As filed with the Securities and Exchange Commission on September 10, 2019

Registration No. 333-

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form S-8

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

BRICKELL BIOTECH, INC.

(Exact name of registrant as specified in its charter)

Delaware	**93-0948554**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
5777 Central Avenue, Suite 102 Boulder, CO	**80301**
(Address of Principal Executive Offices)	(Zip Code)

AMENDED AND RESTATED STOCK INCENTIVE PLAN OF VICAL INCORPORATED
EQUITY INCENTIVE PLAN OF BRICKELL BIOTECH, INC.
(Full title of the plans)

Robert B. Brown
Chief Executive Officer
Brickell Biotech, Inc.
5777 Central Avenue, Suite 102
Boulder, CO 80301
(720) 565-4755
(Name, address and telephone number, including area code, of agent for service)

***Copies to*:**

Anna T. Pinedo, Esq.
Mayer Brown LLP
1221 Avenue of the Americas
New York, NY 10020
(212) 506-2500

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

Large accelerated filer	☐		Accelerated filer	☐
Non-accelerated filer	☐	(Do not check if a smaller reporting company)	Smaller reporting company	☒
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 7(a)(2)(B) of the Securities Act. ☐

CALCULATION OF REGISTRATION FEE

Title of Securities To Be Registered	Amount to Be Registered	Proposed Maximum Offering Price Per Share(3)	Proposed Maximum Aggregate Offering Price(3)	Amount of Registration Fee
Common stock, $0.01 par value, under the Brickell Plan (1)	1,525,487 shares	$4.19	$6,391,790.53	$774.69
Common stock, $0.01 par value, under the Vical Plan (2)	481,429 shares	N/A (4)	N/A (4)	N/A (4)

(1) Based on (i) the number of shares reserved for issuance upon exercise of stock options granted under the Equity Incentive Plan of Brickell Biotech, Inc. (the "Brickell Plan") plus (ii) the number of shares that remain available for issuance under future grants pursuant to the Brickell Plan as of September 9, 2019.

(2) Vical Incorporated previously registered shares of common stock pursuant to the Amended and Restated Stock Incentive Plan of Vical Incorporated (the "Vical Plan") on Form S-8s filed with the Securities and Exchange Commission (the "SEC") on April 9, 1993 (File No. 33-60826), July 15, 1994 (File No. 33-81602), June 27, 1997 (File No. 333-30181), July 31, 1998 (File No. 333- 60293), June 15, 1999 (File No. 333¬80681), July 30, 2001 (File No. 333-66254), July 24, 2002 (File No. 333-97019), August 1, 2003 (File No. 333-107581), June 29, 2004 (File No. 333-116951), June 23, 2006 (File No. 333-135266), June 19, 2007 (File No. 333-143885), September 13, 2010 (File No. 333-169344), August 10, 2012 (File No. 333-183215), August 2, 2013 (File No. 333-190343), August 9, 2016 (File No. 333-213034) and August 9, 2017 (File No. 333-219804) (collectively, the "Prior Form S-8s"). This Registration Statement is also intended to consolidate in one place the registration of 481,429 shares of common stock that were previously registered for offer and sale on the Prior Form S-8s.

(3) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(h)(1) under the Securities Act of 1933, as amended (the "Securities Act"). The price per share and aggregate offering price are based upon the average of the high and low prices of Company's common stock on September 9, 2019, as reported by the Nasdaq Capital Market.

(4) Previously paid.

This Registration Statement shall become effective upon filing in accordance with Rule 462 under the Securities Act.

EXPLANATORY NOTE

On August 31, 2019, the Delaware corporation formerly known as "Vical Incorporated" completed its previously announced merger transaction in accordance with the terms and conditions of the Agreement and Plan of Merger and Reorganization, dated as of June 2, 2019, as amended by Amendment No. 1 to Agreement and Plan of Merger and Reorganization, dated August 20, 2019, and as further amended on August 30, 2019 (the "Merger Agreement"), by and among Vical Incorporated ("Vical"), Brickell Biotech, Inc. ("Brickell") and Victory Subsidiary, Inc., a wholly-owned subsidiary of Vical ("Merger Sub"), pursuant to which Merger Sub merged with and into Brickell, with Brickell surviving the merger as a wholly-owned subsidiary of Vical (the "Merger"). Additionally, on August 31, 2019, immediately after the completion of the Merger, the Company changed its name from "Vical Incorporated" to "Brickell Biotech, Inc." (the "Company"). In connection with the Merger, Vical assumed the Brickell Plan and the options granted pursuant to the Brickell Plan in accordance with the terms of the Brickell Plan. In addition, as indicated above, Vical previously filed the Prior Form S-8s relating to the Vical Plan, the contents of which are incorporated herein by reference. This Registration Statement is also intended to consolidate in one place the registration of 481,429 shares of common stock that were previously registered for offer and sale on the Prior Form S-8s.

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by the Company with the SEC are incorporated by reference in this Registration Statement (other than portions of current reports furnished under Item 2.02 or Item 7.01 of Form 8-K and exhibits related to such Items or other portions of documents filed with the SEC which are furnished, but not filed, pursuant to applicable rules promulgated by the SEC):

- the Company's Current Reports on Form 8-K filed on June 3, 2019, July 18, 2019, August 21, 2019, August 30, 2019 and September 3, 2019; and
- the Company's definitive proxy statement on Schedule 14A (the "Proxy Statement"), which was filed on July 12, 2019 (as amended by Amendment No. 1 to the Proxy Statement filed on August 8, 2019, Amendment No. 2 to the Proxy Statement filed on August 20, 2018 and Amendment No. 3 to the Proxy Statement filed on August 23, 2019).

In addition, all reports and other documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended, other than current reports furnished under Item 2.02 or Item 7.01 of Form 8-K and exhibits furnished on such form that relate to such items, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part of this Registration Statement from the date of the filing of such reports and documents.

Item 6. Indemnification of Directors and Officers

The Company is incorporated under the laws of the State of Delaware. Section 145 of the Delaware General Corporation Law (the "DGCL") provides that a Delaware corporation may indemnify any persons who are, or are threatened to be made, parties to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of such corporation), by reason of the fact that such person was an officer, director, employee or agent of such corporation, or is or was serving at the request of such person as an officer, director, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided that such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the corporation's best interests and, with respect to any criminal action or proceeding, had no reasonable cause to

believe that his or her conduct was illegal. A Delaware corporation may indemnify any persons who are, or are threatened to be made, a party to any threatened, pending or completed action or suit by or in the right of the corporation by reason of the fact that such person was a director, officer, employee or agent of such corporation, or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit provided such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the corporation's best interests except that no indemnification is permitted without judicial approval if the officer or director is adjudged to be liable to the corporation. Where an officer or director is successful on the merits or otherwise in the defense of any action referred to above, the corporation must indemnify him or her against the expenses which such officer or director has actually and reasonably incurred. Article XI of the Company's amended and restated certificate of incorporation provides for indemnification of its directors and officers, and Article V of the Company's amended and restated bylaws provides for indemnification of its directors, officers, employees and other agents, to the maximum extent permitted by the DGCL. In addition, the Company maintains a policy providing directors' and officers' liability insurance.

Section 102 of the DGCL permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duties as a director, except for liability:

- for any breach of the director's duty of loyalty to the corporation or its stockholders;
- for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- for acts related to unlawful stock repurchases, redemptions or other distributions or payment of dividends; or
- for any transaction from which the director derived an improper personal benefit.

The Company's amended and restated certificate of incorporation includes such a provision. Expenses incurred by any officer or director in defending any such action, suit or proceeding in advance of its final disposition shall be paid by the Company upon delivery of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified by the Company.

Item 8. Exhibits

Exhibit Number	Exhibit
3.1 (1)	Amended and Restated Certificate of Incorporation, as currently in effect
3.2 (2)	Amended and Restated Bylaws
3.3 (3)	Certificate of Merger
4.1	Specimen Common Stock Certificate
5.1	Opinion of Mayer Brown LLP
23.1	Consent of Ernst & Young LLP
23.2	Consent of Mayer Brown LLP (reference is made to Exhibit 5.1)
24.1	Power of Attorney (contained on the signature page of this registration statement)
99.1 (4)	Amended and Restated Stock Incentive Plan of Vical Incorporated
99.2	Equity Incentive Plan of Brickell Biotech, Inc.
99.3	Description of Capital Stock

(1) Incorporated by reference to Exhibit 3.2 filed with the Company's Current Report on Form 8-K filed on September 3, 2019.
(2) Incorporated by reference to Exhibit 3.3 filed with the Company's Current Report on Form 8-K filed on September 3, 2019.
(3) Incorporated by reference to Exhibit 3.4 filed with the Company's Current Report on Form 8-K filed on September 3, 2019.
(4) Incorporated by reference to Exhibit 99.1 filed with the Company's Current Report on Form 8-K filed on June 1, 2017.

Item 9. Undertakings

1. The undersigned registrant hereby undertakes:

(a) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement.

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

Provided, however, that paragraphs (a)(i) and (a)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Exchange Act that are incorporated by reference in the registration statement.

(b) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

2. The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

3. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against

public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Company certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8, and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Boulder, State of Colorado, on September 10, 2019.

BRICKELL BIOTECH, INC.

By: /s/ Robert B. Brown
Robert B. Brown
Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Robert B. Brown and R. Michael Carruthers, and each of them, his true and lawful attorneys-in-fact and agents, each with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments, including post-effective amendments, to this Registration Statement, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or his substitute or substitutes, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the date indicated:

Signature	Title	Date
/s/ Robert B. Brown Robert B. Brown	Chief Executive Officer and Director (Principal Executive Officer)	September 10, 2019
/s/ R. Michael Carruthers R. Michael Carruthers	Chief Financial Officer (Principal Financial Officer)	September 10, 2019
/s/ Jose Breton Jose Breton	Controller and Chief Accounting Officer (Principal Accounting Officer)	September 10, 2019
/s/ Reginald L. Hardy Reginald L. Hardy	Co-Founder and Chairman of the Board of Directors	September 10, 2019
/s/ George Abercrombie George Abercrombie	Director	September 10, 2019
/s/ William Ju, M.D. William Ju, M.D.	Director	September 10, 2019
/s/ Dennison T. Veru Dennison T. Veru	Director	September 10, 2019
/s/ Vijay B. Samant Vijay B. Samant	Director	September 10, 2019
/s/ Gary A. Lyons Gary A. Lyons	Director	September 10, 2019

Exhibit 4.1

ORGANIZED UNDER THE LAWS OF THE STATE OF

DELAWARE

NUMBER **SHARES**

__ *___*

BRICKELL BIOTECH, INC.

This Certifies that SPECIMEN is the owner of _____ (___) fully paid and non-assessable Shares of COMMON STOCK, $0.01 par value, of Brickell Biotech, Inc., a corporation organized under the laws of the State of Delaware, transferable only on the books of the Corporation by the holder hereof in person or by duly authorized Attorney upon the surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF, the said Corporation has caused this Certificate to be signed by its duly authorized officers this ___ day of _____, 20__.

_____ SECRETARY

_____ CHIEF EXECUTIVE OFFICER

FOR VALUE RECEIVED, _____ hereby sell, assign and transfer unto _____ _____ Shares represented by this Certificate, and hereby irrevocably constitute and appoint _____ Attorney to transfer the said Shares on the books of the within named Corporation with full power of substitution in the premises.

Dated_____

In the presence of

_____ _____

Exhibit 5.1

MAYER | BROWN

Mayer Brown LLP
1221 Avenue of the Americas
New York, NY 10020-1001
United States of America

T: +1 212 506 2500
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mayerbrown.com

September 10, 2019

Brickell Biotech, Inc.
5777 Central Avenue
Suite 102
Boulder, CO 80301

Re: Brickell Biotech, Inc. – Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel to Brickell Biotech, Inc., a Delaware corporation (the "Company"), in connection with the preparation and filing of a Registration Statement on Form S-8 (the "Registration Statement"), to be filed by the Company with the Securities and Exchange Commission under the Securities Act of 1933 (the "Act"), relating to the issuance by the Company of an aggregate of (i) 1,525,487 shares (the "New Shares") of the Company's common stock, $0.01 par value per share (the "Common Stock"), pursuant to the Equity Incentive Plan of Brickell Biotech, Inc. (the "Assumed Plan"), and (ii) 481,429 shares of Common Stock (the "Additional Shares" and together with the New Shares, the "Shares"), which were previously registered in connection with the Amended and Restated Stock Incentive Plan of Vical Incorporated (the "Vical Plan").

In connection with this opinion, we have examined such corporate records, documents, instruments, certificates of public officials and of the Company and such questions of law as we have deemed necessary for the purpose of rendering the opinion set forth herein. We also have examined the Registration Statement.

In such examination, we have assumed the genuineness of all signatures and the authenticity of all items submitted to us as originals and the conformity with originals of all items submitted to us as copies.

Based upon and subject to the foregoing, we are of the opinion that the Shares, when issued and delivered by the Company upon receipt of the consideration provided in, and otherwise in accordance with, the Assumed Plan and the Vical Plan and the resolutions of the Company's board of directors authorizing the adoption of the Assumed Plan and the Vical Plan and the registration of the Shares, will be validly issued, fully paid and nonassessable.

Please note that we are opining only as to the matters expressly set forth herein, that no opinion should be inferred as to any other matter. We are opining herein as to the Delaware General Corporation Law as in effect on the date hereof, and we express no opinion with respect to any other laws, statutes, rules or regulations. This opinion is based upon currently existing laws, statutes, rules, regulations and judicial

decisions, and we disclaim any obligation to advise you of any change in any of these sources of law or subsequent legal or factual developments which might affect any matters or opinions set forth herein.

We hereby consent to the use of this opinion as Exhibit 5.1 to the Registration Statement. In giving such consent, we do not hereby admit that we are acting within the category of persons whose consent is required under Section 7 of the Securities Act or the rules or regulations of the Securities and Exchange Commission thereunder.

Very truly yours,

/s/ Mayer Brown LLP

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (Form S-8) pertaining to the Amended and Restated Stock Incentive Plan of Vical Incorporated and the Equity Incentive Plan of Brickell Biotech, Inc. of our report dated July 2, 2019, with respect to the consolidated financial statements of Brickell Biotech, Inc. included in Brickell Biotech, Inc.'s Current Report on Form 8-K dated September 3, 2019, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Denver, Colorado
September 10, 2019

Exhibit 99.2

Adopted January 15, 2015

AMENDED AND RESTATED
BRICKELL BIOTECH, INC.
2009 EQUITY INCENTIVE PLAN

ARTICLE I.
GENERAL PROVISIONS

1.1 PURPOSE OF THE PLAN

The Amended and Restated 2009 Equity Incentive Plan (the "Plan") of Brickell Biotech, Inc., a Delaware corporation (the "Corporation") provides an opportunity for eligible persons employed by or serving the Corporation or any Subsidiary or Parent to acquire a proprietary interest, or otherwise increase their proprietary interest, in the Corporation as an incentive for them to continue in such employ or service. Capitalized terms herein shall have the meanings assigned to such terms as described herein this Plan or in the attached Appendix A.

1.2 STRUCTURE OF THE PLAN

A. The Plan shall be divided into two separate equity programs:

1) The "Option Grant Program" under which eligible persons may, at the discretion of the Plan Administrator, be granted an option to purchase shares of Common Stock ("Option"), and

2) The "Stock Issuance Program" under which eligible persons may, at the discretion of the Plan Administrator, be issued shares of Common Stock directly, either through the immediate purchase of such shares or as a bonus for services rendered to the Corporation (or any Parent or Subsidiary)("Stock Issuance").

B. The provisions of **Articles I** and **IV** shall apply to both equity programs under the Plan and shall accordingly govern the interests of all persons under the Plan.

1.3 ADMINISTRATION OF THE PLAN

A. The Board shall administer the Plan. However, any or all administrative functions otherwise exercisable by the Board may be delegated to the Committee. Members of the Committee shall serve for such period of time as the Board may determine and shall be subject to removal by

the Board at anytime. The Board may also at any time terminate the functions of the Committee and reassume all powers and authority previously delegated to the Committee.

B. The Plan Administrator shall have full power and authority (subject to the provisions of the Plan) to establish such rules and regulations as it may deem appropriate for proper administration of the Plan and to make such determinations under, and issue such interpretations of, the Plan and any outstanding Options or Stock Issuances as it may deem necessary or advisable. Decisions of the Plan Administrator shall be final and binding on all parties who have an interest in the Plan or any Option or Stock Issuance.

1.4 **ELIGIBILITY**

A. The persons eligible to participate in the Plan are as follows:

1) Employees;

2) Members of the Board and the members of the board of directors of any Parent or Subsidiary; and

3) Independent contractors who provide services to the Corporation (or any Parent or Subsidiary).

B. The Plan Administrator shall have full authority to determine: (1) with respect to the grants made under the Option Grant Program, which eligible persons are to receive such grants, the time or times when those grants are to be made, the number of shares to be covered by each grant, the status of the granted Option as either an Incentive Option or a Non-Statutory Option, the time or times when each Option is to become exercisable, the Vesting Schedule (if any) applicable to the Option shares and the maximum term for which the Option is to remain outstanding; and (2) with respect to Stock Issuances made under the Stock Issuance Program, which eligible persons are to receive such issuances, the time or times when those issuances are to be made, the number of shares to be issued to each Participant, the Vesting Schedule (if any) applicable to the issued shares and the consideration to be paid by the Participant for such shares.

C. The Plan Administrator shall have the absolute discretion either to grant Options in accordance with the Option Grant Program or to effect stock issuances in accordance with the Stock Issuance Program.

1.5 **STOCK SUBJECT TO THE PLAN**

A. The shares issuable under the Plan shall be shares of authorized but unissued or reacquired shares of Common Stock. The maximum number of shares of Common Stock as of this date that may be issued and outstanding or subject to Options outstanding under the Plan shall not exceed 1,525,487 shares.

B. Shares of Common Stock subject to outstanding Options shall be available for subsequent issuance under the Plan to the extent (1) the Options expire or terminate for any reason prior to exercise in full or (2) the Options are cancelled in accordance with the cancelation-regrant provisions of Article Two. Unvested Shares issued under the Plan and subsequently repurchased by the Corporation at a price per share not greater than the exercise or direct issue price paid per share, pursuant to the Corporation's repurchase rights under the Plan shall be added back to the number of shares of Common Stock reserved for issuance under the Plan and shall accordingly be available for reissuance through one or more subsequent Option grants or direct Stock Issuances under the Plan.

C. Should any change be made to the Common Stock by reason of any stock split, stock dividend, recapitalization, combination of shares, exchange of shares or any other change affecting the outstanding Common Stock as a class without the Corporations receipt of consideration, appropriate adjustments shall be made to: (1) the maximum number and/or class of securities issuable under the Plan; and (2) the number and/or class of securities and the exercise price per share in effect under each outstanding Option in order to prevent the dilution or enlargement of benefits thereunder. The adjustments determined by the Plan Administrator shall be final, binding and conclusive. In no event shall any such adjustments be made in connection with the conversion of one or more outstanding Shares of the Corporation's Preferred Stock into shares of Common Stock.

D. The grant of Options or the issuance of shares of Common Stock under the Plan shall in no way affect the right of the Corporation to adjust, reclassify, reorganize or otherwise change its capital or business structure or to merge, consolidate, dissolve, liquidate, sell or transfer all or any part of its business or assets.

ARTICLE II
OPTION GRANT PROGRAM

2.1 **OPTION TERMS**

Each Option shall be evidenced by one or more documents in the form approved by the Plan Administrator, provided, however, that each such document shall comply with the terms specified below. Each document evidencing an Incentive Option shall, in addition, be subject to the provisions of the Plan specifically applicable to Incentive Options.

A. Exercise Price

1) The Plan Administrator shall fix the exercise price per share.

2) The exercise price shall become immediately due upon exercise of the Option and shall, subject to the provisions of **Section 4.1** of **Article IV** and the documents evidencing the Option, be payable in cash or check made payable to the Corporation. Should the Common Stock be registered under Section 12 of the 1934 Act at the time the Option is exercised, then the exercise price (and any applicable withholding taxes) may also be paid as follows:

a) as the Plan Administrator shall deem necessary and advisable, including the authority to withhold or receive shares or other property and to make cash payments either on a mandatory or elective basis to satisfy obligations for the payment of withholding taxes to avoid a charge to the Corporation's earnings for financial reporting purposes; or

b) to the extent the Option is exercised for Vested Shares, through a special sale and remittance procedure pursuant to which the Optionee shall concurrently provide irrevocable instructions: (i) to a Corporation-designated brokerage firm to effect the immediate sale of the purchased shares and remit to the Corporation, out of the sale proceeds available on the settlement date, sufficient funds to cover the aggregate exercise price payable for the purchased shares plus all applicable income and employment taxes required to be withheld by the Corporation by reason of such exercise; and (ii) to the Corporation to deliver the certificates for the purchased shares directly to such brokerage firm in order to complete the sale.

Except to the extent such sale and remittance procedure is utilized, payment of the exercise price for the purchased shares must be made on the exercise date.

B. **Exercise and Term of Option**. Each Option shall be exercisable at such time or times, during such period and for such number of shares as shall be determined by the Plan Administrator and set forth in the documents evidencing the Option Grant. However, no Option shall have a term in excess of ten (10) years measured from the Option Grant date.

C. **Effect of Termination of Service**

1) The following provisions shall govern the exercise of any Options granted to the Optionee that remain outstanding at the time of cessation of Service:

a) Should the Optionee cease to remain in Service for any reason other than death, Disability or Misconduct, then the Option shall be exercisable for the number of shares subject to the Option that were Vested Shares at the time of the Optionee's cessation of Service and shall remain exercisable until the close of business on the earlier of (i) the three month anniversary of the date Service ceases or (ii) the expiration date of the Option.

b) Should the Optionee cease to remain in Service by reason of death or Disability, then the Option shall be exercisable for the number of shares subject to the Option which were Vested Shares at the time of the Optionee's cessation of Service and shall remain exercisable until

the close of business on the earlier of (i) the twelve month anniversary of the date Service ceases or (ii) expiration date of the Option.

c) No additional vesting will occur after the date the Optionee's Service ceases and the Option shall immediately terminate with respect to the Unvested Shares. Upon the expiration of any post-Service exercise period or (if earlier) upon the expiration date of the term of the Option, the Option shall terminate with respect to the Vested Shares.

d) Should the Optionee's Service be terminated for Misconduct or should the Optionee otherwise engage in Misconduct while the Option remains outstanding, then the Option shall terminate immediately with respect to all shares.

2) The Plan Administrator shall have the discretion, exercisable either at the time an Option is granted or at any time while the Option remains outstanding, to:

a) extend the period of time for which the Option is to remain exercisable following the Optionee's cessation of Service for such period of time as the Plan Administrator shall deem appropriate, but in no event beyond the expiration of the Option, and/or

b) permit the Option to be exercised, during the applicable post-Service exercise period, not only with respect to the number of Vested Shares for which such Option is exercisable at the time of the Optionee's cessation of Service but also with respect to one or more additional installments in which the Optionee would have vested under the Option had the Optionee continued in Service.

D. **Stockholder Rights**. The holder of an Option shall have no stockholder rights with respect to the shares subject to the Option until such person exercises the Option, pays the exercise price and becomes the record holder of the purchased shares.

E. **Unvested Shares**. The Plan Administrator shall have the discretion to grant Options that are exercisable for Unvested Shares. Should the Optionee cease Service while holding such Unvested Shares, the Corporation shall have the right to repurchase, at the lower of (1) Exercise Price per share or (2) the Fair Market Value per share. The terms upon which such repurchase right shall be exercisable (including the period and procedure for exercise and the appropriate vesting schedule for the purchased shares) shall be established by the Plan Administrator and set forth in the document evidencing such repurchase right.

F. **Limited Transferability of Options**. An Incentive Option shall be exercisable only by the Optionee during his or her lifetime and shall not be assignable or transferable other than by will or by the laws of inheritance following the Optionee's death. A Non-Statutory Option may be assigned in whole or in part during the Optionee's lifetime to one or more members of the Optionee's

family or to a trust established exclusively for one or more such family members or to the Optionee's former spouse, to the extent such assignment is in connection with the Optionee's estate plan or pursuant to a domestic relations order. The assigned portion may only be exercised by the person or persons who acquire a proprietary interest in the Non-Statutory Option pursuant to the assignment. The terms applicable to the assigned portion shall be the same as those in effect for the Option immediately prior to such assignment and shall be set forth in such documents issued to the assignee as the Plan Administrator may deem appropriate. Notwithstanding the foregoing, the Optionee may also designate one or more persons as the beneficiary or beneficiaries of his or her outstanding Options under the Plan, and those Options shall, in accordance with such designation, automatically be transferred to such beneficiary or beneficiaries upon the Optionee's death while holding those Options. Such beneficiary or beneficiaries shall take the transferred Options subject to all the terms and conditions of the original Option Grant and this Plan, including (without limitation) the limited time period during which the Option may be exercised following the Optionee's death.

2.2 **INCENTIVE OPTIONS**

The terms specified below shall be applicable to all Incentive Options. Except as modified by the provisions of this **Section 2.2**, all the provisions of **Articles I, II** and **IV** shall be applicable to Incentive Options. Options that are specifically designated as Non-Statutory Options shall not be subject to the terms of this **Section 2.2**.

A. **Eligibility**. Incentive Options may only be granted to Employees.

B. **Exercise Price**. The exercise price per share shall not be less than 100% of the Fair Market Value per share of Common Stock on the Option Grant date.

C. **Dollar Limitation**. The aggregate Fair Market Value of the shares of Common Stock (determined as of the respective date or dates of grant) for which one or more Options granted to any Employee under the Plan (or any other Option plan of the Corporation or any Parent or Subsidiary) may for the first time become exercisable as Incentive Options during any one calendar year shall not exceed $100,000.

D. **10% Stockholder**. If any Employee to whom an Incentive Option is granted is a 10% Stockholder, then (i) the Option term shall not exceed five years measured from the date the Option is granted and (ii) the exercise price per share shall not be less than 110% of the Fair Market Value per share of Common Stock on such date.

2.3 **CHANGE IN CONTROL**

A. The shares subject to each Option outstanding under the Plan at the time of a Change in Control may, immediately prior to the effective date of the Change in Control, become exercisable for all of the shares of Common Stock at the time subject to that Option at the sole discretion of the Plan Administrator. Notwithstanding the foregoing, the shares subject to an outstanding Option shall not become Vested Shares on an accelerated basis if and to the extent: (1) such Option is assumed by the acquiring entity (or parent thereof) or otherwise continued in full force and effect

pursuant to the terms of the Change in Control transaction and any repurchase rights of the Corporation with respect to the Unvested Option shares are concurrently assigned to such acquiring entity (or parent thereof) or otherwise continued in effect or (2) such Option is to be replaced with a cash incentive program of the Corporation or any successor Corporation which preserves the spread existing on the Unvested Option shares at the time of the Change in Control and provides for subsequent payout of that spread in accordance with the same Vesting Schedule applicable to those Unvested Option shares or (3) the acceleration of such Option is subject to other limitations imposed by the Plan Administrator at the time of the Option Grant.

B. All outstanding repurchase rights under the Option Grant Program shall also terminate automatically, and the shares of Common Stock subject to those terminated rights shall immediately become Vested Shares, in the event of any Change in Control, except to the extent: (1) those repurchase rights are assigned to the acquiring entity (or parent thereof) or otherwise continued in effect pursuant to the terms of the Change in Control transaction; or (2) such accelerated vesting is precluded by other limitations imposed by the Plan Administrator at the time the repurchase right is issued.

C. Immediately following the consummation of the Change in Control, all outstanding Options shall terminate, except to the extent assumed by the acquiring entity (or parent thereof) or otherwise continued in effect pursuant to the terms of the Change in Control transaction.

D. Each Option which is assumed in connection with a Change in Control or otherwise continued in effect shall be appropriately adjusted, immediately after such Change in Control, to apply to the number and class of securities which would have been issuable to the Optionee in consummation of such Change in Control, had the Option been exercised immediately prior to such Change in Control. Appropriate adjustments shall also be made to: (1) the number and class of securities available for issuance under the Plan following the consummation of such Change in Control; and (2) the exercise price payable per share under each outstanding Option, provided the aggregate exercise price payable for such securities shall remain the same. To the extent the holders of the Common Stock receive cash consideration for their Common Stock in consummation of the Change in Control, the successor corporation may, in connection with the assumption of the outstanding Options under this Plan, substitute one or more shares of its own Common Stock with a Fair Market Value equivalent to the cash consideration paid per share of Common Stock in such Change in Control.

E. The Plan Administrator shall have the discretion, exercisable either at the time the Option is granted or at any time while the Option remains outstanding to structure one or more Options so that the Option shall become immediately exercisable and some or all of the shares subject to those Options shall automatically become Vested Shares (and some or all of the repurchase rights of the Corporation with respect to the Unvested Shares subject to those Options shall immediately terminate) upon the occurrence of a Change in Control, or another specified event or otherwise continued in effect with the Optionee's Involuntary Termination within a designated period following a specified event.

F. In addition, the Plan Administrator may provide that one or more of the Corporation's outstanding repurchase rights with respect to some or all of the shares held by the Optionee at the time of a Change in Control or other specified event, or the Optionee's Involuntary Termination following a specified event shall immediately terminate on an accelerated basis, and the shares subject to those terminated rights shall become Vested Shares at that time.

G. The portion of any Incentive Option accelerated in connection with a Change in Control shall remain exercisable as an Incentive Option only to the extent the applicable $100,000 limitation set forth in **Section 2.1(C)** is not exceeded. To the extent such dollar limitation is exceeded, the accelerated portion of such Option shall be exercisable as a Non-Statutory Option under the federal tax laws.

2.4 CANCELLATION AND REGRANT OF OPTIONS

The Plan Administrator shall have the authority to effect, at any time and from time to time, with the consent of the affected Optionees, the cancellation of any or all outstanding Options under the Plan and to grant in substitution therefore new Options covering the same or different number of shares of Common Stock.

ARTICLE III
STOCK ISSUANCE PROGRAM

3.1 STOCK ISSUANCE TERMS

Shares of Common Stock may be issued under the Stock Issuance Program through direct and immediate issuances. Each such stock issuance shall be evidenced by a Stock Issuance agreement that complies with the terms specified below.

A. **Purchase Price**

1) The Plan Administrator shall fix the purchase price per share.

2) Subject to the provisions of **Section 4.1**, shares of Common Stock may be issued under the Stock Issuance Program for any of the following items of consideration which the Plan Administrator may deem appropriate in each individual instance:

- cash or check made payable to the Corporation, or
- past services rendered to the Corporation (or any Parent or Subsidiary).

B. **Vesting Provisions**

1) Shares of Common Stock issued under the Stock Issuance Program may, in the discretion of the Plan Administrator, be Vested Shares or may vest in one or more installments over the Participant's period of Service or upon attainment of specified performance objectives.

2) Any new, substituted or additional securities or other property (including money paid other than as a regular cash dividend) which the Participant may have the right to receive with respect to the Participant's Unvested Shares by reason of any stock dividend, stock split, recapitalization, combination of shares, exchange of shares or other change affecting the Outstanding Common Stock as a class without the Corporation's receipt of consideration shall be issued subject to (a) the same vesting requirements applicable to the Participant's Unvested Shares treated as if acquired on the same date as the Unvested Shares and (b) such escrow arrangements as the Plan Administrator shall deem appropriate.

3) The Participant shall have full stockholder rights with respect to any shares of Common Stock issued to the Participant under the Stock Issuance Program, whether or not the Participant's interest in those shares is vested. Accordingly the Participant shall have the right to vote such shares and to receive any regular cash dividends paid on such shares.

4) Should the Participant cease to remain in Service while holding one or more Unvested Shares issued under the Stock Issuance Program or should the performance objectives not be attained with respect to one or more such Unvested Shares, then the Corporation shall have the right to repurchase the Unvested Shares at the lower of (a) the purchase price paid per share or (b) the Fair Market Value per share on the date the Participant's Service ceased or the performance objective was not attained. The terms upon which such repurchase right shall be exercisable, established by the Plan Administrator and set forth in the document evidencing such repurchase right.

A. The Plan Administrator may in its discretion waive the surrender and cancellation of one or more Unvested Shares (or other assets attributable thereto) which would otherwise occur upon a failure to meet performance or Service requirements applicable to those shares. Such waiver shall result in the immediate vesting of the Participant's interest in the shares of Common Stock as to which the waiver applies. Such waiver may be effected at any time, whether before or after the Participant's cessation of Service or attainment of the applicable performance objectives.

3.2 **CHANGE IN CONTROL**

A. Upon the occurrence of a Change in Control, all outstanding repurchase rights under the Stock Issuance Program may terminate automatically, and the shares of Common Stock subject to those terminated rights may immediately become Vested Shares as shall be determined in the mutual discretion of the Plan Administrator, except to the extent: (1) those repurchase rights are assigned to the acquiring entity (or parent thereof) or otherwise continued in effect pursuant to the terms of the Change in Control transaction or (2) such accelerated vesting is precluded by other limitations imposed by the Plan Administrator at the time the repurchase right is issued.

B. The Plan Administrator shall have the discretionary authority, exercisable either at the time the Unvested Shares are issued or any time while the Corporation's repurchase rights with respect to those shares remain outstanding, to provide that those rights shall automatically terminate in whole or in part on an accelerated basis, and some or all of the shares of Common Stock subject to those terminated rights shall immediately become Vested Shares, in the event of a Change in

Control the Participant's Service is terminated by reason of an Involuntary Termination within a designated period following a Change in Control or any other specified event.

ARTICLE IV
MISCELLANEOUS

4.1 **FINANCING**

The Plan Administrator may permit any Optionee or Participant to pay the Option exercise price under the Option Grant Program or the purchase price for shares issued under the Stock Issuance Program by delivering a full-recourse, interest bearing promissory note payable in one or more installments and secured by the purchased shares. In no event may the maximum credit available to the Optionee or Participant exceed the sum of (A) the aggregate Option exercise price or purchase price payable for the purchased shares plus (B) any income and employment tax liability incurred by the Optionee or the Participant in connection with the Option exercise or share purchase.

4.2 **FIRST REFUSAL RIGHTS**

The Corporation shall have the right of first refusal with respect to any proposed disposition by the Optionee or Participant (or any successor in interest) of any shares of Common Stock issued under the Plan. Such right of first refusal shall be exercisable and lapse in accordance with the terms established by the Plan Administrator and set forth in the document evidencing such right.

4.3 **SHARE ESCROW/LEGENDS**

Unvested Shares may, in the Plan Administrator's discretion, be held in escrow by the Corporation until the Unvested Shares vest or may be issued directly to the Participant or Optionee with restrictive legends on the certificates evidencing the fact that the Participant or Optionee does not have a vested right to them.

4.4 **EFFECTIVE DATE AND TERM OF PLAN**

A) The Plan shall become effective when adopted by the Board, but no Option granted under the Plan may be exercised, and no shares shall be issued under the Plan, until the Corporation's stockholders approve the Plan. If such stockholder approval is not obtained within twelve months after the date of the Board's adoption of the Plan, then all Options previously granted under the Plan shall terminate, and no further Options shall be granted and no shares shall be issued under the Plan. Subject to such limitation, the Plan Administrator may grant Options and issue shares under the Plan at any time after the effective date of the Plan and before the date fixed herein for termination of the Plan.

B) The Plan shall terminate upon the earlier of (1) the expiration of the ten year period measured from the date the Plan is adopted by the Board; or (2) termination by the Board. All Options and Unvested Stock Issuances outstanding at the time of the termination of the Plan shall

continue in effect in accordance with the provisions of the documents evidencing those Options or issuances.

4.5 **AMENDMENT OR TERMINATION OF THE PLAN**

A) The Board shall have complete and exclusive power and authority to amend or terminate the Plan or any awards made thereunder in any or all respects. However, no such amendment or termination shall adversely affect the rights and obligations with respect to Options or Unvested Stock Issuances at the time outstanding under the Plan unless the Optionee or the Participant consents to such amendment or termination. In addition, certain amendments, including amendments that increase the share reserve or change the class of individuals eligible to receive grants pursuant to the Plan, may require stockholder approval pursuant to applicable laws and regulations.

B) Options may be granted under the Option Grant Program and shares may be issued under the Stock Issuance Program which are in each instance in excess of the number of shares of Common Stock then available for issuance under the Plan, provided any excess shares actually issued under those programs shall be held in escrow until there is obtained stockholder approval of an amendment sufficiently increasing the number of shares of Common Stock available for issuance under the Plan. If such stockholder approval is not obtained within twelve months after the date the first such excess grants or issuances are made, then: (1) any unexercised Options granted on the basis of such excess shares shall terminate; and (2) the Corporation shall promptly refund to the Optionees and Participants the exercise or purchase price paid for any excess shares issued under the Plan and hold in escrow, together with interest (at applicable Fed Funds Rate) for the period the shares were held in escrow, and such shares shall thereupon be automatically cancelled.

4.6 **USE OF PROCEEDS**

Any cash proceeds received by the Corporation from the sale of shares of Common Stock under the Plan shall be used for any corporate purpose.

4.7 **WITHOLDING**

The Corporation’s obligation to deliver shares of Common Stock upon the exercise of any Options granted under the Plan or upon the issuance or vesting of any shares issued under the Plan shall be subject to the satisfaction of all applicable income and employment tax withholding requirements.

4.8 **REGULATORY APPROVALS**

The implementation of the Plan, the granting of any Options under the Plan and the issuance of any shares of Common Stock (A) upon the exercise of any Option or (B) under the Stock Issuance Program shall be subject to the Corporation’s procurement of all approvals and permits required

by regulatory authorities having jurisdiction over the Plan, the Options granted under it and the shares of Common Stock issued pursuant to it.

4.9 **NO EMPLOYMENT OR SERVICE RIGHTS**

Nothing in the Plan shall confer upon the Optionee or the Participant any right to continue in Service for any period of specific duration or interfere with or otherwise restrict in any way the rights of the Corporation (or any Parent or Subsidiary employing or retaining such person) or of the Optionee or the Participant, which rights are hereby expressly reserved by each, to terminate such persons Service at any time for any reason, with or without cause.

APPENDIX A

Amended and Restated
2009 Brickell Biotech, Inc.
Equity Incentive Plan

DEFINITIONS

The following definitions shall apply to the Amended and Restated 2009 Brickell Biotech, Inc. Equity Incentive Plan:

"Board" shall mean the Corporation's Board of Directors.

"Change in Control" shall mean a change in ownership or control of the Corporation effected through any of the following transactions:

A stockholder-approved merger, consolidation or other reorganization in which securities representing more than 70% of the total combined voting power of the Corporation's outstanding securities are beneficially owned, directly or indirectly, by a person or persons different from the person or persons who beneficially owned those securities immediately prior to such transaction;

a stockholder-approved sale, transfer or other disposition of all or substantially all of the Corporation's assets; or

the acquisition, directly or indirectly, by any person or related group of persons (other than the Corporation or a person that directly or indirectly controls, is controlled by, or is under common control with, the Corporation), of beneficial ownership (within the meaning of Rule 13-d3 of the 1934 Act) of securities possessing more than 70% of the total combined voting power of the Corporation's outstanding securities from a person or persons other than the Corporation.

In no event shall any public offering of the Corporation's securities be deemed to constitute a Change in Control.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, including related regulations and successor provisions and regulations.

"Committee" shall mean a committee designated by the Board to administer the Plan; provided however, that if the Board fails to designate a committee or if there are no longer any members on the committee so designated by the Board, then the Board shall serve as the Committee. In the event that the Company becomes a publicly-held corporation (as hereinafter defined), then the Committee shall consist of at least two directors, and each member of the Committee shall be (i) a "non-employee director" within the meaning of Rule 16b-3 (or any successor rule) under the Exchange Act, unless administration of the

Plan by "non-employee directors" is not then required in order for exemptions under Rule 16b-3 to apply to transactions under the Plan, (ii) an "outside director" within the meaning of section 162(m) of the Code, and (iii) "independent".

"Common Stock" shall mean the common stock, $0.0001 par value per share, of the Corporation.

"Corporation" shall mean Brickell Biotech, Inc., a Delaware corporation, or any successor to, all or substantially all of the assets or the voting stock of Brickell Biotech, Inc.

"Disability" shall mean the inability of Optionee to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that is expected to result in death or has lasted or can be expected to last for a continuous period of twelve months or more.

"Employee" shall mean an individual who is in the employ of the Corporation (or any Parent or Subsidiary), subject to the control and direction of the employer entity as to both the work to be performed and the manner and method of performance.

"**Exercise Price**" shall mean that price as designated in a Notice of Grant of Stock Option at which an Optionee may purchase a share of Common Stock.

"Fair Market Value" shall mean the per share value of Common Stock on any relevant date determined in accordance with the following provisions:

If the Common Stock is at the time listed on the NASDAQ Stock Market, then the Fair Market Value shall be the closing selling price per share of Common Stock on the date in question, as the price is reported by the National Association of Securities Dealers on the NASDAQ Stock Market and published in The Wall Street Journal. If there is no closing selling price for the Common Stock on the date in question, then the Fair Market Value shall be the closing selling price on the last preceding date for which such quotation exists.

If the Common Stock is at the time listed on any stock exchange, then the Fair Market Value shall be the closing selling price per share of Common Stock on the date in question on the stock exchange determined by the Plan Administrator to be the primary market for the Common Stock, as such price is officially quoted in the composite tape of transactions on such exchange and published in The Wall Street Journal. If there is no closing selling price for the Common Stock on the date in question, then the Fair Market Value shall be the closing selling price on the last preceding date for which such quotation exists.

If the Common Stock is at the time neither listed on any stock exchange or the NASDAQ Stock Market, then the Fair Market Value shall be determined by the Plan

Administrator after taking into account such factors as the Plan Administrator shall deem appropriate.

"Issuance Date" shall mean the date of award of an Option as specified in the Notice of Grant of Stock Option.

"Incentive Option" shall mean any Option intended to be designated as an incentive option within the meaning of Section 422 of the Code or any successor provision.

"Misconduct" shall mean (i) the commission of any act of fraud, embezzlement or dishonesty by Optionee, (ii) any unauthorized use or disclosure by Optionee of confidential information or trade secrets of the Corporation (or any Parent or Subsidiary), or (iii) any other intentional misconduct by Optionee adversely affecting the business or affairs of the Corporation (or any Parent or Subsidiary) in a material manner, in each case as determined by the Board in its sole discretion; provided, however, that if the term or concept has been defined in an employment agreement between the Corporation and Optionee, then Misconduct shall have the definition set forth in such employment agreement. The foregoing definition shall not in any way preclude or restrict the right of the Corporation (or any Parent or Subsidiary) to discharge or dismiss any Optionee or other person in the Service of the Corporation (or any Parent or Subsidiary) for any other acts or omissions, but such other acts or omissions shall not be deemed, for purposes of the Plan, to constitute grounds for termination for Misconduct.

"Non-Statutory Option" shall mean any Option for the purchase of shares of the Corporation that is not an Incentive Option.

"Notice" shall mean the Notice of Grant of Stock Option, pursuant to which the terms of the issuance of a specific grant to purchase shares of Common Stock are communicated by the Corporation to an Optionee.

"Notice of Stock Option Exercise" shall mean that document attached to the Notice of Grant of Stock Option issued to the Optionee outlining the terms and conditions governing the purchase of shares in the Corporation.

"1934 Act" shall mean the Securities Exchange Act of 1934, as amended.

"Option" shall mean the Stock Option described more fully in the Notice of Grant of Stock Option.

"Optionee" means a person to whom an Option is granted under the Plan, or any person who succeeds to those rights described more fully in the Notice of Grant of Stock Option.

"**Option Grant**" shall mean that written communication produced by the Board or the Plan Administrator authorizing the conveyance of a right to an Optionee to purchase a designated

number of shares in the Corporation upon certain terms and conditions in accordance with the Plan.

"Parent" shall mean a controlling legal entity (other than the Corporation) that owns a majority of the stock or membership interest of at least one other legal entity enabling it to direct the other legal entity's board of directors or managers and its policies and management.

"Participant" shall mean a person who has been granted an equity award under the Plan which remains outstanding, including a person who is no longer an eligible person.

"Plan" shall mean the Amended and Restated 2009 Brickell Biotech, Inc. Equity Incentive Plan.

"Plan Administrator" shall mean either the Board, or a designated person or committee of the Board, who shall oversee and manage the Plan.

"Service" shall mean the Optionee's performance of services for the Corporation (or any Parent or Subsidiary) in the capacity of Employee, member of the Board or independent contractor.

"**Stock Issuance**" shall mean those Plan shares conveyed through exercise or grant to any recipient in accordance with the provisions of the Plan.

"Subsidiary" shall mean a subordinate legal entity (other than the Corporation) where the majority of its stock or membership interest is owned or controlled by at least one other legal entity enabling such other legal entity to exercise authority over its board of directors or managers and its policies and management.

"Unvested Shares" shall mean those Plan shares requiring a pre-condition to be met (i.e. achievement of milestones or Service time) prior to the Optionee being permitted the right to exercise the Option for the purchase of Plan shares. Such Plan shares are subject to forfeiture in the event such pre-conditions are not met and the Corporation's right to repurchase or acquire in accordance with the Plan.

"Vested Shares" shall mean Plan shares for which any applicable pre-conditions have been met or are non-existent. Such shares are eligible to be purchased by an Optionee in accordance with the Plan, however, in the absence of any exercise, such shares may still be subject to the Corporation's right to repurchase or acquire in accordance with the Plan.

"Vesting Schedule" shall mean those Service or performance pre-conditions that must be met (i.e. achievement of milestones or Service time), if any, as specified in the Notice of Grant of Stock Option prior to the Optionee being permitted the right to exercise the Option for the purchase of Plan shares

Exhibit 99.3

DESCRIPTION OF CAPITAL STOCK

On August 31, 2019, the Delaware corporation formerly known as "Vical Incorporated" completed the merger transaction in accordance with the terms and conditions of the Agreement and Plan of Merger and Reorganization, dated as of June 2, 2019, as amended by Amendment No. 1 to Agreement and Plan of Merger and Reorganization, dated August 20, 2019, and as further amended on August 30, 2019 (the "Merger Agreement"), by and among Vical Incorporated ("Vical"), Brickell Biotech, Inc. ("Brickell") and Victory Subsidiary, Inc., a wholly-owned subsidiary of Vical ("Merger Sub"), pursuant to which Merger Sub merged with and into Brickell, with Brickell surviving the merger as a wholly-owned subsidiary of Vical (the "Merger"). Additionally, on August 31, 2019, immediately after the completion of the Merger, the Company changed its name from "Vical Incorporated" to "Brickell Biotech, Inc." (the "Company" or "our"). On August 31, 2019, in connection with, and prior to the consummation of the Merger, Vical effected a reverse stock split of its common stock, par value $0.01 per share, at a ratio of 1-for-7.

As of September 10, 2019, our restated certificate of incorporation authorizes us to issue 50,000,000 shares of common stock, par value $0.01 per share, and 5,000,000 shares of preferred stock, par value $0.01 per share. As of September 5, 2019, 7,810,773 shares of common stock were outstanding, along with warrants to purchase (i) 891,582 shares of our common stock at an exercise price of $0.07 per share, (ii) 731,908 shares of our common stock at an exercise price of $10.36 and (iii) 9,005 shares of our common stock at an exercise price of $33.31. No shares of preferred stock were outstanding.

The following summary describes the material terms of our capital stock. The description of capital stock is qualified by reference to our restated certificate of incorporation and our amended and restated bylaws.

Common Stock

The holders of our common stock are entitled to one vote for each share held of record on all matters submitted to a vote of our stockholders. The holders of our common stock are entitled to receive ratably the dividends, if any, that may be declared from time to time by our board of directors out of funds legally available for such dividends. In the event of a liquidation, dissolution or winding up of the Company, the holders of our common stock would be entitled to share ratably in all assets remaining after payment of liabilities and the satisfaction of any liquidation preferences granted to the holders of any outstanding shares of preferred stock.

Holders of our common stock have no preemptive rights and no conversion rights or other subscription rights. There are no redemption or sinking fund provisions applicable to our common stock. All the outstanding shares of common stock are, and all shares of common stock offered, when issued and paid for, will be validly issued, fully paid and nonassessable. The rights, preferences and privileges of holders of our common stock are subject to, and may be adversely affected by, the rights of the holders of any shares of our preferred stock.

Preferred Stock

Under our restated certificate of incorporation, our board of directors is authorized to issue shares of our preferred stock from time to time, in one or more classes or series, without stockholder approval. Prior to the issuance of shares of each class or series, our board of directors is required by the Delaware General Corporation Law ("DGCL") and our restated certificate of incorporation to adopt resolutions and file a certificate of designation with the Delaware Secretary of State. The certificate of designation fixes for each class or series the designations, powers, preferences, rights, qualifications, limitations and restrictions of that class or series, including the following:

- the number of shares constituting each class or series;
- voting rights;
- rights and terms of redemption, including sinking fund provisions;
- dividend rights and rates;
- terms concerning the distribution of assets;
- conversion or exchange terms;
- redemption prices; and
- liquidation preferences.

All shares of preferred stock offered, when issued and paid for, will be validly issued, fully paid and nonassessable and will not have any preemptive or subscription rights.

We will specify the following terms relating to any class or series of preferred stock offered by us:

- the title and stated value of the preferred stock;
- the number of shares of the preferred stock offered, the liquidation preference per share and the offering price of the preferred stock;
- the dividend rate(s), period(s) or payment date(s) or method(s) of calculation applicable to the preferred stock;
- whether dividends are cumulative or non-cumulative and, if cumulative, the date from which dividends on the preferred stock will accumulate;
- our right, if any, to defer payment of dividends and the maximum length of any such deferral period;
- the procedures for auction and remarketing, if any, for the preferred stock;
- the provisions for a sinking fund, if any, for the preferred stock;
- the provision for redemption, if applicable, of the preferred stock;
- any listing of the preferred stock on any securities exchange;
- the terms and conditions, if applicable, upon which the preferred stock will be convertible into common stock, including the conversion price or manner of calculation and conversion period;
- voting rights, if any, of the preferred stock;
- whether interests in the preferred stock will be represented by depositary shares;
- a discussion of any material or special United States federal income tax considerations applicable to the preferred stock;
- the relative ranking and preferences of the preferred stock as to dividend rights and rights upon the liquidation, dissolution or winding up of our affairs
- any limitations on issuance of any class or series of preferred stock ranking senior to or on a parity with the class or series of preferred stock as to dividend rights and rights upon the liquidation, dissolution or winding up of our affairs; and
- any other specific terms, preferences, rights, limitations or restrictions of the preferred stock.

Anti-Takeover Provisions

Delaware Anti-Takeover Law

We are subject to Section 203 of the DGCL. Section 203 generally prohibits a public Delaware corporation from engaging in a "business combination" with an "interested stockholder" for a period of three years after the date of the transaction in which the person became an interested stockholder, unless:

- prior to the date of the transaction, the board of directors of the corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;
- the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the number of shares outstanding (a) shares owned by persons who are directors and also officers of the corporation and (b) shares issued under employee stock plans under which employee participants do not have the right to determine whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- on or subsequent to the date of the transaction, the business combination is approved by the board and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock that is not owned by the interested stockholder.

Section 203 defines a business combination to include:

- any merger or consolidation involving the corporation and the interested stockholder;
- any sale, transfer, pledge or other disposition involving the interested stockholder of 10% or more of the assets of the corporation;

- subject to exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;
- any transaction involving the corporation that has the effect of increasing the proportionate share of its stock owned by the interested stockholder; or
- the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation.

In general, Section 203 of the DGCL defines an interested stockholder as any entity or person beneficially owning 15% or more of the outstanding voting stock of the corporation and any entity or person affiliated with or controlling or controlled by the entity or person.

Certificate of Incorporation and Bylaws

Some provisions of our restated certificate of incorporation and amended and restated bylaws could also have anti-takeover effects. These provisions:

- provide for a board comprised of three classes of directors with each class serving a staggered three-year term;
- authorize our board of directors to issue preferred stock from time to time, in one or more classes or series, without stockholder approval;
- require the approval of at least two-thirds of our outstanding voting stock to amend specified provisions of our restated certificate of incorporation;
- require the approval of at least two-thirds of our total number of authorized directors, or two-thirds of our outstanding voting stock, to amend our amended and restated bylaws;
- provide that special meetings of our stockholders may be called only by our Chief Executive Officer, or by our board of directors pursuant to a resolution adopted by a majority of the total number of authorized directors; and
- do not include a provision for cumulative voting for directors (under cumulative voting, a minority stockholder holding a sufficient percentage of a class of shares may be able to ensure the election of one or more directors).

Nasdaq Capital Market Listing

Our common stock is listed on the Nasdaq Capital Market under the symbol “BBI.”

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is Computershare. Its address is 250 Royall Street, Canton, MA 02021 and its telephone number is (800) 522-6645.