days after termination, equal to a pro-rated amount of his/her target Annual Target Bonus for the year immediately preceding the termination; (iii) payment of the full amount of all premiums for continued health benefits (including COBRA) under the Company's health plans for a period of twelve (12) months following the termination; and (iv) immediate vesting of 100% of the then-unvested portion of any outstanding equity awards held by the Executive and the Company will extend exercise all equity award(s) granted to the Executive for a period equal to the shorter of: (i) twelve (12) months after termination, or (ii) the remaining term of the award(s). In each case such amounts shall be less payroll taxes and withholding required by any federal, state or local law.

If within one year after the occurrence of a Change in Control, the Executive terminates his employment with the Company for Good Reason or the Company terminates the Executive's employment for any reason other than death, Disability or Cause, the Company (or the then former Company subsidiary employing the Executive), or the consolidated, surviving or transferee person in the event of a Change in Control pursuant to a consolidation, merger or sale of assets, the Executive shall be entitled to receive from the Company the following severance payments and benefits upon such termination: (i) a lump sum cash payment, within thirty (30) days after termination, equal to twenty-four (24) months of the Executive's then-current base salary plus the full bonus that would be due during this period, assuming payment in full of the Annual Target Bonus; (ii) payment of the full amount of all premiums for continued health benefits (including COBRA) under the Company's health plans for a period of twelve (12) months following the termination; and (iii) immediate vesting of 100% of the then-unvested portion of any outstanding equity awards held by the Executive and the Company will extend exercise all equity award(s) granted to the Executive for a period equal to the shorter of: (i) twenty-four (24) months after termination, or (ii) the remaining term of the award(s). In each case such amounts shall be less payroll taxes and withholding required by any federal, state or local law.

(c) For purposes of this Agreement, "Change in Control" means:

(i) any person or entity becoming the beneficial owner, directly or indirectly, of securities of the Company representing fifty percent (50%) of the total voting power of all its then outstanding voting securities;

(ii) a merger or consolidation of the Company in which its voting securities immediately prior to the merger or consolidation do not represent, or are not converted into securities that represent, a majority of the voting power of all voting securities of the surviving entity immediately after the merger or consolidation; or

(iii) a sale of substantially all of the assets of the Company or a liquidation or dissolution of the Company.

13. **ASSIGNMENT**. This Agreement shall be binding upon and inure to the benefit of the Executive and the Executive's heirs, executors, personal representatives, assigns, administrators and legal representatives. Because of the unique and personal nature of the Executive's duties under this Agreement, neither this Agreement nor any rights or obligations under this Agreement shall be assignable by the Executive. This Agreement shall be binding upon and inure to the benefit of the Company and its successors, assigns and legal representatives. Any such successor or assign of the Company will be deemed substituted for the Company under the terms of this Agreement for all purposes. For this purpose, "successor" means any person, firm, corporation or other business entity which at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all or substantially all of the assets or business of the Company.

14. **NOTICE**. For the purpose of this Agreement, notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given (a) on the date of delivery if delivered by hand, (b) on the date of transmission, if delivered by confirmed facsimile, (c) on the first business day following the date of deposit if delivered by guaranteed overnight delivery service, or (d) on the fourth business day following the date delivered or mailed by United States registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Company:

Heat Biologics, Inc.
627 Davis Drive, Suite 400
Morrisville, North Carolina 27560
Attention: Chief Financial Officer
Telephone: (919) 240-7133

and a copy (which shall not constitute notice) shall also be sent to:

Gracin & Marlow, LLP
405 Lexington Avenue, 26th Floor
New York, New York 10174
Attention: Leslie Marlow, Esq.
Telephone: (212) 907-6457

If to the Executive:

To the most recent address of the Executive set forth in the personnel records of the Company or to such other address as either party may have furnished to the other in writing in accordance herewith, except that notices of change of address shall be effective only upon receipt.

15. **SECTION HEADINGS; INCONSISTENCY**. The section headings used in this Agreement are included solely for convenience and shall not affect, or be used in connection with, the interpretation of this Agreement. If there is any inconsistency between this Agreement and any other agreement (including but not limited to any option, stock, long-term incentive or

other equity award agreement), plan, program, policy or practice (collectively, "***Other Provision***") of the Company the terms of this Agreement shall control over such Other Provision.

16. **SEVERABILITY**. The provisions of this Agreement shall be deemed severable and the invalidity of unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof.

17. **COUNTERPARTS**. This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instruments. One or more counterparts of this Agreement may be delivered by facsimile, with the intention that delivery by such means shall have the same effect as delivery of an original counterpart thereof.

18. **SECTION 409A**.

(a) Notwithstanding anything to the contrary herein, the following provisions apply to the extent severance benefits provided herein are subject to Section 409A of the Internal Revenue Code (the "***Code***") and the regulations and other guidance thereunder and any state law of similar effect (collectively "***Section 409A***"). Severance benefits shall not commence until the Executive has a "separation from service" (as defined under Treasury Regulation Section 1.409A-1(h), without regard to any alternative definition thereunder, a "separation from service"). Each installment of severance benefits is a separate "payment" for purposes of Treas. Reg. Section 1.409A-2(b)(2)(i), and the severance benefits are intended to satisfy the exemptions from application of Section 409A provided under Treasury Regulations Sections 1.409A-1(b)(4) and 1.409A-1(b)(9). However, if such exemptions are not available and the Executive is, upon separation from service, a "specified employee" for purposes of Section 409A, then, solely to the extent necessary to avoid adverse personal tax consequences under Section 409A, the timing of the severance benefits payments shall be delayed until the earlier of (i) six (6) months and one day after the Executive's separation from service, or (ii) the Executive's death. The parties acknowledge that the exemptions from application of Section 409A to severance benefits are fact specific, and any later amendment of this Agreement to alter the timing, amount or conditions that will trigger payment of severance benefits may preclude the ability of severance benefits provided under this Agreement to qualify for an exemption.

(b) It is intended that this Agreement shall comply with the requirements of Section 409A, and any ambiguity contained herein shall be interpreted in such manner so as to avoid adverse personal tax consequences under Section 409A. Notwithstanding the foregoing, the Company shall in no event be obligated to indemnify the Executive for any taxes or interest that may be assessed by the Internal Revenue Service pursuant to Section 409A of the Code to payments made pursuant to this Agreement.

19. **SECTION 4999 EXCISE TAX**.

(a) If any payments, rights or benefits (whether pursuant to the terms of this Agreement or any other plan, arrangement or agreement of the Executive with the Company or any person affiliated with the Company) (the "***Payments***") received or to be received by the

Executive will be subject to the tax (the "***Excise Tax***") imposed by Section 4999 of the Code (or any similar tax that may hereafter be imposed), then, except as set forth in Section 20(b) below, the Company shall pay to the Executive an amount in addition to the Payments (the "***Gross-Up Payment***") as calculated below. The Gross Up Payment shall be in an amount such that, after deduction of any Excise Tax on the Payments and any federal, state and local income and employment tax and Excise Tax on the Gross Up Payment, but before deduction for any federal, state or local income and employment tax on the Payments, the net amount retained by the Executive shall be equal to the Payments.

(b) The process for calculating the Excise Tax, determining the amount of any Gross-Up Payment and other procedures relating to this Section 19, including the time period for making the Gross-Up Payment, are set forth in ***Appendix A*** attached hereto. For purposes of making the determinations and calculations required herein, the Accounting Firm (as defined in ***Appendix A***) may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code, *provided that* the Accounting Firm shall make such determinations and calculations on the basis of "substantial authority" (within the meaning of Section 6662 of the Code) and the Company shall use reasonable efforts to cause the Accounting Firm to provide opinions to that effect to both the Company and Executive.

20. **REPRESENTATIONS**. The Executive represents and warrants to the Company that the Executive has the legal right to enter into this Agreement and to perform all of the obligations on the Executive's part to be performed hereunder in accordance with its terms and that the Executive is not a party to any agreement or understanding, written or oral, which could prevent the Executive from entering into this Agreement or performing all of the Executive's obligations hereunder. The Executive further represents and warrants that he has been advised to consult with an attorney and that he has been represented by the attorney of his choosing during the negotiation of this Agreement, that he has consulted with his attorney before executing this Agreement, that he has carefully read and fully understand all of the provisions of this Agreement and that he is voluntarily entering into this Agreement.

21. **WITHHOLDING**. The Company may withhold from any and all amounts payable under this Agreement such federal, state and local taxes as may be required to be withheld pursuant to any applicable law or regulation.

22. **SURVIVAL**. The respective obligations of, and benefits afforded to, the Company and the Executive which by their express terms or clear intent survive termination of the Executive's employment with the Company, including, without limitation, the provisions of Section 8 and Sections 10 through 28, inclusive of this Agreement, will survive termination of the Executive's employment with the Company, and will remain in full force and effect according to their terms.

23. **AGREEMENT OF THE PARTIES**. The language used in this Agreement will be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction will be applied against any party hereto. No agreements or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either party which are not expressly set forth in this Agreement. Neither the Executive nor the Company shall be entitled to any presumption in connection with any

determination made hereunder in connection with any arbitration, judicial or administrative proceeding relating to or arising under this Agreement.

24. **INTEGRATION**. This Agreement, together with the Confidentiality Agreement and the Grant Agreements, contains the complete, final and exclusive agreement of the parties relating to the terms and conditions of the Executive's employment and the termination of the Executive's employment, and supersedes all prior and contemporaneous oral and written employment agreements or arrangements between the parties, including but not limited to the Prior Employment Agreement. The Executive acknowledges and agrees that the Company has fully satisfied, and has no further obligations to the Executive arising under, or relating to, the Prior Employment Agreement or any other employment or consulting arrangement or understanding or otherwise.

25. **AMENDMENT.** This Agreement cannot be amended or modified except by a written agreement signed by the Executive and a duly authorized officer of the Company.

26. **WAIVER.** No term, covenant or condition of this Agreement or any breach thereof shall be deemed waived, except with the written consent of the party against whom the wavier is claimed, and any waiver or any such term, covenant, condition or breach shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other term, covenant, condition or breach.

27. **CHOICE OF LAW.** This Agreement shall be construed and interpreted in accordance with the internal laws of the State of Delaware without regard to its conflict of laws principles.

28. **DISPUTE RESOLUTION**. To ensure the rapid and economical resolution of disputes that may arise in connection with the Executive's employment with the Company, the Executive and the Company both agree that any and all disputes, claims, or causes of action, in law or equity, including but not limited to statutory claims, arising from or relating to the enforcement, breach, performance, or interpretation of this Agreement, the Executive's employment with the Company, or the termination of the Executive's employment from the Company, will be resolved pursuant to the Federal Arbitration Act, 9 U.S.C. §1-16, and to the fullest extent permitted by law, by final, binding and confidential arbitration conducted in Durham, NC by JAMS, Inc. ("***JAMS***") or its successors. **Both the Executive and the Company acknowledge that by agreeing to this arbitration procedure, each waives the right to resolve any such dispute through a trial by jury or judge or administrative proceeding.** Any such arbitration proceeding will be governed by JAMS' then applicable rules and procedures for employment disputes, which can be found at HTTP://WWW.JAMSADR.COM/RULES-CLAUSES/, and which will be provided to the Executive upon request. In any such proceeding, the arbitrator shall: (i) have the authority to compel adequate discovery for the resolution of the dispute and to award such relief as would otherwise be permitted by law; and (ii) issue a written arbitration decision including the arbitrator's essential findings and conclusions and a statement of the award. The Executive and the Company each shall be entitled to all rights and remedies that either would be entitled to pursue in a court of law; *provided, however,* that in no event shall the arbitrator be empowered to hear or determine any class or collective claim of any type. Nothing in this Agreement is intended to

prevent either the Company or the Executive from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration pursuant to applicable law. The Company shall pay all filing fees in excess of those which would be required if the dispute were decided in a court of law, and shall pay the arbitrator's fees and any other fees or costs unique to arbitration. Notwithstanding the foregoing, nothing in this Section 29 shall prevent the Company from seeking and obtaining a judicial junction in a court of competent jurisdiction to enforce a violation of Section 8 (and the Agreement referenced in Section 8) or 9 of this Agreement. Executive hereby agrees to waive a jury and filing of a bond for any such action by the Company.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, effective as of the date first written above.

HEAT BIOLOGICS, INC.

By: /s/ William L. Ostrander
Name: William L. Ostrander
Title: Chief Financial Officer

Dated: January 4, 2021

/s/ Jeffrey Wolf
Jeffrey Wolf

Dated: January 4, 2021

Signature Page to Employment Agreement

APPENDIX A

TAX GROSS-UP PAYMENT RULES AND PROCEDURES

1. Subject to Paragraph 3 below, all determinations required to be made under Section 20 of this Agreement, including whether a Gross-Up Payment is required and the amount of such Gross-Up Payment, shall be made by an accounting firm (the "***Accounting Firm***") selected in accordance with Paragraph 2 below. The Company shall use reasonable efforts to cause the Accounting Firm to provide detailed supporting calculations both to the Company and Executive within fifteen (15) business days before the event that results in the potential for an excise tax liability for the Executive, which could include but is not limited to a Change in Control and the subsequent vesting of any cash payments or awards, or the Executive's termination of employment, or such earlier time as is required by the Company. The initial Gross-Up Payment, if any, as determined pursuant to this Paragraph 1, shall be paid on the Executive's behalf to the applicable taxing authorities by no later than the date the Executive is required to remit the taxes to such taxing authority. If the Accounting Firm determines that no Excise Tax is payable to the Executive, the Company shall use reasonable efforts to cause the Accounting Firm to furnish the Executive with a written report indicating that he has substantial authority not to report any Excise Tax on his federal income tax return. Any determination by the Accounting Firm shall be binding upon the Company and Executive. As a result of the uncertainty in the application of Section 4999 of the Code at the time of the initial determination by the Accounting Firm hereunder, it is possible that Gross-Up Payments which will not have been made by the Company should have been made ("***Underpayment***"), consistent with the calculations required to be made hereunder. In the event that the Company exhausts its remedies pursuant to Paragraph 3 below and the Executive thereafter is required to make a payment or additional payment of any Excise Tax, the Accounting Firm shall determine the amount of the Underpayment that has occurred and any such Underpayment, increased by all applicable interest and penalties associated with the Underpayment, shall be promptly paid by the Company to or for the benefit of the Executive. For purposes of determining the amount of the Gross-Up Payment, the Executive shall be deemed to pay federal income tax at the highest marginal rate of federal income taxation in the calendar year in which the Gross-Up Payment is to be made and state and local income taxes on earned income at the highest marginal rate of taxation in the state and locality of the Executive's residence on the Effective Date of Termination, net of the maximum reduction in federal income taxes which could be obtained from deduction of such state and local taxes.

2. The Accounting Firm shall be a public accounting firm proposed by the Company and agreed upon by the Executive. If the Executive and the Company cannot agree on the firm to serve as the Accounting Firm within ten (10) days after the date on which the Company proposed to the Executive a public accounting firm to serve in such capacity, then the Executive and the Company shall each select one accounting firm and those two (2) firms shall jointly select the accounting firm to serve as the Accounting Firm within ten (10) days after being requested by the Company and the Executive to make such selection. The Company shall pay the fees of the Accounting Firm.

3. The Executive shall notify the Company in writing of any claim by the Internal Revenue Service that, if successful, would require the payment by the Company of the Gross-Up Payment. Such notification shall be given as soon as practicable but no later than fifteen (15) business days after the Executive knows of such claim and shall apprise the Company of the nature of such claim and the date on which such claim is requested to be paid. The Executive shall not pay such claim prior to the expiration of the period ending on the date that any payment of taxes with respect to such claim is due or the thirty (30) day period following the date on which the Executive gives such notice to the Company, whichever period is shorter. If the Company notifies the Executive in writing prior to the expiration of such period that it desires to contest such claim, the Executive shall (i) give the Company any information reasonably requested by the Company relating to such claim, (ii) take such action in connection with contesting such claim as the Company shall reasonably request in writing from time to time, including, without limitation, accepting legal representation with respect to such claim by an attorney reasonably selected by the Company, (iii) cooperate with the Company in good faith in order effectively to contest such claim, and (iv) permit the Company to participate in any proceedings relating to such claim; *provided, however*, that the Company shall bear and pay directly all costs and expenses (including attorneys' fees and any additional interest and penalties) incurred in connection with such contest and shall indemnify and hold the Executive harmless, on an after-tax basis, for any Excise Tax or income tax, including interest and penalties with respect thereto, imposed as a result of such representation and payment of costs and expenses. Without limitation of the foregoing provisions of this Paragraph 3, the Company shall control all proceedings taken in connection with such contest and, at its sole option, may pursue or forego any and all administrative appeals, proceedings, hearings and conferences with the taxing authority in respect to such claim and may, at its sole option, either direct the Executive to pay the tax claimed and sue for a refund or contest the claim in any permissible manner, and the Executive agrees to prosecute such contest to a determination before any administrative tribunal, in a court of initial jurisdiction and in one or more appellate courts, as the Company shall determine; *provided, however*, that if the Company directs the Executive to pay such claim and sue for a refund, the Company shall advance the amount of such payment to Executive, on an interest-free basis and shall indemnify and hold the Executive harmless, on an after-tax basis, from any Excise Tax and income tax, including interest or penalties with respect thereto, imposed with respect to such advance or with respect to any imputed income with respect to such advance; and further *provided that* any extension of the statute of limitations relating to payment of taxes for the taxable year of the Executive with respect to which such contested amount is claimed to be due is limited solely to such contested amount. Furthermore, the Company's control of the contest shall be limited to issues with respect to which a Gross-Up Payment would be payable hereunder and the Executive shall be entitled to settle or contest, as the case may be, any other issue raised by the Internal Revenue Service or any other authority.

4. If, after the receipt by the Executive of an amount advanced by the Company pursuant to Paragraph 3 above, the Executive becomes entitled to receive any refund with respect to such claim, the Executive shall (subject to the Company's complying with the requirements of Paragraph 3), promptly pay to the Company the amount of such refund (together with any interest paid or credited thereon after taxes applicable thereto).

EXHIBIT 10.4

HEAT BIOLOGICS, INC.
RESTRICTED STOCK AGREEMENT
2018 STOCK INCENTIVE PLAN

THIS RESTRICTED STOCK AGREEMENT (the "***Agreement***") is made and entered into as of (the "***Grant Date***"), by and between **Heat Biologics, Inc.**, a Delaware corporation (the "***Company***"), and _____ (the "***Participant***").

Subject to the Additional Terms and Conditions attached hereto and incorporated herein by reference as part of this Agreement, the Company hereby awards as of the Grant Date to the Participant the shares of the Company's restricted Common Stock (the "***Restricted Stock***") described below (the "***Restricted Stock Award***") pursuant to the Heat Biologics, Inc. 2018 Stock Incentive Plan (the "***Plan***"). Capitalized terms that are not otherwise defined in this Agreement shall have the meanings given to such terms in the Plan.

Participant:

Grant Date:

Total Number of Shares of
Restricted Stock Awarded:

Vesting Schedule: The Restricted Stock shall vest according to the Vesting Schedule attached hereto as Schedule 1. The Restricted Stock that become vested on each Vesting Date pursuant to the Vesting Schedule are herein referred to as the "***Vested Restricted Stock***."

The Restricted Stock is awarded under and governed by the terms and conditions of this Restricted Stock Agreement and the Plan, which is incorporated herein by reference. By signing below, the Participant accepts the Restricted Stock Award, acknowledges receipt of a copy of the Plan and this Restricted Stock Agreement, and agrees to the terms thereof.

HEAT BIOLOGICS, INC.:

_____
(Signature)

By: _____

Name: _____

Address: _____

Title: _____

ADDITIONAL TERMS AND CONDITIONS OF
HEAT BIOLOGICS, INC.
RESTRICTED STOCK AGREEMENT

1. Restricted Stock Held in Plan Name. The **2018 STOCK INCENTIVE PLAN (the "Plan")**

Restricted Stock shall be issued in the name of the Plan and held for the account and benefit of the Participant. The Committee (as defined in the Plan) shall cause periodic statements of account to be delivered to the Participant, at such time or times as the Committee may determine in its sole discretion, showing the number of Restricted Stock held by the Plan on behalf of the Participant. Subject to other Additional Terms and Conditions, the Committee shall cause one or more certificates to be delivered to the Participant as soon as administratively practicable following the date that all or any portion of the Restricted Stock become Vested Restricted Stock.

2. Condition to Delivery of Vested Restricted Stock.

(a) If Participant makes a timely election pursuant to Section 83(b) of the Code, it is a condition to receiving the Vested Restricted Stock that Participant must deliver to the Company, within thirty (30) days of making the election pursuant to said Section 83(b) as to all or any portion of the Restricted Stock, either cash or a certified check payable to the Company in the amount of all of the tax withholding obligations (whether federal, state or local), imposed on the Company by reason of the making of an election pursuant to said Section 83(b).

(b) If the Participant does not make a timely election pursuant to Section 83(b) of the Code as to all of the Restricted Stock, the Participant may notify the Company in writing, which notice must be received by the Company at least thirty (30) days prior to the date Restricted Stock become Vested Restricted Stock (or such later date as the Committee may permit), that the Participant wishes to pay in cash all of the tax withholding obligations (whether federal, state or local) imposed on the Company by reason of the vesting of some or all of the Restricted Stock. As a condition to receiving the Vested Restricted Stock, Participant must deliver to the Company no later than three (3) business days of the vesting either cash or a certified check payable to the Company in the amount of all of the tax withholding obligations (whether federal, state or local) imposed on the Company by reason of the vesting of the Vested Restricted Stock to which the election applies.

(c) If the Participant does not make a timely election pursuant to Section 83(b) of the Code as provided in Section 2(a), or deliver a timely election to make a supplemental payment with cash or by certified check for tax withholding obligations as provided in Section 2(b) as to all or a portion of the Vested Restricted Stock, Participant will be deemed to have elected to have the actual number of Vested Restricted Stock reduced by the smallest number of whole shares of underlying Common Stock which, when multiplied by the fair market value of the underlying Common Stock, as determined by the Committee, on the date of the vesting event is sufficient to satisfy the amount of the tax withholding obligations imposed on the Company by reason of the vesting of such Vested Restricted Stock (the "***Withholding Election***"). Participant understands and agrees that Participant's acceptance of this Restricted Stock Award will be deemed to be Participant's election to make a Withholding Election pursuant to this Section 2(c) and such other consistent terms and conditions prescribed by the Committee.

(d) In addition to the provisions of Sections 2(a)-(c), if Participant is terminated by the Company other than for Cause and has not made a timely election pursuant to Section 83(b) of the Code, Participant will be deemed to have elected to have the actual number of Restricted Stock that will vest pursuant to the terms of the Plan reduced by the smallest number of whole shares of the underlying Common Stock which, when multiplied by the fair market value of the underlying Common Stock, as determined by the Committee, is sufficient to satisfy the amount of the tax withholding obligations imposed on the Company by reason of the vesting of such Restricted Stock. The date for the withholding will be the date the tax withholding obligation is imposed on the Company, as determined by the Company. A stock certificate for such Restricted Stock (net of any tax withholdings) will be issued and held by the Company and delivered to Participant after the Vesting Date or as otherwise provided herein. Participant understands and agrees that Participant's acceptance of this Restricted Stock Award will be deemed to be Participant's election to make a tax withholding election pursuant to this Section 2(d) and such other consistent terms and conditions prescribed by the Committee.

(e) The Committee reserves the right to give no effect to a withholding election under Sections 2(b), (c) or (d) in which case the Participant will remain obligated as a condition to receiving the Vested Restricted Stock to satisfy applicable tax withholding obligations with cash or by a certified check in the manner provided by the Committee. If the Committee elects not to give effect to a withholding election under Sections 2(b), (c) or (d), it shall provide the Participant with written notice reasonably in advance of the applicable vesting event.

3. Rights as Stockholder. The Restricted Stock will be held for the Participant by the Company until a disposition of the Restricted Stock occurs in accordance with Section 4(d). Participant shall have all the rights of a stockholder on shares of Restricted Stock that vest. With respect to unvested Restricted Stock: (a) Participant shall have the right to vote such shares at any meeting of stockholders of the Company; (b) Participant shall have and the right to receive, free of vesting restrictions (but subject to applicable withholding taxes) all cash dividends paid with respect to such shares; and (c) any non-cash dividends and other non-cash proceeds of such shares, including stock dividends and any other securities issued or distributed in respect of such shares shall be subject to the same vesting and forfeiture conditions, and the terms of Section 4(d), as the shares of Restricted Stock to which they relate, and the term "***Restricted Stock***" when used in this Agreement shall also include any related stock dividends and other securities issued or distributed in respect of such shares.

4. Vesting, Forfeiture and Restrictions on Transfer of Restricted Stock.

(a) Generally. The shares of Restricted Stock which have become Vested Restricted Stock pursuant to the Vesting Schedule shall be considered as fully earned by the Participant, subject to the further provisions of this Section 4 and any applicable provisions of any employment agreement between the Participant and the Company ("***Employment Agreement***"), provided that the Company shall continue to hold the shares of Vested Restricted Stock on behalf of the Participant or instruct the transfer agent to hold the shares of Vested Restricted Stock on behalf of the Participant or pending disposition pursuant to Section 4(d). Any Restricted Stock that do not become Vested Restricted Stock in accordance with the Vesting Schedule or the provisions of this Section 4 as of the Participant's termination of employment (" ***Termination of Employment***") (as described in Section 7 of the Plan) with the Company and/or its affiliates will be forfeited and transferred back to the Company.

(b) Vesting and Forfeitures upon Termination of Employment or Service and/or Change in Control

(i) Termination by Participant. Except as provided in Section 4(b)(ii), upon a Termination of Employment prior to the Vesting Date effected by the Participant for any reason other than "***Good Reason***" (as defined in the Employment Agreement) all unvested Restricted Stock shall be forfeited as of the effective date of such Termination of Employment.

(ii) Termination of Employment or Service; Change in Control. Subject to the provisions of Section 7 (Termination of Employment) of the Plan, the Restricted Stock shall become vested to the extent and at the time or times set forth in the Vesting Schedule. In the event that Participant resigns from employment with the Company for "Good Reason" pursuant to the Employment Agreement, or Participant's employment is terminated without cause or for disability or death, then all Restricted Stock shall thereupon become fully vested. In addition, in the event of a Change in Control, all Restricted Stock shall become fully vested immediately prior to the effective date of a Change in Control provided Participant is still employed by, or providing services to, the Company or any of its subsidiaries immediately prior to the effective date of the Change in Control.

(c) Certain Breaches of Employment Agreement. Notwithstanding anything to the contrary herein, if, at any time, an arbitrator or court of competent jurisdiction makes a final determination that the Participant has breached any of the terms, provisions and restrictions imposed upon Participant under the Employment Agreement (if any), all of the Restricted Stock, other than any shares of Restricted Stock that have become Vested Restricted Stock, shall be forfeited. Such forfeiture shall occur without limiting the Company's other rights and remedies available under the Employment Agreement.

(d) Restrictions on Transfer of Restricted Stock. If at any time after the Restricted Stock grant date, the Participant (or the Participant's transferee by will or the laws of descent and distribution) desires to sell or otherwise dispose of any shares of Vested Restricted Stock, Participant (or such transferee) shall send to the Company's principal place of business a written notice offering (email notice to be acceptable) to sell to the Company the shares of Vested Restricted Stock the Participant (or such transferee) desires to sell (the "***Offered Shares***") at a price per share equal to the lower of (i) closing price per share of the Company's common stock on the date of such notice or on the next business day following the date of such notice (as reported by NASDAQ or such other exchange on

which shares of the Company's common stock are traded) and (ii) seventeen (17) times the closing price per share of the Company's common stock on the date of the Restricted Stock grant, as reported by NASDAQ (the "***Initial Price Per Share***"). The Company shall have five business days in which to exercise such option to acquire Participant's (or such transferee's) Offered Shares and must consummate such transaction by remitting the purchase price for the Offered Shares to the Participant (or such transferee) within five business days thereafter. If (i) the Company does not provide Participant (or such transferee) with funds to acquire all of the Offered Shares prior to the expiration of such period, or (ii) the Company notifies the Participant (or such transferee) that it will not exercise its option (the earlier of (i) and (ii) being referred to as the "***Option Termination Date***"), then the Participant (or such transferee) shall be free to sell or otherwise dispose of such Offered Shares , so long as Participant (or such transferee) complies with all applicable laws and the Company's insider trading policy if applicable, and the acquirer of such shares will acquire such shares without any restrictions other than those required by law; provided, however, that if the Offered Shares are sold by the Participant (or such transferee) at a price per share in excess of seventeen (17) times the Initial Price Per Share (such excess being referred to as the "Excess," Participant (or such transferee) shall remit to the Company the Excess received by Participant (or such transferee) within three business days following such sale or disposition. The Initial Price Per Share shall be subject to adjustment to reflect any merger, consolidation, reorganization, recapitalization, reincorporation, stock split, stock dividend or other similar change in capitalization.

(e) Legends. Subject to Section 5 below, Participant agrees that the Company may endorse any certificates for Restricted Stock or Vested Restricted Stock with such legends to reflect the restrictions provided for herein or otherwise required by applicable federal or state securities laws. The Company need not register a transfer of the Restricted Stock and may also instruct its transfer agent not to register the transfer of the Restricted Stock unless the conditions specified in any legends are satisfied.

5. Removal of Legend and Transfer Restrictions. Any restrictions, restrictive legends and any related stop transfer instructions may be removed at the direction of the Committee and the Company shall issue necessary replacement certificates or instruct the transfer agent to remove such restrictions or legends without that portion of the legend to the Participant as of the date that the Committee determines that such legend(s) and/or instructions are no longer applicable. In the event that the Company does not exercise an option set forth in Section 4(d), the legend shall be removed on the Option Termination Date and the Company shall instruct the transfer agent to take all action necessary to remove all legends other than those required by law within five days of the Option Termination Date. Unless otherwise determined at the time of the Grant of the Restricted Stock and as set forth in this Restricted Stock Agreement, the vesting schedule for the Restricted Stock will be subject to the provisions of the Plan.

6. Change in Capitalization.

(a) The number and kind of Restricted Stock shall be proportionately adjusted to reflect a merger, consolidation, reorganization, recapitalization, reincorporation, stock split, stock dividend or other change in the capital structure of the Company in accordance with the terms of the Plan. All adjustments made by the Committee under this Section shall be final, binding, and conclusive upon all parties.

(b) The existence of the Plan and the Restricted Stock Award shall not affect the right or power of the Company to make or authorize any adjustment, reclassification, reorganization or other change in its capital or business structure, any merger or consolidation of the Company, any issue of debt or equity securities having preferences or priorities as to the Common Stock or the rights thereof, the dissolution or liquidation of the Company, any sale or transfer of all or part of its business or assets, or any other corporate act or proceeding.

7. Governing Law. Except to the extent preempted by any applicable federal law, this Agreement shall be construed and administered in accordance with the laws of the State of Delaware, without reference to its principles of conflicts of law. The parties shall resolve all disputes, controversies and differences which may arise between the parties, out of or in relation to or in connection with this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, after discussion in good faith attempting to reach an amicable solution. Such discussion will begin immediately after one party has delivered to the other party a request for discussion. If the dispute, controversy, or claim cannot be resolved within 14 days following the date on which the request for discussion is delivered, then it will be finally settled by arbitration held in Durham, North Carolina in accordance with the latest Rules of the American Arbitration Association. Such arbitration shall be conducted by one arbitrator appointed as follows: each party will appoint one arbitrator and the appointed arbitrators shall appoint the deciding arbitrator. The arbitration proceeding must take place within 30 days of such arbitration request, with a final adjudication granted within 7

days of the arbitration proceeding. The decision of the tribunal shall be final and may not be appealed. The arbitral tribunal may, in its discretion award fees and costs as part of its award. Judgment on the arbitral award may be entered by any court of competent jurisdiction, including any court that has jurisdiction over either of the party or any of their assets.

8. Successors. This Agreement shall be binding upon and inure to the benefit of the heirs, legal representatives, successors, and permitted assigns of the parties.

9. Notice. Except as otherwise specified herein, all notices and other communications under this Agreement shall be in writing and shall be deemed to have been given if personally delivered or if sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the proposed recipient at the last known address of the recipient. Any party may designate any other address to which notices shall be sent by giving notice of the address to the other parties in the same manner as provided herein.

10. Severability. In the event that any one or more of the provisions or portion thereof contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, the same shall not invalidate or otherwise affect any other provisions of this Agreement, and this Agreement shall be construed as if the invalid, illegal or unenforceable provision or portion thereof had never been contained herein.

11. Entire Agreement. Subject to the terms and conditions of the Plan, and the applicable provisions of the Employment Agreement (if any), this Agreement expresses the entire understanding and agreement of the parties with respect to the subject matter. In the event of any conflict between the provisions of the Plan and the terms of this Agreement, the provisions of the Plan will control. The Restricted Stock Award has been made pursuant to the Plan and an administrative record is maintained by the Committee indicating under which plan the Restricted Stock Award is authorized.

12. Violation. Any disposition of the Restricted Stock or any portion thereof shall be a violation of the terms of this Agreement and shall be void and without effect.

13. Headings. Paragraph headings used herein are for convenience of reference only and shall not be considered in construing this Agreement.

14. Specific Performance. In the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the party or parties who are thereby aggrieved shall have the right to specific performance and injunction in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative.

15. No Right to Continued Retention. Neither the establishment of the Plan nor the award of Restricted Stock hereunder shall be construed as giving Participant the right to a continued service relationship with the Company or an affiliate.

16. Definitions. Any terms which are capitalized herein but not defined herein shall have the meaning set forth in the Plan.

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SCHEDULE 1
TO HEAT BIOLOGICS, INC.
RESTRICTED STOCK AWARD
(Under the 2018 Stock Incentive Plan)

Vesting Schedule

A. Provided that the Participant continues to be employed by the Company or any affiliate on the applicable Vesting Date described in this Schedule 1, the Restricted Stock shall become Vested Restricted Stock as follows:

Percentage of Restricted Stock Vesting	**Vesting Date**

Notwithstanding the foregoing vesting schedule, the events described in Section 4(b)(ii) of the Additional Terms and Conditions to the Agreement, the Plan, and any change in control provisions of any Employment Agreement, provide for accelerated vesting of all or a portion of the Restricted Stock to the extent and in the manner described by such provisions. Except as otherwise provided in Section 4(b)(ii) of the Additional Terms and Conditions to the Agreement, the Plan, and any change in control provisions of any Employment Agreement, all Restricted Stock shall be forfeited if the Participant experiences a Termination of Employment prior to the Vesting Date.

B. The provisions of this Vesting Schedule are subject to, and limited by, all applicable provisions of the Agreement.

EXHIBIT 10.5

December 31, 2020

Mr. Jeff T. Hutchins

Re: **Separation Agreement**

Dear Jeff:

This letter sets forth the substance of the Separation Agreement (the "***Agreement***") which the Company is offering to you. The Separation Agreement contains a general release that, among other statutes and claims, applies to rights and claims arising under the Age Discrimination in Employment Act of 1967 (29 U.S.C. §621 et seq.), as well as the Older Workers' Benefit Protection Act of 1990. Before executing this Agreement, you are advised to consult an attorney to review its contents. You may consider this Agreement for 21 calendar days from the date you receive this Agreement and General Release before executing it. Discussions or negotiations about this Agreement and General Release do not extend this 21day period beyond the next business day (at which time this offer is revoked) unless agreed to by the Company in writing. In addition, if you execute the agreement, you may revoke the Separation Agreement and General Release for up to seven calendar days. Details are provided below.

1. Separation Date. December 31, 2020 shall be your "***Separation Date***."

2. Severance Benefits. If you (a) execute this Agreement; and (b) and do not revoke it within the time permitted, then the Company will provide you with the following severance benefits (the "***Severance Benefits***"):

A. Severance Payments. The Company will make a severance payment to you in the form of payment of $110,000.00. This payment will be subject to standard payroll deductions and withholdings and will be made on the later of the date that all other employees of the Company receive their year-end bonuses and seven business days following the Company's receipt of this Agreement executed by you, provided you have not revoked it within the time permitted.

3. Compliance with Section 409A. The severance payments described in Sections 2 of this Agreement offered to you by the Company are payable in reliance on Treasury Regulation Section 1.409A-1(b)(9) and the short term deferral exemption in Treasury Regulation Section 1.409A-1(b)(4). All payments and benefits under this Agreement are subject to applicable withholdings and deductions.

4. Accrued Salary, Vacation and Outstanding Equity Awards. On the next regular payroll date following the Separation Date, the Company will pay you all accrued salary, and all

accrued and unused vacation, earned through the Separation Date, subject to standard payroll deductions and withholdings; you will receive these payments regardless of whether or not you sign this Agreement.

You were granted the options to purchase shares of the Company's common stock set forth on Exhibit A annexed hereto, pursuant to the Company's 2018 Equity Incentive Plan and 2017 Equity Incentive Plan (collectively, the "***Plans***") and stock option agreements between you and the Company (the "***Documents***"). The vesting of your option awards will cease as of the Separation Date and your right to exercise any vested shares, and all other rights and obligations with respect to your equity awards, will be as set forth in the applicable equity award agreements, grant notices and Documents. You were also granted restricted stock awards as set forth on Exhibit A annexed hereto pursuant to the Plans. The vesting of your restricted stock awards will cease as of the Separation Date and your right to exercise any vested shares, and all other rights and obligations with respect to your equity awards, will be as set forth in the applicable equity award agreements, grant notices and Documents.

5. Benefit Plans. If you are currently participating in the Company's group health insurance plans as of the Separation Date, to the extent provided by the federal COBRA law or, if applicable, state insurance laws, and by the Company's current group health insurance policies, you will be eligible to continue your group health insurance benefits at your own expense. Later, you may be able to convert to an individual policy through the provider of the Company's health insurance, if you wish.

Your participation in Employer-Sponsored Group Life Insurance and Short and Long Term Disability Insurance will cease as of the Separation Date.

Deductions for the 401(k) Plan will end with your last regular paycheck. You will receive information by mail concerning 401(k) plan rollover procedures should you be a participant in this program.

6. Other Compensation or Benefits. You acknowledge that, except as expressly provided in this Agreement, you will not receive and are not entitled to any additional compensation, severance or benefits after the Separation Date.

7. Expense Reimbursements. You agree that, within ten (10) days after the Separation Date, you will submit your final documented expense reimbursement statement reflecting all business expenses you incurred through the Separation Date, if any, for which you seek reimbursement. The Company will reimburse you for reasonable business expenses so submitted in a prompt and timely manner pursuant to its regular business practice.

8. Return of Company Property. By the Separation Date, you will return to the Company all Company documents (and all copies thereof) and other Company property that you presently have in your possession, custody, or control, including, but not limited to, Company files, notes, drawings, records, business plans and forecasts, financial information, specifications, computer-recorded information, tangible property (including, but not limited to, computers), credit cards, entry cards, identification badges and keys; and, any materials of any kind that contain or embody any proprietary or confidential information of the Company (and all reproductions thereof). Please coordinate return of Company property with William Ostrander, Vice President of Finance. Solely to assist you and not by way of limiting the foregoing obligations, Company shall provide you with a listing of all Company property believed to be in your possession within 20 days of the entry into this Agreement to begin the

coordination process. You and Mr. Ostrander will work cooperatively and in good faith to address any items needing clarification or revision. The return of any Company property shall be at the sole cost and expense of Company and subject to the same expense payment or reimbursement practices as referenced in Section 10 above. **Receipt of severance benefits under this Agreement is expressly conditioned upon return of all Company Property, PROVIDED HOWEVER that any inadvertent or unknowing retention of any Company property by you shall not be deemed or construed as a failure of this condition or material breach so long as promptly disclosed by you to Company after its discovery and returned by you to Company accordingly.**

9. Proprietary Information and Post-Termination Obligations. Both during and after your employment you acknowledge your continuing obligations under your Employment Agreement and Confidential Information and Assignment of Inventions Agreement not to use or disclose any confidential or proprietary information of the Company and to refrain from certain solicitation and competitive activities, as set forth in Paragraph 14 of this Agreement. If you have any doubts as to the scope of the restrictions in your agreement, you should contact the Chief Executive Officer or the General Counsel immediately to assess your compliance. As you know, the Company will enforce its contract rights. Please familiarize yourself with the enclosed agreement which you signed.

10. Confidentiality. The provisions of this Agreement will be held in strictest confidence by you and will not be publicized or disclosed in any manner whatsoever; *provided, however,* that: (a) you may disclose this Agreement to your immediate family; (b) you may disclose this Agreement in confidence to your attorney, accountant, auditor, tax preparer, and financial advisor; and (c) you may disclose this Agreement insofar as such disclosure may be required by law. Notwithstanding the foregoing, nothing in this Agreement shall limit your right to discuss your employment with the Equal Employment Opportunity Commission, United States Department of Labor, the National Labor Relations Board, other federal government agency or similar state or local agency (e.g. the applicable State unemployment/employment security agency or Department of Labor and any applicable Departments of Revenue) or to discuss the terms and conditions of your employment with others to the extent expressly permitted by Section 7 of the National Labor Relations Act. Also, and notwithstanding any of the foregoing, neither the fact that the Parties have a reached a mutual agreement to conclude their relationship nor the official Separation Date agreed upon shall be considered confidential information subject to this provision.

11. Non-Disparagement and Future Employer Inquiries. You agree that you, your agents, family and representatives shall refrain from (i) all conduct, verbal or otherwise, which would disparage or materially damage the business reputation, personal reputation, goodwill or standing in the community of the Company, its affiliates, subsidiaries, divisions, agents and related parties and their respective principals, owners (direct or indirect), members, directors, officers, agents, servants, employees, parties, attorneys and other professionals, successors and assigns (collectively, the "Company Related Parties") and (ii) referring to or in any way commenting on the Company or any of the other Company Related Parties in or through the general media or any public domain (including without limitation, internet websites, blogs, chat rooms and the like), which would materially damage, the reputation, goodwill or standing in the community of the Company or any of the Company Related Parties. Notwithstanding the foregoing, nothing in this Agreement shall limit your right to discuss your employment with the Equal Employment Opportunity Commission, United States Department of Labor, the National Labor Relations Board, other federal government agency or similar state or local agency or to discuss the terms and conditions of your employment with others to the extent expressly permitted by Section 7 of the National Labor Relations Act.

With respect to any future job applications or requests for information received from any prospective employer, from and after the date of this Agreement, any such prospective employers should be referred to William Ostrander (or the then Chief Operating Officer if he is no longer with the Company), and the Company will confirm the dates of your employment, confirm, if requested, that the separation of your relationship with the Company was by "mutual agreement", and note that pursuant to Company policy it does not otherwise comment to prospective employers on the work of its former employees.

12. Non-Solicitation & Non-Interference. For a period of twelve (12) months after the Separation Date you agree that, directly or indirectly, whether for your own account or for the account of any other individual or entity, you will not:

(i) solicit, cause, induce, or encourage, or attempt to solicit, cause or induce or encourage any employee of the Company, or any person who was employed by the Company in the six (6) months prior to the Separation Date, to leave his or her employment;

(ii) hire or otherwise engage the services of any employee of the Company, or any person who was employed by the Company in the six (6) months prior to Separation Date;

(iii) communicate with any current or former director, manager, partner, employee, agents, or affiliate concerning the Company or any of the Company's activities without the prior express written authorization of the Chief Executive Officer or the General Counsel and subject to or as permitted by Section 7 of the National Labor Relations Act;

(iv) assist, cause, induce, encourage, or attempt to assist, cause or induce or encourage, any third party in taking any of the actions described in clauses (i) – (iii) above.

PROVIDED HOWEVER, and notwithstanding any of the foregoing, nothing in the above language shall prohibit, prevent or restrict: you and/or any future employer from generally announcing (including in any trade press or on any form of social media) your taking a particular position, association or affiliation with such entity; you and/or any future employer from generally posting or placing any open position advertisements on any job boards, with any headhunters or recruiters, or otherwise, and so long as you are not involved in any way in targeting any candidates that may arguably be included in clauses (i) – (iii) above; any future employer from unilaterally and independently deciding to recruit, respond to inquiries, or hire anyone so long as you are not involved in any recruiting process (including without limitation the general or specific identification of any potential candidates for employment by your future employer), hiring process, or decisions.

13. Release. In exchange for the payments and other consideration under this Agreement, to which you would not otherwise be entitled, and except as otherwise set forth in this Agreement, you, on behalf of yourself and, to the extent permitted by law, on behalf of your spouse, heirs, executors, administrators, assigns, insurers, attorneys and other persons or entities, acting or purporting to act on your behalf (collectively, the "***Employee Parties***"), hereby generally and completely release, acquit and forever discharge the Company, its parents and subsidiaries, and its and their officers, directors,

managers, partners, agents, representatives, employees, attorneys, shareholders, predecessors, successors, assigns, insurers and affiliates (the " ***Company Parties***") of and from any and all claims, liabilities, demands, contentions, actions, causes of action, suits, costs, expenses, attorneys' fees, damages, indemnities, debts, judgments, levies, executions and obligations of every kind and nature, in law, equity, or otherwise, both known and unknown, suspected and unsuspected, disclosed and undisclosed, accrued and unaccrued, arising out of or in any way related to agreements, events, acts, understandings, representations, or conduct at any time prior to and including the execution date of this Agreement, including but not limited to: all such claims and demands directly or indirectly arising out of or in any way connected with your employment with the Company or the termination of that employment; claims or demands related to salary, bonuses, commissions, stock, stock options, or any other ownership interests in the Company, vacation pay, fringe benefits, expense reimbursements, severance pay, or any other form of compensation; claims pursuant to any federal, state or local law, statute, or cause of action; tort law; or contract law (individually a "***Claim***" and collectively "***Claims***"). The Claims you are releasing and waiving in this Agreement include, but are not limited to, any and all Claims that any of the Company Parties:

- has violated its personnel policies, handbooks, contracts of employment, or covenants of good faith and fair dealing;

- has discriminated against you on the basis of age, race, color, sex (including sexual harassment), national origin, ancestry, disability, religion, sexual orientation, marital status, parental status, source of income, entitlement to benefits, any union activities or other protected category in violation of any local, state or federal law, constitution, ordinance, or regulation, including but not limited to: the Age Discrimination in Employment Act, as amended ("***ADEA***"); Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; 42 U.S.C. § 1981, as amended; the Equal Pay Act; the Americans With Disabilities Act; the Genetic Information Nondiscrimination Act; the Family and Medical Leave Act; the North Carolina Equal Employment Practices Act; the North Carolina Wage and Hour Act;; the Employee Polygraph Protection Act; the Worker Adjustment and Retraining Notification Act; the Older Workers Benefit Protection Act; the anti-retaliation provisions of the Sarbanes-Oxley Act, The Oklahoma Anti-Discrimination Act, The Oklahoma Standards for Workplace Drug and Alcohol Testing Act, the Oklahoma Medical Marijuana Law, The Oklahoma Medical Marijuana and Patient Protection Act, Oklahoma's, Retaliation in violation of the Oklahoma Administrative Workers' Compensation Act, The Oklahoma Minimum Wage Act, any claims arising under the Texas Labor Code including the Texas Payday Act, the Texas Anti-Retaliation Act, Chapter 21 of the Texas Labor Code, the Texas Whistleblower Act, or any other federal or state law regarding whistleblower retaliation; the Lilly Ledbetter Fair Pay Act; the Uniformed Services Employment and Reemployment Rights Act; the Fair Credit Reporting Act; and the National Labor Relations Act;

- has violated any statute, public policy or common law (including but not limited to Claims for retaliatory discharge; negligent hiring, retention or supervision; defamation; intentional or negligent infliction of emotional distress and/or mental anguish; intentional interference with contract; negligence; detrimental reliance; loss of consortium to you or any member of your family and/or promissory estoppel).

By entering into this agreement you specifically acknowledge that this Agreement irrevocably and unconditionally fully and forever waives, releases, and discharges the Company Parties from any and all Claims, whether known or unknown, from the beginning of time through the date of the Employee's execution of this Agreement arising under the Age Discrimination in Employment Act (ADEA) as amended, and its implementing regulations. Notwithstanding the foregoing, other than events expressly contemplated by this Agreement you do not waive or release rights or Claims that may arise from events that occur after the date this waiver is executed. Also excluded from this Agreement are any Claims which cannot be waived by law, including, without limitation, any rights you may have under applicable workers' compensation laws and your right, if applicable, to file or participate in an investigative proceeding of any federal, state or local governmental agency.

Nothing in this Agreement shall prevent you from filing, cooperating with, or participating in any proceeding or investigation before the Equal Employment Opportunity Commission, United States Department of Labor, any other federal government agency, or similar state or local agency, or exercising any rights pursuant to Section 7 of the National Labor Relations Act.

However, you are waiving, to the fullest extent permitted by law, your right to any monetary recovery should any governmental agency or entity, such as the Equal Employment Opportunity Commission, the United States Department of Labor or the National Labor Relations Board, pursue any Claims on your behalf. If any Claim is not subject to release, to the extent permitted by law, you waive any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective or multi-party action or proceeding based on such a Claim in which any of the Company Parties is a party. This Agreement does not abrogate your existing rights under any Company benefit plan or any plan or agreement related to equity ownership in the Company; however, it does waive, release and forever discharge Claims existing as of the date you execute this Agreement pursuant to any such plan or agreement.

14. Your Acknowledgments and Affirmations. You acknowledge that you are knowingly and voluntarily waiving and releasing any and all rights you may have under the Age Discrimination in Employment Act as amended, 29 U.S.C. §§ 621, et seq. ("ADEA"), as amended. You also acknowledge and agree that: (i) the consideration given to you in exchange for the waiver and release in this Agreement is in addition to anything of value to which you were already entitled, and (ii) that you have been paid for all time worked, have received all the leave, leaves of absence and leave benefits and protections for which you are eligible, and have not suffered any on-the- job injury for which you have not already filed a Claim. You affirm that all of the decisions of the Company Parties regarding your pay and benefits through the date of your execution of this Agreement were not discriminatory based on age, disability, race, color, sex, religion, national origin or any other classification protected by law. You affirm that you have not filed or caused to be filed, and are not presently a party to, a Claim against any of the Company Parties. You further affirm that you have no known workplace injuries or occupational diseases. You acknowledge and affirm that you have not been retaliated against for reporting any allegation of corporate fraud or other wrongdoing by any of the Company Parties, or for exercising any rights protected by law, including any rights protected by the Fair Labor Standards Act, the Family Medical Leave Act or any related statute or local leave or disability accommodation laws, or any applicable state workers' compensation law. You are acknowledging by signing this Agreement that you understand that you are eligible for the benefits which you will receive contingent upon your executing this release. You also acknowledge that: (i) some of the consideration given to you in exchange for the waiver and release in this Agreement is in addition to anything of value to which you were already entitled, and (ii) Subject to any outstanding amounts for current payroll, expenses submitted or yet to be submitted, and excluding any amounts

required to be paid under the terms of this Agreement, the payment of all amounts required through and after any Separation Date, that you have been paid for all time worked, have received all the leave, leaves of absence and leave benefits and protections for which you are eligible, and have not suffered any on-the- job injury for which you have not already filed a claim.

15. No Admission. This Agreement does not constitute an admission by the Company of any wrongful action or violation of any federal, state, or local statute, or common law rights, including those relating to the provisions of any law or statute concerning employment actions, or of any other possible or claimed violation of law or rights.

16. Breach. You agree that upon any material breach of this Agreement you will forfeit all amounts paid or owing to you under this Agreement. Further, you acknowledge that it may be impossible to assess the damages caused by your violation of the terms of Sections 13, 14, 15 and 16 of this Agreement and further agree that any threatened or actual violation or breach of those Sections of this Agreement will constitute immediate and irreparable injury to the Company. In addition to any and all other damages and remedies available to the Company upon your breach of this Agreement, the Company shall be entitled to an injunction to prevent you from violating or breaching this Agreement.

17. Dispute Resolution. To the maximum extent permitted by law, no dispute between the parties arising from this Agreement or your employment with the Company shall be the subject of a lawsuit filed in State or federal court. Instead, any such dispute shall be submitted to binding arbitration before the American Arbitration Association ("***AAA***") or, if the Company and you agree in a separate writing, another individual or organization or an individual or organization that a court appoints. Notwithstanding the preceding sentences of this paragraph, either the Company or you may file with an appropriate state or federal court a claim for injunctive relief in any case where the filing party seeks provisional injunctive relief or where permanent injunctive relief is not available in arbitration. The filing of a claim for injunctive relief in state or federal court shall not allow either party to raise any other claim outside of arbitration. It is understood that both sides are hereby waiving the right to a jury trial. The arbitration shall be initiated in Durham, North Carolina and shall be administered by AAA under its employment arbitration rules before a single arbitrator that shall be mutually agreed upon by the parties hereto. If the parties cannot agree on a single arbitrator, then an arbitrator shall be selected in accordance with the rules of AAA. The arbitration must be filed within one year of the act or omission which gives rise to the claim. Each party shall be entitled to take one deposition and to take any other discovery as is permitted by the arbitrator. In determining the extent of discovery, the arbitrator shall exercise discretion, but shall consider the expense of the discovery and the importance of the discovery to a just adjudication. The arbitrator shall render an award that conforms to the facts as supported by competent evidence (except that the arbitrator may accept written declarations under penalty of perjury, in addition to live testimony), and the law as it would be applied by a court sitting in the State of North Carolina. The cost of arbitration shall be advanced equally by the parties. Any party may apply to a court of competent jurisdiction for entry of judgment on the arbitration award.

18. Miscellaneous. This Agreement, including Exhibit A attached hereto and the provisions of the Employment Agreement and Confidential Information and Assignment of Inventions Agreement that survive termination thereof, constitute the complete, final and exclusive embodiment of the entire agreement between you and the Company with regard to this subject matter. It is entered into without reliance on any promise or representation, written or oral, other than those expressly contained herein, and it supersedes any other such promises, warranties or representations. This Agreement may not be modified or amended except in a writing signed by both you and a duly authorized officer of the

Company. This Agreement will bind the heirs, personal representatives, successors and assigns of both you and the Company, and inure to the benefit of both you and the Company, their heirs, successors and assigns. If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, this determination will not affect any other provision of this Agreement and the provision in question will be modified by the court so as to be rendered enforceable. This Agreement will be deemed to have been entered into and will be construed and enforced in accordance with the laws of the State of North Carolina as applied to contracts made and to be performed entirely within North Carolina.

19. Additional Acknowledgments: You further acknowledge that you have been advised by this writing that:

(a) your waiver and release do not apply to any rights or claims that may arise after the execution date of this Agreement;

(b) you have been advised hereby that you have the right to consult with an attorney prior to executing this Agreement;

(c) you have twenty-one (21) days from the date you received this Agreement to consider this Agreement (the " ***Consideration Period***") although you may choose to voluntarily execute this Agreement earlier;

(d) you have seven (7) days following your execution of this Agreement to revoke the Agreement by delivering written notice to William Ostrander, Vice President of Finance at 627 Davis Drive, Ste 400 Morrisville, NC 27560; to be received no later than the close of business on the eighth calendar day after you sign this Agreement; and

(e) this Agreement shall not be effective until the date upon which the revocation period has expired unexercised (the " ***Effective Date***"), which shall be the eighth day after this Agreement is executed by you. This Agreement is legally binding and by signing it you give up certain rights.

20. Execution. This agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument. All Parties acknowledge that a facsimile copy or electronically scanned and forwarded copy of this Agreement may be executed and shall have the same binding force and effect, and in such case each agrees to execute the appropriate original Agreement thereafter if requested by the other Party. The Parties further agree to execute any and all documents which may be reasonably necessary to make effective the terms and conditions of this Agreement.

If this Agreement is acceptable to you, please sign and date below within twenty-one (21) days after your receipt of this Agreement, and then send me the fully signed Agreement.

I thank you for your efforts to date on behalf of the Company. I also wish you good luck in your future endeavors.

Sincerely,

HEAT BIOLOGICS, INC.

By: /s/ William Ostrander
Name: William Ostrander
Title: Vice President of Finance

AGREED TO AND ACCEPTED:

/s/ Jeff T. Hutchins
Jeff T. Hutchins

Exhibit A Equity Awards

Below is a Participant Statement report from OptionTrax, the company's stock reporting software, as of December 31, 2020 to show vesting of stock options through the possible Separation Date referred to in this document:

Heat Biologics Award Summary Report HUTCHINS, JEFF
Report Run as of 12/31/2020
Report Generated on 12/28/2020

Grant Id	Last Name	Plan Name	Grant Date	Expiration Date	Award Type	Award Price	Awards Granted	Vesting Template	Awards Exercised / Released	Total Awards Outstanding	Awards Vested	Awards Unvested	Exercisable Awards	Accelerated Awards per JW	Adj Exercisable Awards	Notes
G0154	Hutchins,Jeff	2014 Stock Incenti	1/3/2017	1/3/2027	ISO	$ 60.90	2,857	1/48 Vest Monthly - Pre Date	-	2,857	2,797	60	2,797	-	2,797	1
G0185	Hutchins,Jeff	2014 Stock Incenti	6/29/2017	6/28/2027	ISO	$ 46.20	1,428	48 Mo plus 1 day	-	1,428	1,279	149	1,279	-	1,279	1
G0201	Hutchins,Jeff	2014 Stock Incenti	1/8/2018	1/8/2028	ISO	$ 27.79	4,235	1/48 Vest Monthly 28 days	-	4,235	3,088	1,147	3,088	88	3,176	1,3
G0259	Hutchins,Jeff	2018 Stock Incenti	1/2/2019	1/2/2022	RSA	$ 7.42	20,448	50% , 30%, 10%	16,358	4,090	16,358	4,090	-	2,045	2,045	2
G0264	Hutchins,Jeff	2018 Stock Incenti	1/2/2019	1/2/2029	ISO	$ 7.42	13,046	Custom	-	13,046	2,850	10,196	2,850	5,098	7,948	1,3
G0264NQ	Hutchins,Jeff	2018 Stock Incenti	1/2/2019	1/2/2029	NQ	$ 7.42	37,934	Custom	-	37,934	37,934	-	37,934	-	37,934	1
G326	Hutchins,Jeff	2018 Stock Incenti	3/12/2020	3/12/2030	ISO	$ 4.20	41,836	Custom	-	41,836	-	41,836	-	1,488	1,488	1,3
G326NQ	Hutchins,Jeff	2018 Stock Incenti	3/12/2020	3/12/2030	NQ	$ 4.20	29,592	Custom	-	29,592	13,391	16,201	13,391	-	13,391	1
TOTALS							**151,376**			**135,018**			**61,339**	**8,719**	**70,058**	

Notes to above:
(1) May exercise up to 03/31/2021 (90 days from 12/31/2020)
(2) Restricted tranche of 2,045 shares accelerated to 12/31/2020
(3) Includes accelerate of vesting period between 01/01/2021 and 01/02/2021