

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): May 31, 2024

ZIVO BIOSCIENCE, INC.

(Exact name of Registrant as Specified in Its Charter)

<u>Nevada</u> (State or Other Jurisdiction of Incorporation)	<u>000-30415</u> (Commission File Number)	<u>87-0699977</u> (IRS Employer Identification No.)
<u>21 East Long Lake Road,Suite 100, Bloomfield Hills, Michigan</u> (Address of Principal Executive Offices)		<u>48304</u> (Zip Code)

Registrant's Telephone Number, Including Area Code: **248) 452-9866**

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

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
☐ 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:

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
<u>Common Stock, par value \$0.001 per share</u>	<u>ZIVO</u>	<u>OTCQB</u>
<u>Warrants to purchase shares of Common Stock, par value \$0.001 per share</u>	<u>ZIVOW</u>	<u>OTC Pink</u>

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

Emerging growth company ☐

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

Item 1.01 Entry into a Material Definitive Agreement.

Equity Incentive Plan for Non-Employee Directors

On May 31, 2024, the Board of Directors (the “Board”) of Zivo Bioscience, Inc. (the “Company”) adopted the 2024 Equity Incentive Plan for Non-Employee Directors (the “Director Equity Plan”). The Director Equity Plan provides incentives for such persons to exert maximum efforts for the success of the Company and to provide a means by which such persons may be given an opportunity to benefit from increases in value of the common stock through the granting of awards.

Material features of the Director Equity Plan are:

- The maximum number of shares of common stock to be issued under the Director Equity Plan is 875,000 shares, which number will automatically increase on January 1 of each year commencing on January 1, 2025, in an amount equal to 5% of the total number of shares of the Common Stock outstanding on December 31 of the preceding year.
- Shares reacquired by the Company to satisfy the exercise, strike or purchase price of any award or any shares that are reacquired to satisfy a tax withholding obligation in connection with the award will be added back to the share reserve under the Director Equity Plan. The withholding of shares that would otherwise be issued by the Company to satisfy the exercise, strike or purchase price of an award or the withholding of shares that would otherwise be issued by the Company to satisfy a tax withholding obligation in connection with an award will not be added back to the share reserve.
- The award of non-statutory stock options, stock appreciation rights, restricted stock, restricted stock units, and other stock-based awards is permitted.
- The aggregate value of all compensation granted or paid to any non-employee director with respect to any calendar year, including awards granted and cash fees paid by the Company to such non-employee director, will not exceed \$750,000 in total value or, in the event such non-employee director is first appointed or elected to the Board during such calendar year, \$1,000,000 in total value. These annual limits do not apply to (i) any awards made to replace stock options that were cancelled by the Board, (ii) awards made to a non-employee director for special or extraordinary services, as determined by the Board, or (iii) awards made in 2024 to compensate non-employee directors for services performed in 2023.
- All awards granted under the Director Equity Plan are subject to recoupment in accordance with the Company’s clawback policy.

Non-employee directors are eligible to participate in the Director Equity Plan.

The foregoing description of the Director Equity Plan is qualified in its entirety by reference to the full text of the Director Equity Plan, which is filed as Exhibit 10.1 hereto and incorporated herein by reference.

Amendment to the Non-Employee Director Compensation Policy

On May 31, 2024, the Board amended the Non-Employee Director Compensation Policy (the “Director Compensation Policy”) to provide that the equity component of a non-employee director’s compensation may be issued in the form of restricted stock or restricted stock units, rather than in the form of options, and to change the annual board term service cash fee from \$40,000 to \$50,000 beginning with the service year starting at the Company’s next annual stockholders’ meeting.

The foregoing description of the Director Compensation Policy is qualified in its entirety by reference to the full text of the Director Compensation Policy, which is filed as Exhibit 10.2 hereto and incorporated herein by reference.

Director Stock Option Replacement Program

The Company has issued stock options to its non-employee directors pursuant to the 2021 Equity Incentive Plan (the “2021 Plan”). The 2021 Plan provides that the Board may cancel outstanding options and make a substitute grant of new options or other equity-based awards under the 2021 Plan or another equity plan of the Company (the “Director Stock Option Replacement Program”). On June 5, 2024, pursuant to the Director Stock Option Replacement Program, 127,364 shares of restricted stock were granted under the Director Equity Plan to replace all outstanding options that were granted to non-employee directors under the 2021 Plan, options for 62,451 shares. Replacement shares were granted under the newly established Director Equity Plan to the following persons:

Board Member	Shares Awarded
Alison Cornell	60,724
Chris Maggiore	36,630
Nola Masterson	30,010

All shares of common stock granted to the non-employee directors were 100% vested on the grant date. The value of the restricted stock granted to the non-employee directors pursuant to the Director Stock Option Replacement Program had an aggregate value equal to the Black Scholes value of each of the cancelled options issued to each such director on its original grant date and was exempt from the annual limitation on awards to non-employee directors set forth in the Director Equity Plan.

Stock Award Grant

On May 31, 2024, the Board granted shares of common stock with a value of \$300,000 under the Director Equity Plan to Director Alison Cornell for her efforts on behalf of the Board in connection with certain Agtech initiatives of the Company. The 37,688 shares awarded was determined based on a closing price of the Company’s stock on the date of grant of \$7.96 per share. The Board determined that this award to Ms. Cornell is an award for special or extraordinary services and was exempt from the annual limitation on awards to non-employee directors set forth in the Director Equity Plan.

Stock Award in Lieu of Unpaid Directors' Fees

On May 31, 2024 the Board approved a Stock in Lieu of Unpaid Director's program fees that would allow for the granting of a total of 261,619 shares of stock to the non-employee Board members common in lieu of unpaid non-employee director service fees earned during the calendar year ending December 31, 2023. In aggregate the Company owed the three non-employee board members \$172,670 in fees; Alison Cornell was due \$62,789, Nola Masterson was due \$56,062, and Chris Maggiore was due \$53,819. These unpaid amounts were grossed up for taxes at an assumed tax rate of 45% and the number of shares was determined based on the Company's closing stock price on December 29, 2024 of \$1.20 per share. On June 5, 2024, all the non-employee directors accepted the following grants in lieu of the unpaid cash service fees:

Non-employee Board Member	Shares Awarded
Alison Cornell	95,134
Chris Maggiore	81,544
Nola Masterson	84,941

The value of the shares granted to the non-employee directors pursuant to this exchange of stock in lieu of unpaid cash fees were exempted from the annual limitation of awards to non-employee directors set forth in the Director Equity Plan. These shares awards will be issued under the Director Equity Plan and will be subject to provisions thereof.

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

First Amendment to the Company's 2021 Equity Incentive Plan

On May 31, 2024, the Board adopted the First Amendment to the 2021 Plan (the "Amendment"). The shareholders of the Company previously approved the adoption of the 2021 Plan at the Annual Meeting of Shareholders held on October 12, 2021. The Amendment increased the number of shares of the Company's common stock available for issuance under the 2021 Plan from 166,666 shares to 1,000,000 shares.

The foregoing description of the Amendment is qualified in its entirety by reference to the full text of the Amendment, which is filed as Exhibit 10.3 hereto and incorporated herein by reference

Employee Stock Option Replacement Program

The Company has issued stock options to its employees pursuant to its 2021 Plan and the 2019 Omnibus Long-Term Incentive Plan of the Company (the "2019 Plan"). The 2021 Plan provides that the Board may cancel outstanding options and make a substitute grant of new options, and the 2019 Plan provides that the Board may amend or modify any outstanding award (collectively, the "Employee Stock Option Replacement Program"). Pursuant to the Employee Stock Option Replacement Program, approved by the Board on May 31, 2024, outstanding options for 230,064 shares are to be cancelled and options for 981,174 shares will be granted under the 2021 Plan to replace all outstanding options that were granted and cancelled under the 2021 Plan and 2019 Plan. On June 5, 2024, the Company's officers accepted the following replacement option grants in lieu of the prior outstanding option awards:

Officer	Options Awarded
John Payne Chief Executive Officer	167,180
Keith Marchiando Chief Financial Officer	444,498

Each of the new stock options granted pursuant to the Employee Stock Option Replacement Program vest ratably to the vesting calendar that was set forth in the original stock option grant agreement for such employee and will have a life of ten years from the grant date of the substitute grant of new stock options. The new stock options have an aggregate value equal to the Black Scholes value of each of the cancelled options issued to each employee on its original grant date.

Termination of 2019 Plan

On May 31, 2024, the Board formally terminated the 2019 Plan, such termination to be effective as of the date all shares underlying the stock options that were cancelled have been returned to the 2019 Plan.

Stock Option Grant

Pursuant to the terms of Chief Executive Officer John Payne's employment agreement, Mr. Payne is entitled to an annual equity award in the form of Restricted Stock Awards or RSU Units pursuant to the 2021 Plan with an aggregate value of \$400,000. However, this award was not made in 2023, and by verbal agreement of the Board and Mr. Payne, the \$400,000 in value was converted to a cash bonus of equal value. The \$400,000 cash bonus has not been paid to Mr. Payne to date, and in lieu thereof, on June 5, 2024, Mr. Payne elected to receive, and the Board approved an equity award to Mr. Payne in the form of non-statutory stock options from the 2021 Plan with a value of \$400,000. The options have a strike price of \$7.96 per share. The number of options awarded was determined based on a closing price of the Company's stock on the date of grant of \$7.96 per share. The options for 50,251 shares awarded to Mr. Payne were 100% vested and exercisable on the grant date and will terminate on the tenth anniversary of the grant date.

Item 3.02 Unregistered Sale of Equity Securities.

The disclosures under Items 1.01 and 5.02 above are incorporated under this Item 3.02 by reference. The equity securities issued to the Board and employees totaled 426,671 shares of common stock and options to acquire 1,031,425 shares of common stock. The securities were issued in private placement pursuant to Section 4(a)(2) of the Securities Act and constitute restricted securities. As of June 5, 2024, the Company has 3,278,807 shares of common stock outstanding.

Item 9.01 Financial Statements and Exhibits.

Exhibit Number	Exhibit Description
<u>10.1</u>	<u>2024 Equity Incentive Plan for Non-Employee Directors and Form Grant Agreements</u>
<u>10.2</u>	<u>Amended Non-Employee Director Compensation Policy</u>
<u>10.3</u>	<u>First Amendment to 2021 Equity Incentive Plan</u>
104	Cover Page Interactive Data File (embedded within Inline XBRL document).

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.

ZIVO BIOSCIENCE, INC.

By: /s/ Keith Marchiando

Keith Marchiando

Chief Financial Officer

Date: June 6, 2024

ZIVO BIOSCIENCE, INC.
2024 EQUITY INCENTIVE PLAN FOR NON-EMPLOYEE
DIRECTORS

ADOPTED BY THE BOARD OF DIRECTORS: May 31, 2024

1. GENERAL.

(a) **Plan Purpose.** The Company, by means of this Plan, seeks to secure and retain the services of Directors, to provide incentives for such persons to exert maximum efforts for the success of the Company and any Affiliate and to provide a means by which such persons may be given an opportunity to benefit from increases in value of the Common Stock through the granting of Awards.

(b) **Available Awards.** The Plan provides for the grant of the following Awards: (i) Nonstatutory Stock Options; (ii) Stock Appreciation Rights; (iii) Restricted Stock Awards; (iv) Restricted Stock Unit Awards; and (v) Other Awards.

(c) **Effective Date.** The Plan is effective on the date of adoption by the Board.

2. SHARES SUBJECT TO THE PLAN.

(a) **Share Reserve.** Subject to adjustment in accordance with Section 2(c) and any adjustments as necessary to implement any Capitalization Adjustments, the aggregate number of shares of the Common Stock that may be issued pursuant to Awards will not exceed 875,000 shares. In addition, subject to any adjustments as necessary to implement any Capitalization Adjustments, such aggregate number of shares of the Common Stock will automatically increase on January 1 of each year commencing on January 1, 2025, in an amount equal to 5% of the total number of shares of the Common Stock outstanding on December 31 of the preceding year; provided, however, that the Board may act prior to January 1st of a given year to provide that the increase for such year will be a lesser number of shares of the Common Stock.

(b) **Share Reserve Operation.**

(i) **Limit Applies to Common Stock Issued Pursuant to Awards.** For clarity, the Share Reserve is a limit on the number of shares of the Common Stock that may be issued pursuant to Awards and does not limit the granting of Awards, except that the Company will keep available at all times the number of shares of the Common Stock reasonably required to satisfy its obligations to issue shares pursuant to such Awards.

(ii) **Actions that Do Not Constitute Issuance of Common Stock and Do Not Reduce Share Reserve.** The following actions do not result in an issuance of shares under this Plan and accordingly do not reduce the number of shares subject to the Share Reserve and available for issuance under this Plan: (1) the expiration or termination of any portion of an Award without the shares covered by such portion of the Award having been issued, (2) the settlement of any portion of an Award in cash (i.e., the Participant receives cash rather than Common Stock), (3) the withholding of shares that would otherwise be issued by the Company to satisfy the exercise, strike or purchase price of an Award; or (4) the withholding of shares that would otherwise be issued by the Company to satisfy a tax withholding obligation in connection with an Award.

(iii) **Reversion of Previously Issued Shares of the Common Stock to Share Reserve.** The following shares of the Common Stock previously issued pursuant to an Award and accordingly initially deducted from the Share Reserve will be added back to the Share Reserve and again become available for issuance under this Plan: (1) any shares that are forfeited back to or repurchased by the Company because of a failure to meet a contingency or condition required for the vesting of such shares; (2) any shares that are reacquired by the Company to satisfy the exercise, strike or purchase price of an Award; and (3) any shares that are reacquired by the Company to satisfy a tax withholding obligation in connection with an Award.

3. ELIGIBILITY AND LIMITATIONS.

(a) **Eligible Award Recipients.** Subject to the terms of this Plan, Non-Employee Directors are eligible to receive Awards.

(b) **Specific Award Limitations.**

(i) **Limitations on Nonstatutory Stock Options and SARs.** Nonstatutory Stock Options and SARs may not be granted to Non-Employee Directors who are providing Continuous Service only to any “parent” of the Company (as such term is defined in Rule 405) unless the stock underlying such Awards is treated as “service recipient stock” under Section 409A because the Awards are granted pursuant to a corporate transaction (such as a spin off transaction) or unless such Awards otherwise comply with the distribution requirements of Section 409A.

(c) **Non-Employee Director Compensation Limit.** The aggregate value of all compensation granted or paid, as applicable, to any individual for service as a Non-Employee Director with respect to any calendar year, including Awards granted and cash fees paid by the Company to such Non-Employee Director, will not exceed (i) \$750,000 in total value or (ii) in the event such Non-Employee Director is first appointed or elected to the Board during such calendar year, \$1,000,000 in total value, in each case calculating the value of any equity awards based on the grant date fair value of such equity awards for financial reporting purposes. These annual limits shall not apply to (I) any Awards made to replace stock options that were cancelled by the Board, (II) Awards made to a Non-Employee Director for special or extraordinary services, as determined by the Board, or (III) Awards made in 2024 to compensate Non-Employee Directors for services performed in 2023.

4. OPTIONS AND STOCK APPRECIATION RIGHTS.

Each Option and SAR will have such terms and conditions as determined by the Board. Each SAR will be denominated in shares of the Common Stock equivalents. The terms and conditions of separate Options and SARs need not be identical; provided, however, that each Option Agreement and SAR Agreement will conform (through incorporation of provisions hereof by reference in the Award Agreement or otherwise) to the substance of each of the following provisions:

(a) **Term.** No Option or SAR will be exercisable after the expiration of ten years from the date of grant of such Award or such shorter period specified in the Award Agreement.

(b) **Exercise or Strike Price.** The exercise or strike price of each Option or SAR will not be less than 100% of the Fair Market Value on the date of grant of such Award. Notwithstanding the foregoing, an Option or SAR may be granted with an exercise or strike price lower than 100% of the Fair Market Value on the date of grant of such Award if such Award is granted pursuant to an assumption of or substitution for another option or stock appreciation right pursuant to a Corporate Transaction and in a manner consistent with the provisions of Sections 409A and, if applicable, 424(a) of the Code.

(c) **Exercise Procedure and Payment of Exercise Price for Options.** In order to exercise an Option, the Participant must provide notice of exercise to the Plan Administrator in accordance with the procedures specified in the Option Agreement or otherwise provided by the Company. The Board has the authority to grant Options that do not permit all of the following methods of payment (or otherwise restrict the ability to use certain methods) and to grant Options that require the consent of the Company to utilize a particular method of payment. The exercise price of an Option may be paid, to the extent permitted by Applicable Law and as determined by the Board, by one or more of the following methods of payment to the extent set forth in the Option Agreement:

- (i) by cash or check, bank draft or money order payable to the Company;
- (ii) pursuant to a “cashless exercise” program developed under Regulation T as promulgated by the Federal Reserve Board that, prior to the issuance of the Common Stock subject to the Option, results in either the receipt of cash (or check) by the Company or the receipt of irrevocable instructions to pay the exercise price to the Company from the sales proceeds;
- (iii) by delivery to the Company (either by actual delivery or attestation) of shares of the Common Stock that are already owned by the Participant free and clear of any liens, claims, encumbrances or security interests, with a Fair Market Value on the date of exercise that does not exceed the exercise price, provided that (1) at the time of exercise the Common Stock is publicly traded, (2) any remaining balance of the exercise price not satisfied by such delivery is paid by the Participant in cash or other permitted form of payment, (3) such delivery would not violate any Applicable Law or agreement restricting the redemption of the Common Stock, (4) any certificated shares are endorsed or accompanied by an executed assignment separate from certificate, and (5) such shares have been held by the Participant for any minimum period necessary to avoid adverse accounting treatment as a result of such delivery;
- (iv) by a “net exercise” arrangement pursuant to which the Company will reduce the number of shares of the Common Stock issuable upon exercise by the largest whole number of shares with a Fair Market Value on the date of exercise that does not exceed the exercise price, provided that (1) such shares used to pay the exercise price will not be exercisable thereafter and (2) any remaining balance of the exercise price not satisfied by such net exercise is paid by the Participant in cash or other permitted form of payment; or
- (v) in any other form of consideration that may be acceptable to the Board and permissible under Applicable Law.

(d) **Exercise Procedure and Payment of Appreciation Distribution for SARs.** In order to exercise any SAR, the Participant must provide notice of exercise to the Plan Administrator in accordance with the SAR Agreement. The appreciation distribution payable to a Participant upon the exercise of a SAR will not be greater than an amount equal to the excess of (i) the aggregate Fair Market Value on the date of exercise of a number of shares of the Common Stock equal to the number of Common Stock equivalents that are vested and being exercised under such SAR, over (ii) the strike price of such SAR. Such appreciation distribution may be paid to the Participant in the form of Common Stock or cash (or any combination of Common Stock and cash) or in any other form of payment, as determined by the Board and specified in the SAR Agreement.

(e) **Transferability.** Options and SARs may not be transferred to third party financial institutions for value. The Board may impose such additional limitations on the transferability of an Option or SAR as it determines. In the absence of any such determination by the Board, the following restrictions

on the transferability of Options and SARs will apply, provided that except as explicitly provided herein, neither an Option nor a SAR may be transferred for consideration:

(i) **Restrictions on Transfer.** An Option or SAR will not be transferable, except by will or by the laws of descent and distribution, and will be exercisable during the lifetime of the Participant only by the Participant; provided, however, that the Board may permit transfer of an Option or SAR in a manner that is not prohibited by applicable tax and securities laws upon the Participant's request, including to a trust if the Participant is considered to be the sole beneficial owner of such trust (as determined under Section 671 of the Code and applicable state law) while such Option or SAR is held in such trust, provided that the Participant and the trustee enter into a transfer and other agreements required by the Company.

(ii) **Domestic Relations Orders.** Notwithstanding the foregoing, subject to the execution of transfer documentation in a format acceptable to the Company and subject to the approval of the Board, an Option or SAR may be transferred pursuant to a domestic relations order.

(f) **Vesting.** The Board may impose such restrictions on or conditions to the vesting and/or exercisability of an Option or SAR as determined by the Board. Except as otherwise provided in the Award Agreement or other written agreement between a Participant and the Company or an Affiliate, vesting of Options and SARs will cease upon termination of the Participant's Continuous Service.

(g) **Termination of Continuous Service for Cause.** Except as explicitly otherwise provided in the Award Agreement or other written agreement between a Participant and the Company or an Affiliate, if a Participant's Continuous Service is terminated for Cause, the Participant's Options and SARs will terminate and be forfeited immediately upon such termination of Continuous Service, and the Participant will be prohibited from exercising any portion (including any vested portion) of such Awards on and after the date of such termination of Continuous Service and the Participant will have no further right, title or interest in such forfeited Award, the shares of the Common Stock subject to the forfeited Award, or any consideration in respect of the forfeited Award.

(h) **Post-Termination Exercise Period Following Termination of Continuous Service for Reasons Other than Cause.** Subject to Section 4(i), if a Participant's Continuous Service terminates for any reason other than for Cause, the Participant may exercise his or her Option or SAR to the extent vested, but only within the following period of time or, if applicable, such other period of time provided in the Award Agreement or other written agreement between a Participant and the Company or an Affiliate; provided, however, that in no event may such Award be exercised after the expiration of its maximum term (as set forth in Section 4(a)):

(i) 3 months following the date of such termination if such termination is a termination without Cause (other than any termination due to the Participant's Disability or death);

(ii) 12 months following the date of such termination if such termination is due to the Participant's Disability;

(iii) 18 months following the date of such termination if such termination is due to the Participant's death; or

(iv) 18 months following the date of the Participant's death if such death occurs following the date of such termination but during the period such Award is otherwise exercisable (as provided in (i) or (ii) above).

Following the date of such termination, to the extent the Participant does not exercise such Award within the applicable Post-Termination Exercise Period (or, if earlier, prior to the expiration of the maximum term of such Award), such unexercised portion of the Award will terminate, and the Participant will have no further right, title or interest in terminated Award, the shares of the Common Stock subject to the terminated Award, or any consideration in respect of the terminated Award.

(i) **Restrictions on Exercise; Extension of Exercisability.** A Participant may not exercise an Option or SAR at any time that the issuance of shares of the Common Stock upon such exercise would violate Applicable Law. Except as otherwise provided in the Award Agreement or other written agreement between a Participant and the Company or an Affiliate, if a Participant's Continuous Service terminates for any reason other than for Cause and, at any time during the last thirty days of the applicable Post-Termination Exercise Period: (i) the exercise of the Participant's Option or SAR would be prohibited solely because the issuance of shares of the Common Stock upon such exercise would violate Applicable Law, or (ii) the immediate sale of any shares of the Common Stock issued upon such exercise would violate the Company's Trading Policy, then the applicable Post-Termination Exercise Period will be extended to the last day of the calendar month that commences following the date the Award would otherwise expire, with an additional extension of the exercise period to the last day of the next calendar month to apply if any of the foregoing restrictions apply at any time during such extended exercise period, generally without limitation as to the maximum permitted number of extensions; provided, however, that in no event may such Award be exercised after the expiration of its maximum term (as set forth in Section 4(a)).

(j) **Whole Shares.** Options and SARs may be exercised only with respect to whole shares of the Common Stock or their equivalents.

5. AWARDS OTHER THAN OPTIONS AND STOCK APPRECIATION RIGHTS.

(a) **Restricted Stock Awards and Restricted Stock Units Awards.** Each Restricted Stock Award and RSU Award will have such terms and conditions as determined by the Board; provided, however, that each Restricted Stock Award Agreement and RSU Award Agreement will conform (through incorporation of the provisions hereof by reference in the Award Agreement or otherwise) to the substance of each of the following provisions:

(i) Form of Award.

(1) **RSAs:** To the extent consistent with the Company's Bylaws, at the Board's election, shares of the Common Stock subject to a Restricted Stock Award may be (i) held in book entry form subject to the Company's instructions until such shares become vested or any other restrictions lapse, or (ii) evidenced by a certificate, which certificate will be held in such form and manner as determined by the Board. Unless otherwise determined by the Board, a Participant will have voting and other rights as a stockholder of the Company with respect to any shares subject to a Restricted Stock Award.

(2) **RSUs:** A RSU Award represents a Participant's right to be issued on a future date the number of shares of the Common Stock that is equal to the number of restricted stock units subject to the RSU Award. As a holder of a RSU Award, a Participant is an unsecured creditor of the Company with respect to the Company's unfunded obligation, if any, to issue shares of the Common Stock in settlement of such Award and nothing contained in this Plan or any RSU Agreement, and no action taken pursuant to its provisions, will create or be construed to create a trust of any kind or a fiduciary relationship between a Participant and the Company or an Affiliate or any other person. A Participant will not have voting or any other rights as a stockholder of the Company with respect to any

RSU Award (unless and until shares are actually issued in settlement of a vested RSU Award).

(ii) Consideration.

(1) **RSA:** A Restricted Stock Award may be granted in consideration for (A) cash or check, bank draft or money order payable to the Company, (B) past or future services to the Company or an Affiliate, or (C) any other form of consideration as the Board may determine and permissible under Applicable Law.

(2) **RSU:** Unless otherwise determined by the Board at the time of grant, a RSU Award will be granted in consideration for the Participant's services to the Company or an Affiliate, such that the Participant will not be required to make any payment to the Company (other than such services) with respect to the grant or vesting of the RSU Award, or the issuance of any shares of the Common Stock pursuant to the RSU Award. If, at the time of grant, the Board determines that any consideration must be paid by the Participant (in a form other than the Participant's services to the Company or an Affiliate) upon the issuance of any shares of the Common Stock in settlement of the RSU Award, such consideration may be paid in any form of consideration as the Board may determine and permissible under Applicable Law.

(iii) Vesting. The Board may impose such restrictions on or conditions to the vesting of a Restricted Stock Award or RSU Award as determined by the Board. Except as otherwise provided in the Award Agreement or other written agreement between a Participant and the Company or an Affiliate, vesting of Restricted Stock Awards and RSU Awards will cease upon termination of the Participant's Continuous Service.

(iv) Termination of Continuous Service. Except as otherwise provided in the Award Agreement or other written agreement between a Participant and the Company or an Affiliate, if a Participant's Continuous Service terminates for any reason, (i) the Company may receive through a forfeiture condition or a repurchase right any or all of the shares of the Common Stock held by the Participant under his or her Restricted Stock Award that have not vested as of the date of such termination as set forth in the Restricted Stock Award Agreement and (ii) any portion of his or her RSU Award that has not vested will be forfeited upon such termination and the Participant will have no further right, title or interest in the RSU Award, the shares of the Common Stock issuable pursuant to the RSU Award, or any consideration in respect of the RSU Award.

(v) Dividends and Dividend Equivalents. Dividends or dividend equivalents may be paid or credited, as applicable, with respect to any shares of the Common Stock subject to a Restricted Stock Award or RSU Award, as determined by the Board and specified in the Award Agreement).

(vi) Settlement of RSU Awards. A RSU Award may be settled by the issuance of shares of the Common Stock or cash (or any combination thereof) or in any other form of payment, as determined by the Board and specified in the RSU Award Agreement. At the time of grant, the Board may determine to impose such restrictions or conditions that delay such delivery to a date following the vesting of the RSU Award.

(b) Other Awards. Other Awards may be granted either alone or in addition to Awards provided for under [Section 4](#) and the preceding provisions of this [Section 5](#). Subject to the provisions of this Plan, the Board will have sole and complete discretion to determine the persons to whom and the time

or times at which such Other Awards will be granted, the number of shares of the Common Stock (or the cash equivalent thereof) to be granted pursuant to such Other Awards and all other terms and conditions of such Other Awards.

6. ADJUSTMENTS UPON CHANGES IN COMMON STOCK; OTHER CORPORATE EVENTS.

(a) **Capitalization Adjustments.** In the event of a Capitalization Adjustment, the Board shall appropriately and proportionately adjust: (i) the class(es) and maximum number of shares of the Common Stock subject to this Plan and the maximum number of shares by which the Share Reserve may annually increase pursuant to Section 2(a), and (ii) the class(es) and number of securities and exercise price, strike price or purchase price of Common Stock subject to outstanding Awards. The Board shall make such adjustments, and its determination shall be final, binding and conclusive. Notwithstanding the foregoing, no fractional shares or rights for fractional shares of the Common Stock shall be created in order to implement any Capitalization Adjustment. The Board shall determine an equivalent benefit for any fractional shares or fractional shares that might be created by the adjustments referred to in the preceding provisions of this Section 6(a).

(b) **Dissolution or Liquidation.** Except as otherwise provided in the Award Agreement, in the event of a dissolution or liquidation of the Company, all outstanding Awards (other than Awards consisting of vested and outstanding shares of the Common Stock not subject to a forfeiture condition or the Company's right of repurchase) will terminate immediately prior to the completion of such dissolution or liquidation, and the shares of the Common Stock subject to the Company's repurchase rights or subject to a forfeiture condition may be repurchased or reacquired by the Company notwithstanding the fact that the holder of such Award is providing Continuous Service, provided, however, that the Board may determine to cause some or all Awards to become fully vested, exercisable and/or no longer subject to repurchase or forfeiture (to the extent such Awards have not previously expired or terminated) before the dissolution or liquidation is completed but contingent on its completion.

(c) **Corporate Transaction.** The following provisions will apply to Awards in the event of a Corporate Transaction except as set forth in Section 11, and unless otherwise provided in the instrument evidencing the Award or any other written agreement between the Company or any Affiliate and the Participant or unless otherwise expressly provided by the Board at the time of grant of an Award.

(i) **Awards May Be Assumed.** In the event of a Corporate Transaction, any surviving corporation or acquiring corporation (or the surviving or acquiring corporation's parent company) may assume or continue any or all Awards outstanding under this Plan or may substitute similar awards for Awards outstanding under this Plan (including but not limited to, awards to acquire the same consideration paid to the stockholders of the Company pursuant to the Corporate Transaction), and any reacquisition or repurchase rights held by the Company in respect of Common Stock issued pursuant to Awards may be assigned by the Company to the successor of the Company (or the successor's parent company, if any), in connection with such Corporate Transaction. A surviving corporation or acquiring corporation (or its parent) may choose to assume or continue only a portion of an Award or substitute a similar award for only a portion of an Award, or may choose to assume or continue the Awards held by some, but not all Participants. The terms of any assumption, continuation or substitution will be set by the Board.

(ii) **Awards Held by Active Participants.** In the event of a Corporate Transaction in which the surviving corporation or acquiring corporation (or its parent company) does not assume or continue such outstanding Awards or substitute similar awards for such outstanding Awards, then with respect to Awards that have not been assumed, continued or substituted and that are held by

Participants whose Continuous Service has not terminated prior to the effective time of the Corporate Transaction (referred to as the “*Active Participants*”), the vesting of such Awards (and, with respect to Options and Stock Appreciation Rights, the time when such Awards may be exercised) will be accelerated in full to a date prior to the effective time of such Corporate Transaction (contingent upon the effectiveness of the Corporate Transaction) as the Board determines (or, if the Board does not determine such a date, to the date that is five days prior to the effective time of the Corporate Transaction), and such Awards will terminate if not exercised (if applicable) at or prior to the effective time of the Corporate Transaction, and any reacquisition or repurchase rights held by the Company with respect to such Awards will lapse (contingent upon the effectiveness of the Corporate Transaction). With respect to the vesting of Awards that will accelerate upon the occurrence of a Corporate Transaction pursuant to this subsection (ii) and are settled in the form of a cash payment, such cash payment will be made no later than 30 days following the occurrence of the Corporate Transaction.

(iii) **Awards Held by Persons other than Active Participants.** In the event of a Corporate Transaction in which the surviving corporation or acquiring corporation (or its parent company) does not assume or continue such outstanding Awards or substitute similar awards for such outstanding Awards, then with respect to Awards that have not been assumed, continued or substituted and that are held by persons other than Active Participants, such Awards will terminate if not exercised (if applicable) prior to the occurrence of the Corporate Transaction; provided, however, that any reacquisition or repurchase rights held by the Company with respect to such Awards will not terminate and may continue to be exercised notwithstanding the Corporate Transaction.

(iv) **Payment for Awards in Lieu of Exercise.** Notwithstanding the foregoing, in the event an Award will terminate if not exercised prior to the effective time of a Corporate Transaction, the Board may provide, in its sole discretion, that the holder of such Award may not exercise such Award but will receive a payment, in such form as may be determined by the Board, equal in value, at the effective time, to the excess, if any, of (1) the value of the property the Participant would have received upon the exercise of the Award (including, at the discretion of the Board, any unvested portion of such Award), over (2) any exercise price payable by such holder in connection with such exercise.

(d) **Appointment of Stockholder Representative.** As a condition to the receipt of an Award under this Plan, a Participant will be deemed to have agreed that the Award will be subject to the terms of any agreement governing a Corporate Transaction involving the Company, including, without limitation, a provision for the appointment of a stockholder representative that is authorized to act on the Participant’s behalf with respect to any escrow, indemnities and any contingent consideration.

(e) **No Restriction on Right to Undertake Transactions.** The grant of any Award under this Plan and the issuance of shares pursuant to any Award does not affect or restrict in any way the right or power of the Company or the stockholders of the Company to make or authorize any adjustment, recapitalization, reorganization or other change in the Company’s capital structure or its business, any merger or consolidation of the Company, any issue of stock or of options, rights or options to purchase stock or of bonds, debentures, preferred or prior preference stocks whose rights are superior to or affect the Common Stock or the rights thereof or which are convertible into or exchangeable for Common Stock, or the dissolution or liquidation of the Company, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

7. ADMINISTRATION.

(a) **Administration by Board.** The Board will administer this Plan unless and until the Board delegates administration of this Plan to a Committee or Committees, as provided in subsection (c) below.

(b) **Powers of Board.** The Board will have the power, subject to, and within the limitations of, the express provisions of this Plan:

(i) To determine from time to time: (1) which of the persons eligible under this Plan will be granted Awards; (2) when and how each Award will be granted; (3) what type or combination of types of Award will be granted; (4) the provisions of each Award granted (which need not be identical), including the time or times when a person will be permitted to receive an issuance of Common Stock or other payment pursuant to an Award; (5) the number of shares of the Common Stock or cash equivalent with respect to which an Award will be granted to each such person; and (6) the Fair Market Value applicable to an Award.

(ii) To construe and interpret this Plan and Awards granted under it, and to establish, amend and revoke rules and regulations for its administration. The Board, in the exercise of this power, may correct any defect, omission or inconsistency in this Plan or in any Award Agreement, in a manner and to the extent it deems necessary or expedient to make this Plan or Award fully effective.

(iii) To settle all controversies regarding this Plan and Awards granted under it.

(iv) To accelerate the time at which an Award may first be exercised or the time during which an Award or any part thereof will vest, notwithstanding the provisions in the Award Agreement stating the time at which it may first be exercised or the time during which it will vest.

(v) To prohibit the exercise of any Option, SAR or other exercisable Award during a period of up to 30 days prior to the consummation of any pending stock dividend, stock split, combination or exchange of shares, merger, consolidation or other distribution (other than normal cash dividends) of Company assets to stockholders, or any other change affecting the shares of the Common Stock or the share price of the Common Stock including any Corporate Transaction, for reasons of administrative convenience.

(vi) To suspend or terminate this Plan at any time. Suspension or termination of this Plan will not Materially Impair rights and obligations under any Award granted while this Plan is in effect except with the written consent of the affected Participant.

(vii) To amend this Plan in any respect the Board deems necessary or advisable; provided, however, that stockholder approval will be required for any amendment to the extent required by Applicable Law. Except as provided above, rights under any Award granted before amendment of this Plan will not be Materially Impaired by any amendment of this Plan unless (1) the Company requests the consent of the affected Participant, and (2) such Participant consents in writing.

(viii) submit any amendment to this Plan for stockholder approval.

(ix) To approve forms of Award Agreements for use under this Plan and to amend the terms of any one or more Awards, including, but not limited to, amendments to provide terms more favorable to the Participant than previously provided in the Award Agreement, subject to any

specified limits in this Plan that are not subject to Board discretion; provided however, that, a Participant's rights under any Award will not be Materially Impaired by any such amendment unless (1) the Company requests the consent of the affected Participant, and (2) such Participant consents in writing.

(x) Generally, to exercise such powers and to perform such acts as the Board deems necessary or expedient to promote the best interests of the Company and that are not in conflict with the provisions of this Plan or Awards.

(xi) To adopt such procedures and sub-plans as are necessary or appropriate to permit and facilitate participation in this Plan by, or take advantage of specific tax treatment for Awards granted to, Directors who are foreign nationals or employed outside the United States (provided that Board approval will not be necessary for immaterial modifications to this Plan or any Award Agreement to ensure or facilitate compliance with the laws of the relevant foreign jurisdiction).

(xii) To effect, at any time and from time to time, subject to the consent of any Participant whose Award is Materially Impaired by such action, (1) the reduction of the exercise price (or strike price) of any outstanding Option or SAR; (2) the cancellation of any outstanding Option or SAR and the grant in substitution therefor of (A) a new Option, SAR, Restricted Stock Award, RSU Award or Other Award, under this Plan or another equity plan of the Company, covering the same or a different number of shares of the Common Stock, (B) cash and/or (C) other valuable consideration (as determined by the Board); or (3) any other action that is treated as a repricing under generally accepted accounting principles.

(c) **Delegation to Committee.**

(i) The Board may delegate some or all of the administration of this Plan to a Committee or Committees. If administration of this Plan is delegated to a Committee, the Committee will have, in connection with the administration of this Plan, the powers theretofore possessed by the Board that have been delegated to the Committee, including the power to delegate to another Committee or a subcommittee of the Committee any of the administrative powers the Committee is authorized to exercise (and references in this Plan to the Board will thereafter be to the Committee or subcommittee), subject, however, to such resolutions, not inconsistent with the provisions of this Plan, as may be adopted from time to time by the Board. Each Committee may retain the authority to concurrently administer this Plan with Committee or subcommittee to which it has delegated its authority hereunder and may, at any time, revert in such Committee some or all of the powers previously delegated. The Board may retain the authority to concurrently administer this Plan with any Committee and may, at any time, revert in the Board some or all of the powers previously delegated.

(ii) **Rule 16b-3 Compliance.** To the extent an Award is intended to qualify for the exemption from Section 16(b) of the Exchange Act that is available under Rule 16b-3 of the Exchange Act, the Award will be granted by the Board or a Committee that consists solely of two or more Non-Employee Directors, as determined under Rule 16b-3(b)(3) of the Exchange Act and thereafter any action establishing or modifying the terms of the Award will be approved by the Board or a Committee meeting such requirements to the extent necessary for such exemption to remain available.

(d) **Effect of Board's Decision.** All determinations, interpretations and constructions made by the Board or any Committee in good faith will not be subject to review by any person and will be final, binding and conclusive on all persons.

8. TAX WITHHOLDING

(a) **Withholding Authorization.** As a condition to acceptance of any Award under this Plan, a Participant authorizes withholding from payroll and any other amounts payable to such Participant, and otherwise agrees to make adequate provision for (including), any sums required to satisfy any U.S. federal, state, local and/or foreign tax or social insurance contribution withholding obligations of the Company or an Affiliate, if any, which arise in connection with the exercise, vesting or settlement of such Award, as applicable. Accordingly, a Participant may not be able to exercise an Award even though the Award is vested, and the Company shall have no obligation to issue shares of the Common Stock subject to an Award, unless and until such obligations are satisfied.

(b) **Satisfaction of Withholding Obligation.** To the extent permitted by the terms of an Award Agreement, the Company may, in its sole discretion, satisfy any U.S. federal, state, local and/or foreign tax or social insurance withholding obligation relating to an Award by any of the following means or by a combination of such means: (i) causing the Participant to tender a cash payment; (ii) withholding shares of the Common Stock from the shares of the Common Stock issued or otherwise issuable to the Participant in connection with the Award; (iii) withholding cash from an Award settled in cash; (iv) withholding payment from any amounts otherwise payable to the Participant; (v) by allowing a Participant to effectuate a “cashless exercise” pursuant to a program developed under Regulation T as promulgated by the Federal Reserve Board, or (vi) by such other method as may be set forth in the Award Agreement.

(c) **No Obligation to Notify or Minimize Taxes; No Liability to Claims.** Except as required by Applicable Law the Company has no duty or obligation to any Participant to advise such holder as to the time or manner of exercising such Award. Furthermore, the Company has no duty or obligation to warn or otherwise advise such holder of a pending termination or expiration of an Award or a possible period in which the Award may not be exercised. The Company will not provide tax advice to Participants or reimburse any Participant for tax advice obtained by the Participant with regard to any Award under this Plan. The Company has no duty or obligation to minimize the tax consequences of an Award to the holder of such Award and will not be liable to any holder of an Award for any adverse tax consequences to such holder in connection with an Award. As a condition to accepting an Award under this Plan, each Participant (i) agrees to not make any claim against the Company, or any of its Officers, Directors, Employees or Affiliates related to tax liabilities arising from such Award or other Company compensation and (ii) acknowledges that such Participant was advised to consult with his or her own personal tax, financial and other legal advisors regarding the tax consequences of the Award and has either done so or knowingly and voluntarily declined to do so. Additionally, each Participant acknowledges any Option or SAR granted under this Plan is exempt from Section 409A only if the exercise or strike price is at least equal to the “fair market value” of the Common Stock on the date of grant as determined by the Internal Revenue Service and there is no other impermissible deferral of compensation associated with the Award. Additionally, as a condition to accepting an Option or SAR granted under this Plan, each Participant agrees not make any claim against the Company, or any of its Officers, Directors, Employees or Affiliates in the event that the Internal Revenue Service asserts that such exercise price or strike price is less than the “fair market value” of the Common Stock on the date of grant as subsequently determined by the Internal Revenue Service.

(d) **Withholding Indemnification.** As a condition to accepting an Award under this Plan, in the event that the amount of the Company’s and/or its Affiliate’s withholding obligation in connection with such Award was greater than the amount actually withheld by the Company and/or its Affiliates, each Participant agrees to indemnify and hold the Company and/or its Affiliates harmless from any failure by the Company and/or its Affiliates to withhold the proper amount.

9. MISCELLANEOUS.

(a) **Source of Shares.** The stock issuable under this Plan will be shares of authorized but unissued or reacquired shares of the Common Stock, including shares repurchased by the Company on the open market or otherwise.

(b) **Use of Proceeds from Sales of the Common Stock.** Proceeds from the sale of shares of the Common Stock pursuant to Awards will constitute general funds of the Company.

(c) **Corporate Action Constituting Grant of Awards.** Corporate action constituting a grant by the Company of an Award to any Participant will be deemed completed as of the date of such corporate action, unless otherwise determined by the Board, regardless of when the instrument, certificate, or letter evidencing the Award is communicated to, or actually received or accepted by, the Participant. In the event that the corporate records (e.g., Board consents, resolutions or minutes) documenting the corporate action approving the grant contain terms (e.g., exercise price, vesting schedule or number of shares) that are inconsistent with those in the Award Agreement or related grant documents as a result of a clerical error in the Award Agreement or related grant documents, the corporate records will control and the Participant will have no legally binding right to the incorrect term in the Award Agreement or related grant documents.

(d) **Stockholder Rights.** No Participant will be deemed to be the holder of, or to have any of the rights of a holder with respect to, any shares of the Common Stock subject to such Award unless and until (i) such Participant has satisfied all requirements for exercise of the Award pursuant to its terms, if applicable, and (ii) the issuance of the Common Stock subject to such Award is reflected in the records of the Company.

(e) **No Service Rights.** Nothing in this Plan, any Award Agreement or any other instrument executed thereunder or in connection with any Award granted pursuant thereto will confer upon any Participant any right to continue to serve the Company or an Affiliate in his/her current capacity or otherwise. Further, nothing in this Plan, any Award Agreement or any other instrument executed thereunder or in connection with any Award will constitute any promise or commitment by the Company or an Affiliate regarding the fact or nature of future positions, future compensation or any other term or condition of service or confer any right or benefit under the Award or this Plan unless such right or benefit has specifically accrued under the terms of the Award Agreement and/or Plan.

(f) **Execution of Additional Documents.** As a condition to accepting an Award under this Plan, the Participant agrees to execute any additional documents or instruments necessary or desirable, as determined in the Plan Administrator's sole discretion, to carry out the purposes or intent of the Award, or facilitate compliance with securities and/or other regulatory requirements, in each case at the Plan Administrator's request.

(g) **Electronic Delivery and Participation.** Any reference herein or in an Award Agreement to a "written" agreement or document will include any agreement or document delivered electronically, filed publicly at www.sec.gov (or any successor website thereto) or posted on the Company's intranet (or other shared electronic medium controlled by the Company to which the Participant has access). By accepting any Award the Participant consents to receive documents by electronic delivery and to participate in this Plan through any on-line electronic system established and maintained by the Plan Administrator or another third party selected by the Plan Administrator. The form of delivery of any Common Stock (e.g., a stock certificate or electronic entry evidencing such shares) shall be determined by the Company.

(h) **Clawback/Recovery.** All Awards granted under this Plan will be subject to recoupment in accordance with any clawback policy that the Company is required to adopt pursuant to the listing

standards of any national securities exchange or association on which the Company's securities are listed or as is otherwise required by the Dodd-Frank Wall Street Reform and Consumer Protection Act or other Applicable Law and any clawback policy that the Company otherwise adopts, to the extent applicable and permissible under Applicable Law. In addition, the Board may impose such other clawback, recovery or recoupment provisions in an Award Agreement as the Board determines necessary or appropriate, including but not limited to a reacquisition right in respect of previously acquired shares of the Common Stock or other cash or property upon the occurrence of Cause.

(i) **Securities Law Compliance.** A Participant will not be issued any shares in respect of an Award unless either (i) the shares are registered under the Securities Act; or (ii) the Company has determined that such issuance would be exempt from the registration requirements of the Securities Act. Each Award also must comply with other Applicable Law governing the Award, and a Participant will not receive such shares if the Company determines that such receipt would not be in material compliance with Applicable Law.

(j) **Transfer or Assignment of Awards; Issued Shares.** Except as expressly provided in this Plan or the form of Award Agreement, Awards granted under this Plan may not be transferred or assigned by the Participant. After the vested shares subject to an Award have been issued, or in the case of Restricted Stock and similar awards, after the issued shares have vested, the holder of such shares is free to assign, hypothecate, donate, encumber or otherwise dispose of any interest in such shares provided that any such actions are in compliance with the provisions herein, the terms of the Trading Policy and Applicable Law.

(k) **Deferrals.** To the extent permitted by Applicable Law, the Board, in its sole discretion, may determine that the delivery of Common Stock or the payment of cash, upon the exercise, vesting or settlement of all or a portion of any Award may be deferred and may also establish programs and procedures for deferral elections to be made by Participants. Deferrals by Participants will be made in accordance with the requirements of Section 409A.

(l) **Section 409A.** Unless otherwise expressly provided for in an Award Agreement, this Plan and Award Agreements will be interpreted to the greatest extent possible in a manner that makes this Plan and the Awards granted hereunder exempt from Section 409A, and, to the extent not so exempt, in compliance with the requirements of Section 409A. If the Board determines that any Award granted hereunder is not exempt from and is therefore subject to Section 409A, the Award Agreement evidencing such Award will incorporate the terms and conditions necessary to avoid the consequences specified in Section 409A(a)(1) of the Code, and to the extent an Award Agreement is silent on terms necessary for compliance, such terms are hereby incorporated by reference into the Award Agreement. Notwithstanding anything to the contrary in this Plan (and unless the Award Agreement specifically provides otherwise), if the shares of the Common Stock are publicly traded, and if a Participant holding an Award that constitutes "deferred compensation" under Section 409A is a "specified employee" for purposes of Section 409A, no distribution or payment of any amount that is due because of a "separation from service" (as defined in Section 409A without regard to alternative definitions thereunder) will be issued or paid before the date that is six months and one day following the date of such Participant's "separation from service" or, if earlier, the date of the Participant's death, unless such distribution or payment can be made in a manner that complies with Section 409A, and any amounts so deferred will be paid in a lump sum on the day after such six month period elapses, with the balance paid thereafter on the original schedule.

(m) **Choice of Law.** This Plan and any controversy arising out of or relating to this Plan shall be governed by, and construed in accordance with, the internal laws of the State of New York, without regard to conflict of law principles that would result in any application of any law other than the law of the State of New York.

10. COVENANTS OF THE COMPANY.

(a) **Compliance with Law.** The Company will seek to obtain from each regulatory commission or agency, as may be deemed to be necessary, having jurisdiction over this Plan such authority as may be required to grant Awards and to issue and sell shares of the Common Stock upon exercise or vesting of the Awards; provided, however, that this undertaking will not require the Company to register under the Securities Act this Plan, any Award or any Common Stock issued or issuable pursuant to any such Award. If, after reasonable efforts and at a reasonable cost, the Company is unable to obtain from any such regulatory commission or agency the authority that counsel for the Company deems necessary or advisable for the lawful issuance and sale of Common Stock under this Plan, the Company will be relieved from any liability for failure to issue and sell Common Stock upon exercise or vesting of such Awards unless and until such authority is obtained. A Participant is not eligible for the grant of an Award or the subsequent issuance of Common Stock pursuant to the Award if such grant or issuance would be in violation of any Applicable Law.

11. ADDITIONAL RULES FOR AWARDS SUBJECT TO SECTION 409A.

(a) **Application.** Unless the provisions of this Section 11 of this Plan are expressly superseded by the provisions in the form of Award Agreement, the provisions of this Section 11 shall apply and shall supersede anything to the contrary set forth in the Award Agreement for a Non-Exempt Award.

(b) **Treatment of Non-Exempt Awards Upon a Corporate Transaction for Non-Employee Directors.** The following provisions of this subsection (b) shall apply and shall supersede anything to the contrary that may be set forth in this Plan with respect to the permitted treatment of a Non-Exempt Director Award in connection with a Corporate Transaction.

(i) If the Corporate Transaction is also a Section 409A Change in Control then the Acquiring Entity may not assume, continue or substitute the Non-Exempt Director Award. Upon the Section 409A Change in Control the vesting and settlement of any Non-Exempt Director Award will automatically be accelerated and the shares will be immediately issued to the Participant in respect of the Non-Exempt Director Award. Alternatively, the Company may provide that the Participant will instead receive a cash settlement equal to the Fair Market Value of the shares that would otherwise be issued to the Participant upon the Section 409A Change in Control pursuant to the preceding provision.

(ii) If the Corporate Transaction is not also a Section 409A Change in Control, then the Acquiring Entity must either assume, continue or substitute the Non-Exempt Director Award. Unless otherwise determined by the Board, the Non-Exempt Director Award will remain subject to the same vesting and forfeiture restrictions that were applicable to the Award prior to the Corporate Transaction. The shares to be issued in respect of the Non-Exempt Director Award shall be issued to the Participant by the Acquiring Entity on the same schedule that the shares would have been issued to the Participant if the Corporate Transaction had not occurred. In the Acquiring Entity's discretion, in lieu of an issuance of shares, the Acquiring Entity may instead substitute a cash payment on each applicable issuance date, equal to the Fair Market Value of the shares that would otherwise be issued to the Participant on such issuance dates, with the determination of Fair Market Value made on the date of the Corporate Transaction.

(c) **Treatment of RSU Awards that are Non-Exempt Awards upon a Corporate Transaction.** If the RSU Award is a Non-Exempt Award, then the provisions in this Section 11(c) shall apply and supersede anything to the contrary that may be set forth in this Plan or the Award Agreement with respect to the permitted treatment of such Non-Exempt Award:

(i) Any exercise by the Board of discretion to accelerate the vesting of a Non-Exempt Award shall not result in any acceleration of the scheduled issuance dates for the shares in respect of the Non-Exempt Award unless earlier issuance of the shares upon the applicable vesting dates would be in compliance with the requirements of Section 409A.

(ii) The Company explicitly reserves the right to earlier settle any Non-Exempt Award to the extent permitted and in compliance with the requirements of Section 409A, including pursuant to any of the exemptions available in Treasury Regulations Section 1.409A-3(j)(4)(ix).

(iii) To the extent the terms of any Non-Exempt Award provide that it will be settled upon a Change in Control or Corporate Transaction, to the extent it is required for compliance with the requirements of Section 409A, the Change in Control or Corporate Transaction event triggering settlement must also constitute a Section 409A Change in Control. To the extent the terms of a Non-Exempt Award provides that it will be settled upon a termination of Continuous Service, to the extent it is required for compliance with the requirements of Section 409A, the termination event triggering settlement must also constitute a Separation From Service. However, if at the time the shares would otherwise be issued to a Participant in connection with a "separation from service" such Participant is subject to the distribution limitations contained in Section 409A applicable to "specified employees," as defined in Section 409A(a)(2)(B)(i) of the Code, such shares shall not be issued before the date that is six months following the date of the Participant's Separation From Service, or, if earlier, the date of the Participant's death that occurs within such six month period.

(iv) The provisions in this subsection (c) for delivery of the shares in respect of the settlement of a RSU Award that is a Non-Exempt Award are intended to comply with the requirements of Section 409A so that the delivery of the shares to the Participant in respect of such Non-Exempt Award will not trigger the additional tax imposed under Section 409A, and any ambiguities herein will be so interpreted.

12. SEVERABILITY.

If all or any part of this Plan or any Award Agreement is declared by any court or governmental authority to be unlawful or invalid, such unlawfulness or invalidity shall not invalidate any portion of this Plan or such Award Agreement not declared to be unlawful or invalid. Any Section of this Plan or any Award Agreement (or part of such a Section) so declared to be unlawful or invalid shall, if possible, be construed in a manner which will give effect to the terms of such Section or part of a Section to the fullest extent possible while remaining lawful and valid.

13. TERMINATION OF THE PLAN.

The Board may suspend or terminate this Plan at any time. No Awards may be granted under this Plan while this Plan is suspended or after it is terminated.

14. DEFINITIONS.

As used in this Plan, the following definitions apply to the capitalized terms indicated below:

(a) "*Acquiring Entity*" means the surviving or acquiring corporation (or its parent company) in connection with a Corporate Transaction.

(b) *“Affiliate”* means, at the time of determination, any “parent” or “subsidiary” of the Company as such terms are defined in Rule 405 promulgated under the Securities Act. The Board may determine the time or times at which “parent” or “subsidiary” status is determined within the foregoing definition.

(c) *“Applicable Law”* means shall mean any applicable securities, federal, state, foreign, material local or municipal or other law, statute, constitution, principle of common law, resolution, ordinance, code, edict, decree, rule, listing rule, regulation, judicial decision, ruling or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Body (including under the authority of any applicable self-regulating organization such as the Nasdaq Stock Market, New York Stock Exchange, or the Financial Industry Regulatory Authority).

(d) *“Award”* means any right to receive Common Stock, cash or other property granted under this Plan (including a Nonstatutory Stock Option, a Restricted Stock Award, a RSU Award, a SAR, or any Other Award).

(e) *“Award Agreement”* means a written agreement between the Company and a Participant evidencing the terms and conditions of an Award. The Award Agreement generally consists of the Grant Notice and the agreement containing the written summary of the general terms and conditions applicable to the Award and which is provided to a Participant along with the Grant Notice.

(f) *“Board”* means the Board of Directors of the Company (or its designee). Any decision or determination made by the Board shall be a decision or determination that is made in the sole discretion of the Board (or its designee), and such decision or determination shall be final and binding on all Participants.

(g) *“Capitalization Adjustment”* means any change that is made in, or other events that occur with respect to, the Common Stock subject to this Plan or subject to any Award after the Effective Date without the receipt of consideration by the Company through merger, consolidation, reorganization, recapitalization, reincorporation, stock dividend, dividend in property other than cash, large nonrecurring cash dividend, stock split, reverse stock split, liquidating dividend, combination of shares, exchange of shares, change in corporate structure or any similar equity restructuring transaction, as that term is used in Statement of Financial Accounting Standards Board Accounting Standards Codification Topic 718 (or any successor thereto). Notwithstanding the foregoing, the conversion of any convertible securities of the Company will not be treated as a Capitalization Adjustment.

(h) *“Cause”* means, except as otherwise provided in such Participant’s Award Agreement, such Participant’s: (i) indictment for any crime (A) constituting a felony, or (B) that has, or could reasonably be expected to result in, an adverse impact on the performance of a Participant’s duties as a member of the Board, or otherwise has, or could reasonably be expected to result in, an adverse impact to the business or reputation of the Company or any of its Subsidiaries; (ii) having been the subject of any order, judicial or administrative, obtained or issued by the Securities and Exchange Commission (or any other competent authority) for any securities violation involving fraud, including, for example, any such order consented to by the Participant in which findings of facts or any legal conclusions establishing liability are neither admitted nor denied; or (iii) conduct, in connection with his or her service on the Board, which is not taken in good faith and has, or could reasonably be expected to result in, material injury to the business or reputation of the Company or any of its Subsidiaries. The occurrence of any such event described in clauses (i) through (iii) that is susceptible to cure or remedy shall not constitute Cause if such Participant cures or remedies such event within 30 (thirty) days after the Company provides notice to such Participant. The determination that a termination of the Participant’s Continuous Service is either for Cause or without Cause will be made by the Board (excluding the Director whose conduct is at issue.) Any determination by the Company that the Continuous Service of a Participant was terminated with or without Cause for the

purposes of outstanding Awards held by such Participant will have no effect upon any determination of the rights or obligations of the Company or such Participant for any other purpose.

(i) “*Change in Control*” means the occurrence, in a single transaction or in a series of related transactions, of any one or more of the following events; provided, however, to the extent necessary to avoid adverse personal income tax consequences to the Participant in connection with an Award, also constitutes a Section 409A Change in Control:

(i) any Exchange Act Person becomes the Owner, directly or indirectly, of securities of the Company representing more than 50% of the combined voting power of the Company’s then outstanding securities other than by virtue of a merger, consolidation or similar transaction. Notwithstanding the foregoing, a Change in Control shall not be deemed to occur (A) on account of the acquisition of securities of the Company directly from the Company, (B) on account of the acquisition of securities of the Company by an investor, any affiliate thereof or any other Exchange Act Person that acquires the Company’s securities in a transaction or series of related transactions the primary purpose of which is to obtain financing for the Company through the issuance of equity securities, or (C) solely because the level of Ownership held by any Exchange Act Person (the “*Subject Person*”) exceeds the designated percentage threshold of the outstanding voting securities as a result of a repurchase or other acquisition of voting securities by the Company reducing the number of shares outstanding, provided that if a Change in Control would occur (but for the operation of this sentence) as a result of the acquisition of voting securities by the Company, and after such share acquisition, the Subject Person becomes the Owner of any additional voting securities that, assuming the repurchase or other acquisition had not occurred, increases the percentage of the then outstanding voting securities Owned by the Subject Person over the designated percentage threshold, then a Change in Control shall be deemed to occur;

(ii) there is consummated a merger, consolidation or similar transaction involving (directly or indirectly) the Company and, immediately after the consummation of such merger, consolidation or similar transaction, the stockholders of the Company immediately prior thereto do not Own, directly or indirectly, either (A) outstanding voting securities representing more than 50% of the combined outstanding voting power of the surviving Entity in such merger, consolidation or similar transaction or (B) more than 50% of the combined outstanding voting power of the parent of the surviving Entity in such merger, consolidation or similar transaction, in each case in substantially the same proportions as their Ownership of the outstanding voting securities of the Company immediately prior to such transaction;

(iii) the stockholders of the Company approve or the Board approves a plan of complete dissolution or liquidation of the Company, or a complete dissolution or liquidation of the Company shall otherwise occur, except for a liquidation into a parent corporation;

(iv) there is consummated a sale, lease, exclusive license or other disposition of all or substantially all of the consolidated assets of the Company and its Subsidiaries, other than a sale, lease, license or other disposition of all or substantially all of the consolidated assets of the Company and its Subsidiaries to an Entity, more than 50% of the combined voting power of the voting securities of which are Owned by stockholders of the Company in substantially the same proportions as their Ownership of the outstanding voting securities of the Company immediately prior to such sale, lease, license or other disposition; or

(v) individuals who, on the date this Plan is adopted by the Board, are members of the Board (the “*Incumbent Board*”) cease for any reason to constitute at least a majority of the members of the Board; provided, however, that if the appointment or election (or nomination for

election) of any new Board member was approved or recommended by a majority vote of the members of the Incumbent Board then still in office, such new member shall, for purposes of this Plan, be considered as a member of the Incumbent Board.

Notwithstanding the foregoing or any other provision of this Plan, (A) the term Change in Control shall not include a sale of assets, merger or other transaction effected exclusively for the purpose of changing the domicile of the Company, and (B) the definition of Change in Control (or any analogous term) in an individual written agreement between the Company or any Affiliate and the Participant shall supersede the foregoing definition with respect to Awards subject to such agreement; provided, however, that if no definition of Change in Control or any analogous term is set forth in such an individual written agreement, the foregoing definition shall apply.

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

(k) “*Committee*” means the Compensation Committee and any other committee of one or more Directors to whom authority has been delegated by the Board or Compensation Committee in accordance with this Plan.

(l) “*Common Stock*” means the common stock of the Company.

(m) “*Company*” means Zivo Bioscience, Inc., a Nevada corporation.

(n) “*Compensation Committee*” means the Compensation Committee of the Board.

(o) “*Continuous Service*” means that the Participant’s service with the Company or an Affiliate, whether as an Employee, Director or consultant, is not interrupted or terminated. A change in the capacity in which the Participant renders service to the Company or an Affiliate as an Employee, Director or consultant or a change in the Entity for which the Participant renders such service, provided that there is no interruption or termination of the Participant’s service with the Company or an Affiliate, will not terminate a Participant’s Continuous Service; provided, however, that if the Entity for which a Participant is rendering services ceases to qualify as an Affiliate, as determined by the Board, such Participant’s Continuous Service will be considered to have terminated on the date such Entity ceases to qualify as an Affiliate. For example, a change in status from a Director to an Employee will not constitute an interruption of Continuous Service. To the extent permitted by law, the Board, in its sole discretion, may determine whether Continuous Service will be considered interrupted in the case of (i) any leave of absence approved by the Board, including sick leave, military leave or any other personal leave, or (ii) transfers between the Company, an Affiliate, or their successors. Notwithstanding the foregoing, a leave of absence will be treated as Continuous Service for purposes of vesting in an Award only to such extent as may be provided in the Company’s leave of absence policy, in the written terms of any leave of absence agreement or policy applicable to the Participant, or as otherwise required by law. In addition, to the extent required for exemption from or compliance with Section 409A, the determination of whether there has been a termination of Continuous Service will be made, and such term will be construed, in a manner that is consistent with the definition of “separation from service” as defined under Treasury Regulation Section 1.409A-1(h) (without regard to any alternative definition thereunder).

(p) “*Corporate Transaction*” means the consummation, in a single transaction or in a series of related transactions, of any one or more of the following events:

(i) a sale or other disposition of all or substantially all, as determined by the Board, of the consolidated assets of the Company and its Subsidiaries;

(ii) a sale or other disposition of at least 50% of the outstanding securities of the Company;

(iii) a merger, consolidation or similar transaction following which the Company is not the surviving corporation; or

(iv) a merger, consolidation or similar transaction following which the Company is the surviving corporation but the shares of the Common Stock outstanding immediately preceding the merger, consolidation or similar transaction are converted or exchanged by virtue of the merger, consolidation or similar transaction into other property, whether in the form of securities, cash or otherwise.

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

(r) “*determine*” or “*determined*” means as determined by the Board or the Committee (or its designee) in its sole discretion.

(s) “*Disability*” means, with respect to a Participant, such Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, as provided in Section 22(e)(3) of the Code, and will be determined by the Board on the basis of such medical evidence as the Board deems warranted under the circumstances.

(t) “*Effective Date*” means the effective date of this Plan, which is the date that this Plan is adopted by the Board.

(u) “*Employee*” means any person employed by the Company or an Affiliate. However, service solely as a Director, or payment of a fee for such services, will not cause a Director to be considered an “Employee” for purposes of this Plan.

(v) “*Employer*” means the Company or the Affiliate of the Company that employs the Participant.

(w) “*Entity*” means a corporation, partnership, limited liability company or other entity.

(x) “*Exchange Act*” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(y) “*Exchange Act Person*” means any natural person, Entity or “group” (within the meaning of Section 13(d) or 14(d) of the Exchange Act), except that “Exchange Act Person” will not include (i) the Company or any Subsidiary of the Company, (ii) any employee benefit plan of the Company or any Subsidiary of the Company or any trustee or other fiduciary holding securities under an employee benefit plan of the Company or any Subsidiary of the Company, (iii) an underwriter temporarily holding securities pursuant to a registered public offering of such securities, (iv) an Entity Owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their Ownership of stock of the Company; or (v) any natural person, Entity or “group” (within the meaning of Section 13(d) or 14(d) of the Exchange Act) that, as of the Effective Date, is the Owner, directly or indirectly, of securities of the Company representing more than 50% of the combined voting power of the Company’s then outstanding securities.

(z) **“Fair Market Value”** means, as of any date, unless otherwise determined by the Board, the value of the Common Stock (as determined on a per share or aggregate basis, as applicable) determined as follows:

(i) If the Common Stock is listed on any established stock exchange or traded on any established market, the Fair Market Value will be the closing sales price for such stock as quoted on such exchange or market (or the exchange or market with the greatest volume of trading in the Common Stock) on the date of determination, as reported in a source the Board deems reliable.

(ii) If there is no closing sales price for the Common Stock on the date of determination, then the Fair Market Value will be the closing selling price on the last preceding date for which such quotation exists.

(iii) In the absence of such markets for the Common Stock, or if otherwise determined by the Board, the Fair Market Value will be determined by the Board in good faith and in a manner that complies with Sections 409A and 422 of the Code.

(aa) **“Governmental Body”** means any: (a) nation, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; (c) governmental or regulatory body, or quasi-governmental body of any nature (including any governmental division, department, administrative agency or bureau, commission, authority, instrumentality, official, ministry, fund, foundation, center, organization, unit, body or Entity and any court or other tribunal, and for the avoidance of doubt, any Tax authority) or other body exercising similar powers or authority; or (d) self-regulatory organization (including the Nasdaq Stock Market, New York Stock Exchange, and the Financial Industry Regulatory Authority).

(bb) **“Grant Notice”** means the notice provided to a Participant that he or she has been granted an Award under this Plan and which includes the name of the Participant, the type of Award, the date of grant of the Award, number of shares of the Common Stock subject to the Award or potential cash payment right, (if any), the vesting schedule for the Award (if any) and other key terms applicable to the Award.

(cc) **“Materially Impair”** means any amendment to the terms of the Award that materially adversely affects the Participant’s rights under the Award. A Participant’s rights under an Award will not be deemed to have been Materially Impaired by any such amendment if the Board, in its sole discretion, determines that the amendment, taken as a whole, does not materially impair the Participant’s rights. For example, the following types of amendments to the terms of an Award do not Materially Impair the Participant’s rights under the Award: (i) imposition of reasonable restrictions on the minimum number of shares subject to an Option that may be exercised, (ii) to clarify the manner of exemption from, or to bring the Award into compliance with or qualify it for an exemption from, Section 409A; or (iii) to comply with other Applicable Laws.

(dd) **“Non-Employee Director”** means a Director who either (i) is not a current employee or officer of the Company or an Affiliate, or (ii) is otherwise considered a “non-employee director” for purposes of Rule 16b-3.

(ee) **“Non-Exempt Award”** means any Award that is subject to, and not exempt from, Section 409A, including as the result of a deferral of the issuance of the shares subject to the Award which is elected by the Participant or imposed by the Company.

(ff) **“Non-Exempt Director Award”** means a Non-Exempt Award granted to a Participant who was a Director but not an Employee on the applicable grant date.

(gg) ***“Nonstatutory Stock Option”*** means an option granted pursuant to Section 4 of this Plan that is not an “incentive stock option” within the meaning of Section 422 of the Code.

(hh) ***“Officer”*** means a person who is an officer of the Company within the meaning of Section 16 of the Exchange Act.

(ii) ***“Option”*** means a Nonstatutory Stock Option to purchase shares of the Common Stock granted pursuant to this Plan.

(jj) ***“Option Agreement”*** means a written agreement between the Company and the Optionholder evidencing the terms and conditions of the Option grant. The Option Agreement includes the Grant Notice for the Option and the agreement containing the written summary of the general terms and conditions applicable to the Option and which is provided to a Participant along with the Grant Notice. Each Option Agreement will be subject to the terms and conditions of this Plan.

(kk) ***“Optionholder”*** means a person to whom an Option is granted pursuant to this Plan or, if applicable, such other person who holds an outstanding Option.

(ll) ***“Other Award”*** means an award valued in whole or in part by reference to, or otherwise based on, Common Stock, including the appreciation in value thereof (e.g., options or stock rights with an exercise price or strike price less than 100% of the Fair Market Value at the time of grant) that is not a Nonstatutory Stock Option, SAR, Restricted Stock Award, or RSU Award. An Other Award may not be an “incentive stock option” within the meaning of Section 422 of the Code.

(mm) ***“Other Award Agreement”*** means a written agreement between the Company and a holder of an Other Award evidencing the terms and conditions of an Other Award grant. Each Other Award Agreement will be subject to the terms and conditions of this Plan.

(nn) ***“Own,” “Owned,” “Owner,” “Ownership”*** means that a person or Entity will be deemed to “Own,” to have “Owned,” to be the “Owner” of, or to have acquired “Ownership” of securities if such person or Entity, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares voting power, which includes the power to vote or to direct the voting, with respect to such securities.

(oo) ***“Participant”*** means a Non-Employee Director to whom an Award is granted pursuant to this Plan or, if applicable, such other person who holds an outstanding Award.

(pp) ***“Plan”*** means this Zivo Bioscience, Inc. 2024 Equity Incentive Plan for Non-Employee Directors.

(qq) ***“Plan Administrator”*** means the person, persons, and/or third-party administrator designated by the Company to administer the day to day operations of this Plan and the Company’s other equity incentive programs.

(rr) ***“Post-Termination Exercise Period”*** means the period following termination of a Participant’s Continuous Service within which an Option or SAR is exercisable, as specified in Section 4(h).

(ss) ***“Prospectus”*** means the document containing this Plan information specified in Section 10(a) of the Securities Act.

(tt) “*Restricted Stock Award*” or “*RSA*” means an Award of shares of the Common Stock which is granted pursuant to the terms and conditions of Section 5(a).

(uu) “*Restricted Stock Award Agreement*” means a written agreement between the Company and a holder of a Restricted Stock Award evidencing the terms and conditions of a Restricted Stock Award grant. The Restricted Stock Award Agreement includes the Grant Notice for the Restricted Stock Award and the agreement containing the written summary of the general terms and conditions applicable to the Restricted Stock Award and which is provided to a Participant along with the Grant Notice. Each Restricted Stock Award Agreement will be subject to the terms and conditions of this Plan.

(vv) “*RSU Award*” or “*RSU*” means an Award of restricted stock units representing the right to receive an issuance of shares of the Common Stock which is granted pursuant to the terms and conditions of Section 5(a).

(ww) “*RSU Award Agreement*” means a written agreement between the Company and a holder of a RSU Award evidencing the terms and conditions of a RSU Award. The RSU Award Agreement includes the Grant Notice for the RSU Award and the agreement containing the written summary of the general terms and conditions applicable to the RSU Award and which is provided to a Participant along with the Grant Notice. Each RSU Award Agreement will be subject to the terms and conditions of this Plan.

(xx) “*Rule 16b-3*” means Rule 16b-3 promulgated under the Exchange Act or any successor to Rule 16b-3, as in effect from time to time.

(yy) “*Rule 405*” means Rule 405 promulgated under the Securities Act.

(zz) “*Section 409A*” means Section 409A of the Code and the regulations and other guidance thereunder.

(aaa) “*Section 409A Change in Control*” means a change in the ownership or effective control of the Company, or in the ownership of a substantial portion of the Company’s assets, as provided in Section 409A(a)(2)(A)(v) of the Code and Treasury Regulations Section 1.409A-3(i)(5) (without regard to any alternative definition thereunder).

(bbb) “*Securities Act*” means the Securities Act of 1933, as amended.

(ccc) “*Share Reserve*” means the number of shares available for issuance under this Plan as set forth in Section 2(a).

(ddd) “*Stock Appreciation Right*” or “*SAR*” means a right to receive the appreciation on Common Stock that is granted pursuant to the terms and conditions of Section 4.

(eee) “*SAR Agreement*” means a written agreement between the Company and a holder of a SAR evidencing the terms and conditions of a SAR grant. The SAR Agreement includes the Grant Notice for the SAR and the agreement containing the written summary of the general terms and conditions applicable to the SAR and which is provided to a Participant along with the Grant Notice. Each SAR Agreement will be subject to the terms and conditions of this Plan.

(fff) “*Subsidiary*” means, with respect to the Company, (i) any corporation of which more than 50% of the outstanding Common Stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether, at the time, stock of any other class or classes of such

corporation will have or might have voting power by reason of the happening of any contingency) is at the time, directly or indirectly, Owned by the Company, and (ii) any partnership, limited liability company or other entity in which the Company has a direct or indirect interest (whether in the form of voting or participation in profits or capital contribution) of more than 50%.

(ggg) “*Trading Policy*” means the Company’s policy permitting certain individuals to sell Company shares only during certain “window” periods and/or otherwise restricts the ability of certain individuals to transfer or encumber Company shares, as in effect from time to time.

ZIVO BIOSCIENCE, INC.
RSU AWARD GRANT NOTICE
(2024 EQUITY INCENTIVE PLAN FOR NON-EMPLOYEE DIRECTORS)

Zivo Bioscience, Inc., a Nevada corporation (the "*Company*") has awarded to you (the "*Participant*") the number of restricted stock units specified and on the terms set forth below in consideration of your services (the "*RSU Award*"). Your RSU Award is subject to all of the terms and conditions as set forth herein and in the Company's 2024 Equity Incentive Plan for Non-Employee Directors (the "*Plan*") and the Award Agreement (the "*Agreement*"), which are incorporated herein in their entirety. Capitalized terms not explicitly defined herein but defined in the Plan or the Agreement shall have the meanings set forth in the Plan or the Agreement.

Participant:

Date of Grant:

Vesting Commencement Date:

Number of Restricted Stock Units:

Vesting Schedule: The RSUs will vest as follows:

Notwithstanding the foregoing, vesting shall terminate upon the Participant's termination of Continuous Service.

Issuance Schedule: One share of Common Stock will be issued for each restricted stock unit which vests at the time set forth in Section 5 of the Agreement.

Participant Acknowledgements: By your signature below or by electronic acceptance or authentication in a form authorized by the Company, you understand and agree that:

- The RSU Award is governed by this RSU Award Grant Notice (the "*Grant Notice*"), and the provisions of the Plan and the Agreement, all of which are made a part of this document. Unless otherwise provided in the Plan, this Grant Notice and the Agreement (together, the "*RSU Award Agreement*") may not be modified, amended or revised except in a writing signed by you and a duly authorized officer of the Company.
- You have read and are familiar with the provisions of the Plan, the RSU Award Agreement and the Prospectus. In the event of any conflict between the provisions in the RSU Award Agreement, or the Prospectus and the terms of the Plan, the terms of the Plan shall control.
- The RSU Award Agreement sets forth the entire understanding between you and the Company regarding the acquisition of Common Stock and supersedes all prior oral and written agreements, promises and/or representations on that subject with the exception of: (i) other equity awards previously granted to you, and (ii) any written agreement between the Company and you in each case that specifies the terms that should govern this RSU Award.

ZIVO BIOSCIENCE, INC.

By: _____
Signature

Title: _____

Date: _____

PARTICIPANT:

By: _____
Signature

Title: _____

Date: _____

ZIVO BIOSCIENCE, INC.
2024 EQUITY INCENTIVE PLAN FOR NON-EMPLOYEE DIRECTORS
AWARD AGREEMENT (RSU AWARD)

As reflected by your Restricted Stock Unit Grant Notice (the “*Grant Notice*”), Zivo Bioscience, Inc., a Nevada corporation (the “*Company*”) has granted you a RSU Award under its 2024 Equity Incentive Plan for Non-Employee Directors (the “*Plan*”) for the number of restricted stock units as indicated in your Grant Notice (the “*RSU Award*”). The terms of your RSU Award as specified in this Award Agreement for your RSU Award (this “*Agreement*”) and the Grant Notice constitute your “*RSU Award Agreement*”. Defined terms not explicitly defined in this Agreement but defined in the Grant Notice or the Plan shall have the same definitions as in the Grant Notice or Plan, as applicable.

The general terms applicable to your RSU Award are as follows:

1. **Governing Plan Document.** Your RSU Award is subject to all the provisions of the Plan. Your RSU Award is further subject to all interpretations, amendments, rules and regulations, which may from time to time be promulgated and adopted pursuant to the Plan. In the event of any conflict between the RSU Award Agreement and the provisions of the Plan, the provisions of the Plan shall control.

2. **Grant of the RSU Award.** This RSU Award represents your right to be issued on a future date the number of shares of the Company’s Common Stock that is equal to the number of restricted stock units indicated in the Grant Notice subject to your satisfaction of the vesting conditions set forth therein (the “*Restricted Stock Units*”). Any additional Restricted Stock Units that become subject to the RSU Award pursuant to Capitalization Adjustments as set forth in the Plan and the provisions of Section 3 below, if any, shall be subject, in a manner determined by the Board, to the same forfeiture restrictions, restrictions on transferability, and time and manner of delivery as applicable to the other Restricted Stock Units covered by your RSU Award.

3. **Dividends.** You may become entitled to receive payments equal to any cash dividends and other distributions paid with respect to a corresponding number of shares of the Common Stock to be issued in respect of the Restricted Stock Units covered by your RSU Award. Any such dividends or distributions shall be subject to the same forfeiture restrictions as apply to the Restricted Stock Units and shall be paid at the same time that the corresponding shares are issued in respect of your vested Restricted Stock Units, provided, however that to the extent any such dividends or distributions are paid in shares of the Common Stock, then you will automatically be granted a corresponding number of additional Restricted Stock Units subject to the RSU Award (the “*Dividend Units*”), and further provided that such Dividend Units shall be subject to the same forfeiture restrictions and restrictions on transferability, and same timing requirements for issuance of shares, as apply to the Restricted Stock Units subject to the RSU Award with respect to which the Dividend Units relate.

4. **Withholding Obligations.** As further provided in Section 8 of the Plan, you hereby authorize withholding from payroll and any other amounts payable to you, and otherwise agree to make adequate provision for, any sums required to satisfy the federal, state, local and foreign tax withholding obligations, if any, which arise in connection with your RSU Award (the “*Withholding Taxes*”) in accordance with the withholding procedures established by the Company. Unless the Withholding Taxes are satisfied, the Company shall have no obligation to deliver to you any Common Stock in respect of the RSU Award. In the event the Withholding Obligation of the Company arises prior to the delivery to you of Common Stock or it is determined after the delivery of Common Stock to you that the amount of the Withholding Obligation was greater than the amount withheld by the Company, you agree to indemnify and hold the Company harmless from any failure by the Company to withhold the proper amount.

5. Date of Issuance.

(a) To the extent your RSU Award is exempt from application of Section 409A of the Code and any state law of similar effect (collectively "*Section 409A*"), the Company will deliver to you a number of shares of the Company's Common Stock equal to the number of vested Restricted Stock Units subject to your RSU Award, including any additional Restricted Stock Units received pursuant to Section 3 above that relate to those vested Restricted Stock Units on the applicable vesting date(s), or if such date is not a business day, such delivery date shall instead fall on the next following business day (the "*Original Distribution Date*").

(b) Notwithstanding the foregoing, in the event that you are prohibited from selling shares of the Company's Common Stock in the public market on the scheduled delivery date by the Trading Policy or otherwise, and the Company elects not to satisfy its tax withholding obligations by withholding shares from your distribution, then such shares shall not be delivered on such Original Distribution Date and shall instead be delivered on the first business day when you are not prohibited from selling shares of the Company's Common Stock in the open market, but in no event later than the fifteenth (15th) day of the third calendar month of the calendar year following the calendar year in which the shares covered by the RSU Award vest. Delivery of the shares pursuant to the provisions of Section 5 is intended to comply with the requirements for the short-term deferral exemption available under Treasury Regulations Section 1.409A-1(b)(4) and shall be construed and administered in such manner. However, if and to the extent the RSU Award is a Non-Exempt Award, the provisions of the Plan with respect to Non-Exempt Awards shall apply in lieu of the provisions in this Section 5.

6. Transferability. Except as otherwise provided in the Plan, your RSU Award is not transferable, except by will or by the applicable laws of descent and distribution.

7. Corporate Transaction. Your RSU Award is subject to the terms of any agreement governing a Corporate Transaction involving the Company, including, without limitation, a provision for the appointment of a stockholder representative that is authorized to act on your behalf with respect to any escrow, indemnities and any contingent consideration.

8. No Liability for Taxes. As a condition to accepting the RSU Award, you hereby (a) agree to not make any claim against the Company, or any of its Officers, Directors, Employees or Affiliates related to tax liabilities arising from the RSU Award or other Company compensation and (b) acknowledge that you were advised to consult with your own personal tax, financial and other legal advisors regarding the tax consequences of the RSU Award and have either done so or knowingly and voluntarily declined to do so.

9. Severability. If any part of this Agreement or the Plan is declared by any court or governmental authority to be unlawful or invalid, such unlawfulness or invalidity will not invalidate any portion of this Agreement or the Plan not declared to be unlawful or invalid. Any Section of this Agreement (or part of such a Section) so declared to be unlawful or invalid will, if possible, be construed in a manner which will give effect to the terms of such Section or part of a Section to the fullest extent possible while remaining lawful and valid.

10. Other Documents. You hereby acknowledge receipt of or the right to receive a document providing the information required by Rule 428(b)(1) promulgated under the Securities Act, which includes the Prospectus. In addition, you acknowledge receipt of the Company's Trading Policy.

11. Questions. If you have questions regarding these or any other terms and conditions applicable to your RSU Award, including a summary of the applicable federal income tax consequences, please see the Prospectus.

ZIVO BIOSCIENCE, INC.
STOCK OPTION GRANT NOTICE
(2024 EQUITY INCENTIVE PLAN FOR NON-EMPLOYEE DIRECTORS)

Zivo Bioscience, Inc., a Nevada corporation (the "*Company*"), pursuant to its 2024 Equity Incentive Plan for Non-Employee Directors (the "*Plan*"), has granted to you ("*Optionholder*") an option to purchase the number of shares of the Common Stock set forth below (the "*Option*"). Your Option is subject to all of the terms and conditions as set forth herein and in the Plan, and the Stock Option Agreement and the Notice of Exercise, all of which are attached hereto and incorporated herein in their entirety. Capitalized terms not explicitly defined herein but defined in the Plan or the Stock Option Agreement shall have the meanings set forth in the Plan or the Stock Option Agreement, as applicable.

Optionholder:

Date of Grant:

Vesting Commencement Date:

Number of Shares of the Common Stock Subject to Option:

Exercise Price (Per Share):

Total Exercise Price:

Expiration Date:

Type of Grant: Nonstatutory Stock Option

Exercise and Vesting Schedule: Subject to the Optionholder's Continuous Service through each applicable vesting date, the Option will vest as follows:

Optionholder Acknowledgements: By your signature below or by electronic acceptance or authentication in a form authorized by the Company, you understand and agree that:

- The Option is governed by this Stock Option Grant Notice, and the provisions of the Plan and the Stock Option Agreement and the Notice of Exercise, all of which are made a part of this document. Unless otherwise provided in the Plan, this Grant Notice and the Stock Option Agreement (together, the "*Option Agreement*") may not be modified, amended or revised except in a writing signed by you and a duly authorized officer of the Company.
- You consent to receive this Grant Notice, the Stock Option Agreement, the Plan, the Prospectus and any other Plan-related documents by electronic delivery and to participate in the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company.
- You have read and are familiar with the provisions of the Plan, the Stock Option Agreement, the Notice of Exercise and the Prospectus. In the event of any conflict between the provisions in this Grant Notice, the Option Agreement, the Notice of Exercise, or the Prospectus and the terms of the Plan, the terms of the Plan shall control.
- The Option Agreement sets forth the entire understanding between you and the Company regarding the acquisition of Common Stock and supersedes all prior oral and written agreements, promises and/or representations on that subject with the exception of other equity awards previously granted to you and any written agreement between the Company and you, in each case, that specifies the terms that should govern this Option.

- Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act or other applicable law) or other transmission method and any counterpart so delivered will be deemed to have been validly delivered and be valid and effective for all purposes.

ZIVO BIOSCIENCE, INC.

By: _____
Signature

Title: _____

Date: _____

OPTIONHOLDER:

By: _____
Signature

Title: _____

Date: _____

ZIVO BIOSCIENCE, INC.
2024 EQUITY INCENTIVE PLAN FOR NON-EMPLOYEE DIRECTORS

STOCK OPTION AGREEMENT

As reflected by your Stock Option Grant Notice (the “*Grant Notice*”) Zivo Bioscience, Inc., a Nevada corporation (the “*Company*”) has granted you an option under its 2024 Equity Incentive Plan for Non-Employee Directors (the “*Plan*”) to purchase a number of shares of the Common Stock at the exercise price indicated in your Grant Notice (the “*Option*”). Capitalized terms not explicitly defined in this Agreement but defined in the Grant Notice or the Plan shall have the meanings set forth in the Grant Notice or Plan, as applicable. The terms of your Option as specified in the Grant Notice and this Stock Option Agreement constitute your Option Agreement.

The general terms and conditions applicable to your Option are as follows:

1. Governing Plan Document. Your Option is subject to all the provisions of the Plan. Your Option is further subject to all interpretations, amendments, rules and regulations, which may from time to time be promulgated and adopted pursuant to the Plan. In the event of any conflict between the Option Agreement and the provisions of the Plan, the provisions of the Plan shall control.

2. Exercise.

(a) You may generally exercise the vested portion of your Option for whole shares of the Common Stock at any time during its term by delivery of payment of the exercise price and applicable withholding taxes and other required documentation to the Plan Administrator in accordance with the exercise procedures established by the Plan Administrator, which may include an electronic submission. Please review the Plan, which may restrict or prohibit your ability to exercise your Option during certain periods.

(b) To the extent permitted by Applicable Law, you may pay your Option exercise price as follows:

- (i) cash, check, bank draft or money order;
- (ii) subject to Company and/or Committee consent at the time of exercise, pursuant to a “cashless exercise” program as further described in the Plan if at the time of exercise the Common Stock is publicly traded;
- (iii) subject to Company and/or Committee consent at the time of exercise, by delivery of previously owned shares of the Common Stock as further described in the Plan; or
- (iv) subject to Company and/or Committee consent at the time of exercise, by a “net exercise” arrangement as further described in the Plan.

3. Term. You may not exercise your Option before the commencement of its term or after its term expires. The term of your option commences on the Date of Grant and expires upon the earliest of the following:

- (a) immediately upon the termination of your Continuous Service for Cause;

- (b) 3 months after the termination of your Continuous Service for any reason other than Cause, Disability or death;
- (c) 12 months after the termination of your Continuous Service due to your Disability;
- (d) 18 months after your death if you die during your Continuous Service;
- (e) immediately upon a Corporate Transaction if the Board has determined that the Option will terminate in connection with a Corporate Transaction,
- (f) the Expiration Date indicated in your Grant Notice; or
- (g) the day before the 10th anniversary of the Date of Grant.

Notwithstanding the foregoing, if you die during the period provided in Section 3(b) or 3(c) above, the term of your Option shall not expire until the earlier of (i) eighteen months after your death, (ii) upon any termination of the Option in connection with a Corporate Transaction, (iii) the Expiration Date indicated in your Grant Notice, or (iv) the day before the tenth anniversary of the Date of Grant. Additionally, the Post-Termination Exercise Period of your Option may be extended as provided in the Plan.

4. Withholding Obligations. As further provided in the Plan: (a) you may not exercise your Option unless the applicable tax withholding obligations are satisfied, and (b) at the time you exercise your Option, in whole or in part, or at any time thereafter as requested by the Company, you hereby authorize withholding from payroll and any other amounts payable to you, and otherwise agree to make adequate provision for (including by means of a "cashless exercise" pursuant to a program developed under Regulation T as promulgated by the Federal Reserve Board to the extent permitted by the Company), any sums required to satisfy the federal, state, local and foreign tax withholding obligations, if any, which arise in connection with the exercise of your Option in accordance with the withholding procedures established by the Company. Accordingly, you may not be able to exercise your Option even though the Option is vested, and the Company shall have no obligation to issue shares of the Common Stock subject to your Option, unless and until such obligations are satisfied. In the event that the amount of the Company's withholding obligation in connection with your Option was greater than the amount actually withheld by the Company, you agree to indemnify and hold the Company harmless from any failure by the Company to withhold the proper amount.

5. Transferability. Except as otherwise provided in the Plan, your Option is not transferable, except by will or by the applicable laws of descent and distribution, and is exercisable during your life only by you.

6. Corporate Transaction. Your Option is subject to the terms of any agreement governing a Corporate Transaction involving the Company, including, without limitation, a provision for the appointment of a stockholder representative that is authorized to act on your behalf with respect to any escrow, indemnities and any contingent consideration.

7. No Liability for Taxes. As a condition to accepting the Option, you hereby (a) agree to not make any claim against the Company, or any of its Officers, Directors, Employees or Affiliates related to tax liabilities arising from the Option or other Company compensation and (b) acknowledge that you were advised to consult with your own personal tax, financial and other legal advisors regarding the tax consequences of the Option and have either done so or knowingly and voluntarily declined to do so. Additionally, you acknowledge that the Option is exempt from Section 409A only if the exercise price is at

least equal to the “fair market value” of the Common Stock on the date of grant as determined by the Internal Revenue Service and there is no other impermissible deferral of compensation associated with the Option. Additionally, as a condition to accepting the Option, you agree not make any claim against the Company, or any of its Officers, Directors, Employees or Affiliates in the event that the Internal Revenue Service asserts that such exercise is less than the “fair market value” of the Common Stock on the date of grant as subsequently determined by the Internal Revenue Service.

8. Severability. If any part of this Option Agreement or the Plan is declared by any court or governmental authority to be unlawful or invalid, such unlawfulness or invalidity will not invalidate any portion of this Option Agreement or the Plan not declared to be unlawful or invalid. Any Section of this Option Agreement (or part of such a Section) so declared to be unlawful or invalid will, if possible, be construed in a manner which will give effect to the terms of such Section or part of a Section to the fullest extent possible while remaining lawful and valid.

9. Indebtedness to the Company. In the event that you have any loans, draws, advances or any other indebtedness owing to the Company at the time of exercise of all or a portion of the Option, the Company may deduct and not deliver that number of shares of the Common Stock with a Fair Market Value subject to the Option equal to such indebtedness to satisfy all or a portion of such indebtedness, to the extent permitted by law and in a manner consistent with Section 409A of the Code, if applicable.

10. Other Documents. You hereby acknowledge receipt of or the right to receive a document providing the information required by Rule 428(b)(1) promulgated under the Securities Act, which includes the Prospectus. In addition, you acknowledge receipt of the Company’s Trading Policy.

11. Questions. If you have questions regarding these or any other terms and conditions applicable to your Option, including a summary of the applicable federal income tax consequences, please see the Prospectus.

* * * *

4877-5658-8215 v3 [108550-2]

ZIVO BIOSCIENCE, INC.
RESTRICTED STOCK AWARD GRANT NOTICE
(2024 EQUITY INCENTIVE PLAN FOR NON-EMPLOYEE DIRECTORS)

Zivo Bioscience, Inc., a Nevada corporation (the "*Company*") has awarded to you (the "*Participant*") the right to receive the number of shares of restricted stock specified and on the terms set forth below in consideration of your services (the "*Restricted Stock Award*"). Your Restricted Stock Award is subject to all of the terms and conditions as set forth herein and in the Company's 2024 Equity Incentive Plan for Non-Employee Directors (the "*Plan*") and the Award Agreement (the "*Agreement*"), which are incorporated herein in their entirety. Capitalized terms not explicitly defined herein but defined in the Plan or the Agreement shall have the meanings set forth in the Plan or the Agreement.

Participant:

Date of Grant:

Vesting Commencement Date:

Number of Shares of Restricted Stock:

Vesting Schedule: The shares of Restricted Stock will vest as follows:

Notwithstanding the foregoing, except as otherwise provided in the Award Agreement, vesting shall terminate upon the Participant's termination of Continuous Service.

All shares of Restricted Stock shall become fully vested upon the occurrence of a Change in Control, if the Participant is a director at the time of such Change in Control. To the extent practicable, such acceleration of vesting shall occur in a manner and at a time which allows the Participant the ability to participate in the Change in Control with respect to the shares of Common Stock to be received by the Participant.

Participant Acknowledgements: By your signature below or by electronic acceptance or authentication in a form authorized by the Company, you understand and agree that:

- The Restricted Stock Award is governed by this Restricted Stock Award Grant Notice (the "*Grant Notice*"), and the provisions of the Plan and the Agreement, all of which are made a part of this document. Unless otherwise provided in the Plan, this Grant Notice and the Agreement (together, the "*Restricted Stock Award Agreement*") may not be modified, amended or revised except in a writing signed by you and a duly authorized officer of the Company.
- You have read and are familiar with the provisions of the Plan, the Restricted Stock Award Agreement and the Prospectus. In the event of any conflict between the provisions in the Restricted Stock Award Agreement, or the Prospectus and the terms of the Plan, the terms of the Plan shall control.
- The Restricted Stock Award Agreement sets forth the entire understanding between you and the Company regarding the acquisition of Common Stock and supersedes all prior oral and written agreements, promises and/or representations on that subject with the exception of: (i) other equity awards previously granted to you, and (ii) any written agreement between the Company and you in each case that specifies the terms that should govern this Restricted Stock Award.

ZIVO BIOSCIENCE, INC.

By: _____
Signature

Title: _____

Date: _____

PARTICIPANT:

By: _____
Signature

Title: _____

Date: _____

ZIVO BIOSCIENCE, INC.
2024 EQUITY INCENTIVE PLAN FOR NON-EMPLOYEE DIRECTORS
AWARD AGREEMENT (RESTRICTED STOCK AWARD)

As reflected by your Restricted Stock Award Grant Notice (the “*Grant Notice*”), Zivo Bioscience, Inc., a Nevada corporation (the “*Company*”) has granted you a Restricted Stock Award under its 2024 Equity Incentive Plan for Non-Employee Directors (the “*Plan*”) for the number of shares of restricted stock as indicated in your Grant Notice (the “*Restricted Stock Award*”). The terms of your Restricted Stock Award as specified in this Award Agreement for your Restricted Stock Award (this “*Agreement*”) and the Grant Notice constitute your “*Restricted Stock Award Agreement*”. Defined terms not explicitly defined in this Agreement but defined in the Grant Notice or the Plan shall have the same definitions as in the Grant Notice or Plan, as applicable.

The general terms applicable to your Restricted Stock Award are as follows:

1. **Governing Plan Document.** Your Restricted Stock Award is subject to all the provisions of the Plan. Your Restricted Stock Award is further subject to all interpretations, amendments, rules and regulations, which may from time to time be promulgated and adopted pursuant to the Plan. In the event of any conflict between the Restricted Stock Award Agreement and the provisions of the Plan, the provisions of the Plan shall control.
2. **Grant of the Restricted Stock Award.** This Restricted Stock Award represents your right to receive the number of shares of the Company’s Common Stock indicated in the Grant Notice subject to your satisfaction of the vesting conditions set forth therein (the “*Restricted Shares*”). Any additional Restricted Shares that become subject to the Restricted Stock Award pursuant to Capitalization Adjustments as set forth in the Plan and the provisions of Section 3 below, if any, shall be subject, in a manner determined by the Board, to the same forfeiture restrictions, restrictions on transferability, and time and manner of delivery as applicable to the other Restricted Shares covered by your Restricted Stock Award.
3. **Voting Rights; Dividends.** You are entitled to vote your Restricted Shares and to receive payments equal to any cash dividends and other distributions paid with respect to your Restricted Shares provided, however, that dividends or other distributions paid in any form other than cash shall be subject to the same restrictions, forfeitability, terms and conditions as are applicable to the Restricted Shares until such time as the Restricted Shares with respect to which such distributions have been made, paid or declared, shall have vested.
4. **Withholding Obligations.** As further provided in Section 8 of the Plan, you hereby authorize withholding from payroll and any other amounts payable to you, and otherwise agree to make adequate provision for, any sums required to satisfy the federal, state, local and foreign tax withholding obligations, if any, which arise in connection with your Restricted Stock Award (the “*Withholding Taxes*”) in accordance with the withholding procedures established by the Company. Unless the Withholding Taxes are satisfied, the Company shall have no obligation to deliver to you any Common Stock in respect of the Restricted Stock Award. In the event the Withholding Obligation of the Company arises prior to the delivery to you of Common Stock or it is determined after the delivery of Common Stock to you that the amount of the Withholding Obligation was greater than the amount withheld by the Company, you agree to indemnify and hold the Company harmless from any failure by the Company to withhold the proper amount.

5. Issuance of Shares; Effect of Termination of Continuous Service.

(a) Your Restricted Shares will be held in book entry form subject to the Company's instructions until such shares become vested or any other restrictions lapse. Such book-entry shares may include restrictive instructions to the Corporation's registrar and transfer agent in accordance with the Plan and the Restricted Stock Award Agreement. Upon the vesting of any portion of the Restricted Shares, you shall be entitled to issuance of such portion of the Restricted Shares (and any applicable stock distributions) in your name in book-entry form. Transfer by the Company of such shares shall occur as promptly as practicable after such vesting.

(b) If a Participant's Continuous Service terminates for any reason, prior to an applicable date(s) of vesting, the Restricted Shares with respect to such applicable date(s) shall be forfeited by the Participant, provided, however, that the Board, in its sole discretion, may waive or change the restrictions or add additional restrictions with respect to the Restricted Shares that would otherwise be forfeited, as it deems appropriate.

6. Transferability. Except as otherwise provided in the Plan, your Restricted Stock Award is not transferable during the vesting period, except by will or by the applicable laws of descent and distribution.

7. Corporate Transaction. Your Restricted Stock Award is subject to the terms of any agreement governing a Corporate Transaction involving the Company, including, without limitation, a provision for the appointment of a stockholder representative that is authorized to act on your behalf with respect to any escrow, indemnities and any contingent consideration.

8. Section 83(b) Election. You may make an election under Code Section 83(b) (a "*Section 83(b) Election*") with respect to the Restricted Shares. Any such election must be made within thirty (30) days after the Grant Date. If you elect to make a Section 83(b) Election, you shall provide the Company with a copy of an executed version and satisfactory evidence of the timely filing of the executed Section 83(b) Election with the US Internal Revenue Service. You agree to assume full responsibility for ensuring that the Section 83(b) Election is actually and timely filed with the US Internal Revenue Service and for all tax consequences resulting from the Section 83(b) Election.

9. No Liability for Taxes. As a condition to accepting the Restricted Stock Award, you hereby (a) agree to not make any claim against the Company, or any of its Officers, Directors, Employees or Affiliates related to tax liabilities arising from the Restricted Stock Award or other Company compensation and (b) acknowledge that you were advised to consult with your own personal tax, financial and other legal advisors regarding the tax consequences of the Restricted Stock Award and have either done so or knowingly and voluntarily declined to do so.

10. Severability. If any part of this Agreement or the Plan is declared by any court or governmental authority to be unlawful or invalid, such unlawfulness or invalidity will not invalidate any portion of this Agreement or the Plan not declared to be unlawful or invalid. Any Section of this Agreement (or part of such a Section) so declared to be unlawful or invalid will, if possible, be construed in a manner which will give effect to the terms of such Section or part of a Section to the fullest extent possible while remaining lawful and valid.

11. Other Documents. You hereby acknowledge receipt of or the right to receive a document providing the information required by Rule 428(b)(1) promulgated under the Securities Act, which includes the Prospectus. In addition, you acknowledge receipt of the Company's Trading Policy.

12. Questions. If you have questions regarding these or any other terms and conditions applicable to your Restricted Stock Award, including a summary of the applicable federal income tax consequences, please see the Prospectus.

4861-0845-2536 v3 [108550-2]

ZIVO BIOSCIENCE, INC.

NON-EMPLOYEE DIRECTOR COMPENSATION POLICY

(Amended as of May 31, 2024)

Each member of the Board of Directors (the “Board”) who is not also serving as an employee of or consultant to Zivo Bioscience, Inc. (the “Company”) or any of its subsidiaries (each such member, an “Eligible Director”) will receive the compensation described in this Non-Employee Director Compensation Policy for such Eligible Director’s service upon and following May __, 2024 (the “Effective Date”). An Eligible Director may decline all or any portion of such compensation by giving notice to the Company prior to the date cash may be paid or equity awards are to be granted, as the case may be, subject to compliance with all applicable laws. This policy is effective as of the Effective Date and may be amended at any time in the sole discretion of the Board or the Compensation Committee of the Board.

Annual Cash Compensation

The annual cash compensation amount set forth below is payable to Eligible Directors in equal quarterly installments, payable in arrears on the last day of each fiscal quarter in which the service occurred. If an Eligible Director joins or resigns from the Board or a committee of the Board at a time other than effective as of the first day of a fiscal quarter, each annual retainer set forth below will be pro-rated based on days served in the applicable fiscal year, with the prorated amount paid for the first fiscal quarter in which the Eligible Director provides the service, and for new Board members, regular full quarterly payments thereafter. Cash retainers will be paid within 15 days from the date earned.

1. Annual Board Service Retainer:

- a. All Eligible Directors: \$50,000
- b. Non-Executive Chair (in addition to above retainer): \$5,000

2. Annual Committee Member Service Retainer:

- a. Member of the Audit Committee: \$4,000
- b. Member of the Compensation Committee: \$4,000
- c. Member of the Nominating and Governance Committee: \$4,000

Committee Chairs will receive an additional \$2,000 retainer.

Eligible Directors may elect to receive a fully vested Restricted Stock Award (RSA) of the Company’s common stock in lieu of the cash retainers on the date on which such retainers would otherwise have been paid in cash in accordance with the terms and conditions of the Plan (as defined below). To receive an RSA in lieu of cash compensation, the Eligible Director must send an irrevocable election, substantially in the form of Exhibit A attached, to the Company’s Chief Financial Officer in writing or by e-mail no later than the date of the annual meeting or, for a newly elected or appointed Eligible Director, no later than 10 days after the effective date of the election or appointment. The irrevocable election may be made annually and, once made, applies until the next following annual meeting.

Equity Compensation

The equity compensation set forth below will be granted under the Company's 2024 Equity Incentive Plan for Non-Employee Directors or any other equity incentive plan then-maintained by the Company (the "Plan"). Equity grants will be made in the form of restricted stock or, if approved by the Compensation Committee or the Board, in the form of restricted stock units.

1. Annual Equity Award:

On the date of each annual stockholder meeting of the Company that occurs beginning with calendar year 2024, each Eligible Director who continues to serve as a non-employee member of the Board following such stockholder meeting will be automatically, and without further action by the Board or the Compensation Committee of the Board, granted a Restricted Stock Award (RSA) under the terms of the Plan (or any successor plan) with an approximate value on the date of grant equal to \$50,000 (based on the closing share price on the date of grant) (the "Annual Grant"). The shares subject to the Annual Grant will vest in four equal installments, the first three on the three-month, six-month and nine-month anniversary of the date of grant, and the fourth on the day prior to the subsequent annual stockholder meeting which will be the term of that service for that grant.

2. Initial Equity Award:

From and after the 2024 annual stockholder meeting, if an individual first becomes an Eligible Director other than on the date of an annual stockholder meeting of the Company, each such Eligible Director automatically, and without further action by the Board or Compensation Committee of the Board, if any, will be granted, on the date that he or she is first elected or appointed to the Board (or, if such date is not a market trading day, the first market trading day thereafter), an initial annual equity award in the form of a Restricted Stock Award (RSA) with an aggregate target value equal to the pro-rated value of the Annual Grant to reflect a reduction for any period prior to the date of grant that has elapsed since the preceding annual stockholder meeting of the Company, calculated in the same manner as the Annual Grant.

Non-Employee Director Compensation Limit

Notwithstanding the foregoing, the aggregate value of all compensation granted or paid, as applicable, to any individual for service as a Non-Employee Director (as defined in the Plan) shall in no event exceed the limits set forth in the Plan or any limitations contained in any successor plan.

Expenses

The Company will reimburse each Eligible Director for ordinary, necessary and reasonable out-of-pocket travel expenses to cover in-person attendance at, and participation in, Board and committee meetings; provided, that the Eligible Director timely submit to the Company appropriate documentation substantiating such expenses in accordance with the Company's travel and expense policy, as in effect from time to time.

FIRST AMENDMENT TO
ZIVO BIOSCIENCE, INC.,
2021 EQUITY INCENTIVE PLAN

This First Amendment is adopted effective as of the 31st day of May, 2024 by Zivo Bioscience, Inc. (the “**Company**”).

WHEREAS, the Company has adopted the Zivo Bioscience, Inc. 2021 Equity Incentive Plan (as amended, restated, supplemented or otherwise modified from time to time, the “**Plan**”);

WHEREAS, the Plan initially reserved 1,000,000 shares of Common Stock for issuance under the Plan (as automatically increased each January 1st by an amount equal to 5% of the number of Common Stock shares outstanding at that date), which initial number was adjusted to 166,666 as of October 26, 2023 in connection with a 1-for-6 reverse stock split;

WHEREAS, the Company desires to amend the Plan to increase the number of shares of Common Stock available for issuance under the Plan.

NOW THEREFORE, the Plan is amended as follows, effective as of the date hereof:

1. Section 2(a) of the Plan is amended as follows:

(a) Share Reserve. Subject to adjustment in accordance with Section 2(c) and any adjustments as necessary to implement any Capitalization Adjustments, the aggregate number of shares of the Common Stock that may be issued pursuant to Awards will not exceed 1,000,000 shares. In addition, subject to any adjustments as necessary to implement any Capitalization Adjustments, such aggregate number of shares of the Common Stock will automatically increase on January 1 of each year for a period of ten years commencing on January 1, 2021 and ending on (and including) January 1, 2030, in an amount equal to 5% of the total number of shares of the Common Stock outstanding on December 31 of the preceding year; provided, however, that the Board may act prior to January 1st of a given year to provide that the increase for such year will be a lesser number of shares of the Common Stock.

2. Except as amended herein, the Plan shall remain in full force and effect.

This First Amendment is executed by a duly authorized officer of the Company as of the date set forth above.

ZIVO BIOSCIENCE, INC.

By: /s/ Keith Marchiando