

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): January 15, 2013 (January 14, 2013)

BioDrain Medical, Inc.
(Exact name of Registrant as Specified in its Charter)

Minnesota
(State or Other Jurisdiction of Incorporation)

333-155299
(Commission File Number)

33-1007393
(IRS Employer Identification No.)

2915 Commers Drive, Suite 900
Eagan, MN 55121
(Address of Principal Executive Offices and Zip Code)

(651) 389-4800
(Registrant's telephone number, including area code)

Not Applicable
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of 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))
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Item 1.01 Entry into a Material Definitive Agreement.

The information included in Item 2.03 below is incorporated into this Item 1.01 by this reference.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off Balance Sheet Arrangement of a Registrant.

As of January 14, 2013, BioDrain Medical, Inc. (the "Company"), issued to four (4) accredited investors (each a "Holder" and collectively, the "Holders") (1) 8% convertible 1-year promissory notes (each a "Note" and collectively, the "Notes") in an aggregate principal amount equal to \$300,000 and (2) warrants (each a "Warrant" and collectively, the "Warrants") to purchase 2,500,000 shares of the Company's common stock, par value \$0.01 per share (the "Common Stock") for an aggregate purchase price of \$300,000, pursuant to the terms and conditions of those certain Subscription Agreements (the "Subscription Agreements").

The Notes accrue simple interest at a rate of 8% per annum and are due and payable on the one-year anniversary of the issue date of the Notes. At the option of the Holder, any time prior to a Qualified Transaction (as defined below) until the repayment of the entire principal amount and accrued interest due under such Note (the "Conversion Amount"), the Holder shall have the option to convert any or all of the Conversion Amount into Common Stock at a conversion price equal to \$0.12 per share, subject to proportionate adjustment as provided in the Notes (the "Elective Conversion Price"). Upon the consummation of a Qualified Financing until the repayment of the Conversion Amount, each Holder shall have the option to convert any or all of the Conversion Amount into Common Stock, at a conversion price equal to the lesser of 75% of the lowest price per share at which shares of the Company's Common Stock (or other equity securities of the Company, on an as converted basis) are sold in an equity financing or series of related equity financings by the Company occurring after the issue date of the Notes (not including any sale of Notes in the Offering) which results in aggregate gross proceeds to the Company of at least \$2,000,000 (a "Qualified Financing") or the Elective Conversion Price (subject to proportionate adjustment).

The occurrence of any one of the following events will be deemed an event of default: (i) the failure of the Company to pay the principal balance or accrued interest on the Notes when due; (ii) failure by the Company or the Company's transfer agent to issue securities issuable upon conversion of a Note to the Holder of such Note within thirty (30) calendar days after the receipt of a Conversion Notice (as defined in the Notes) and surrender by a Holder of a Note to the Company or the Company's transfer agent; (iii) the consent or institution by or against the Company of bankruptcy or insolvency proceedings or the filing, or consent by the Company for the filing of a petition or answer or consent seeking reorganization or release under the federal Bankruptcy Act, or any other applicable federal or state law, or the appointment of a receiver, liquidator, assignee, trustee or other similar official of the Company, or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the taking of corporate action by the Company in furtherance of any such action; (iv) the commencement of an action against the Company seeking any bankruptcy, insolvency, reorganization, liquidation, dissolution or similar relief that has not been resolved in favor of the Company or vacated within 60 days; or (v) any material breach by the Company of any covenant, warranty, representation or other term or condition of the Notes or the Subscription Agreement which is not cured within the time periods permitted therein or, if no cure period is provided therein, within sixty (60) days after the date on which the Company receives written notice of such breach.

The Warrants are exercisable at an exercise price of \$0.15 per share any time after the issue date of the Notes until 5:00 p.m. EST on the fifth anniversary of the issue date.

The description of the Notes and Warrants included in this Item 2.03 is qualified in its entirety by the terms and conditions of the form of the Notes filed as Exhibit 10.1, and the Warrants filed as Exhibit 4.1, to this Current Report on Form 8-K.

Item 3.02 Unregistered Sales of Equity Securities.

The information set forth in Item 2.03 above is incorporated herein by this reference. The Company paid cash commissions equal to an aggregate of \$24,000 and agreed to issue warrants (the "Placement Agent Warrant") to purchase an aggregate of 200,000 shares of Common Stock to the placement agent in connection with the sale of the Notes and Warrants. The Placement Agent Warrant has terms that are substantially similar to the terms and conditions of the Warrant. The securities described herein were issued pursuant to the exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act") and Regulation D promulgated thereunder, in that the sale and purchase of such securities did not involve any public offering and the Company obtained representations from each investor that it was an "accredited investor" as that term is defined under Rule 501 of Regulation D. As of the date of this filing, there are 104,610,194 shares of Common Stock of the Company issued and outstanding.

Item 9.01. Exhibits and Financial Statements

(d) Exhibits

4.1 Form of Warrant

10.1 Form of Convertible Promissory Note

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.

Date: January 15, 2013

BIODRAIN MEDICAL, INC.

By: /s/ Josh Komberg

Josh Komberg

President and Chief Executive Officer

FORM OF WARRANT

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE EXERCISABLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL, IN A GENERALLY ACCEPTABLE FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.

BIODRAIN MEDICAL, INC.

Warrant To Purchase Common Stock

Warrant No.: _____

Date of Issuance: _____

Warrant Shares: _____

BIODRAIN MEDICAL, INC., a Minnesota corporation (the “**Company**”), hereby certifies that, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged _____ the registered holder hereof or its permitted assigns (the “**Holder**”), is entitled, subject to the terms set forth below, to purchase from the Company, at the Exercise Price (as defined below) then in effect, upon surrender of this Warrant to Purchase Common Stock (including any Warrants to Purchase Common Stock issued in exchange, transfer or replacement hereof, the “**Warrant**”), at any time or times on or after the date hereof, but not after 5:00 p.m., Central time, on the Expiration Date (as defined below), _____¹ validly issued, fully paid non-assessable shares of Common Stock (as defined below) determined in accordance with Section 1(a) below. Except as otherwise defined herein, capitalized terms in this Warrant shall have the meanings set forth in Section 15. This Warrant is one of a series of warrants which have been issued in connection with a private placement offering by the Company of up to \$300,000 in securities of the Company consisting of (1) 8% convertible 1-year promissory notes (the “**Notes**”) convertible at the option of the holder into shares of Common Stock and (2) warrants to purchase up to an aggregate of 2,500,000 shares of Common Stock, pursuant to the terms and conditions set forth in that certain Confidential Private Placement Memorandum dated December 21, 2012 (the “**Memorandum**”) and that certain Subscription Agreement by and between the Company and the Holder dated as of the Issue Date (the “**Subscription Agreement**”).

1. EXERCISE OF WARRANT.

(a) Warrant Shares. This Warrant shall be exercisable for the number of shares of Common Stock of the Company as set forth on the cover page of this Warrant (“**Warrant Shares**”).

(b) Mechanics of Exercise. Subject to the terms and conditions hereof (including, without limitation, the limitations set forth in Section 1(f)), this Warrant may be exercised by the Holder on any day on or after the date hereof, in whole or in part, by (i) delivery of a written notice, in the form attached hereto as Exhibit A (the “**Exercise Notice**”), of the Holder’s election to exercise this Warrant and (ii) payment to the Company of an amount equal to the Exercise Price multiplied by the number of Warrant Shares as to which this Warrant is being exercised (the “**Aggregate Exercise Price**”) in cash or wire transfer of immediately available funds. The Holder shall not be required to deliver the original Warrant in order to effect an exercise hereunder. Execution and delivery of the Exercise Notice with respect to less than all of the Warrant Shares shall have the same effect as cancellation of the original Warrant and issuance of a new Warrant evidencing the right to purchase the remaining number of Warrant Shares. On or before the first Business Day following the date on which the Company has received each of the Exercise Notice and the Aggregate Exercise Price (the “**Exercise Delivery Documents**”), the Company shall transmit by facsimile an acknowledgment of confirmation of receipt of the Exercise Delivery Documents to the Holder and the Company’s transfer agent (the “**Transfer Agent**”). On or before the third Business Day following the date on which the Company has received all of the Exercise Delivery Documents (the “**Share Delivery Date**”), the Company shall issue and dispatch by overnight courier to the address as specified in the Exercise Notice, a certificate, registered in the Company’s share register in the name of the Holder or its designee, for the number of shares of Common Stock to which the Holder is entitled pursuant to such exercise. Upon delivery of the Exercise Notice and Aggregate Exercise Price referred to in clause (ii) above, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the certificates evidencing such Warrant Shares. If this Warrant is submitted in connection with any exercise pursuant to this Section 1(b) and the number of Warrant Shares represented by this Warrant submitted for exercise is greater than the number of Warrant Shares being acquired upon an exercise, then the Company shall as soon as practicable and in no event later than three Business Days after any exercise and at its own expense, issue a new Warrant (in accordance with Section 7(d)) representing the right to purchase the number of Warrant Shares purchasable immediately prior to such exercise under this Warrant, less the number of Warrant Shares with respect to which this Warrant is exercised. No fractional shares of Common Stock are to be issued upon the exercise of this Warrant, but rather the number of shares of Common Stock to be issued shall be rounded up to the nearest whole number. The Company shall pay any and all taxes which may be payable with respect to the issuance and delivery of Warrant Shares upon exercise of this Warrant.

¹ The number of Warrant Shares shall equal the number of shares of Common Stock into which the Notes purchased by Holder are initially convertible, pursuant to the terms and conditions set forth in the Memorandum and the Subscription Agreement.

(c) Exercise Price. For purposes of this Warrant, “**Exercise Price**” means \$0.15, subject to adjustment as provided herein.

(d) Disputes. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Warrant Shares, the Company shall promptly issue to the Holder the number of Warrant Shares that are not disputed and resolve such dispute in accordance with Section 12.

(e) Limitations on Exercises; Beneficial Ownership. The Company shall not effect the exercise of this Warrant, and the Holder shall not have the right to exercise this Warrant, to the extent that after giving effect to such exercise, such Person (together with such Person’s affiliates) would beneficially own in excess of 4.99% of the shares of Common Stock outstanding immediately after giving effect to such exercise. For purposes of the foregoing sentence, the aggregate number of shares of Common Stock beneficially owned by such Person and its affiliates shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which the determination of such sentence is being made, but shall exclude shares of Common Stock which would be issuable upon (i) exercise of the remaining, unexercised portion of this Warrant beneficially owned by such Person and its affiliates and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company beneficially owned by such Person and its affiliates (including, without limitation, any convertible notes or convertible preferred stock or warrants) subject to a limitation on conversion or exercise analogous to the limitation contained herein. Except as set forth in the preceding sentence, for purposes of this paragraph, beneficial ownership shall be calculated in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended. For purposes of this Warrant, in determining the number of outstanding shares of Common Stock, the Holder may rely on the number of outstanding shares of Common Stock as reflected in (1) the Company’s most recent Form 10-K, Form 10-Q, Current Report on Form 8-K or other public filing with the Securities and Exchange Commission, as the case may be, (2) a more recent public announcement by the Company or (3) any other notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. For any reason at any time, upon the written or oral request of the Holder, the Company shall within two Business Days confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including the Securities issued under the Subscription Agreement and the Warrants, by the Holder and its affiliates since the date as of which such number of outstanding shares of Common Stock was reported. By written notice to the Company, the Holder may from time to time increase or decrease the Maximum Percentage to any other percentage not in excess of 9.99% specified in such notice; provided that (i) any such increase will not be effective until the sixty-first (61st) day after such notice is delivered to the Company, and (ii) any such increase or decrease will apply only to the Holder and not to any other holder of Warrants.

(f) Insufficient Authorized Shares. If at any time while any of the Warrants remain outstanding the Company does not have a sufficient number of authorized and unreserved shares of Common Stock to satisfy its obligation to reserve for issuance upon exercise of the Warrants at least a number of shares of Common Stock equal to 100% (the “**Required Reserve Amount**”) of the number of shares of Common Stock as shall from time to time be necessary to effect the exercise of all of the Warrants then outstanding (an “**Authorized Share Failure**”), then the Company shall immediately take all action necessary to increase the Company’s authorized shares of Common Stock to an amount sufficient to allow the Company to reserve the Required Reserve Amount for the Warrants then outstanding. Without limiting the generality of the foregoing sentence, as soon as practicable after the date of the occurrence of an Authorized Share Failure, but in no event later than sixty (60) days after the occurrence of such Authorized Share Failure, the Company shall hold a meeting of its stockholders for the approval of an increase in the number of authorized shares of Common Stock. In connection with such meeting, the Company shall provide each stockholder with a proxy statement and shall use its best efforts to solicit its stockholders’ approval of such increase in authorized shares of Common Stock and to cause its board of directors to recommend to the stockholders that they approve such proposal.

2. ADJUSTMENT OF EXERCISE PRICE AND NUMBER OF WARRANT SHARES. The Exercise Price and the number of Warrant Shares shall be adjusted from time to time as follows:

(a) If the Company, at any time while this Warrant is outstanding: (A) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (B) subdivides outstanding shares of Common Stock into a larger number of shares, (C) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (D) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be adjusted by multiplying the Exercise Price by a fraction, of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted to result in the same Aggregate Exercise Price as existed immediately prior to such event. Any adjustment made pursuant to this Section 2(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution or shall become effective immediately after the effective date of such subdivision, combination or re classification, as applicable.

(b) Organic Change. If, at any time while this Warrant is outstanding, (A) the Company effects any merger or consolidation of the Company with or into another Person, (B) the Company effects any sale of all or substantially all of its assets in one or a series of related transactions, (C) any tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to tender or exchange their shares for other securities, cash or property, or (D) the Company effects any reclassification of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property (each “Organic Change”), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Organic Change, the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and/or any additional consideration (the “Alternate Consideration”) receivable as a result of such merger, consolidation or disposition of assets by a Holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such event. For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Organic Change (if applicable), and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Organic Change, then the Holder shall be given the same choice (no later than the time of the Organic Change) as to the Alternate Consideration it receives upon any exercise of this Warrant following such Organic Change. To the extent necessary to effectuate the foregoing provisions, any successor to the Company or surviving entity in such Organic Change shall issue to the Holder a new warrant consistent with the foregoing provisions and evidencing the Holder’s right to exercise such warrant into Alternate Consideration. The terms of any agreement pursuant to which an Organic Change is effected shall include terms requiring any such successor or surviving entity to comply with the provisions of this Section 2(b) and insuring that this Warrant (or any such replacement security) will be similarly adjusted upon any subsequent transaction analogous to an Organic Change.

3. NONCIRCUMVENTION. The Company hereby covenants and agrees that the Company will not, by amendment of its Articles of Incorporation, Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, and will at all times in good faith carry out all the provisions of this Warrant and take all action as may be required to protect the rights of the Holder. Without limiting the generality of the foregoing, the Company (i) shall not increase the par value of any shares of Common Stock receivable upon the exercise of this Warrant above the Exercise Price then in effect, (ii) shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and non-assessable shares of Common Stock upon the exercise of this Warrant, and (iii) shall, so long as any of the Warrants are outstanding, take all action necessary to reserve and keep available out of its authorized and unissued shares of Common Stock, solely for the purpose of effecting the exercise of the Warrants, 100% of the number of shares of Common Stock as shall from time to time be necessary to effect the exercise of the Warrants then outstanding (without regard to any limitations on exercise).

4. WARRANT HOLDER NOT DEEMED A STOCKHOLDER. Except as otherwise specifically provided herein, the Holder, solely in such Person's capacity as a holder of this Warrant, shall not be entitled to vote or receive dividends or be deemed the holder of share capital of the Company for any purpose, nor shall anything contained in this Warrant be construed to confer upon the Holder, solely in such Person's capacity as the Holder of this Warrant, any of the rights of a stockholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of stock, reclassification of stock, consolidation, merger, conveyance or otherwise), receive notice of meetings, receive dividends or subscription rights, or otherwise, prior to the issuance to the Holder of the Warrant Shares which such Person is then entitled to receive upon the due exercise of this Warrant. In addition, nothing contained in this Warrant shall be construed as imposing any liabilities on the Holder to purchase any securities (upon exercise of this Warrant or otherwise) or as a stockholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company. Notwithstanding this Section 4, the Company shall provide the Holder with copies of the same notices and other information given to the stockholders of the Company generally, contemporaneously with the giving thereof to the stockholders.

5. REISSUANCE OF WARRANTS.

(a) Transfer of Warrant. If this Warrant is to be transferred, the Holder shall surrender this Warrant to the Company, whereupon the Company will forthwith issue and deliver upon the order of the Holder a new Warrant (in accordance with Section 5(d)), registered as the Holder may request, representing the right to purchase the number of Warrant Shares being transferred by the Holder and, if less than the total number of Warrant Shares then underlying this Warrant is being transferred, a new Warrant (in accordance with Section 5(d)) to the Holder representing the right to purchase the number of Warrant Shares not being transferred. Applicable transfer taxes, if any, shall be paid by the Holder.

(b) Lost, Stolen or Mutilated Warrant. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant, and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary form and, in the case of mutilation, upon surrender and cancellation of this Warrant, the Company shall execute and deliver to the Holder a new Warrant (in accordance with Section 5(d)) representing the right to purchase the Warrant Shares then underlying this Warrant.

(c) Exchangeable for Multiple Warrants. This Warrant is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company, for a new Warrant or Warrants (in accordance with Section 5(d)) representing in the aggregate the right to purchase the number of Warrant Shares then underlying this Warrant, and each such new Warrant will represent the right to purchase such portion of such Warrant Shares as is designated by the Holder at the time of such surrender; provided, however, that no Warrants for fractional shares of Common Stock shall be given.

(d) Issuance of New Warrants. Whenever the Company is required to issue a new Warrant pursuant to the terms of this Warrant, such new Warrant (i) shall be of like tenor with this Warrant, (ii) shall represent, as indicated on the face of such new Warrant, the right to purchase the Warrant Shares then underlying this Warrant (or in the case of a new Warrant being issued pursuant to Section 5(a) or Section 5(c), the Warrant Shares designated by the Holder which, when added to the number of shares of Common Stock underlying the other new Warrants issued in connection with such issuance, does not exceed the number of Warrant Shares then underlying this Warrant), and (iii) shall have an issuance date, as indicated on the face of such new Warrant which is the same as the Issuance Date.

6. NOTICES. Whenever notice is required to be given under this Warrant, unless otherwise provided herein, such notice shall be given in accordance with the notice provision requirements of the Subscription Agreement. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Warrant, including in reasonable detail a description of such action and the reason therefore. Without limiting the generality of the foregoing, the Company will give written notice to the Holder (i) immediately upon any adjustment of the Exercise Price, setting forth in reasonable detail, and certifying, the calculation of such adjustment and (ii) at least fifteen days prior to the date on which the Company closes its books or takes a record (A) with respect to any dividend or distribution upon the shares of Common Stock, (B) with respect to any grants, issuances or sales of any Options, Convertible Securities or rights to purchase stock, warrants, securities or other property to holders of shares of Common Stock or (C) for determining rights to vote with respect to any Fundamental Transaction, dissolution or liquidation, provided in each case that such information shall be made known to the public prior to or in conjunction with such notice being provided to the Holder.

7. AMENDMENT AND WAIVER. Except as otherwise provided herein, the provisions of this Warrant may be amended and the Company may take any action herein prohibited, or omit to perform any act herein required to be performed by it, only if the Company has obtained the written consent of the Required Holders; provided that no such action may (i) increase the exercise price of any Warrants issued under the Subscription Agreement or decrease the number of shares or change the class of stock obtainable upon exercise of any Warrants issued under the Subscription Agreement, (ii) modify Section 1(f) of this Warrant or (iii) disproportionately affect the Holder in a materially and adversely manner (except as a result of holding a greater percentage of Warrant Shares) without the written consent of the Holder. No such amendment shall be effective to the extent that it applies to less than all of the holders of the Warrants then outstanding.

8. GOVERNING LAW. This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of Minnesota without regard to the choice of law principles thereof.

9. CONSTRUCTION; HEADINGS. This Warrant shall be deemed to be jointly drafted by the Company and all the Holders and shall not be construed against any person as the drafter hereof. The headings of this Warrant are for convenience of reference and shall not form part of, or affect the interpretation of, this Warrant.

10. DISPUTE RESOLUTION. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Warrant Shares, the Company shall submit the disputed determinations or arithmetic calculations via facsimile within two (2) Business Days of receipt of the Exercise Notice giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation of the Exercise Price or the Warrant Shares within three (3) Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two (2) Business Days submit via facsimile (a) the disputed determination of the Exercise Price to an independent, reputable investment bank selected by the Company and approved by the Holder or (b) the disputed arithmetic calculation of the Warrant Shares to the Company's independent, outside accountant. The Company shall cause at its expense the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than ten (10) Business Days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

11. TRANSFER. This Warrant may be offered for sale, sold, transferred or assigned without the consent of the Company, except as may otherwise be required by the Subscription Agreement.

12. CERTAIN DEFINITIONS. For purposes of this Warrant, the following terms shall have the following meanings:

(a) “**Business Day**” means any day other than Saturday, Sunday or other day on which commercial banks in the City of New York are authorized or required by law to remain closed.

(b) “**Common Stock**” means (i) the Company’s shares of Common Stock, par value \$0.01 per share, and (ii) any share capital into which such Common Stock shall have been changed or any share capital resulting from a reclassification of such Common Stock.

(c) “**Convertible Securities**” means any stock or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for shares of Common Stock.

(d) “**Expiration Date**” means the date sixty (60) months after the Issuance Date or, if such date falls on a day other than a Business Day or on which trading does not take place on the Principal Market (a “**Holiday**”), the next date that is not a Holiday; provided, that the Expiration Date may be accelerated pursuant to the provisions of Section 1(h).

(e) “**Fundamental Transaction**” means that the Company shall, directly or indirectly, in one or more related transactions, (i) consolidate or merge with or into (whether or not the Company is the surviving corporation) another Person, or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company, including intellectual property, to another Person, or (iii) allow another Person to make a purchase, tender or exchange offer that is accepted by the holders of more than fifty percent (50%) of either the outstanding shares of Common Stock (not including any shares of Common Stock held by the Person or Persons making or party to, or associated or affiliated with the Persons making or party to, such purchase, tender or exchange offer), or (iv) consummate a stock purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than fifty percent (50%) of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock purchase agreement or other business combination), (v) reorganize, recapitalize or reclassify its Common Stock (other than a forward or reverse stock split), or (vi) any “person” or “group” (as these terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act) is or shall become the “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of fifty percent (50%) of the aggregate ordinary voting power represented by issued and outstanding Common Stock.

(f) “**Options**” means any rights, warrants or options to subscribe for or purchase shares of Common Stock or Convertible Securities.

(g) “**Organic Change**” means a transaction as described in section 2(b).

(h) “**Person**” means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and a government or any department or agency thereof.

(i) “**Principal Market**” means the OTC Bulletin Board.

(j) “**Required Holders**” means the holders of the Warrants representing at least a majority of shares of Common Stock underlying the Warrants then outstanding.

(k) “**Securities**” means the Notes issued pursuant to the Subscription Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company has caused this Warrant to Purchase Common Stock to be duly executed as of the Issuance Date set out above.

BIODRAIN MEDICAL, INC.

By: _____
Bob Myers
Chief Financial Officer

EXHIBIT A

EXERCISE NOTICE
TO BE EXECUTED BY THE REGISTERED HOLDER TO EXERCISE THIS
WARRANT TO PURCHASE COMMON STOCK
BIODRAIN MEDICAL, INC.

The undersigned holder hereby exercises the right to purchase _____ of the shares of Common Stock (“**Warrant Shares**”) of BIODRAIN MEDICAL, INC., a Minnesota corporation (the “**Company**”), evidenced by the attached Warrant to Purchase Common Stock (the “**Warrant**”). Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in the Warrant.

1. Form of Exercise Price. The Holder intends that payment of the Exercise Price shall be made as:

_____ a “Cash Exercise” with respect to _____ Warrant Shares; and/or

2. Payment of Exercise Price. In the event that the holder has elected a Cash Exercise with respect to some or all of the Warrant Shares to be issued pursuant hereto, the holder shall pay the Aggregate Exercise Price in the sum of \$_____ to the Company in accordance with the terms of the Warrant.

3. Delivery of Warrant Shares. The Company shall deliver to the holder _____ Warrant Shares in accordance with the terms of the Warrant.

4. Acknowledgement. The undersigned holder hereby represents and warrants that after giving effect to the exercise of the Warrant contemplated by this Exercise Notice, such holder will not be in violation of the beneficial ownership limits specified in Section 1(f) of the Warrant, as increased or decreased pursuant to terms contained therein.

Date: _____, _____

Name of Registered Holder

By: _
Name:
Title:

ACKNOWLEDGMENT

The Company hereby acknowledges this Exercise Notice and hereby directs **[Insert Name of Transfer Agent]** to issue the above indicated number of shares of Common Stock in accordance with the Transfer Agent Instructions dated _____ from the Company and acknowledged and agreed to by **[Insert Name of Transfer Agent]**.

BIODRAIN MEDICAL, INC.

By: _____
Bob Myers
Chief Financial Officer

THIS CONVERTIBLE PROMISSORY NOTE (THIS "NOTE") AND THE SECURITIES ISSUABLE UPON CONVERSION HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), APPLICABLE STATE SECURITIES LAWS, OR APPLICABLE LAWS OF ANY FOREIGN JURISDICTION. THIS NOTE AND SUCH SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO DISTRIBUTION OR RESALE, AND MAY NOT BE OFFERED, SOLD, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS AND IN THE ABSENCE OF COMPLIANCE WITH APPLICABLE LAWS OF ANY FOREIGN JURISDICTION, OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED AND SUCH FOREIGN JURISDICTION LAWS HAVE BEEN SATISFIED.

BIODRAIN MEDICAL, INC.

CONVERTIBLE PROMISSORY NOTE

\$[]

[Eagan, Minnesota]
Issue Date: December [], 2012

1. Principal and Interest. BIODRAIN MEDICAL, INC. (the "Company"), a Minnesota corporation, for value received, hereby promises to pay to the order of [] or his, her or its assigns ("Holder"), in lawful money of the United States of America at the address for notices to Holder set forth in the applicable Subscription Agreement (as defined below) (or such other address as Holder shall provide to the Company in writing pursuant thereto), the principal amount of \$[] (the "Principal Amount"), together with interest as set forth below.

This Note is being issued pursuant to that certain Confidential Private Placement Memorandum (the "Memorandum") dated as of December 21, 2012, which sets forth the terms of the offering and sale (the "Offering") by the Company of up to a maximum of \$300,000 (the "Maximum Offering") of 8% convertible promissory notes (each a "Note" and collectively the "Notes"). An investment in the Offering shall be further governed by that certain Subscription Agreement, of even date with the Issue Date set forth above, between the Company and Holder (the "Subscription Agreement").

This Note shall become due and payable on the one-year anniversary of the Issue Date set forth above (the "Due Date"). The Company promises to pay interest on the unpaid Principal Amount at a rate of eight percent (8%) per annum or such lesser rate as shall be the maximum rate allowable under applicable law, which interest shall accrue from the Issue Date until the Due Date or such date when the entire Principal Amount and accrued interest thereon is paid in full in accordance with the terms of this Note. Interest shall be computed on the basis of a 360-day year of twelve 30-day months, shall compound annually and shall be accrued and added to principal on an annual basis.

Capitalized terms used, but not otherwise defined, herein shall have the respective meanings ascribed to such terms in the Memorandum.

2. Elective Conversion Options.

2.1 Elective Conversion Options.

(a) Pre-Qualified Financing Conversion Option. Notwithstanding anything herein to the contrary, any time prior to the consummation of a Qualified Financing (as hereinafter defined) until the repayment of the entire Principal Amount and accrued interest thereon as permitted hereunder, Holder shall have the option to convert any or all of the unpaid Principal Amount and accrued interest thereon into shares ("Shares") of the Company's common stock, par value \$0.01 per share (the "Common Stock") at a conversion price per share equal to \$0.12, subject to proportionate adjustment as provided in Section 3 hereof (the "Elective Conversion Price").

(b) Qualified Financing Conversion Option. Notwithstanding anything herein to the contrary, upon the consummation of a Qualified Financing (as hereinafter defined) until the repayment of the entire Principal Amount and accrued interest thereon as permitted hereunder, Holder shall have the option to convert any or all of such unpaid Principal Amount and accrued interest thereon into Shares of the Company's Common Stock, at a conversion price equal to the lesser of 75% of the lowest price per share at which shares of the Company's Common Stock (or other equity securities of the Company, on an as converted basis) are sold in an equity financing or series of related equity financings by the Company occurring after the Issue Date (not including any sale of Notes in this Offering) which results in aggregate gross cash proceeds (before brokers' fees, commissions and other transaction-related expenses) to the Company of at least \$2,000,000 (a "Qualified Financing") or the Elective Conversion Price (subject to proportionate adjustment as provided in Section 3 hereof).

(c) Holder's conversion rights provided under this Section 2.1 are referred to herein as the "Conversion Option". The applicable conversion price shall be paid by Holder by forgiveness of such amount of this Note, included all unpaid Principal Amount and accrued interest thereon, being converted as specified in the applicable Conversion Notice (as hereinafter defined).

2.2 Notice of Certain Events; Conversion Procedure for the Conversion Options. So long as this Note remains outstanding and unless expressly waived in writing by Holder in Holder's sole and absolute discretion, the Company shall give Holder at least ten (10) calendar days advance written notice in accordance with Section 12 herein prior to the consummation of a Qualified Financing or a Fundamental Transaction (as defined below) or the repayment of any unpaid Principal Amount and accrued interest thereon under the Note. Holder shall have ten (10) calendar days following receipt of such notice to elect to convert any or all unpaid Principal Amount and accrued interest thereon into Shares of the Company's Common Stock in accordance with this Section 2.2. Upon conversion of this Note pursuant to this Section 2.2, Holder shall surrender this Note, duly endorsed, at the office of the Company and shall provide written notice (the "Conversion Notice") to the Company at its principal corporate office of the election to convert the same. The Company, as soon as practicable following receipt of the Conversion Notice, shall issue and deliver to Holder a certificate or certificates for the number of Shares to which Holder is entitled (such certificates bearing such legends as are required by applicable state and federal securities laws).

2.3 Mechanics and Effect of Conversion for the Conversion Option. No fractional Shares shall be issued upon any conversion hereunder. All fractional shares shall be rounded up to the nearest whole share. Any conversion pursuant to the Conversion Option, and the issuance of Shares of the Company's Common Stock pursuant thereto, shall be deemed to have occurred immediately upon the Company's receipt of the Conversion Notice. From and after such time, Holder shall be treated for all purposes as the record holder of the Shares. Upon conversion of this Note in full, with no principal or accrued interest amount thereafter outstanding, the Company shall be released from all its obligations and liabilities hereunder.

3. Effect of Certain Events.

3.1 Adjustment of Conversion Price upon Subdivision or Combination of Shares. If the Company at any time after the date of issuance of this Note subdivides (by any split, share dividend, recapitalization or otherwise) its Shares into a greater number of shares, the Elective Conversion Price in effect immediately prior to such subdivision will be proportionately reduced. If the Company at any time after the date of issuance of this Note combines (by combination, reverse stock split, recapitalization or otherwise) its Shares into a smaller number of shares, the Elective Conversion Price in effect immediately prior to such combination will be proportionately increased. Any adjustment under this Section 3.1 shall become effective at the close of business on the date the subdivision or combination becomes effective.

3.2 Distribution of Assets. If the Company shall propose to declare or make any dividend or other distribution of assets (or rights to acquire its assets) to holders of Shares, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement or other similar transaction) (each a “Distribution”), at any time after the issuance of this Note, then, in each such case, the Company shall provide to Holder hereof notice of such proposed Distribution at least ten (10) days prior to such Distribution, and Holder shall have the opportunity to convert this Note into Shares on the terms and subject to the conditions herein contained, and thereafter participate in such Distribution.

3.3 Certain Events. If any event occurs of the type contemplated by the provisions of this Section 3 that is proportionately applied to all outstanding shares of Common Stock of the Company, but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights applicable to all outstanding shares of Common Stock, but excluding the Qualified Financing), then the Company’s board of directors shall make an appropriate adjustment or provision so as to protect the rights of the Holder of this Note; provided, except as set forth in Section 3.1, that no such adjustment pursuant to this Section 3 will increase the Elective Conversion Price, as otherwise determined pursuant to this Note.

4. Prepayment.

4.1 Other than as provided in Section 2, Section 4.2 and Section 5 hereof, unless expressly waived in writing by Holder, in Holder’s sole and absolute discretion, this Note may not be prepaid at any time, in whole or in part, prior to a Qualified Financing. At any time following the consummation of a Qualified Financing and in accordance with the notice requirements set forth in Section 2.2 above, the Company shall have the right to prepay, without premium or penalty, any or all of the unpaid Principal Amount and interest accrued thereon under the Note, to the extent that Holder does not first provide the Company with a Conversion Notice in the applicable timeframe permitted herein.

4.2 In the event of a Fundamental Transaction (as defined below), the Company shall:

- (a) pay to the Holder an amount equal to the unpaid Principal Amount of this Note, payable in cash or such other form of Sale Proceeds (as defined below), having a value equal to such unpaid Principal Amount; and
- (b) pay to the Holder all accrued but unpaid interest on this Note, payable in cash or such other form of Sale Proceeds, having a value equal to such accrued but unpaid interest.

Upon the consummation of a Fundamental Transaction and completion by the Company of the deliveries set forth in clauses (a) and (b) above, the indebtedness evidenced by this Note shall be satisfied in full and no interest shall continue to accrue on this Note and all rights of the Holder hereunder shall terminate.

4.3 For purposes of this Note:

(a) “Fundamental Transaction” means a transaction (or series of related transactions) with one or more non-affiliates, pursuant to which such party or parties acquire (i) capital securities of the Company or the surviving entity possessing the voting power to elect a majority of the board of directors (or similar governing body) of the Company or the surviving entity (whether by merger, consolidation, sale or transfer of the Company’s capital securities or otherwise) (a “Securities Acquisition”); or (ii) all or substantially all of the Company’s assets determined on a consolidated basis (an “Asset Sale”); provided, however, that a transaction (or series of related transactions) described in subclause (i) above, pursuant to which the then-existing holders of the Company’s capital securities immediately prior to such transaction (or series of related transactions) continue to own, directly or indirectly, a majority of the outstanding capital securities of the Company or such other resulting, surviving or combined company resulting from such transaction (or series of related transactions) shall not be deemed to be a Fundamental Transaction; provided further that notwithstanding anything to the contrary contained herein, to the extent any transaction (or series of related transactions) qualifies as a Qualified Financing, such transaction(s) shall not be deemed to constitute a Fundamental Transaction.

(b) “Sale Proceeds” means (i) in the event of a Securities Acquisition, the cash or securities paid by the acquirer to the Company or the selling security holders to acquire such securities; and (ii) in the event of an Asset Sale, the cash or securities legally available for distribution to the Company’s stockholders, after creation of adequate reserves for liabilities of the Company.

5. Events of Default.

5.1 Each of the following events shall constitute a default under this Note (each an “Event of Default”) if not cured by the Company within thirty (30) calendar days after receipt of written notice thereof from Holder or such longer period as set forth below:

(a) failure by the Company to pay the principal or interest amount due hereunder;

(b) failure by the Company or the Company’s transfer agent to issue securities issuable upon conversion of this Note to Holder within thirty (30) calendar days after the receipt of a Conversion Notice and surrender by Holder of this Note to the Company or the Company’s transfer agent;

(c) the Company shall: (1) make a general assignment for the benefit of its creditors; (2) apply for or consent to the appointment of a receiver, trustee, assignee, custodian, sequestrator, liquidator or similar official for itself or any of its assets and properties; (3) commence a voluntary for relief as a debtor under the United States Bankruptcy Code; (4) file with or otherwise submit to any governmental authority any petition, answer or other document seeking: (A) reorganization, (B) an arrangement with creditors or (C) to take advantage of any other present or future applicable law respecting bankruptcy, reorganization, insolvency, readjustment of debts, relief of debtors, dissolution or liquidation; (5) file or otherwise submit any answer or other document admitting or failing to contest the material allegations of a petition or other document filed or otherwise submitted against it in any proceeding under any such applicable law, or (6) be adjudicated a bankrupt or insolvent by a court of competent jurisdiction;

(d) any case, proceeding or other action shall be commenced against the Company for the purpose of effecting, or an order, judgment or decree shall be entered by any court of competent jurisdiction approving (in whole or in part) anything specified in Section 5.1(c) hereof, or any receiver, trustee, assignee, custodian, sequestrator, liquidator or other official shall be appointed with respect to the Company, or shall be appointed to take or shall otherwise acquire possession or control of all or a substantial part of the assets and properties of the Company, and any of the foregoing shall continue unstayed and in effect for any period of at least sixty (60) days; or

(e) any material breach by the Company of any covenant, warranty, representation or other term or condition of this Note or the Subscription Agreement at any time which is not cured within the time periods permitted therein or, if no cure period is provided therein, within sixty (60) days after the date on which the Company receives written notice of such breach.

5.2 If any Event of Default specified in Sections 5.1(c) or (d) occurs, then the full Principal Amount of this Note, together with any other amounts owing in respect thereof, to the date of the Event of Default shall become immediately due and payable in cash without any action on the part of Holder, and if any other Event of Default occurs, the full Principal Amount of this Note, together with any other amounts owing in respect thereof, to the date of acceleration shall become, at Holder's election, immediately due and payable in cash. Commencing five (5) days after the occurrence of any Event of Default that results in the eventual acceleration of this Note, interest on this Note shall continue to accrue at the rate of twenty percent (20%) per annum, or such lower maximum amount of interest permitted to be charged under applicable law. All Notes for which the full amount hereunder, including unpaid Principal Amount and accrued interest thereon, shall have been paid in accordance herewith shall promptly be surrendered to or as directed by the Company. Holder need not provide and the Company hereby waives any presentment, demand, protest or other notice of any kind, and Holder may immediately and without expiration of any grace period enforce any and all of its rights and remedies hereunder and all other remedies available to it under applicable law. Such declaration may be rescinded and annulled by Holder at any time prior to payment hereunder and Holder shall have all rights as a Note holder until such time, if any, as the full payment under this Section 5.2 shall have been received by it. No such rescission or annulment shall affect any subsequent Event of Default or impair any right consequent thereon.

6. Notice of Proposed Transfers. Prior to any proposed transfer of this Note or the Shares, unless there is in effect a registration statement under the Securities Act covering the proposed transfer, Holder shall give written notice to the Company of such Holder's intention to effect such transfer. Each such notice shall describe the manner and circumstances of the proposed transfer in sufficient detail, and shall, if the Company so requests, be accompanied (except in transactions in compliance with Rule 144) by an unqualified written opinion of legal counsel, who shall be reasonably satisfactory to the Company, addressed to the Company and reasonably satisfactory in form and substance to the Company's counsel, to the effect that the proposed transfer of this Note or Securities may be effected without registration under the Securities Act; provided, however, no such opinion of counsel shall be necessary for a transfer without consideration by a Holder to any affiliate of such Holder, or a transfer by a Holder which is a partnership to a partner of such partnership or a retired partner of such partnership who retires after the date hereof, or to the estate of any such partner or retired partner or the transfer by gift, will or intestate succession of any partner to his spouse or lineal descendants or ancestors, if the transferee agrees in writing to be subject to the terms hereof to the same extent as if such transferee were the original Holder hereunder. Each certificate evidencing Securities or this Note transferred as above provided shall bear an appropriate restrictive legend, except that this Note or certificate shall not bear such restrictive legend if in the opinion of counsel for the Company such legend is not required in order to establish compliance with any provisions of the Securities Act.

7. Reservation of Shares. The Company covenants and agrees that all Shares will, upon issuance or conversion of this Note, be duly authorized, validly issued, fully paid and nonassessable, and free of all preemptive rights, liens and encumbrances, except for restrictions on transfer provided for herein and in the Company's organizational documents, as amended from time to time. Prior to executing this Note or as soon as reasonably possible thereafter, the Company shall reserve out of its authorized and unissued Shares, solely for the purpose of providing for the exercise of the rights to convert this Note, such number of Shares as shall be sufficient therefore at the Elective Conversion Price, and shall use its best efforts and take such reasonable actions as are necessary to ensure that such securities remain so reserved for issuance in the future.

8. No Impairment. The Company will not, by amendment of its Certificate of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Note, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of Holder of this Note against impairment.

9. Waivers. The Company hereby waives presentment, demand for performance, notice of non-performance, protest, notice of protest and notice of dishonor. No delay on the part of Holder in exercising any right hereunder shall operate as a waiver of such right or any other right. This Note is being delivered in and shall be construed in accordance with the laws of the State of New York, without regard to the conflicts of laws provisions thereof.

10. No Stockholder Rights. Nothing contained in this Note shall be construed as conferring upon Holder or any other person the right to vote or to consent or to receive notice as a stockholder of the Company.

11. Amendment. This Note may only be amended with the written consent of Holder, in his, her or its sole discretion.

12. Notices. Any notice, other communication or payment required or permitted hereunder shall be in writing and shall be deemed to have been given upon delivery to the address of Holder provided pursuant to the Subscription Agreement (or such other address as Holder shall provide to the Company in writing pursuant thereto). The Company shall follow all notification requirements set forth in this Note, including, without limitation, Section 2.2 hereof.

13. Attorneys' Fees. If the indebtedness represented by this Note or any part thereof is collected in bankruptcy, receivership or other judicial proceedings or if this Note is placed in the hands of attorneys for collection after default, the Company agrees to pay, in addition to the principal and interest payable hereunder, reasonable attorneys' fees and costs incurred by Holder.

14. Representations, Warranties and Covenants of the Company. The Company hereby represents, warrants and covenants to Holder that:

(a) Organization, Good Standing and Qualification. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Minnesota and has full corporate power and authority to conduct its business as currently conducted. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the property owned or leased by it or the nature of the business conducted by it makes such qualification necessary, except to the extent that the failure to be so qualified or in good standing would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the business, operations, conditions (financial or otherwise), properties, assets or results of operations of the Company.

(b) Subordination.

(i) This Note shall rank, to the extent permitted by applicable law, senior to all outstanding debt of the Company, except any outstanding secured debt as described in the Memorandum.

(ii) So long as any of the Notes remain outstanding, the Company agrees not to (x) issue or incur any indebtedness for borrowed money (“New Debt”) if such New Debt is senior in right of payment to the Notes, without the prior written consent of the holders of at least a majority of the aggregate principal amount of the Notes then outstanding or (y) repay any existing indebtedness due or owing to Josh Kornberg or any of his Affiliates, including any principal or interest, for borrowed money, without the prior written consent of the holders of at least a majority of the aggregate principal amount of the Notes then outstanding. As used herein, “Affiliates” means a person or entity that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the person or entity specified.

(iii) The Company has taken, and shall take, such corporate actions and other contractual actions, including, but not limited to, entering into subordination agreements with third parties, as the Company in good faith believes to be reasonably required in order to comply with this Section 14(b) from the date first above written until such time as all Principal Amount and interest accrued thereon under this Note has been paid in full to Holder or this Note is converted in the manner set forth above.

ISSUED as of the date first above written.

BIODRAIN MEDICAL, INC.

By: _____
Name: Josh Kornberg
Title: President and Chief Executive Officer