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

FORM 10-K

☒ **Annual Report Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934**

For The Fiscal Year Ended May 31, 2023 or

☐ Transition Report Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934

For The Transition Period From _____ To _____

Commission File Number: 001-37863

BIOMERICA, INC.

(Exact Name of registrant as specified in its charter)

Delaware	**95-2645573**
(State or other jurisdiction of Incorporation of organization)	(I.R.S. Employer Identification No.)
17571 Von Karman Avenue, Irvine, CA	**92614**
(Address of principal executive offices)	(Zip Code)

(949) 645-2111
(Registrant's telephone number, including area code)

Securities registered under Section 12(b) of the Exchange Act:

Title of each class	Trading Symbols	Name of each exchange on which registered
Common Stock, par value $0.08	BMRA	Nasdaq Capital Market

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act
Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Securities Act.
Yes ☐ No ☒

Indicate by check whether the registrant (1) filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.
Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).
Yes ☒ No ☐

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 ☐
Non-Accelerated Filer ☒
Emerging Growth Company ☐

Accelerated Filer ☐
Smaller Reporting Company ☒

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☐

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

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter (based upon 12,281,164 shares held by non-affiliates and the closing price of $3.48 per share for Common Stock as of November 30, 2022): $42,738,451.

The outstanding number of shares of common stock, par value $0.08, as of August 25, 2023 was 16,821,646.

DOCUMENTS INCORPORATED BY REFERENCE: Portions of the registrant's definitive Proxy Statement on Schedule 14A relating to the registrant's 2023 annual meeting of stockholders, to be filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year covered by this Annual Report on Form 10-K, are incorporated by reference in Part III, Items 10 through 14 of this Annual Report on Form 10-K. Except for the portions of the Proxy Statement specifically incorporated by reference in this Form 10-K, the Proxy Statement and related proxy solicitation materials shall not be deemed to be filed as part hereof.

CAUTIONARY NOTE REGARDING FORWARD LOOKING STATEMENTS

Except for historical financial information contained herein, the matters discussed in this Form 10-K may be considered forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, and subject to the safe harbor created by the Securities Litigation Reform Act of 1995. Such statements include declarations regarding our intent, belief, or current expectations, and those of our management. In some cases, you can identify forward-looking statements by terminology such as "may," "will," "should," "expects," "intends," "plans," "anticipates," "believes," "estimates," "predicts," "potential" or "continue" or the negative of these terms or other comparable terminology. Investors are cautioned that any such forward-looking statements are not guarantees of future performance and involve a number of risks, uncertainties and other factors, some of which are beyond our control. Actual results could differ materially from those indicated by such forward-looking statements. Important factors that could cause actual results to differ materially from those indicated by such forward-looking statements include, but are not limited to, those risks and uncertainties identified under "Risk Factors," in this Form 10-K and the other risks detailed from time-to-time in our reports and registration statements filed with the Securities and Exchange Commission, or SEC. Except as required by law, we undertake no obligation to revise or update publicly any forward-looking statements, whether as a result of new information, future events or otherwise.

PART I

ITEM 1. BUSINESS

BUSINESS OVERVIEW

THE COMPANY

Biomerica, Inc. ("Biomerica," the "Company," "we," "us," or "our") was incorporated in Delaware in September 1971 as Nuclear Medical Systems, Inc., and later changed its name to Biomerica, Inc. The Company has two wholly owned subsidiaries, Biomerica de Mexico, which is used for assembly/manufacturing, and BioEurope GmbH, which acts as a distributor of Biomerica products in certain markets.

We are a global biomedical technology company that develops, patents, manufactures and markets advanced diagnostic and therapeutic products used at the point-of-care (in home and in physicians' offices) and in hospital/clinical laboratories for detection and/or treatment of medical conditions and diseases. Our products are designed to enhance the health and well-being of people, while reducing total healthcare costs.

Our primary focus is the research, development, commercialization and in certain cases regulatory approval, of patented, diagnostic-guided therapy ("DGT") products to treat gastrointestinal diseases, such as irritable bowel syndrome ("IBS"), and other inflammatory diseases. These products are directed at chronic inflammatory illnesses that are widespread and common, and as such address very large markets. Our InFoods® IBS product uses a simple blood sample and is designed to identify patient-specific foods that, when removed from the diet, may alleviate IBS symptoms such as pain, bloating, diarrhea and constipation. Instead of broad and difficult to manage dietary restrictions, the InFoods® IBS product works by identifying specific foods that may be an abnormally high immune response in the patient. A food identified as positive, which is causing the abnormal immune response in the patient, can be simply removed from the diet to help alleviate IBS symptoms.

During fiscal 2022, we completed an endpoint determination clinical trial on our InFoods® IBS product. This trial was conducted at Mayo Clinics in Florida and Arizona, Beth Israel Deaconess Medical Center Inc., a Harvard Medical School Teaching Hospital, University of Texas Health Science Center at Houston, Houston Methodist, the University of Michigan and other institutions. This trial monitored IBS patients over an 8-week treatment period to determine the efficacy of our InFoods® IBS product to improve the patients' IBS symptoms or endpoints. The top-line trial results were reported in February 2022. Multiple endpoints demonstrated statistically significant improvements, indicating that the elimination of specific foods may meaningfully reduce the symptoms of IBS in each patient subtype (including patients with IBS-Constipation, IBS-Diarrhea & IBS-Mixed). The greatest clinical improvements, including but not limited to abdominal pain and bloating, were seen in patients diagnosed with IBS-Mixed and IBS-Constipation, in the top line data. The purpose of the endpoint study was to validate the efficacy of the product, and to determine the primary symptom endpoint, or endpoints to be used in a final pivotal trial that will be conducted to attain the validation data needed to apply for U.S. Food and Drug Administration ("FDA") clearance for the product. We are continuing to review and refine the complete dataset and have selected the final endpoint that we would intend to use in a final pivotal trial. We are starting to develop the protocol for submission to the FDA, and once approved the trial will be run thereafter. The trial is expected to include the large medical institution participants that conducted the endpoint clinical trial, in addition to other new institutions and a Clinical Research Organization.

Following the successful completion and positive results from the Company's InFoods® IBS clinical trial, we saw significant interest from Gastroenterology ("GI") physicians who would like to provide the InFoods® IBS product to their patients. Therefore, while we continue the work of advancing this product toward FDA clearance, during our fourth quarter of fiscal 2023, we launched the InFoods® IBS product through a CAP-Certified high-complexity Clinical Laboratory Improvement Amendments ("CLIA") laboratory facility and began offering the product as a laboratory developed test ("LDT") to GI physicians. The first physician group to offer InFoods® IBS to their IBS patients is Gastro Health at their flagship location in Miami, Florida. Gastro Health is a leading GI physician group with over 390 physicians operating in over 150 offices in seven states.

InFoods® IBS product is currently offered on a "cash-pay" basis (without insurance reimbursement) to IBS patients. However, we have begun the process of speaking to reimbursement consultants who can help us seek and attain reimbursement through government pay (i.e., Medicare and Medicaid), and from private insurers.

We are also beginning the work of validating one new disease (such as ulcerative colitis or migraines), where there is evidence that certain foods can trigger or contribute to the symptoms found in patients suffering from those illnesses. Each InFoods® test is developed specifically for patients suffering from the disease being targeted. For instance, the panel of foods that would be tested for patients with migraines will be different from the known problematic foods that we test for in IBS. We have already performed much of the initial research and development work necessary to determine what foods are commonly problematic for each of eight different diseases. We have found that some diseases show approximately 20 foods that are commonly problematic for patients, while other diseases show over 70 foods for which patients commonly show an abnormal immune response. Once the panel of problematic foods is identified for a specific disease, the panel must then be tested to confirm which of the problematic food are causing an abnormal and harmful immune response. We expect any new disease we target will follow a similar development pathway as InFoods® IBS in simultaneously seeking FDA clearance of the product while also launching the product as an LDT.

We are also continuing to evaluate partnership/licensing opportunities, as they arise, with U.S. and multinational companies that could help us commercialize, or accelerate revenue growth of, the InFoods® products in the United States and overseas.

Our existing medical diagnostic products are sold worldwide primarily in two markets: 1) clinical laboratories and 2) point-of-care (physicians' offices and over-the-counter drugstores like Walmart and Walgreens). The diagnostic test kits are used to analyze blood, urine, nasal or fecal specimens from patients in the diagnosis of various diseases, food intolerances and other medical complications, by measuring or detecting the existence and/or level of specific bacteria, hormones, antibodies, antigens, or other substances, which may exist in a patient's body, stools, or blood, often in extremely small concentrations.

During fiscal 2022, we finalized development of our H. Pylori diagnostic test that indicates if a patient is infected with the H. Pylori bacteria. H. Pylori infection is extremely common, and if left untreated, can lead to ulcers and possibly stomach cancers. During our fourth quarter of fiscal 2022, we applied for FDA clearance of this product though a 510(k) premarket submission. We have been in communication with the FDA answering certain follow-up questions and providing additional data as requested. We are working with the FDA to perform one additional set of in-lab tests that the FDA has requested prior to making their final determination on clearance of the product. Provided we receive FDA clearance, we will begin marketing the product in the U.S. market. We have already begun discussions with international distributors for this product and expect to see revenues through these international channels during 2024.

We have recently added new employees in our sales and marketing department in order to increase sales of existing products. In fiscal 2023, we also hired a Chief Commercial Officer ("CCO") with broad experience launching new products at large diagnostic companies. Our CCO is focused on the commercial launch of the InFoods® IBS product to the GI physician groups in the U.S. market.

Due to the global 2019 SARS-CoV-2 novel coronavirus ("COVID-19") pandemic, in March 2020, we began developing, marketing, and selling COVID-19 diagnostic tests. In fiscal 2022, we generated revenues from the international sale of our COVID-19 antigen tests. Due to falling demand for such tests, the Company generated 4% of our sales during fiscal year 2023, as compared to 75% of our revenue during fiscal year 2022. Due to the dramatic increase in fiscal 2022 revenues, and subsequent decrease in fiscal 2023 revenues from this COVID-related product, we saw significant volatility in our revenues and our earnings during those two fiscal years. By the end of fiscal year 2023, and during our fourth quarter, none of our revenues came from the sale of COVID-related tests.

Our non-COVID-19 products that accounted for approximately 96% and 25% of our revenues during the fiscal years ended May 31, 2023, and 2022, respectively, are primarily focused on gastrointestinal diseases, food intolerances, and certain esoteric tests. These diagnostic test products utilize immunoassay technology. Most of our products are CE marked and/or sold for diagnostic use where they are registered by each country's regulatory agency. In addition, some products are cleared for sale in the United States by the FDA.

Technological advances in medical diagnostics have made it possible to perform diagnostic tests within the home and the physician's office (the point-of-care), rather than in the clinical laboratory. One of our objectives also has been to develop and market rapid diagnostic tests that are accurate, utilize easily obtained patient specimens, and are simple to perform without instrumentation. Our over-the-counter (home use) and professional use (doctor's office, clinics, etc.) rapid diagnostic test products help to manage existing medical conditions and may save lives through early detection and diagnosis of specific diseases. Typically, tests of this kind require the services of medical technologists and sophisticated instrumentation. Further, results are often not available until at least the following day. We believe rapid point-of-care tests can be as accurate as laboratory tests when developed and used properly, may require limited to no instrumentation, can give reliable results in minutes, and can be performed with confidence in the home or the physician's office.

We expend considerable funds in research and development of certain new products that diagnose and, in certain cases, are designed to be used as a therapy for several major medical diseases. These products are both internally developed and licensed from others. We employ experienced and highly trained technical personnel (including Ph.D.'s and other scientists) to develop new products and evaluate and implement technology technical transfer activities. Our technical staff, many of whom have been previously employed at large diagnostic manufacturing companies, has extensive industry experience. We also rely on our Scientific Advisory Board of leading medical doctors and clinicians to assist in guiding our clinical studies and product development.

Biomerica maintains its headquarters in Irvine, California, where it houses administration, finance, regulatory compliance, product development, sales and marketing, customer services and its primary manufacturing operations. Biomerica maintains manufacturing and assembly operations in Mexicali, Mexico, in order to reduce the cost of manufacturing and compete more effectively worldwide. Biomerica also has a legal entity in Europe, BioEurope GmbH, for the purpose of selling certain products internationally.

Additional information about Biomerica is available on our website at www.biomerica.com. The content on any website referred to in this Form 10-K is not a part of or incorporated by reference in this Form 10-K unless expressly noted. Our Annual Report on Form 10-K, Quarterly Reports on Forms 10-Q, Current Reports on Forms 8-K, Proxy Statements and all other filings we make with the Securities and Exchange Commission ("SEC") are available on our website, free of charge, as soon as reasonably practical after we file them with or furnish them to the SEC and are also available online at the SEC's website at www.sec.gov.

PRODUCTION

Most of our diagnostic test kits are manufactured and/or assembled at our facilities in Irvine, California and in Mexicali, Mexico. We established our manufacturing facility in Mexicali, Mexico in fiscal 2003 and moved a significant portion of our diagnostic packaging and assembly to that facility.

Production of diagnostic tests can involve formulating component antibodies and antigens in specified concentrations, attaching a tracer to the antigen, filling components into vials, packaging and labeling. We continually engage in quality control procedures to assure the consistency and quality of our products and to comply with applicable FDA and international regulations.

Our manufacturing operations and facilities are regulated by the FDA Good Manufacturing Practices for medical devices. We have an internal quality department that monitors and evaluates product quality and output. We also have an internal Quality Systems department whose goal is to ensure that our operating procedures are in compliance with current FDA, CE Mark and International Organization for Standardization ("ISO") regulations. We either produce our own antibodies and antigens or purchase these materials from qualified vendors. We have alternate, approved sources for most critical raw materials and are working to procure alternate sources for the few that we do not have.

RESEARCH AND DEVELOPMENT

Beyond our focus on development of our InFoods® IBS product, we also focused a portion of our Research and Development ("R&D") resources on continued validation of our H. Pylori diagnostic test. Our research and development spending driven by our focus on these tests and outside clinical studies intended to demonstrate the feasibility of FDA clearance for such tests. We also utilize technical personnel, with Ph.D. and other degrees and extensive experience in development and production of health diagnostic tests, to conduct other development activities and improve existing products, as well as explore potential new technologies that we may wish to develop and commercialize. Research and development expenses include the costs of materials, supplies, personnel, consultants, facilities, outside clinical trial sites and equipment as well as outside contract services. Consolidated research and development expenses incurred by Biomerica for the years ended May 31, 2023 and 2022, aggregated to approximately $1,584,000, and $1,812,000, respectively. As Biomerica moves forward with development, validation and commercialization of additional key products that address diseases with large market opportunities, research and development expenses are expected to be consistent during upcoming quarters.

During the fourth quarter of fiscal 2022, we also submitted our proprietary H. Pylori test to the FDA for clearance through a 510(k) submission. The clinical studies for our H. Pylori were conducted at the University of Southern California, a European University, and several other U.S. locations. Biomerica's test is designed to provide highly accurate sensitivity and specificity for H. Pylori testing and for monitoring of treatment. We are in the process of finalizing one additional set of in-house validation tests that the FDA has requested us to complete before they review the submission and decide on the allowance on this product.

We have developed a unique diagnostic-guided therapy which we call the InFoods® technology, that is designed to allow physicians to identify patient-specific foods (e.g. pork, milk, onions, sugar, chickpeas, etc.), that when removed from the patient's diet, may alleviate or improve their symptoms of IBS and other diseases. We have filed patents throughout the world pertaining to the use of our InFoods® diagnostic technology to detect abnormal immune responses in patients suffering from various diseases. Many of these patents have recently been issued with many more in the review and prosecution phase. The United States Patent and Trademark Office ("USPTO") has issued the Company two patents with broad claims that protect this InFoods® IBS product. Patents have also been issued in the countries of Australia, Japan, Korea, Mexico, and Singapore. Additional patent applications pertaining to the InFoods® IBS product have been filed in the United States and in other countries. We are also developing and have filed patents for products that target other diseases utilizing the InFoods® technology platform which include: Functional Dyspepsia, Crohn's disease, Ulcerative Colitis, Gastroesophageal Reflux disease ("GERD"), Migraine Headaches, Depression, and Osteoarthritis. Our first patent to be allowed for a disease/illness other than IBS was allowed in Japan in August 2021. This patent covers the use of our InFoods® technology to diagnose and treat persons suffering from depression.

MARKETS AND METHODS OF DISTRIBUTION

Biomerica has approximately 80 current customers for its diagnostic business, of which approximately 40 are foreign distributors, 10 are domestic distributors and the balance are primarily domestic hospital and clinical laboratories, medical research institutions, medical schools, pharmaceutical companies, chain drugstores, wholesalers, physicians' offices, and e-commerce customers.

We employ a director of sales and marketing for Europe and South America who is headquartered in Germany. She has over 20 years of experience selling and marketing diagnostic and life science products across multiple diagnostics technologies and disciplines. She possesses broad international business experience, with communication skills in German, English, Spanish, French, and Portuguese, and scientific and technical understanding of gastrointestinal diagnostic products. She also has strong relationships with key strategic entities in Europe, Eastern Europe, Latin America, Canada, and the United States and we expect that she will continue to help Biomerica add new distributors for existing products and add new product-lines for future distribution by us.

We rely on affiliated and unaffiliated distributors, advertising in medical and trade journals, exhibitions at trade shows, direct mailings, and an internal sales staff to market our diagnostic products. We target two main markets: (a) clinical laboratories and (b) point-of-care testing (physicians' offices and over-the-counter drug stores).

Due to global and economic disruptions caused by the global COVID-19 pandemic, the ongoing war in Ukraine, and tensions between the country of China and the United States, the Company's operations have been negatively impacted. The Company has faced disruptions in certain of the following areas, and may face further challenges from supply chain disruptions, cost inflation, loss of contracts and/or customers, closure of the facilities of the Company's suppliers, partners and customers, travel, shipping and logistical disruptions, government responses of all types, international business risks in countries where the Company makes and/or sells its products, loss of human capital or personnel at the Company, its partners and its customers, interruptions of production, customer credit risk, and general economic calamities. The pandemic, war, and geopolitical related disruptions have materially negatively impacted the Company's operations and financial performance and may continue to have significant material negative impacts on the Company depending on possible disruptions from future outbreaks or issues. Our net sales were approximately $5,339,000 for fiscal 2023 compared to $18,871,000 for fiscal 2022.

For the fiscal years ended May 31, 2023 and 2022, the Company had one distributor and two distributors, respectively, which accounted for a total of 35% and 65% of total net sales, respectively. Of this, for the fiscal years ended May 31, 2023 and 2022, the largest of the distributors mentioned above accounted for 35% and 55%, respectively, of net sales.

Total gross receivables on May 31, 2023 and 2022 were approximately $751,000 and $927,000, respectively. As of May 31, 2023 and 2022, the Company had one distributor which accounted for 36% and 50%, respectively, of gross accounts receivable. Of the 36% as of May 31, 2023, 100% was owed by a distributor in Asia.

BACKLOG

On May 31, 2023 and 2022, Biomerica had a backlog of unshipped orders of approximately $655,000 and $754,000, respectively. On May 31, 2023, this consisted primarily of orders to a distributor in Asia.

RAW MATERIALS

The principal raw materials utilized by Biomerica consist of various chemicals, serums, reagents, and packaging supplies. Almost all of our raw materials are available from several sources, and we are not dependent upon any single source of supply or a few suppliers. However, due to the limited number of suppliers of some materials, especially those such as antibodies, there is always the possibility that we may encounter difficulty in the future obtaining key raw materials for its manufacturing processes or that such materials may be exceedingly costly. For the fiscal year ended May 31, 2023, the Company did not have any significant concentration of vendor spend for raw materials. For the fiscal year ended May 31, 2022, the Company had one vendor, which accounted for 84% of our purchases of raw materials largely related to COVID-19 products.

Our inventory consists of various types of materials including antibodies, antigens, bottles, boxes, various chemicals, and reagents utilized in the manufacture of our test kits as well as products in various stages of completion.

Our sourcing and receiving of raw materials were negatively impacted during the global COVID-19 pandemic. While most of these disruptions have since been resolved, it is unclear to what extent raw material availability will be impacted in the foreseeable future, and how that will impact our production and sales.

INFLATION

Due to the global and domestic supply chain disruptions, and overall inflationary pressures in the economy, we have experienced material increases in the cost of our raw materials and in our operating and labor costs. While we have attempted to respond by increasing the selling price of our own products, the gross margins on our products sold have been negatively impacted.

COMPETITION

We have certain proprietary products, such as our EZ Detect colon disease home test, the Aware Breast Self Exam product and our InFoods® IBS product. These products have certain and significant competitive advantages compared to tests offered by competitors.

Our competitors vary greatly in size. Many are divisions or subsidiaries of well-established medical and pharmaceutical companies which are much larger than Biomerica and expend substantially greater amounts than we do for research and development, manufacturing, advertising, and marketing.

The primary competitive factors affecting the sale of diagnostic products are uniqueness, technology, quality of product, performance, price, service, and marketing. We believe we compete primarily on the basis of the uniqueness of our products, the quality of our products, the speed of our test results, our patent position, our pricing and our prompt shipment of orders. We offer a broad range of products but have had limited marketing capability. However, recently we have expanded our sales and marketing capability, through marketing and strategic cooperation with larger companies and distributors and by hiring new employees with marketing and sales expertise. We have also hired a social media manager who focuses on social media campaigns that are directed at increasing awareness of our products and driving sales of these products. In addition, during fiscal 2023, we hired an experienced Chief Commercial Officer, who is focused on growing sales of our InFoods® IBS product that is now being offered as an LDT through a certified CLIA lab.

GOVERNMENT REGULATION OF OUR DIAGNOSTIC BUSINESS

Our primary business consists of selling products that are generally legally defined as medical devices and in vitro diagnostic medical devices. As a result, we are considered to be a medical devices and in vitro diagnostic medical devices manufacturer, and as such, we are subject to the regulations issued and enforced by of numerous governmental entities. These agencies include the FDA, Environmental Protection Agency, Federal Trade Commission, Occupational Safety and Health Administration, U.S. Department of Agriculture (“USDA”), and Consumer Product Safety Commission, as well as European Government agencies. Our activities are also regulated by various agencies of the states and localities in which our products are sold. These regulations govern the introduction of new in vitro diagnostic medical devices and medical devices, the observance of certain standards with respect to the manufacture and labeling of medical devices, the maintenance of certain records, the reporting of potential product problems, and other matters.

The Food, Drug & Cosmetic Act of 1938 (the "FDCA") regulates medical devices in the United States by classifying them into one of three classes based on the extent of regulation believed necessary to ensure safety and effectiveness. Class I devices are those devices for which safety and effectiveness can reasonably be assured through general controls, such as device listing, adequate labeling, and adherence to the Quality System Regulation ("QSR") as well as Medical Device Reporting ("MDR"), labeling and other regulatory requirements. Some Class I medical devices are exempt from the requirement of Pre-Market Notification or clearance. Class II devices are those devices for which safety and effectiveness can reasonably be ensured through the use of special controls, such as performance standards, post-market surveillance and patient registries, as well as adherence to the general controls' provisions applicable to Class I devices. Class III devices are devices that generally must receive clearance prior to marketing by the FDA pursuant to a pre-market approval to ensure their safety and effectiveness. Generally, Class III devices are limited to life-sustaining, life-supporting, or implantable devices. However, this classification can also apply to novel technology or new intended uses or applications for existing devices. Our products are primarily either Class I or Class II medical devices.

Pursuant to FDA requirements, we have registered our manufacturing facility with the FDA as a medical device manufacturer and listed the medical devices we manufacture. We are also subject to inspection on a routine basis for compliance with FDA regulations. This includes the QSR, which requires that we manufacture our products and maintain our documents in a prescribed manner with respect to issues such as design controls, manufacturing, testing, and validation activities. Further, we are required to comply with other FDA requirements with respect to labeling and MDR regulations which requires that we provide information to the FDA on deaths or serious injuries alleged to have been associated with the use of our products, as well as any product malfunctions that are likely to cause or contribute to death or serious injury if the malfunction were to recur. We believe that we are currently in material compliance with all relevant QSR and MDR requirements.

In addition, our facility is required to have a California Medical Device Manufacturing License. The license is not transferable and must be renewed biannually. Our current license is valid until November 19, 2024. Through compliance with FDA and California regulations, we can market some of our medical devices throughout the United States. International sales of medical devices are also subject to the regulatory requirements of each country where the product is sold. In Europe, the directives of the European Union ("EU') require that a device have a CE Mark in order to be sold in EU countries. We comply with In Vitro Diagnostic Medical Devices Directive ("IVDD") 98/79/EC and Medical Devices Regulation 2017/745 ("MDR"). We also comply with ISO 13485:2016 Medical Devices Quality Management Systems - Requirements for Regulatory Purposes.

At present, outside of the EU, the international regulatory review process varies from country to country. We work with our distributors and sales representatives in the foreign countries in which we market our products to ensure that we comply with the regulatory laws of those countries. We believe that our international sales to date have been in compliance with the laws of all foreign countries in which we have made sales. Exports of most medical devices are also subject to certain FDA regulatory controls.

The designing, development, manufacturing, marketing, post-market surveillance, distribution, advertising, and labeling of Biomerica's immunoassay in vitro diagnostic ("IVD") medical device products are subject to regulation in the United States by the Center for Devices and Radiological Health of the FDA and state agencies. FDA regulations require that some new products have pre-marketing clearance or approval by the FDA and require these products to be manufactured in accordance with the FDA's current Good Manufacturing Practice (cGMP) regulations, to be extensively tested and to be properly labeled to disclose test results and performance claims and limitations. After a product that is subject to FDA regulation is placed on the market, numerous regulatory requirements apply, including, for example, the requirement that we comply with recordkeeping and reporting requirements, such as the FDA's medical device reporting regulations and reporting of corrections and removals. The FDA enforces these requirements by inspection and post-market surveillance. The last FDA announced inspection was in November 2019 and no observations were noted. We believe that all Biomerica products sold in the United States comply with the FDA and state regulations.

We are an FDA regulated and ISO 13485:2016 certified In Vitro Diagnostic Medical Devices company. Our goal is to provide high quality medical diagnostic products that generally meet or exceed customer requirements and comply with all applicable regulatory requirements: FDA 21 CFR Part 820 Quality Management System, ISO 13485:2016, Medical Devices Quality Management Systems - Requirements for Regulatory Purposes, In Vitro Diagnostic Medical Devices Directive 98/79/EC & and Medical Device Regulation 2017/745, Guidelines related to Medical Devices Directive/Regulation Guidance on CE Marking, among others. Biomerica involves its employees in a continuous improvement process to increase productivity, improve quality and maintain the suitability, adequacy, and effectiveness of our quality management system.

The EU In Vitro Diagnostic Medical Device Regulation ("IVDR") 2017/746 was effective on May 26, 2022. Manufacturers need to update their technical documentation and processes to meet the more stringent regulatory requirements of the European Union. Notified Bodies can begin certifying devices to the new IVDR requirements once they have been designated under IVDR by their Competent Authority. Our Notified Body is officially designated under the IVDR and listed in the European Commission NANDO database since August 19, 2021. We are working closely with our Notified Body to update our technical documentation to comply with these more stringent IVDR requirements.

Per IVDR 2017/746 Amendment 2021/0323 (COD), devices with a CE certificate that was issued in accordance with IVDD may be placed on the market or put into service until May 26, 2025.

Exceptional Renewal of CE Certificate for IVDD Quality System was granted to Biomerica. Biomerica received an extended CE Certificate on May 24, 2022, which remains effective until May 26, 2025. We have until May 26, 2025, to update the technical documentation and processes to meet these regulatory requirements of IVDR 2017/746.

Per IVDR 2017/746 Amendment 2021/0323 (COD), devices without a CE certificate that was issued in accordance with IVDD, for which a declaration of conformity was drawn up prior to May 26, 2022, per IVDD and for which the conformity assessment procedure pursuant to IVDR requires the involvement of a Notified Body, may be placed on the market, or put into service until the following dates. Biomerica also has until the following dates to update the technical documentation and processes to meet these regulatory requirements of IVDR 2017/746:

(1) May 26, 2025, for class D devices.
(2) May 26, 2026, for class C devices.
(3) May 26, 2027, for class B devices; and
(4) May 26, 2027, for class A devices placed on the market in sterile condition.

SEASONALITY OF BUSINESS

Our business has not been subject to significant seasonal fluctuations.

INTERNATIONAL BUSINESS

The following table sets forth the dollar volume of revenue attributable to sales to domestic customers and foreign customers during our last two fiscal years:

	For the Year Ended May 31,			
	2023		2022	
Asia	$ 2,021,000	38%	$13,375,000	71%
Europe	1,798,000	34%	4,339,000	23%
North America	1,470,000	28%	997,000	5%
Middle East	39,000	1%	70,000	0%
South America	11,000	0%	90,000	1%
Total	**$ 5,339,000**	**100%**	**$18,871,000**	**100%**

We recognize that our foreign sales could be subject to some special or unusual risks, which are not present in the ordinary course of business in the United States. Changes in economic factors, government regulations, terrorism, tariffs, embargos, trade wars, import/export restrictions, disruptions in shipping and distribution channels, drops in demand for our products due to regional or national shut-downs from the COVID-19 pandemic, other disease outbreaks that cause patients' fear or refusal to visit hospitals and healthcare providers due to the pandemic where our products are sold and used, the erosion of economic conditions in those countries, and many other factors all could impact sales within certain foreign countries. In addition, these factors could also impact our ability to collect foreign accounts receivable. Foreign countries have licensing requirements applicable to the sale of diagnostic products, which vary substantially from domestic requirements; depending upon the product and the foreign country, these may be more or less restrictive than requirements within the United States and may change without notice. Foreign sales of our diagnostic products are made primarily through a network of approximately 40 independent distributors in approximately 30 countries.

INTELLECTUAL PROPERTY

We regard the protection of our methodologies, designs, product formulations, manufacturing processes, diagnostic procedures, copyrights, service marks, trademarks, and trade secrets as important to our future success. We rely on a combination of copyright, trademark, patent, service mark and trade secret laws, and contractual restrictions to establish and protect our proprietary rights in products and services. We have entered into confidentiality and invention assignment agreements with our employees and contractors, and nondisclosure agreements with most of our fulfillment partners and strategic partners to limit access to and disclosure of proprietary information. We cannot be certain that these contractual arrangements or the other steps taken by us to protect our intellectual property ("IP") will prevent misappropriation of our technology. We have licensed in the past, and expect that we may license in the future, certain of our proprietary rights, such as trademarks, patents, trade secrets, or copyrighted material, to third parties. While we attempt to ensure that the quality of our product brands is maintained by such licensees, we cannot be certain that such licensees will not take actions that might hurt the value of our proprietary rights or reputation.

LICENSE OF THIRD-PARTY INTELLECTUAL PROPERTY

On occasion, we in-licensed both exclusive and non-exclusive rights to intellectual property and patents owned by third parties. These license agreements typically require royalties and other payments.

We have a royalty agreement in which we obtained rights to manufacture and market an ACTH test (used to detect chronic metabolic conditions). Royalty expenses of approximately $13,000 and $19,000, respectively, are included in cost of sales for this agreement for the fiscal years ended May 31, 2023 and 2022. Sales of products manufactured under this agreement are not material to total sales for the fiscal years ended May 31, 2023 and 2022, respectively. We may license other products or technology in the future as it is deemed necessary or opportunistic for conducting business.

Some of the products that we manufacture, sell, or use may be covered by claims in issued patents held by other persons or entities, and as such, upon notice from such persons or entity we may be required to pay a license fee or may be required to cease all manufacture, sale or use of such products, which could negatively impact us. While we have not been notified of any such claims by third parties, we cannot guarantee that such claims will not be made in the future.

BRANDS AND TRADEMARKS

We occasionally register our tradenames with the U.S. Patent and Trademark Office ("USPTO"). Of note, we registered the tradename "InFoods" on December 24, 2016. Our unregistered tradenames are "EZ Detect," "EZ-H.P.," and "EZ-PSA". A trademark for "Aware" was issued and assigned in 2001, renewed in 2011 and 2021. On January 11, 2020, the USPTO renewed our "FORTEL" trademark for another ten years.

The laws of some foreign countries do not protect our proprietary rights to the same extent as do the laws of the United States. Effective copyright, trademark, and trade secret protection may not be available in such jurisdictions.

PATENTS AND INFOODS TECHNOLOGY

We have filed over 100 international and Patent Corporation Treaty patents ("PCT") and have over multiple provisional and non-provisional patents currently filed with the USPTO. Substantially all of our patents that are pending or registered pertain to the InFoods® technology platform.

Our most important family of patent applications pertains to our InFoods® technology platform, which is a method of diagnosing and treating symptoms of many different inflammatory diseases. Our first product launch using this technology is the InFoods® IBS product which is designed to diagnose and treat IBS. Using a patient blood sample, a physician or lab can run our test to identify specific foods (e.g., pork, milk, shrimp, broccoli, eggs) that, if eliminated from an IBS patient's diet, can alleviate or reduce the individual's IBS symptoms, including, but not limited to, constipation, diarrhea, bloating, cramping, severe pain, and indigestion. We have filed many patent applications with the USPTO and with other such similar agencies in other countries outside of the United States pertaining to this InFoods® technology. These patent applications include claims that address the diagnosis and treatment of several disease states including IBS, functional dyspepsia, Crohn's disease, ulcerative colitis, gastroesophageal reflux disease, osteoarthritis, psoriasis, migraine headaches, and depression. These applications include the use of this technology in both humans and animals. The first InFoods® patents filed by us pertained to IBS. Several of these patents pertaining to the InFoods® IBS technology have been issued and many more are in active review and prosecution.

In August 2018, we received our first patent pertaining to the InFoods® technology platform from the Korean Intellectual Property Office, covering IBS. Since then, we have been granted a total of 19 patents; The United States Patent and Trademark Office ("USPTO") has issued the Company two patents with broad claims that protect our InFoods® technology in testing and treating patients with IBS. Patents have also been issued in the countries of Australia (two patents), Canada, Japan (two patents), Korea (two patents), Mexico, Panama, Peru, and Singapore, covering our InFoods® IBS technology. Additional patent applications pertaining to the InFoods® IBS product are in prosecution and review at the USPTO and with the patent issuance authorities in other countries.

We are also developing and have filed patents with claims that cover products that target other diseases utilizing the InFoods® technology platform. We have dozens of patents in prosecution or review pertaining to these other diseases, including: Functional Dyspepsia, Crohn's disease, Ulcerative Colitis, Gastroesophageal Reflux disease ("GERD"), Migraine Headaches, Depression, and Osteoarthritis. In addition, we have a family of patents that cover the use of certain information technology ("IT") platforms and artificial intelligence/machine learning ("AI/ML") tools that could assist patients in identifying and avoiding packaged or processed food that contain specific foods that they are trying to eliminate from their diet.

In addition to our IBS related issued patents, we have also been issued InFoods® technology patents in the following countries pertaining to the following diseases: Australia – Attention Deficit Disorder ("ADD") and Attention Deficit Hyperactivity Disorder ("ADHD"); Australia – GERD; Japan - psychological depression, IT based food monitoring and elimination technology; China – IT based food monitoring and elimination technology.

We believe the claims in these issued InFoods® IBS patents and claims in our pending patents that protect the use of the InFoods® technology to diagnose and treat various other diseases, provide us with broad protections from other companies making or selling competing products in this highly disruptive new field of medicine.

In addition to the use of our own patents, we have acquired from third parties the rights to manufacture and sell certain products that are protected by patents or intellectual property owned by these third parties. In some cases, royalties are paid on the sales of these products. We anticipate that we will license or purchase the rights to other products or technologies in the future.

We also engage in contract research and development and contract manufacturing for third party companies. The technologies that relate to this contract R&D and manufacturing are protected by patents and other intellectual property. In these situations, this intellectual property is typically licensed to us under a limited license agreement enabling us to perform the services being contracted.

We recently completed an endpoint determination clinical trial on our InFoods® IBS product. Our business model for this product includes the possible out-licensing of this product and the related patents to a large international life sciences or technology company that would commercialize the product or assist us with the commercialization. We may also out-license the patents or other intellectual property pertaining to one or more of our other products including but not limited to our H. Pylori product.

EMPLOYEES

As of May 31, 2023 and 2022, we employed a total of 62 and 64 employees, respectively, in the United States, Mexico, and Germany, of which 62 and 64 were full-time employees, respectively. Various employees listed in the production department also perform research and development duties as a routine function of their job. We occasionally employ temporary employees when needed.

The following is a breakdown of employees by departments:

	May 31,	
	2023	2022
Administrative	5	8
Research & Development	9	8
Sales & Marketing	7	6
Production & Operations	41	42
Total	**62**	**64**

We also engage the services of many outside Ph.D.'s, M.D.'s, and other types of industry expert consultants and organizations as well as medical institutions for technical support, regulatory advisors, marketing and public relations advisors, financial advisors, contract product development and manufacturing organization, and other advisors on a regular basis. We try to protect the Company with the use of confidentiality, intellectual property ownership, and indemnifications agreements. However, we cannot guarantee that the use of such experts will fully protect the Company from third-party claims or from theft of our intellectual property.

ITEM 1A. RISK FACTORS

The risks described below are not the only ones we face. Additional risks and uncertainties we are not presently aware of or that we currently believe are immaterial may also impair our business operations. Our business could be harmed by any of these risks and uncertainties. The trading price of our common stock could decline due to any of these risks, and you may lose all or part of your investment. In assessing these risks, you should also refer to the other information contained or incorporated by reference into this annual report on Form 10-K, including our consolidated financial statements and related notes.

RISKS RELATED TO OUR BUSINESS

Our business could be adversely affected by the effects of widespread public health epidemics or other broad government-imposed restrictions on societies.

During recent years, certain aspects of our business were negatively impacted by the COVID-19 pandemic. We may be materially impacted by ongoing outbreaks of illness or other health issues, such as the COVID-19 outbreak. The outbreak of the COVID-19 virus caused various governments, including the United States, to implement quarantines, various restrictions on transportation, and shelter in place orders and other broad restrictions. Governments have also implemented sweeping work restrictions that prohibit most employees from going to work. The Company faces significant future risks from such government imposed restrictions, laws and regulations pertaining to health epidemics or various other government declared crisis', that include but are not limited to: a) supply chain disruptions making it difficult for the Company to receive materials needed for production of its products, and needed to ship finished products to our customers, b) loss of contracts and customers from the financial strains or other disruptions they are experiencing as a result of the government restrictions, c) financial risks pertaining to receivables due from customers that may fall into insolvency or otherwise be unable to pay their bills, d) government orders that make it difficult to remain open for business, restrict imports of raw materials or exports of finished goods, refusal to allow the Company's product to be licensed for sale in their countries, and other seen and unforeseen actions taken by government agencies, e) absenteeism or loss of employees at the Company, or at our partner's companies, due to health reasons or government restrictions, that are needed to develop, validate, manufacture, and perform other necessary functions for our operations, f) equipment failures, loss of utilities, and other disruptions that could impact our operations or render them inoperable, g) litigation or government actions against the Company pertaining to existing products and new products sold by the Company that are directed at limiting or treating the spread of the pandemic outbreak, h) a local or global recession or depression that could harm the international banking, economic and financial systems, i) a drop in demand for our products, that are all medical related, due to patients' reluctance or refusal to visit hospitals, labs, and doctors' offices where our products are used, due to their fear of contracting a disease, and j) many other seen and unforeseen events and circumstances, all of which could negatively impact the Company.

We have a history of operating losses.

We have historically incurred net losses. There can be no assurance that we will generate net profits in future periods. Further, there can be no assurance that we will be cash flow positive in future periods. In the event that we fail to achieve profitability in future periods, the value of our common stock may decline. In addition, if we are unable to achieve or maintain positive cash flows, we would be required to seek additional funding, which may not be available on favorable terms, if at all.

Our operating results may fluctuate adversely as a result of many factors that are outside our control, which may negatively impact our stock price.

Our operating results are dependent upon many factors that are substantially outside of our control that could materially and adversely affect our business, results of operations, and financial condition. Factors that are beyond our control and that could affect our operating results in the future include:

- regulatory clearance of our products in the U.S. and in other markets;
- regulatory compliance in the U.S., Europe and other territories;
- changes in the level of competition, such as would occur if one of our competitors introduced a new, better performing or lower priced product to compete with one or more of our products;
- changes in the reimbursement systems or reimbursement amounts that end-users may rely upon in choosing to use our products;
- changes in economic conditions in our domestic and international markets, such as economic downturns, decreased healthcare spending, reduced consumer demand, inflation and currency fluctuations; changes in government laws and regulations affecting our business; reluctance for consumers to visit healthcare providers;
- lower than anticipated market penetration of our new or more recently introduced products;
- significant quantities of our product or that of our competitors in our distributors' inventories or distribution channels;
- changes in distributor buying patterns;
- government mandated shelter-in-place, lock downs or other crisis related orders;
- potential resurgence of the COVID-19 virus or mutations of the virus; and
- changes in the healthcare market including consolidation in our customer base.

Fluctuations in our operating results, for any reason, could cause operating losses as a result of significant fixed expenses.

We base the scope of our operations and related expenses on our estimates of future revenues. A significant portion of our operating expenses are fixed, and we may not be able to rapidly adjust our expenses if our revenues fall short of our expectations. Our revenue estimates for future periods are based, among other factors, on estimated end-user demand for our products. If end-user consumption is less than estimated, revenues from our distribution partners and other distribution channels would be expected to fall short of expectations, and because such a significant portion of our costs are fixed, could result in operating losses.

To remain competitive, we must continue to develop, obtain, and protect our proprietary technology rights; otherwise, we may lose market share or need to reduce prices as a result of competitors selling technologically superior products that compete with our products, or selling products at lower prices.

Our ability to compete successfully in the diagnostic market depends on continued development and introduction of new products, technology, and the improvement of existing technology. If we cannot continue to improve upon or develop, obtain, and protect our technology, our operating results could be adversely affected.

Our competitive position is heavily dependent on obtaining and protecting our own proprietary technology or obtaining licenses from others. Our ability to obtain patents and licenses, and their benefits, is uncertain.

To remain competitive, we must expend considerable resources to research new technologies and products and develop new markets, and there is no assurance our efforts to develop new technologies, products, or markets will be successful or such technologies, products, or markets will be commercially viable.

We devote a significant amount of financial and other resources to researching and developing new technologies, new products, and new markets. The development, manufacture and sale of diagnostic products require a significant investment of resources. The development of new products and markets also requires a substantial investment of resources, such as new employees, offices and manufacturing facilities, consultants, and clinical trials. No assurances can be given that our efforts to develop new technologies or products will be successful, that such technologies and products will be commercially viable, or our expansion into new markets will be profitable.

There is also no guarantee that our new products, including our InFoods® IBS products, will get approval and be well accepted into the marketplace.

Our operations will be adversely affected if our operating results do not correspondingly increase with our increased expenditures or if our technology, product, and market development efforts are unsuccessful or delayed. Furthermore, our failure to successfully introduce new technologies or products and develop new markets could have a material adverse effect on our business and prospects.

The Company is required to obtain government or regulatory certification in many countries and the European community to sell its products in those countries or regions. There is no assurance that the Company will be able to retain its certification in the future. This includes the possibility and risk that the Company's products do not meet the new EU IVDR testing and documentation requirements in the future as described in the above "Research and Development" section of this document.

Significant government regulation exists in countries in which we conduct business. A large part of the Company's sales is to distributors in Europe, China, and other countries, which require us to maintain certain certifications to sell our products. Failure to comply with current governmental regulations and quality assurance guidelines could cause the loss of these certifications, which could materially adversely affect the results of the Company. Loss of certifications could lead to temporary manufacturing shutdowns, product recalls, product shortages, or delays in product manufacturing and a decline in sales.

The Company maintains a manufacturing plant in Mexico which presents risks to the Company including risks associated with doing business outside the United States.

The Company has a significant investment in its manufacturing facility in Mexico through its subsidiary, Biomerica de Mexico. In addition, the Company warehouses a significant amount of its inventory at the Mexico facility. There are a number of risks associated with doing business in Mexico, including, exposure to local economic and political conditions, social unrest, including risks of terrorism or other hostilities, export and import restrictions, the potential for shortages of trained labor, and the possible effects of currency exchange rate fluctuations. These risks could lead to additional costs that we cannot foresee at this time and may materially adversely impact our business, results of operations, and financial condition.

We use hazardous materials in our research and production that may result in unexpected and substantial claims against us relating to handling, storage, or disposal.

We use hazardous materials in our research and production. The risk of accidental contamination or injury from these materials cannot be completely eliminated. In the event of such an accident, the Company could be held liable for any harm or damages that result and any such liability could exceed the resources of the Company. The Company may incur substantial costs to comply with environmental regulations.

If any governmental authorities were to impose new environmental regulations requiring compliance in addition to that required by existing regulations or alter their interpretation of the requirements of such existing regulations, such environmental and safety regulations could impair our research, development, or production efforts by imposing additional, and possibly substantial, costs, restrictions, or compliance procedures on our business. In addition, because of the nature of the penalties provided for in some of these environmental and safety regulations, we could be required to pay sizable fines, penalties, or damages in the event of noncompliance with regulations and environmental laws. Any environmental or safety violation or remediation requirement could also partially or completely shut down our research and manufacturing facilities and operations, which would have a material adverse effect on our business. The risk of accidental contamination or injury from these hazardous materials cannot be completely eliminated and exposure of individuals to these materials could result in substantial fines, penalties, or damages that may not be covered by insurance.

We rely on a limited number of key distributors that account for a substantial majority of our total revenue. The loss of any key distributor or an unsuccessful effort by us to directly distribute our products could lead to reduced sales.

Our net sales were approximately $5,339,000 for fiscal 2023 compared to $18,871,000 for fiscal 2022. For the fiscal years ended May 31, 2023 and 2022, the Company had one distributor and two distributors, respectively, which accounted for a total of 35% and 65% of our net sales, respectively. Of this, for the fiscal years ended May 31, 2023 and 2022, the largest of the distributors mentioned above accounted for 35% and 55%, respectively, of net sales.

Total gross receivables on May 31, 2023 and 2022 were approximately $751,000 and $927,000, respectively. As of May 31, 2023 and 2022, the Company had one distributor which accounted for a total of 36% and 50%, respectively, of gross accounts receivable. Of the 36% as of May 31, 2023, 100% was owed by a distributor in Asia. Adverse changes in our relationships with these distributors and other partners, or adverse developments in their financial condition, performance, or purchasing patterns, could adversely affect our business and consolidated financial statements.

We sell to countries in Asia including China where trade policies and political issues could impact our revenues.

Our revenues could be negatively impacted by complex relationships between the United States and other Asian countries including China. While trade between the countries remains extremely strong, there are no assurances that these trade relations continue to be strong.

We extend credit to customers outside the United States which can be difficult to collect.

We extend credit to many of our customers including those outside of the United States. It is often difficult to obtain adequate credit information on these customers. Further, our ability to collect receivables from these customers through the court systems in those countries can be more difficult than here in the United States. Our inability to collect on receivables from customers, in particular those outside of the United States, could negatively impact the Company.

If we are not able to manage our growth strategy our operating results may be adversely affected.

Our business strategy contemplates further growth, which would likely result in expanding into larger facilities, expanding the scope of operating and financial systems and the geographical area of our operations, including further expansion outside the United States, as new products and technologies are developed and commercialized or new geographical markets are entered. Because we have a small executive staff, acquisitions, and other future growth may divert management's attention from core aspects of our business and place a strain on existing management and our operational, financial, and management information systems. Furthermore, we may expand into markets in which we have less experience or incur higher costs. Any and all of these potential growth and expansion strategies and events could impose material risks and cause the Company to incur adverse operating and financial results.

Intellectual property risks and third-party claims of infringement, misappropriation of proprietary rights, or other claims against us could adversely affect our ability to market our products, require us to redesign our products or attempt to seek licenses from third parties, result in significant costs, and materially adversely affect our operating results.

Companies in or related to our industry often aggressively protect and pursue their intellectual property rights. There are often intellectual property risks associated with developing and producing new products and entering new markets, and we may not be able to obtain, at reasonable cost or upon commercially reasonable terms, if at all, licenses to intellectual property of others that is alleged to be part of such new or existing products.

We rely on IP for the current products we sell and for the new products in research, development, and in clinical trials. While the Company tries to protect its IP with confidentiality agreements and internal policies, we still face risks that our IP will be stolen or otherwise misappropriated, by parties inside or outside of the United States. Further, we have filed many patents around the world on much of the research and development done by the Company, and the proposed products to come from this research. The majority of these filed patents are still under review and have not yet been allowed or issued. We may not be able to attain patent claims that adequately protect the company from competitors developing similar products or copying our products. Finally, there is a great number of issued patents owned by others that pertain to the product categories in which we operate. While we do not know of any patents with claims that we are violating by manufacturing or selling our current products, there is a risk that certain third-party patents will come to our attention that prohibit us from selling our products or that require us to pay royalty payments. Such third-party claims could have a material negative impact on the Company. Any of these IP-related risks could cause material damage to future revenues and to the long-term enterprise values of the Company.

We have hired and will continue to hire individuals or contractors who have experience in medical diagnostics and these individuals or contractors may have confidential trade secret or proprietary information of third parties. We cannot assure that these individuals or contractors will not use this third-party information in connection with performing services for us or otherwise reveal this third-party information to us. Thus, we could be sued for misappropriation of proprietary information and trade secrets. Such claims are expensive to defend and could divert our attention and result in substantial damage awards and injunctions that could have a material adverse effect on our business, financial condition, or results of operations. In addition, to the extent that individuals or contractors apply technical or scientific information independently developed by them to our projects, disputes may arise as to the proprietary rights to such data and may result in litigation.

The defense and prosecution of patent and trade secret claims are both costly and time consuming. We or our customers may be sued by other parties that claim that our products have infringed their patents or misappropriated their proprietary rights or that may seek to invalidate one or more of our patents. An adverse determination in any of these types of disputes could prevent us from manufacturing or selling some of our products, limit or restrict the type of work that employees involved with such products may perform for us, increase our costs, and expose us to significant liability. In addition, the defense of such claims could result in significant costs and divert the attention of our management and other key employees.

In addition to the foregoing, we may also be required to indemnify some customers, distributors, and strategic partners under our agreements with such parties if a third party alleges or if a court finds that our products or activities have infringed upon, misappropriated, or misused another person's proprietary rights. Further, our products may contain technology provided to us by other parties such as contractors, suppliers, or customers. We may have little or no ability to determine in advance whether such technology infringes the intellectual property rights of a third party. Our contractors, suppliers, and licensors may not be required or financially able to indemnify us in the event that a claim of infringement is asserted against us, or they may be required to indemnify us only up to a maximum amount, above which we would be responsible for any further costs or damages.

Some of the products that we manufacture, sell, or use may be covered by claims in issued patents held by other persons or entities, and as such, upon notice from such persons or entity, we may be required to pay a license fee or may be required to cease all manufacture, sale or use of such products, which could negatively impact our financial results or operations. We cannot guarantee that such claims will not be made in the future.

We need to continue to raise additional funds to finance our future capital or operating needs, which could have adverse consequences on our operations and the interests of our stockholders.

As a company focused on research and development of new products that do not yet generate revenues, we need to continue to raise funds through public or private debt or sale of equity to achieve our business strategy. When we raise funds or acquire other technologies or businesses through issuance of equity, this dilutes the interests of our stockholders. Moreover, the availability of additional capital, whether debt or equity from private capital sources (including banks) or the public capital markets, fluctuates as our financial condition and industry or market conditions in general change. There may be times when the private capital markets and the public debt or equity markets lack sufficient liquidity or when our securities cannot be sold at attractive prices, in which case we would not be able to access capital from these sources on favorable terms, if at all. We can give no assurance as to the terms or availability of additional capital.

Our inability to raise additional funds to finance our future capital or operating needs could force us to delay, reduce, or eliminate our development programs or commercialization efforts.

Costs related to development projects and approvals are hard to estimate due to factors that are unknown to us at this time. These future costs could be much higher than anticipated and current operations are unlikely to be able to cover these costs.

Clinical trials involve a lengthy and expensive process with an uncertain outcome, and results of studies and trials may not be predictive of future trial results.

Clinical trials are expensive, time consuming, and difficult to design and implement. Regulatory agencies may analyze or interpret the results differently than we do. Even if the results of our clinical trials are favorable, the clinical trials for a number of our product candidates may take a significant amount of time to complete. Regulatory authorities, including state and local authorities, may suspend, delay or terminate our clinical trials at any time, require us to conduct additional clinical trials, require a particular clinical trial to continue for a longer duration than originally planned, or require a change to our development plans such that we conduct clinical trials for a product candidate in a different order. There is no assurance that the results of the clinical trials will be positive. A negative clinical trial could affect our ability to obtain regulatory clearances and/or potential licensing partners. There is also no assurance that our clinical trials will not be delayed or will be completed. Any of the foregoing could have a material adverse effect on our business, results of operations and financial condition.

Our results of operations and financial conditions may be adversely affected by the financial soundness of our customers, distributors, and suppliers.

If our customers' or suppliers' operating and financial performance deteriorates, or if they are unable to make scheduled payments or obtain credit, our customers may not be able to pay, or may delay payment of, accounts receivable owed to us, and our suppliers may restrict credit or impose different payment terms or reduce or terminate production of products they supply to us, or may cease all operations. Any inability of customers to pay us for our products and services, or any demands by suppliers for different payment terms, or inability for such suppliers to continue operations may adversely affect our operating results and financial condition. Additionally, both state and federal government sponsored and private payers, as a result of budget deficits or reductions, may seek to reduce their healthcare expenditures by cutting or eliminating reimbursements for, or cutting purchase of our products. Any reduction in payments by such government sponsored or private payers may adversely affect our earnings and cash flow.

We may not achieve market acceptance of our new products among healthcare providers and physicians, and this would have a negative effect on future sales.

We believe our ability to introduce new products that gain acceptance among consumers, healthcare providers, and physicians is an important part of our ability to grow our revenue in future periods. However, any new products we introduce may not gain market acceptance to the extent we anticipate or project. The acceptance in the medical community for any of our new products is unpredictable at this time. In addition, the Company will need to spend considerable funds in order to introduce new products into the marketplace. Sales, if any, of these products in the future are uncertain. In addition, our competitors may offer different products and product formats at suggested prices that are lower than our products or whose products are more accurate than our products. We can provide no assurances that consumers and the medical community will purchase our products or that they will not prefer to purchase a competitive product.

The industry and market segments in which we operate are highly competitive, and intense competition with other providers of diagnostic products may reduce our sales and margins.

Our diagnostic tests compete with similar products made by our competitors. There are a large number of multinational and regional competitors making investments in competing technologies and products. We also face competition from our distributors as some have created, and others may decide to create their own products to compete with ours. A number of our competitors have a potential competitive advantage because they have substantially greater financial, technical, research and other resources, larger, more established marketing, sales, distribution and service organizations; more established relationships with healthcare professionals; and greater experience in conducting research and development, manufacturing, clinical trials, and obtaining regulatory approval for products. Moreover, some competitors offer broader product lines and have greater name recognition than we have. If our competitors' products are more effective than ours or take market share from our products through more effective marketing or competitive pricing, our operating results could be materially and adversely affected.

In addition, there has been a trend toward industry consolidation in our markets over the last few years. We may not be able to compete successfully in an increasingly consolidated industry. We expect this trend toward industry consolidation may continue as companies attempt to strengthen or hold their market positions in an evolving industry and as companies are acquired or are unable to continue operations.

Our business and products are highly regulated by various governmental agencies. Our results of operations would be negatively affected by failures or delays in the receipt of regulatory approvals or clearances, the loss of previously received approvals, or other changes to the existing laws and regulations that adversely impact our ability to manufacture and market our products.

The testing, manufacturing, and sale of our products are subject to regulation by numerous governmental authorities in the United States, principally the FDA, and corresponding state and foreign regulatory agencies. Our future performance depends on, among other matters, if, when, and at what cost we will receive regulatory approval for new products, and if we can continue to comply with the many regulatory requirements that enable us to manufacture and sell medical related products and tests. Regulatory review can be a lengthy, expensive, and uncertain process, making the timing and costs of clearances and approvals difficult to predict. Meeting all regulatory requirements, laws and mandates, and maintaining compliance with such in order to manufacture and sell medical products can be difficult and expensive. Our results of operations would be negatively affected by failures or delays in the receipt of regulatory approvals or clearances, the loss of previously received approvals or clearances, the placement of limits on the marketing and use of our products, and restrictions on our ability to manufacture our products.

Changes in government policy could adversely affect our business and potential profitability.

Changes in government policy could have a significant impact on our business by increasing the cost of doing business, affecting our ability to sell our products and negatively impacting our profitability. Such changes could include tariffs, embargos, trade wars, modifications to existing legislation, such as U.S. tax policy, or entirely new legislation, such as the Affordable Healthcare Act in the United States. We cannot predict the many ways that healthcare reform in the United States and internationally, and changing trade legislation and policies could adversely affect our business. It is unclear whether and to what extent, if at all, other anticipated developments, including changes due to new presidential administration priorities, or changes resulting from healthcare reform, such as a change in the number of people with health insurance, may impact us.

We are subject to numerous government regulations in addition to FDA regulations, and compliance with laws, including changed or new laws, could increase our costs and adversely affect our operations. There is also the risk that our facilities could fail to get the proper licensing at our next inspection or renewal.

In addition to FDA and other regulations referred to above, numerous laws relating to such matters as safe working conditions, manufacturing practices, data privacy, environmental protection, fire hazard control, and disposal of hazardous or potentially hazardous substances impact our business operations. If these laws or their interpretation change or new laws regulating any of our businesses are adopted, the costs of compliance with these laws could substantially increase our overall costs. Failure to comply with any laws, including laws regulating the manufacture and marketing of our products, could result in substantial costs and loss of sales or customers. Because of the number and extent of the laws and regulations affecting our industry, and the number of governmental agencies whose actions could affect our operations, it is impossible to reliably predict the full nature and impact of future legislation or regulatory developments relating to our industry and our products. To the extent the costs and procedures associated with meeting new or changing requirements are substantial, our business, results of operations and financial condition could be adversely affected.

Our total revenue could be affected by third-party reimbursement policies and potential cost constraints.

The end-users of our products are primarily physicians, labs, and other healthcare providers. In the United States, healthcare providers such as hospitals and physicians who purchase diagnostic products generally rely on third-party payers, principally private health insurance plans, federal Medicare, and state Medicaid, to reimburse all or part of the cost of the procedure. Use of our products would be adversely impacted if physicians and other healthcare providers do not receive adequate reimbursement for the cost of our products by their patients' third-party payers both in the United States and in foreign markets. Our total revenue could also be adversely affected by changes or trends in reimbursement policies of governmental or private healthcare payers. We believe that the overall escalating cost of medical products and services has led to, and will continue to lead to, increased pressures on the healthcare industry, both foreign and domestic, to reduce the cost of products and services. Given the efforts to control and reduce healthcare costs in recent years, currently available levels of reimbursement may not continue to be available in the future for our existing products or products under development. Third-party reimbursement and coverage may not be available or adequate in either the United States or foreign markets, current reimbursement amounts may be decreased in the future and future legislation, regulation, or reimbursement policies of third-party payers may reduce the demand for our products or adversely impact our ability to sell our products on a profitable basis.

Unexpected increases in, or inability to meet, demand for our products could require us to spend considerable resources to meet the demand or harm our reputation and customer relationships if we are unable to meet demand.

Our inability to meet customer demand for our products, whether as a result of manufacturing problems or supply shortfalls, could harm our customer relationships and impair our reputation within the industry. In addition, our product manufacturing of certain product lines is concentrated in our two manufacturing sites. Weather, natural disasters (including pandemics), fires, terrorism, political change, governmental restrictions or stay-at-home orders in response to natural disasters (including pandemics), failure to follow specific internal protocols and procedures, equipment malfunction, environmental factors, or damage to one or more of our facilities could adversely affect our ability to manufacture our products. This, in turn, could have a material adverse effect on our business.

If we experience unexpected increases in the demand for our products, we may be required to expend additional capital resources or engage third-party manufacturers to meet these demands. These capital resources could involve the cost of new machinery or even the cost of new manufacturing facilities. In addition, engaging third-party manufacturers would increase manufacturing costs and reduce margins. This would increase our capital costs or third-party expenses, which could adversely affect our earnings and cash resources. If we are unable to develop or obtain necessary manufacturing capabilities in a timely manner or to engage third-party manufacturers to meet demand, our total revenue could be adversely affected. Failure to cost-effectively increase production volumes, if required, or lower than anticipated yields or production problems, including those encountered as a result of changes that we may make in our manufacturing processes to meet increased demand or changes in applicable laws and regulations, could result in shipment delays as well as increased manufacturing costs, which could also have a material adverse effect on our business, operating results and financial condition.

Unexpected increases in demand for our products could also require us to obtain additional raw materials in order to manufacture products to meet the demand. Some raw materials require significant ordering lead time and we may not be able to timely access sufficient raw materials in the event of an unexpected increase in demand, particularly those obtained from a sole supplier or a limited group of suppliers.

If one or more of our products is claimed to be defective or does not meet the performance criteria we claim in our marketing materials, we could be subject to product recalls, claims of liability, harm to patients or users of our products, or harm to our reputation that could adversely affect our business.

A claim of a defect in the design or manufacture of our products could have a material adverse effect on our reputation in the industry and subject us to claims of liability for injuries and otherwise. Further, a claim that one of our products is defective or does not actually meet the performance criteria we claim in our marketing materials, could require a product recall or otherwise have a substantial impact on our revenues and financial performance. Any substantial underinsured loss resulting from such a claim or defect would have a material adverse effect on our operating results and financial conditions and the damage to our reputation or product lines in the industry could have a material adverse effect on our business.

We are exposed to business risks which, if not covered by insurance, could have an adverse effect on our results of operations. We face potential product liability exposure, and, if claims brought against us are successful, we could incur substantial liabilities.

We face a number of business risks, including exposure to product liability claims, employment law claims, claims that the Company or its officers, directors or employees have engaged in illegal or wrongful acts, claims of violation of environmental laws, and many other possible claims. Although we maintain insurance for a number of these risks, we may face claims for types of damages, or for amounts of damages, that are not covered by our insurance. For example, although we currently carry product liability insurance for liability losses, there is a risk that product liability or other claims may exceed the amount of our insurance coverage or may be excluded from coverage under the terms of our policy. Also, our existing insurance may not be renewed at the same cost and level of coverage as currently in effect or may not be renewed at all. Further, we do not currently have insurance against many environmental risks we confront in our business. If we are held liable for a claim against which we are not insured or for damages exceeding the limits of our insurance coverage, whether arising out of product liability matters, cybersecurity matters, or from some other matter, that claim could have a material adverse effect on our results of operations.

We may rely on third parties to conduct or be part of our clinical trials. If these third parties do not successfully carry out their contractual duties or meet expected deadlines, we may not be able to seek or obtain regulatory approval for or commercialize our product candidates.

We rely on third-party contract research organizations ("CROs"), universities or/clinical sites ("Vendors"), to coordinate, monitor and conduct of our clinical trials and to manage, analyze, and interpret data for our clinical programs. We, our Vendors, and our clinical sites are required to comply with current Good Clinical Practices ("GCPs"), regulations, and guidelines issued by the FDA and by similar governmental authorities in other countries where we are conducting clinical trials. We have an ongoing obligation to monitor the activities conducted by our Vendors and at our clinical sites to confirm compliance with these requirements. In the future, if we, our Vendors or our clinical sites fail to comply with applicable GCPs, the clinical data generated in our clinical trials may be deemed unreliable and the FDA may require us to perform additional clinical trials before approving our marketing applications. If our Vendors do not successfully carry out their contractual duties or obligations or meet expected deadlines, if they need to be replaced, or if the quality or accuracy of the clinical data they obtain is compromised due to their failure to adhere to our clinical protocols, regulatory requirements or for other reasons, our clinical trials may be extended, delayed or terminated, and we may not be able to obtain regulatory approval for or successfully commercialize our product candidates. As a result, our financial results and the commercial prospects for our product candidates would be harmed, our costs could increase, and our ability to generate revenue could be delayed.

Failures in our information technology and storage systems could significantly disrupt our business or force us to expend excessive costs.

We utilize complex information technology systems to support our business and store information. We cannot be sure that our systems will meet our future business needs or that necessary upgrades will operate as designed, which could result in excessive costs or disruptions in portions of our business. In particular, any disruptions, delays, or deficiencies caused by our enterprise resource planning system could adversely affect our ability to process orders, ship products, provide services and customer support, send invoices and track payments, fulfill contractual obligations, or otherwise operate our business. In addition, despite the implementation of security measures, information technology systems are vulnerable to damage from a variety of sources, including computer viruses, unauthorized access, telecommunications or network failures, malicious human acts, terrorism, and natural disasters. Moreover, despite network security and back-up measures, some of our servers are potentially vulnerable to physical or electronic break-ins, computer viruses and similar disruptive problems. Cyber security is a great and growing risk to operating companies. Cyber-attacks may result in loss of vital Company documentation and data, or confidential third-party documents held by the Company, that are necessary for the Company to operate. Despite the precautionary measures we have taken to prevent unanticipated problems that could affect our systems, sustained or repeated system failures that interrupt our ability to generate and maintain data, could result in a material disruption in our operations and material adverse financial costs to the Company. Furthermore, to the extent that any disruption or security breach resulted in a loss of or damage to our data or applications, or inappropriate disclosure of confidential or proprietary information, we could face a variety of negative consequences, including regulatory actions or litigation, fines or penalties, adverse publicity, increased cybersecurity protection costs, and lost revenue.

There is a risk that our measures to protect our systems from cyber-attack are not sufficient to avoid attacks by new sources and methods.

Our business could be negatively affected by the loss of or the inability to hire key personnel.

Our future success depends in part on our ability to retain our key technical, sales, marketing, and executive personnel and our ability to identify and hire additional qualified personnel. Competition for these personnel is intense, both in the industry in which we operate and where our operations are located. Further, we expect to grow our operations, and our needs for additional management and other key personnel are expected to increase. If we are not able to retain existing key personnel, or timely identify and hire replacement or additional qualified personnel to meet expected growth, our business could be adversely impacted. In addition, the loss of any of our key personnel, particularly key research and development personnel, could harm our business and prospects and could impede the achievement of our research and development, operation or strategic objectives.

We face risks relating to our international sales, including inherent economic, political, and regulatory risks, which could impact our financial performance, cause interruptions in our current business operations and impede our growth strategy.

Our products are primarily sold internationally, with the majority of our international sales to our distributors in Asia and Europe. We currently sell and market our products through distributor organizations and sales agents which creates foreign risks include, among others:

- compliance with multiple different registration requirements and new and changing registration requirements, our inability to benefit from registration for our products inasmuch as registrations may be controlled by a distributor, and the difficulty in transitioning our product registrations;
- compliance with complex foreign and U.S. laws and regulations that apply to our international operations, including U.S. laws such as import/export limitations, the Foreign Corrupt Practices Act, and local laws;
- tariffs or other barriers as we continue to expand into new countries and geographic regions, especially related to China as tariffs are changing constantly;
- exposure to currency exchange fluctuations against the U.S. dollar;
- longer payment cycles, generally lower average selling prices and greater difficulty in accounts receivable collection;
- lack of ability to enforce receivables collections contracts in foreign legal courts;
- reduced, or lack of protection for, and enforcement of, intellectual property rights;
- political and economic instability in some of the regions where we currently sell our products or that we may expand into in the future;
- complex and potentially adverse tax consequences; and
- diversion to the United States of our products sold into international markets at lower prices.

Currently, most of our international sales are negotiated for and paid in U.S. dollars. Nonetheless, these sales are subject to currency risks, since changes in the values of foreign currencies relative to the value of the U.S. dollar can render our products comparatively more expensive. These exchange rate fluctuations could negatively impact international sales of our products, as could changes in the general economic conditions in those markets. In order to maintain a competitive price for our products internationally, we may have to continue to provide discounts or otherwise effectively reduce our prices, resulting in a lower margin on products sold internationally. Continued change in the values of the Euro, the Mexican peso and other foreign currencies could have a negative impact on our business, financial condition, and results of operations.

In addition, we have certain supply agreements with foreign vendors whereby we share the foreign currency exchange fluctuation risk. We may, in the future, enter into similar arrangements.

A material portion of our revenues come specifically from sales to our distribution partner located in China, who sells into the Chinese market. Future political tensions between the U.S. and China governments could cause a disruption or reduction in our sales into that market.

Sales of our common stock in the public market could lower the market price for our common stock and adversely impact the trading price of our securities.

Future sales by the Company of a substantial number of shares of our common stock in the public market, or the perception that such sales may occur, could adversely affect the then prevailing market price of our common stock and could make it more difficult for us to raise funds in the future through a public offering of our securities.

On July 21, 2020, we filed with the SEC a “shelf” registration statement on Form S-3. The registration statement registers common shares that may be issued by the Company in a maximum aggregate amount of up to $90,000,000. Shares of our common stock may be sold from time to time under this registration statement for up to three years from the filing date. On January 22, 2021, we filed a prospectus supplement for the sale of up to $15,000,000 of shares of our common stock in an at-the-market (“ATM”) offering under the shelf registration statement, of which approximately $5,290,000 were sold under the ATM. In March 2023, we terminated the ATM offering and sold 3,333,333 shares of our common stock in a firm commitment public offering under the shelf registration statement. Shares sold in the underwritten public offering were sold at a gross sales price of $2.40 per share, resulting in net proceeds from the offering, after deducting issuance fees and expenses, of approximately $7,300,000. At fiscal year-end 2023, the Company did not have an open ATM offering in place. However, the Company may in the future commence a new ATM offering or otherwise sell securities under a registration statement or in private placements, which sales would be dilutive to existing shareholders.

The issuance of additional shares of our common stock, or issuances of additional securities, could dilute the ownership interest of our common stockholders and could depress the market price of shares of our common stock and impair our ability to raise capital through the sale of additional equity securities. We cannot predict the size of future issuances or the effect, if any, that they may have on the market price for our common stock.

We also have a number of stockholders who own large blocks of our common stock. If one or more of these stockholders were to sell large portions of their holdings in a relatively short time, for liquidity or other reasons, the prevailing market price of shares of our common stock could be negatively affected.

The price of our stock may fluctuate unpredictably in response to factors unrelated to our operating performance.

The stock market periodically experiences significant price and volume fluctuations that are unrelated to the operating performance of particular companies. These broad market fluctuations may cause the market price of our common stock to drop. In particular, the market price of our common stock has been very volatile and unpredictable and may vary substantially in the future in response to:

- announcements by us or our competitors concerning technological innovations;
- introductions of new products by us or by our competitors;
- FDA, SEC, Financial Industry Regulation Authority, and foreign regulatory actions against the Company;
- developments or disputes relating to patents or proprietary rights;
- failure to meet the expectations of stock market analysts and investors;
- the Company reporting material weakness in our internal control;
- changes in stock market analyst recommendations regarding our common stock;
- changes in healthcare policy in the United States or other countries;
- lawsuits or liability claims from shareholders or other parties;
- legal disputes or other developments relating to proprietary rights, including patents, litigation matters and our ability to obtain patent protection for our product candidates, and the results of any proceedings or lawsuits, including patent or shareholder litigation;
- possible recalls of our products or false positive/false negative results;
- sales of our common stock or other securities by us or our stockholders in the future;
- trading volume of our common stock;
- actual or anticipated variations in quarterly operating results;
- publication of research reports about us or our industry or positive or negative recommendations or withdrawal of research coverage by securities analysts;
- effects of natural or man-made catastrophic events, including widespread public health epidemics like the pandemic related to COVID-19;
- general stock market conditions and other factors unrelated to our operating performance;
- volatility and disruptions in the capital and credit markets due to rising inflation and interest rates
- wars or expansion of wars or other related actions and events that impact the markets in which we operate; and
- political or societal unrest in the markets in which we operate.

Trading of our common stock is not significant, therefore sales of a larger volume of the stock could adversely affect the stock price.

As of August 26, 2016, our Company's stock has been traded on the Nasdaq Capital Market. Trading of our stock is limited and liquidation of the Company's stock may be difficult as there is a limited market for our stock.

Our ability to use our net operating loss carry forwards in the future may be subject to limitation.

Although we have Federal income tax net operating loss carryforwards of approximately $21,778,000 and California state income tax net operating loss carryforwards of approximately $17,090,000, use of these loss carryforwards will depend on future income in relationship to expirations dates of these carryforwards.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

The Company leases its facilities. On May 31, 2023, the Company had approximately 22,000 square feet of floor space at its corporate headquarters at 17571 Von Karman Avenue in Irvine, California, 92614 which it has been leasing since 2009. This lease was scheduled to expire on August 31, 2016, but the Company had an option to extend the term of its lease for two additional sixty-month periods. On November 30, 2015, the Company exercised its option to extend its lease for an additional sixty-month period and entered into the First Amendment to Lease wherein it extended its lease until August 31, 2021. On April 9, 2021, the Company exercised its second option to extend its lease for an additional five years. When the Company extended its lease in April 2021, it was also granted an additional five- year lease extension option. The current rent is approximately $26,000 per month and will increase on September 1, 2023, to $27,000 per month. The security deposit is approximately $22,000.

In November 2016, the Company's Mexican subsidiary, Biomerica de Mexico, entered into a 10-year lease for approximately 8,100 square feet of manufacturing space located in Mexicali, Mexico. The Company has one 10-year option to renew at the end of the initial lease period. The current rent is approximately $3,100 per month. Biomerica de Mexico also leases a smaller unit on a month-to-month basis for use in one manufacturing process. In addition, the Company leases a small office in Lindau, Germany on a month-to-month basis, as headquarters for BioEurope GmbH, its Germany subsidiary.

We believe our space is adequate for our current needs.

ITEM 3. LEGAL PROCEEDINGS

The Company is, from time to time, involved in legal proceedings, claims and litigation arising in the ordinary course of business that have a negative impact on the financial results of the Company. While the amounts claimed may be substantial, the ultimate liability cannot be estimated because of considerable uncertainties that exist. Therefore, it is possible the outcome of such legal proceedings, claims, and litigation could have a material negative effect on quarterly or annual operating results or cash flows when resolved in a future period. However, based on facts currently available, management believes such matters will not have a material adverse effect on the Company's consolidated financial position, results of operations or cash flows.

There were no legal proceedings pending as of May 31, 2023.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR COMMON EQUITY AND RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

The Company's common stock is listed for trading on the Nasdaq Capital Market stock exchange under the symbol BMRA.

As of August 25, 2023, the number of holders of record of Biomerica's common stock was approximately 800, excluding stock held in street name. The number of record holders does not bear any relationship to the number of beneficial owners of the common stock as most of the Company's common stock is held in street name at securities brokerage firms.

The Company has not paid any cash dividends on its common stock in the past and does not plan to pay any cash dividends on its common stock in the foreseeable future. The Company intends, for the foreseeable future, to retain any earnings to finance the continued operation and expansion of the Company's business.

We did not purchase any of our shares of common stock or other securities during our fiscal year ended May 31, 2023.

The table below provides information relating to our equity compensation plans as of May 31, 2023:

Securities Plan Category	Number of Securities to be Issued Upon Exercise of Outstanding Options	Compensation Plans Weighted-Average Exercise Price of Outstanding Options	Securities Remaining Available for Future Issuance Under Compensation Plans (Excluding those Reflected in Second Column)
Equity compensation Plans approved by Securities holders	2,342,616	$ 3.52	28,301

ITEM 6. RESERVED

Not required.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis in conjunction with our consolidated financial statements and the accompanying notes thereto included in Part II, Item 8 of this Report. This discussion and analysis contains forward-looking statements that are based on our management's current beliefs and assumptions, which statements are subject to substantial risks and uncertainties. Our actual results may differ materially from those expressed or implied by these forward-looking statements as a result of many factors, including those discussed in "Risk Factors" included in Part I, Item 1A of this Report.

OVERVIEW

Biomerica, Inc. and its subsidiaries (which includes wholly-owned subsidiaries, Biomerica de Mexico and BioEurope GmbH), is a biomedical technology company that develops, patents, manufactures and markets advanced diagnostic and therapeutic products used at the point-of-care (physicians' offices and over-the-counter through drugstores and online) and in hospital/clinical laboratories for detection and/or treatment of medical conditions and diseases. Our diagnostic test kits are used to analyze blood, urine, nasal, or fecal material from patients in the diagnosis of various diseases, food intolerances and other medical complications, or to measure the level of specific hormones, antibodies, antigens, or other substances, which may exist in the human body in extremely small concentrations. The Company's products are designed to enhance the health and well-being of people, while reducing total healthcare costs.

Our primary focus is the research, development, commercialization and in certain cases regulatory approval, of patented, diagnostic-guided therapy ("DGT") products to treat gastrointestinal diseases, such as irritable bowel syndrome ("IBS"), and other inflammatory diseases. These products are directed at chronic inflammatory illnesses that are widespread and common, and as such address very large markets. Our InFoods® IBS product uses a simple blood sample and is designed to identify patient-specific foods that, when removed from the diet, may alleviate IBS symptoms such as pain, bloating, diarrhea, and constipation. Instead of broad and difficult to manage dietary restrictions, the InFoods® IBS product works by identifying a patient's above normal immunoreactivity to specific foods. A food identified as positive, and causing an abnormal immune response in the patient is simply removed from the diet to help alleviate IBS symptoms.

During fiscal 2022, we completed an endpoint determination clinical trial on our InFoods® IBS product. This trial was conducted at Mayo Clinics in Florida and Arizona, Beth Israel Deaconess Medical Center Inc., a Harvard Medical School Teaching Hospital, University of Texas Health Science Center at Houston, Houston Methodist, the University of Michigan, and other institutions. This trial monitored IBS patients over an 8-week treatment period to determine the efficacy of our InFoods® IBS product to improve the patients' IBS symptoms or endpoints. The top-line trial results were reported in February 2022. Multiple endpoints demonstrated statistically significant improvements, indicating that the elimination of specific foods may meaningfully reduce the symptoms of IBS in each patient subtype (including patients with IBS-Constipation, IBS-Diarrhea & IBS-Mixed). The greatest clinical improvements, including but not limited to abdominal pain and bloating, were seen in patients diagnosed with IBS-Mixed and IBS-Constipation, in the top line data. The purpose of the endpoint study was to validate the efficacy of the product, and to determine the primary symptom endpoint, or endpoints to be used in a final pivotal trial that will be conducted to attain the validation data needed to apply for U.S. Food and Drug Administration ("FDA") clearance for the product. We are continuing to review and refine the complete dataset and have selected the final endpoint that we would intend to use in a final pivotal trial. We are starting to develop the protocol for submission to the FDA, and once approved the trial will be run thereafter. The trial is expected to include the large medical institution participants that conducted the endpoint clinical trial, in addition to other new institutions and a Clinical Research Organization.

Following the successful completion and positive statistical results from the Company's InFoods® IBS clinical trial (run at several prominent centers including Mayo Clinic, Beth Israel Deaconess Medical Center Inc. – a Harvard Medical School Teaching Hospital, Houston Methodist Hospital, and the University of Michigan) which was completed in early calendar 2022, Biomerica received interest from Gastroenterology ("GI") physicians who would like to order the InFoods® IBS test for their patients. As such, we are currently working with key GI physician groups who are interested in offering this product to their patients.

In fiscal 2023, we worked to set up the InFoods® IBS test to be performed in a CLIA certified, and College of American Pathologists ("CAP") accredited high-complexity laboratory facility and offered as a laboratory developed test ("LDT"). During the quarter ended February 28, 2023, the CLIA lab completed all validation testing necessary for the InFoods® IBS product to be offered as an LDT and, as of quarter end, is now accepting patient samples. We also worked to optimize the process for GI physicians to order the InFoods® IBS test, send patient blood samples to the CLIA lab, and receive the test results for their patients. We believe ease of order and workflow for physicians, with easy to understand and actionable results for patients, is critical to our success. During the fiscal third quarter, we also set up customer service and payment systems, along with a dedicated website for patients to receive answers to questions they may have about the test and attain information about how to eliminate a specific food from their diet. This is especially important for foods that are ingredients in common processed foods like milk, eggs, and wheat. As of the end of the fiscal third quarter, the product is now available to physicians and their patients.

We are also beginning the work of selecting and validating one new disease (such as ulcerative colitis or migraines), where there is evidence that certain foods can trigger or contribute to the symptoms found in these indications. We expect any new disease we target will follow a similar development pathway as InFoods® IBS in simultaneously seeking FDA clearance of the product while also launching the product as an LDT.

We will also continue to evaluate partnership/licensing opportunities, as they arise, with U.S and multinational companies that could help us commercialize, or accelerate revenue growth of, the InFoods® products in the United States and overseas.

Our existing medical diagnostic products are sold worldwide primarily in two markets: 1) clinical laboratories and 2) point-of-care (physicians' offices and OTC at Walmart, CVS Pharmacy, Amazon, etc.). The diagnostic test kits are used to analyze blood, urine, nasal, or fecal specimens from patients in the diagnosis of various diseases, food intolerances and other medical complications, by measuring or detecting the existence and/or level of specific bacteria, hormones, antibodies, antigens, or other substances, which may exist in a patient's body, stools, or blood, often in extremely small concentrations.

Due to the global COVID-19 pandemic, in March 2020, we began developing COVID-19 products to indicate if a person has been infected by COVID-19 or is currently infected. In fiscal 2022, we generated revenues from the international sale of our COVID-19 antigen tests. However, in fiscal 2023, due to the decline in severity of COVID-19 and the corresponding lower sales volumes we no longer sell these products.

During fiscal 2022, we finalized development of our H. Pylori diagnostic test that indicates if a patient is infected with the H. Pylori bacteria. H. Pylori infection is extremely common, and if left untreated, can lead to ulcers and possibly stomach cancers. During our fourth quarter of fiscal 2022, we applied for FDA clearance of this product though a 510(k) premarket submission. We have been in communication with the FDA answering certain follow-up questions and providing additional data as requested. We are working with the FDA to perform one additional set of in-lab tests that the FDA has requested prior to making their final determination on clearance of the product. Once cleared, we will begin marketing the product in the U.S. market. We have already begun discussions with international distributors for this product and expect to see revenues through these international channels during 2024.

The majority of our research and development efforts are focused on development and commercialization of non-COVID related products such as our H. Pylori product, and our InFoods® IBS product.

Our existing products that contributed to our fiscal 2023 revenues are primarily focused on gastrointestinal diseases, food intolerances, and certain esoteric tests. These diagnostic test products utilize immunoassay technology. Most of our products are CE marked and/or sold for diagnostic use where they are registered by each country's regulatory agency. In addition, some products are cleared for sale in the United States by the FDA.

RESULTS OF OPERATIONS

Net Sales and Cost of Sales

The following is a breakdown of revenues according to markets to which the products are sold:

	For the Year Ended May 31,		Increase (Decrease)	
	2023	2022	$	%
Clinical lab	$ 3,310,000	$ 3,064,000	$ 246,000	8%
Over-the-counter	1,169,000	1,089,000	$ 80,000	7%
Contract manufacturing	$ 610,000	$ 459,000	$ 151,000	33%
Physician's office	250,000	14,259,000	$ (14,009,000)	-98%
Total	**$ 5,339,000**	**$ 18,871,000**	**$ (13,532,000)**	**-72%**

Our net sales were approximately $5,339,000 for fiscal 2023 compared to $18,871,000 for fiscal 2022, a decrease of $13,532,000, or 72%. This decrease in annual sales is primarily attributable to the decrease of $13,950,000 in sales of COVID-19 tests.

Our cost of sales were approximately $4,893,000 for fiscal 2023 compared to $15,894,000 for fiscal 2022, a decrease of $11,001,000, or 69%. This decrease was driven by the significant decrease in the demand for our COVID-19 tests. The percentage of cost of sales compared to revenue in fiscal 2023 was 92%, versus 84% in fiscal 2022.

Operating Expenses

The following is a summary of operating expenses:

	Year Ended May 31,					
	2023		2022		Increase (Decrease)	
	Operating Expense	As a % of Total Revenues	Operating Expense	As a % of Total Revenues	$	%
Selling, General and Administrative Expenses	$ 6,085,000	114%	$ 5,699,000	30%	$ 386,000	7%
Research and Development	$ 1,584,000	30%	$ 1,812,000	10%	$ (228,000)	-13%

Selling, General and Administrative Expenses

Our selling, general and administrative expenses were approximately $6,085,000 for fiscal 2023 compared to $5,699,000 for fiscal 2022, an increase of $386,000, or 7%. The increase was primarily due to $350,000 in legal expenses and a $290,000 non-recurring write-off of bad debt expense related to COVID-19 sales. This was partially offset by a decrease of $75,000 in share-based compensation expense.

Research and Development

Our research and development expenses were approximately $1,584,000 for fiscal 2023 compared to $1,812,000 for fiscal 2022, a decrease of $228,000, or 13%, primarily as a result of decreases in costs related to the research, development and validation of COVID-19. See "Research and Development" for a more extensive description of the research being conducted.

Interest and Dividend Income

Interest and dividend income for fiscal 2023 and 2022 was approximately $133,000 and $27,000, respectively. The $106,000 increase was due to higher market interest rates on our higher cash balance due to the current fiscal year financings.

LIQUIDITY AND CAPITAL RESOURCES

The following are the principal sources of liquidity:

	May 31,	
	2023	2022
Cash and cash equivalents	$ 9,719,000	$ 5,917,000
Working capital including cash and cash equivalents	$ 10,852,000	$ 7,416,000

As of May 31, 2023 and 2022, the Company had cash and cash equivalents of approximately $9,719,000 and $5,917,000, respectively. As of May 31, 2023 and 2022, the Company had working capital of approximately $10,852,000 and $7,416,000, respectively. Based on management's analysis of the Company's cash flow requirements through August 2024 and beyond, we believe that the aggregate of our existing cash and cash equivalents is sufficient to meet our operating cash requirements and strategic objectives for growth for at least the next year. To satisfy our capital requirements, including ongoing future operations, beyond next year, we may seek to raise additional financing through debt and equity financings.

Operating Activities

During fiscal 2023, cash used in operating activities was approximately $5,474,000, as compared to $479,000 for fiscal 2022. The primary factors that contributed to this were a loss of approximately $7,140,000, an increase in accounts receivable of $291,000, a decrease in inventory reserves of $174,000, and a decrease in accounts payable and accrued expenses of $79,000. These were partially offset by an increase in the allowance on accounts receivable of $342,000, a decrease in inventories of $534,000, and non-cash expenses of approximately $1,237,000.

During fiscal 2022, the Company had a net loss of approximately $4,531,000, a decrease in inventory reserves of $772,000, and a decrease in the allowance on accounts receivable of $684,000. These were partially offset by a decrease in accounts receivable of $1,365,000, a decrease in inventories of $1,562,000, an increase in accounts payable and accrued expenses of $389,000, and non-cash expenses of approximately $1,855,000.

Investing Activities

During fiscal 2023, cash used in investing activities was approximately $78,000, as compared to $170,000 for fiscal 2022. During fiscal 2023, the Company purchased approximately $64,000 of property and equipment and had $14,000 in expenditures related to patents. During fiscal 2022, the Company purchased approximately $57,000 of property and equipment and $113,000 in expenditures related to patents.

Financing Activities

Cash provided by financing activities for fiscal 2023 was approximately $9,390,000 as compared to $2,394,000 for fiscal 2022. In fiscal 2023 and 2022, the Company had proceeds from the exercise of stock options of approximately $81,000 and $77,000, respectively.

During fiscal 2023 and 2022, the Company received approximately $9,309,000 and $2,317,000, respectively, in net proceeds from the sale of common stock. The common stock sold and issued in fiscal 2022 and 2023 was issued under the Company's shelf registration statement filed with the SEC on July 21, 2020 (the "2020 Shelf Registration Statement") and declared effective by the SEC on September 30, 2020, and under the prospectus supplement filed with the SEC on January 22, 2021 ("2021 Prospectus Supplement"), and the prospectus supplement filed in conjunction with the Company's underwritten public offering of common shares on March 7, 2023 (the "2023 Prospectus Supplement") (See Shareholders' Equity in the notes to the consolidated financial statements for further details about SEC registration statements). The 2020 Shelf Registration Statement registers common shares that may be issued by the Company in a maximum aggregate amount of up to $90,000,000. On January 22, 2021, we filed the 2021 Prospectus Supplement for the sale of up to $15,000,000 of shares of our common stock in an at-the-market offering under the 2020 Shelf Registration Statement, of which $5,290,000 was issued through March 7, 2023.

In March 2023, we terminated the at-the-market offering and sold 3,333,333 shares of our common stock in a firm commitment public offering under the 2020 Shelf Registration Statement at a price to the public of $2.40 per share, for total gross proceeds of $8,000,000, before deducting underwriting discounts and commissions and other offering-related expenses payable by the Company.

As of August 25, 2023, the date on which this Annual Report on Form 10-K for the fiscal year ended May 31, 2023, is filed with the SEC, our 2020 Registration Statement remains subject to the offering limits set forth in General Instruction I.B.6 of Form S-3 because our public float is less than $75 million. For so long as the Company's public float is less than $75 million, the aggregate market value of securities sold by the Company under the 2020 Shelf Registration Statement pursuant to Instruction I.B.6 to Form S-3 during any 12 consecutive months may not exceed one-third of the Company's public float. We have sold $7,631,000 of our common stock pursuant to General Instruction I.B.6 of Form S-3 in the 12 calendar months preceding the date of filing this Annual Report on Form 10-K. For purposes of this limitation, the aggregate market value of our outstanding common stock held by non-affiliates, or public float, was $25,638,909, based on 15,538733 non-restricted shares of our outstanding common stock held by non-affiliates and a price of $1.65 per share, which was the price at which our common stock was last sold on the Nasdaq Capital Market on August 3, 2023 (a date within 60 days of the date hereof), calculated in accordance with General Instruction I.B.6 of Form S-3. After giving effect to the $8,546,303 offering limit imposed by General Instruction I.B.6 of Form S-3, and after deducting the shares we sold within the preceding 12 months, as of the date of filing this Annual Report, we may sell $915,3030 shares of our common stock at this time under the 2020 Shelf Registration Statement.

SUBSEQUENT EVENTS

On August 3, 2023, the Company announced it had entered into a sales agreement with CVS Pharmacy wherein the Company's EZ Detect™ colorectal disease screening test will be offered at approximately 7,000 CVS Pharmacy retail stores. Biomerica has shipped the EZ Detect product to CVS Health distribution centers in the United States, and the product is projected to be on store shelves in September.

OFF BALANCE SHEET ITEMS

There were no off-balance sheet arrangements as of May 31, 2023.

CRITICAL ACCOUNTING ESTIMATES

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires us to make a number of estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements. Such estimates and assumptions affect the reported amounts of revenues and expenses during the reporting period. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances. Actual results may differ materially from these estimates under different assumptions or conditions. We continue to monitor significant estimates made during the preparation of our financial statements. On an ongoing basis, we evaluate estimates and assumptions based upon historical experience and various other factors and circumstances. We believe our estimates and assumptions are reasonable under the current conditions; however, actual results may differ from these estimates under different future conditions.

We believe that the estimates and assumptions that are most important to the portrayal of our financial condition and results of operations, in that they require subjective or complex judgments, form the basis for the accounting policies deemed to be most critical to us. These relate to revenue recognition, bad debts, inventory overhead application, inventory reserve, lease liabilities, and right-of-use assets. We believe estimates and assumptions related to these critical accounting policies are appropriate under the circumstances; however, should future events or occurrences result in unanticipated consequences, there could be a material impact on our future financial conditions or results of operations. We suggest that our significant accounting policies be read in conjunction with this Management's Discussion and Analysis of Financial Condition and Results of Operations. Please refer to Note 2 of the Company's consolidated financial statements for information on Significant Accounting Policies.

REVENUE RECOGNITION

The Company has various contracts with customers. All the contracts specify that revenues from product sales are recognized at the time the product is shipped, customarily FOB shipping point, which is when the transfer of control of goods has occurred, and at which point title passes. The Company does not allow for returns except in the event of defective merchandise and therefore does not establish an allowance for returns. In addition, the Company has contracts with customers wherein they receive purchase discounts for achieving specified sales volumes. The Company regularly evaluates the status of these contracts and does not believe that any discounts will be given through the end of the contract periods. Services for some contract work are invoiced and recognized for work that has been performed as the project progresses. The Company sells clinical lab products to domestic and international distributors, including hospitals and clinical laboratories, medical research institutions, medical schools, and pharmaceutical companies. OTC products are sold directly to drug stores and e-commerce customers as well as to distributors. Physicians' office products are sold to physicians and distributors, all of whom are categorized below according to the type of products sold to them. We also manufacture certain components on a contract basis for domestic and international manufacturers.

SHARE-BASED COMPENSATION

The Company follows the guidance of ASC 718, Share-based Compensation ("ASC 718"), which requires the use of the fair-value based method to determine compensation for all arrangements under which employees and others receive shares of stock or equity instruments (options). The fair value of each option award is estimated on the date of grant using the Black-Scholes option-pricing model that uses assumptions for expected volatility, expected dividends, expected forfeiture rate, expected term, and the risk-free interest rate. The Company has not paid dividends historically and does not expect to pay them in the foreseeable future. Expected volatilities are based on weighted averages of the historical volatility of the Company's common stock estimated over the expected term of the options. The expected forfeiture rate is based on historical forfeitures experienced. The expected term of options granted is derived using the "simplified method" which computes expected term as the average of the sum of the vesting term plus the contract term as historically the Company had limited exercise activity surrounding its options. The risk-free rate is based on the U.S. Treasury yield curve in effect at the time of grant for the period of the expected term. The grant date fair value of the award is recognized under the straight-line attribution method.

VALUATION OF INVENTORIES, NET

Our inventories are made up of raw materials, work in progress, and finished goods and are valued at the lower of cost (determined using a combination of specific lot identification and the first-in, first-out methods) or net realizable value.

We record valuation reserves for inventory items with excess quantities and obsolescence exposure. These reserves are estimates of a reduction in value to reflect inventory valuation at the lower of cost or net realizable value. Management evaluates quantities on hand, physical condition, and technical functionality as these characteristics may be impacted by anticipated customer demand for current products and new product introductions. Our inventory valuation reserves totaled $672,000 and $846,000 as of May 31, 2023 and 2022, representing approximately 25% and 26% of our inventory, respectively.

RECENT ACCOUNTING PRONOUNCEMENTS

See Note 2 to our consolidated financial statements for a listing of adopted and soon to be adopted accounting pronouncements.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Not required.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

Exhibit 99.3, "Biomerica, Inc. and Subsidiaries Consolidated Financial Statements" is incorporated herein by this reference.

ITEM 9A. CONTROLS AND PROCEDURES

Attached as exhibits to this Form 10-K are certifications of our Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO") that are required in accordance with Rule 13a-14 of the Exchange Act. This "Disclosure Controls and Procedures" section includes information concerning the controls and controls evaluation referred to in the certifications.

EVALUATION OF DISCLOSURE CONTROLS

Our management evaluated the effectiveness of our disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, or the Exchange Act as of the end of the period covered by this report. Our management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures. The disclosure controls and procedures have been designed to provide reasonable assurance of achieving their objectives. Our CEO and CFO concluded that our disclosure controls and procedures are effective at a reasonable assurance level as of May 31, 2023. Based on that evaluation the CEO and CFO concluded that information required to be disclosed in the reports that we file and submit under the Exchange Act is (1) recorded, processed, summarized, and reported within the time periods specified in the Commission's rules and forms; and (2) accumulated and communicated to the Company's management, including its CEO and CFO, as appropriate, to allow timely decisions regarding required disclosure.

Company management, including the CEO and CFO concluded that, as of May 31, 2023, the Company's internal control over financial reporting was effective.

CHANGES IN INTERNAL CONTROL OVER FINANCIAL REPORTING

There have been no changes in our internal control over financial reporting identified in connection with the evaluation that occurred during the quarter ended May 31, 2023, that have materially affected, or that are reasonably likely to affect, our internal control over financial reporting.

MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

Company management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) under the Securities Exchange Act of 1934. The Company's internal control over financial reporting is designed to provide reasonable assurance to the Company's management and Board of Directors regarding the reliability of financial reporting and the preparation and fair presentation of financial statements for external purposes in accordance with accounting principles generally accepted in the United States of America.

A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with accounting principles generally accepted in the United States of America, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the consolidated financial statements.

The effectiveness of any system of internal control over financial reporting is subject to inherent limitations, including the exercise of judgment in designing, implementing, operating, and evaluating the controls and procedures. Because of these inherent limitations, internal control over financial reporting cannot provide absolute assurance regarding the reliability of financial reporting and may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Company management, with the participation of the CEO and the CFO, evaluated the effectiveness of the Company's disclosure controls and procedures as defined in Rules 13(a)-15(e) and 15(d)-15(e) under the Securities Exchange Act of 1934, as amended, or the Exchange Act, as of the end of the period covered by this report. In making this assessment, Management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in Internal Control - Integrated Framework (2013). Based on this assessment, management, with the participation of the CEO and CFO, believes that, as of May 31, 2023, the Company's internal control over financial reporting was effective based on those criteria.

Company management will continue to monitor and evaluate the effectiveness of its disclosure controls and procedures and its internal controls over financial reporting on an ongoing basis and are committed to taking further action and implementing improvements, as necessary and as funds allow.

Note: This 10-K does not include an attestation report of the Company's independent registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by the Company's independent registered public accounting firm pursuant to temporary rules of the Securities and Exchange Commission that permit the Company to provide only management's report in this 10-K.

ITEM 9B. OTHER INFORMATION.

None.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS, AND CORPORATE GOVERNANCE

The information required by this item will be disclosed in our definitive proxy statement on Schedule 14A (the "Proxy Statement") for our 2023 Annual Meeting of Stockholders and is incorporated by reference herein. Our Proxy Statement will be filed with the SEC within 120 days after the end of the Company's fiscal year ended May 31, 2023, pursuant to Regulation 14A under the Exchange Act.

ITEM 11. EXECUTIVE COMPENSATION

The information required by this item will be disclosed in the Proxy Statement and is incorporated herein by reference.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The information required by this item will be disclosed in the Proxy Statement and is incorporated herein by reference.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE

The information required by this item will be disclosed in the Proxy Statement and is incorporated herein by reference.

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

The information required by this item will be disclosed in the Proxy Statement and is incorporated herein by reference.

PART IV

ITEM 15. EXHIBITS LIST AND FINANCIAL SCHEDULES

The following documents are filed as part of this Annual Report on Form 10-K:

1. *Consolidated Financial Statements*
   Reference is made to the Index to the consolidated financial statements as set forth on page FS-1 of this Annual Report on Form 10-K.
2. *Consolidated Financial Statement Schedules*
   All schedules have been omitted as the pertinent information is either not required, not applicable, or otherwise included in the financial statements and notes thereto.
3. *Exhibits*
   See below.

Exhibit No.	Description
3.1	First Amended and Restated Certificate of Incorporation of Registrant filed with the Secretary of State of Delaware on August 1, 2000 (incorporated by reference to Exhibit 3.8 filed with the Registrant's Annual Report on Form 10-KSB for the fiscal year ended May 31, 2000).
3.2	Amended and Restated Bylaws, as adopted on July 24, 2023 (incorporated by reference to Exhibit 3.1 of the Company's Form 8-K filed July 26, 2023).
4.1	Specimen Stock Certificate of Common Stock of Registrant (incorporated by reference to Exhibit 4.1 filed with Registrant's Registration Statement on Form SB-2, Commission No. 333-87231 filed on September 16, 1999).
4.2	Description of Capital Stock.
10.1	Standard Industrial/Commercial Single-Tenant Lease, dated June 18, 2009, by and between Registrant and CNH, LLC for 17571 Von Karman Avenue, Irvine, CA 92614 (incorporated by reference to Exhibit 10.1 of the Company's August 31, 2009 Form 10-Q filed October 16, 2009).
10.2	2014 Stock Incentive Plan of Registrant (incorporated by reference to Exhibit A of the Company's Definitive Proxy Statement filed with the Securities and Exchange Commission on September 29, 2014).
10.3	2017 Stock Incentive Plan of Registrant (incorporated by reference to Exhibit A of the Company's Definitive Proxy Statement filed with the Securities and Exchange Commission on September 28, 2017).
10.4	2020 Stock Incentive Plan of Registrant (incorporated by reference to Exhibit A of the Company's Definitive Proxy Statement filed with the Securities and Exchange Commission on September 25, 2020).
10.5	Form of Executive Stock Option Agreement (attached herein).
10.6	Employment Agreement, dated March 1, 2023, by and between Biomerica, Inc. and Gary Lu.
21.1	List of Subsidiaries (attached herein).
23.1	Consent of Independent Registered Public Accounting Firm (Haskell & White LLP).
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) under the Exchange Act, adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, as amended.
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) under the Exchange Act, adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, as amended.
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, as amended.
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, as amended.
99.3	Registrant and Subsidiaries Consolidated Financial Statements.
101.INS	Inline XBRL Instance Document.
101.SCH	Inline XBRL Taxonomy Extension Schema Document.
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document.
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).

The certifications attached as Exhibits 32.1 and 32.2 accompany this Annual Report pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, as amended, and shall not be deemed "filed" by the registrant for purposes of Section 18 of the Exchange Act and are not to be incorporated by reference into any of the registrant's filings under the Securities Act or the Exchange Act, irrespective of any general incorporation language contained in any such filing.

SIGNATURES

In accordance with Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

BIOMERICA, INC.
Registrant

By */s/ Zackary S. Irani*
Zackary S. Irani,
Chief Executive Officer

Dated: August 25, 2023

In accordance with the Exchange Act, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated:

Signature and Capacity

/s/ Zackary S. Irani Date: August 25, 2023
Zackary S. Irani
Director, Chief Executive Officer

/s/ Gary Lu, CPA Date: August 25, 2023
Gary Lu, CPA
Chief Financial Officer

/s/ Allen Barbieri Date: August 25, 2023
Allen Barbieri
Director, Vice-Chairman

/s/ Jane Emerson, M.D., Ph.D. Date: August 25, 2023
Jane Emerson, M.D., Ph.D.
Director

/s/ David Moatazedi Date: August 25, 2023
David Moatazedi
Director

/s/ Catherine Coste, CPA Date: August 25, 2023
Catherine Coste, CPA
Director

BIOMERICA, INC. AND SUBSIDIARIES
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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Shareholders and Board of Directors
Biomerica, Inc.

Opinion on the Consolidated Financial Statements

We have audited the accompanying consolidated balance sheets of ***Biomerica, Inc.*** (the "Company") as of May 31, 2023 and 2022, the related consolidated statements of operations and comprehensive loss, shareholders' equity, and cash flows for each of the years then ended, and the related notes (collectively, the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the consolidated financial position of the Company as of May 31, 2023 and 2022, and the consolidated results of its operations and its cash flows for each of the years then ended, in conformity with U.S. generally accepted accounting principles.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current-period audit of the consolidated financial statements that was communicated or required to be communicated to the audit committee and that (1) relate to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing separate opinions on the critical audit matter or on the accounts or disclosures to which they relate.

Inventory Valuation

Critical Audit Matter Description

As described in Note 2 to the Company's consolidated financial statements, the Company values inventory at the lower of cost or net realizable value with cost inclusive of estimates for reasonable allocations of labor and overhead costs. Also, management periodically reviews inventory for excess quantities and obsolescence. Management evaluates quantities on hand, physical condition, and technical functionality as these characteristics may be impacted by anticipated customer demand for current products and new product introductions. Auditing the Company's estimates for capitalized labor and overhead was challenging due to the extensive use of estimates throughout this process, including the quantity of labor time allocable to each inventory item. Auditing the Company's estimates for slow-moving and obsolete inventories was challenging due to the inherently judgmental nature of forecasting future sales and usage of a significant number of diverse inventory items.

How the Critical Audit Matter Was Addressed in the Audit

To test the valuation of the Company's inventory, we performed the following audit procedures:

- Obtained an understanding of the methodologies and policies used by management to estimate capitalized labor and overhead and inventory reserves; we obtained an understanding of key internal controls and assessed their overall appropriateness;
- Tested the reasonableness of the production labor and overhead cost pools and the quantities produced and recalculated the allocable labor and overhead rate per unit; we recalculated the amount of capitalized labor and overhead based on quantities on hand at the end of the fiscal year; and
- Tested the accuracy of key data inputs that are the primary drivers for determining the quantitative inventory reserves; these inputs included inventory quantities on hand, approximate age of the inventory quantities, and estimated inventory reserve percentages.

HASKELL & WHITE LLP

We have served as the Company's auditor since 2022.

Irvine, California
August 25, 2023

BIOMERICA, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS

	May 31, 2023	May 31, 2022
Assets		
Current Assets:		
Cash and cash equivalents	$ 9,719,000	$ 5,917,000
Accounts receivable, net	722,000	774,000
Inventories, net	2,056,000	2,416,000
Prepaid expenses and other	300,000	320,000
Total current assets	12,797,000	9,427,000
Property and equipment, net of accumulated depreciation and amortization	213,000	214,000
Right-of-use assets, net of accumulated amortization of $617,000 and $725,000 as of May 31, 2023 and 2022, respectively	1,035,000	1,302,000
Investments	165,000	165,000
Intangible assets, net of accumulated amortization	165,000	170,000
Other assets	79,000	96,000
Total Assets	$ 14,454,000	$ 11,374,000
Liabilities and Shareholders' Equity		
Current Liabilities:		
Accounts payable and accrued expenses	$ 892,000	$ 972,000
Accrued compensation	696,000	647,000
Advance from customers	60,000	51,000
Lease liabilities, current portion	297,000	341,000
Total current liabilities	1,945,000	2,011,000
Lease liabilities, net of current portion	785,000	1,038,000
Total Liabilities	2,730,000	3,049,000
Commitments and contingencies (Note 9)		
Shareholders' Equity:		
Preferred stock, Series A 5% convertible, $0.08 par value, 571,429 shares authorized, none issued and outstanding as of May 31, 2023 and 2022	-	-
Preferred stock, undesignated, no par value, 4,428,571 shares authorized, none issued and outstanding as of May 31, 2023 and 2022	-	-
Common stock, $0.08 par value, 25,000,000 shares authorized, 16,821,646 and 12,867,924 issued and outstanding at May 31, 2023 and 2022, respectively	1,346,000	1,029,000
Additional paid-in-capital	52,705,000	42,447,000
Accumulated other comprehensive loss	(110,000)	(74,000)
Accumulated deficit	(42,217,000)	(35,077,000)
Total Shareholders' Equity	11,724,000	8,325,000
Total Liabilities and Shareholders' Equity	$ 14,454,000	$ 11,374,000

See accompanying notes to consolidated financial statements

BIOMERICA, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS

	For the Year Ended May 31,	
	2023	2022
Net sales	$ 5,339,000	$ 18,871,000
Cost of sales	(4,893,000)	(15,894,000)
Gross profit	446,000	2,977,000
Operating expenses:		
Selling, general and administrative	6,085,000	5,699,000
Research and development	1,584,000	1,812,000
Total operating expense	7,669,000	7,511,000
Loss from operations	(7,223,000)	(4,534,000)
Other income:		
Dividend and interest income	133,000	27,000
Other income	1,000	-
Total other income	134,000	27,000
Loss before income taxes	(7,089,000)	(4,507,000)
Provision for income taxes	(51,000)	(24,000)
Net loss	$ (7,140,000)	$ (4,531,000)
Basic net loss per common share	$ (0.50)	$ (0.36)
Diluted net loss per common share	$ (0.50)	$ (0.36)
Weighted average number of common and common equivalent shares:		
Basic	14,154,269	12,673,245
Diluted	14,154,269	12,673,245
Net loss	$ (7,140,000)	$ (4,531,000)
Other comprehensive loss, net of tax:		
Foreign currency translation	(36,000)	(26,000)
Comprehensive loss	$ (7,176,000)	$ (4,557,000)

See accompanying notes to consolidated financial statements

BIOMERICA, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY
FOR THE YEARS ENDED MAY 31, 2023 AND 2022

	Common Stock					
	Shares	Amount	Additional Paid-in-Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total Stockholder's Equity
Balances at May 31, 2021	**12,307,157**	**$ 985,000**	**$38,837,000**	**$ (48,000)**	**$ (30,546,000)**	**$ 9,228,000**
Exercise of stock options	39,500	3,000	74,000	-	-	77,000
Net proceeds from ATM	521,267	41,000	2,276,000	-	-	2,317,000
Foreign currency translation	-	-	-	(26,000)	-	(26,000)
Share-based compensation	-	-	1,260,000	-	-	1,260,000
Net loss	-	-	-	-	(4,531,000)	(4,531,000)
Balances at May 31, 2022	**12,867,924**	**1,029,000**	**42,447,000**	**(74,000)**	**(35,077,000)**	**8,325,000**
Exercise of stock options	46,500	4,000	77,000	-	-	81,000
Net proceeds from ATM	573,889	46,000	1,915,000	-	-	1,961,000
Shares issued in connection with public offering, net of offering costs	3,333,333	267,000	7,081,000	-	-	7,348,000
Foreign currency translation	-	-	-	(36,000)	-	(36,000)
Share-based compensation	-	-	1,185,000	-	-	1,185,000
Net loss	-	-	-	-	(7,140,000)	(7,140,000)
Balances at May 31, 2023	**16,821,646**	**$1,346,000**	**$52,705,000**	**$ (110,000)**	**$ (42,217,000)**	**$ 11,724,000**

See accompanying notes to consolidated financial statements.

BIOMERICA, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS

	For the Year Ended May 31,	
	2023	2022
Cash flows from operating activities:		
Net loss	$ (7,140,000)	$ (4,531,000)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	84,000	339,000
Loss on disposal of property and equipment	-	53,000
Provision for allowance on accounts receivable	342,000	(684,000)
Inventory reserve	(174,000)	(772,000)
Share-based compensation	1,185,000	1,260,000
Amortization of right-of-use asset	267,000	256,000
Changes in assets and liabilities:		
Accounts receivable	(291,000)	1,365,000
Inventories	534,000	1,562,000
Prepaid expenses and other	20,000	50,000
Other assets	18,000	169,000
Accounts payable and accrued expenses	(80,000)	389,000
Accrued compensation	49,000	258,000
Advance from customers	9,000	51,000
Reduction in lease liabilities	(297,000)	(244,000)
Net cash used in operating activities	(5,474,000)	(479,000)
Cash flows from investing activities:		
Expenditure related to intangibles	(14,000)	(113,000)
Purchases of property and equipment	(64,000)	(57,000)
Net cash used in investing activities	(78,000)	(170,000)
Cash flows from financing activities:		
Gross proceeds from sale of common stock	10,014,000	2,402,000
Costs from sale of common stock	(705,000)	(85,000)
Proceeds from exercise of stock options	81,000	77,000
Net cash provided by financing activities	9,390,000	2,394,000
Effect of exchange rate changes in cash	(36,000)	(26,000)
Net increase in cash and cash equivalents	3,802,000	1,719,000
Cash and cash equivalents at beginning of year	5,917,000	4,199,000
Cash and cash equivalents at end of year	$ 9,719,000	$ 5,917,000
Supplemental Disclosure of Cash Flow Information:		
Cash paid during the year for:		
Income taxes	$ 51,000	$ 24,000
Non-cash investing and financing activities:		
Increase in right-of-use asset due to lease extension or establishment	$ -	$ 4,000
Increase in lease liability due to lease extension or establishment	$ -	$ 4,000
Write off of fixed assets, cost	$ 40,000	$ 820,000
Write off of fixed assets, accumulated depreciation	$ 40,000	$ 767,000
Write off of intangible assets, cost	$ 6,000	$ 247,000
Write off of intangible assets, accumulated amortization	$ 6,000	$ 37,000

See accompanying notes to consolidated financial statements

NOTE 1: ORGANIZATION

Biomerica, Inc. and its subsidiaries (which includes wholly-owned subsidiaries, Biomerica de Mexico and BioEurope GmbH) is a biomedical technology company that develops, patents, manufactures and markets advanced diagnostic and therapeutic products used at the point-of-care (physicians' offices and over-the-counter through drugstores and online) and in hospital/clinical laboratories for detection and/or treatment of medical conditions and diseases. Our diagnostic test kits are used to analyze blood, urine, nasal, or fecal material from patients in the diagnosis of various diseases, food intolerances and other medical complications, or to measure the level of specific hormones, antibodies, antigens, or other substances, which may exist in the human body in extremely small concentrations. The Company's products are designed to enhance the health and well-being of people, while reducing total healthcare costs.

Our primary focus is the research, development, commercialization and in certain cases regulatory approval, of patented, diagnostic-guided therapy ("DGT") products to treat gastrointestinal diseases, such as irritable bowel syndrome ("IBS"), and other inflammatory diseases. These products are directed at chronic inflammatory illnesses that are widespread and common, and as such address very large markets. Our InFoods® IBS product uses a simple blood sample and is designed to identify patient-specific foods that, when removed from the diet, may alleviate IBS symptoms such as pain, bloating, diarrhea, and constipation. Instead of broad and difficult to manage dietary restrictions, the InFoods® IBS product works by identifying specific foods that may be causing an abnormally high immune response in the patient. A food identified as positive, which is causing the abnormal immune response in the patient, is simply removed from the diet to help alleviate IBS symptoms.

Our existing medical diagnostic products are sold worldwide primarily in two markets: 1) clinical laboratories and 2) point-of-care (physicians' offices and over-the-counter drugstores like Walmart and CVS Pharmacy). The diagnostic test kits are used to analyze blood, urine, nasal, or fecal specimens from patients in the diagnosis of various diseases, food intolerances, and other medical complications, by measuring or detecting the existence and/or level of specific bacteria, hormones, antibodies, antigens, or other substances, which may exist in a patient's body, stools, or blood, often in extremely small concentrations.

Due to the global COVID-19 pandemic, in March 2020, we began developing COVID-19 products to indicate if a person has been infected by COVID-19 or is currently infected. In fiscal 2022, we generated revenues from the international sale of our COVID-19 antigen tests. However, in fiscal 2023, due to the decline in severity of COVID-19 and the corresponding lower sales volumes, we no longer sell these products. Due to the relatively high volume of sales from these products in fiscal 2021 and fiscal 2022, we have seen significant fluctuations in quarterly revenues over the past twelve quarters.

The other existing products that contributed to our 2023 revenues are primarily focused on gastrointestinal diseases, food intolerances, and certain esoteric tests. These diagnostic test products utilize immunoassay technology. Most of our products are CE marked and/or sold for diagnostic use where they are registered by each country's regulatory agency. In addition, some products are cleared for sale in the United States by the FDA.

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

PRINCIPLES OF CONSOLIDATION

The consolidated financial statements for the years ended May 31, 2023 and 2022, include the accounts of Biomerica, Inc. ("Biomerica") as well as its wholly-owned German subsidiary ("BioEurope GmbH") and Mexican subsidiary ("Biomerica de Mexico"). All significant intercompany accounts and transactions have been eliminated in consolidation.

ACCOUNTING ESTIMATES

The preparation of the consolidated financial statements in conformity with accounting principles generally accepted in the United States of America ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenues and expenses during the reported period. Estimates that are made include the allowance for doubtful accounts, which is estimated based on current as well as historical past practices with a customer; stock option forfeiture rates, which are calculated based on historical data; inventory obsolescence, which is based on projected and historical usage of materials; and lease liabilities and right-of-use assets, which are calculated based on certain assumptions such as the borrowing rate on the lease commencement date and, the likelihood of lease extensions to occur, asset valuations, among other things; and other items that may be necessary to estimate using current, historical and judgment based information. Actual results could materially differ from those estimates.

Due to the global COVID-19 pandemic, the Company's operations have been negatively impacted. The Company has faced disruptions in the following areas, (and may face further challenges): supply chain disruptions, loss of contracts and/or customers, closure of the Company's manufacturing or distribution facilities or of the facilities of the Company's suppliers, partners and customers, travel, shipping and logistical disruptions, government responses of all types, international business risks in countries where the Company makes and/or sells its products, loss of human capital or personnel at the Company, its partners and its customers, interruptions of production, customer credit risk, and general economic calamities. These pandemic related disruptions can materially negatively impact the Company's operations and financial performance and may continue to have significant material negative impacts on the Company.

LIQUIDITY

The Company has incurred net losses and negative cash flows from operations and has an accumulated deficit of approximately $42 million as of May 31, 2023. Management expects to continue to incur significant costs as it advances its trials and development activities. As of May 31, 2023, the Company had cash and cash equivalents of approximately $9,719,000 and working capital of approximately $10,852,000.

On January 22, 2021, the Company filed a prospectus supplement to the base prospectus included in a registration statement filed with the SEC on July 21, 2020, and declared effective by the SEC on September 30, 2020, for purposes of selling up to $15,000,000 in "at-the-market" offerings, as defined in Rule 415 promulgated under the Securities Act (the "ATM Offering").

Under the ATM Offering, the sales agent uses commercially reasonable efforts to sell on the Company's behalf all the shares requested to be sold from time to time by the Company, consistent with its normal trading and sales practices, on mutually agreed terms between the agent and the Company. The Company has no obligation to sell any shares under the ATM Offering, and may at any time suspend offers under, or terminate the ATM Offering.

During the year ended May 31, 2023, the Company sold 573,889 shares of its common stock at prices ranging from $3.15 to $4.26 pursuant to the ATM Agreement, which resulted in gross proceeds of approximately $2,014,000 and net proceeds to the Company of $1,961,000, after deducting commissions for each sale and legal, accounting, and other fees related to offering in the amount of $53,000.

During the year ended May 31, 2022, the Company sold 521,267 shares of its common stock at prices ranging from $4.02 to $5.63 pursuant to the ATM Offering, which resulted in gross proceeds of approximately $2,402,000 and net proceeds to the Company of $2,317,000, after deducting commissions for each sale and legal, accounting, and other fees related to the offering in the amount of $85,000.

On March 7, 2023, the Company sold 3,333,333 shares of common stock in a firm commitment public offering at a gross sales price of $2.40 per share, with net total proceeds, after deducting issuance fees and expenses of $700,000, of approximately $7,300,000. Since the closing of the March 7, 2023 offering, the ATM has been withdrawn and is not active.

The Company intends to use the net proceeds from such offerings for general corporate purposes, including, without limitation, sales and marketing activities, clinical studies, product development, making acquisitions of assets, businesses, companies or securities, capital expenditures, and for working capital needs.

Management has analyzed the cash requirements of the Company's business through at least August 2024. As a result of cash and cash equivalents on hand on May 31, 2023, largely from the public offering, and the ability to raise additional funds through another new ATM agreement, management believes the Company has sufficient funds to operate through at least August 2024.

FAIR VALUE OF FINANCIAL INSTRUMENTS

The Company has financial instruments whereby the fair market value of the financial instruments could be different than that recorded on a historical basis. The Company's consolidated financial instruments consist of its cash and cash equivalents, accounts receivable, and accounts payable. The carrying amounts of the Company's financial instruments approximate their fair values. The Company also maintains an investment in privately held company (see below).

CONCENTRATION OF CREDIT RISK

The Company maintains cash balances at certain financial institutions in excess of amounts insured by federal agencies. From time to time, the Company has uninsured balances. The Company does not believe it is exposed to any significant credit risks.

The Company provides credit in the normal course of business to customers throughout the United States and in foreign markets. The Company performs ongoing credit evaluations of its customers and requires accelerated prepayment in some circumstances.

Our net sales were approximately $5,339,000 for fiscal 2023 compared to $18,871,000 for fiscal 2022. For the fiscal years ended May 31, 2023 and 2022, the Company had one and two distributors, respectively, which accounted for a total of 35% and 65% of our net sales, respectively. Of this, for the fiscal years ended May 31, 2023 and 2022, the largest of the distributors mentioned above accounted for 35% and 55%, respectively, of net sales.

Total gross receivables on May 31, 2023 and 2022 were approximately $751,000 and $927,000, respectively. On May 31, 2023 and 2022, the Company had one distributor which accounted for a total of 36% and 50%, respectively, of gross accounts receivable. Of the 36% as of May 31, 2023, 100% was owed by a distributor in Asia.

For the fiscal year ended May 31, 2023, the Company did not have any significant concentration of vendor spend for raw materials. For the fiscal year ended May 31, 2022, the Company had one vendor, which accounted for 84% of our purchases of raw materials largely related to COVID-19 products.

GEOGRAPHIC CONCENTRATION

As of May 31, 2023 and 2022, approximately $626,000 and $621,000, respectively, of Biomerica's gross inventory was located in Mexicali, Mexico, respectively. As of May 31, 2023 and 2022, approximately $17,000 of Biomerica's property and equipment, net of accumulated depreciation and amortization, was located in Mexicali, Mexico.

CASH AND CASH EQUIVALENTS

Cash and cash equivalents consist of demand deposits and money market accounts with original maturities of less than three months.

ACCOUNTS RECEIVABLE, NET

The Company extends unsecured credit to its customers on a regular basis. International accounts are usually required to prepay until they establish a history with the Company and at that time, they are extended credit at levels based on a number of criteria. Initial credit levels for individual distributors are approved by designated officers and managers of the Company. All increases in credit limits are also approved by designated upper-level management. Management evaluates receivables on a quarterly basis and adjusts the allowance for doubtful accounts accordingly. Balances over ninety days old are usually reserved for unless collection is reasonably assured.

Occasionally certain long-standing customers, who routinely place large orders, will have unusually large receivables balances relative to the total gross receivables. Management monitors the payments for these large balances closely and very often requires payment of existing invoices before shipping new sales orders.

As of May 31, 2023 and 2022, the Company has established a reserve of approximately $29,000 and $153,000, respectively, for doubtful accounts.

PREPAID EXPENSES AND OTHER

The Company occasionally prepays for items such as inventory, insurance, and other items. These items are reported as prepaids, until either the inventory is physically received or the insurance and other items are utilized.

As of May 31, 2023 and 2022, the prepaids were approximately $300,000 and $320,000, respectively, composed of prepayments to insurance and various other suppliers.

INVENTORIES, NET

The Company values inventory at the lower of cost (determined using a combination of specific lot identification and the first-in, first-out methods) or net realizable value. Management periodically reviews inventory for excess quantities and obsolescence. Management evaluates quantities on hand, physical condition, and technical functionality as these characteristics may be impacted by anticipated customer demand for current products and new product introductions. The reserve is adjusted based on such evaluation, with a corresponding provision included in cost of sales. Abnormal amounts of idle facility expenses, freight, handling costs, and wasted material are recognized as current period charges and the allocation of fixed production overhead is based on the normal capacity of the production facilities.

The following is a summary of approximate net inventories:

	May 31,	
	2023	2022
Raw materials	$ 1,677,000	$ 1,717,000
Work in progress	869,000	763,000
Finished products	182,000	782,000
Total gross inventory	$ 2,728,000	$ 3,262,000
Inventory reserve	(672,000)	(846,000)
Net inventory	**$ 2,056,000**	**$ 2,416,000**

Reserves for inventory obsolescence are recorded as necessary to reduce obsolete inventory to estimated net realizable value or to specifically reserve for obsolete inventory. As of May 31, 2023 and 2022, inventory reserves were approximately $672,000 and $846,000, respectively. The Company has fully reserved COVID-19 antibody inventory in fiscal 2023.

PROPERTY AND EQUIPMENT, NET

Property and equipment are stated at cost. Expenditures for additions and major improvements are capitalized. Repairs and maintenance costs are charged to operations as incurred. When property and equipment are sold, retired, or otherwise disposed of, the related cost and accumulated depreciation or amortization are removed from the accounts, and gains or losses from sales, retirements, and dispositions are credited or charged to income.

Depreciation and amortization are provided over the estimated useful lives of the related assets, ranging from 5 to 10 years, using the straight-line method. Leasehold improvements are amortized over the lesser of the estimated useful life of the asset or the term of the lease. Depreciation and amortization expense on property and equipment amounted to approximately $66,000 and $100,000 for the years ended May 31, 2023 and 2022, respectively.

INTANGIBLE ASSETS, NET

Intangible assets include trademarks, product rights, technology rights, and patents, and are accounted for based on Accounting Standards Codification (“ASC”), ASC 350 Intangibles – Goodwill and Other (“ASC 350”). In that regard, intangible assets that have indefinite useful lives are not amortized but are tested at least annually for impairment or more frequently if events or changes in circumstances indicate that the asset might be impaired.

Intangible assets are being amortized using the straight-line method over the useful life, not to exceed 18 years for marketing and distribution rights, 10 years for purchased technology use rights, and 20 years for patents. Amortization amounted to approximately $18,000 and $239,000 for the years ended May 31, 2023 and 2022, respectively.

The Company assesses the recoverability of these intangible assets by determining whether the amortization of the asset's balance over its remaining life can be recovered through projected undiscounted future cash flows. The Company uses a qualitative assessment to determine whether there was any impairment. During the year ended May 31, 2023, there was no impairment of intangible assets. During the year ended May 31, 2022, an impairment adjustment was made of $210,000.

INVESTMENTS

The Company has made investments in a privately held Polish distributor, which is primarily engaged in distributing medical products and devices, including the distribution of the products sold by the Company. The Company invested approximately $165,000 into the Polish distributor and owns approximately 6% of the investee.

Equity holdings in nonmarketable unconsolidated entities in which the Company is not able to exercise significant influence ("Cost Method Holdings") are accounted for at the Company's initial cost, minus any impairment (if any), plus or minus changes resulting from observable price changes in orderly transactions for the identical or a similar holding or security of the same issuer. Dividends received are recorded as other income.

The Company assesses its equity holdings for impairment whenever events or changes in circumstances indicate that the carrying value of an equity holding may not be recoverable. Management reviewed the underlying net assets of the Company's equity method holding as of May 31, 2023 and determined that the Company's proportionate economic interest in the entity indicates that the equity holding was not impaired. There were no observable price changes in orderly transactions for identical or a similar holding or security of the Company's Cost Method Holding during the year ended May 31, 2023.

SHARE-BASED COMPENSATION

The Company follows the guidance of ASC 718, Share-based Compensation ("ASC 718"), which requires the use of the fair-value based method to determine compensation for all arrangements under which employees and others receive shares of stock or equity instruments (options). The fair value of each option award is estimated on the date of grant using the Black-Scholes option-pricing model that uses assumptions for expected volatility, expected dividends, expected forfeiture rate, expected term, and the risk-free interest rate. The Company has not paid dividends historically and does not expect to pay them in the foreseeable future. Expected volatilities are based on weighted averages of the historical volatility of the Company's common stock estimated over the expected term of the options. The expected forfeiture rate is based on historical forfeitures experienced. The expected term of options granted is derived using the "simplified method" which computes expected term as the average of the sum of the vesting term plus the contract term as historically the Company had limited exercise activity surrounding its options. The risk-free rate is based on the U.S. Treasury yield curve in effect at the time of grant for the period of the expected term. The grant date fair value of the award is recognized under the straight-line attribution method.

The Company expensed approximately $1,185,000 and $1,260,000 of share-based compensation during the years ended May 31, 2023 and 2022, respectively.

In applying the Black-Scholes option-pricing model, the following assumptions used in the valuation of awards issued for period ending May 31, 2023 and 2022:

	For the year ended May 31,	
	2023	2022
Dividend yield	0%	0%
Expected volatility	98.81 - 101.77%	102.54 - 105.48%
Risk free interest rate	3.12 - 3.35%	0.97 - 2.75%
Expected term	6.25 years	5.50 - 6.25 years

REVENUE RECOGNITION

The Company has various contracts with customers. All of the contracts specify that revenues from product sales are recognized at the time the product is shipped, customarily FOB shipping point, which is when the transfer of control of goods has occurred and at which point title passes.

The Company does not typically allow for returns from customers except in the event of defective merchandise and therefore does not establish an allowance for returns. In addition, the Company has contracts with customers wherein customers receive purchase discounts for achieving specified sales volumes. The Company evaluated the status of these contracts during the years ended May 31, 2023 and 2022 and does not believe that any additional discounts will be given through the end of the contract periods.

Services for contract work performed by the Company for others are invoiced and recognized as that work has been performed and as the project progresses. The Company sells clinical lab products to domestic and international distributors, including hospitals and clinical laboratories, medical research institutions, medical schools, and pharmaceutical companies. OTC products are sold directly to drug stores and e-commerce customers as well as to distributors. Physicians' office products are sold to physicians and distributors, all of whom are categorized below according to the type of products sold to them. We also manufacture certain components on a contract basis for domestic and international manufacturers.

As of May 31, 2023, the Company had approximately $60,000 of advances from certain foreign customers. These advances are prepayments on orders that are expected to ship during our second fiscal quarter ending November 30, 2023.

Disaggregation of revenue:

The following is an approximate breakdown of revenues according to primary markets to which the products are sold:

	For the Year Ended May 31,	
	2023	2022
Clinical lab	$ 3,310,000	$ 3,064,000
Over-the-counter	1,169,000	1,089,000
Contract manufacturing	610,000	459,000
Physician's office	250,000	14,259,000
Total	**$ 5,339,000**	**$ 18,871,000**

See Note 8 for additional information regarding geographic revenue concentrations.

SHIPPING AND HANDLING FEES

The Company includes shipping and handling fees billed to customers in net sales.

RESEARCH AND DEVELOPMENT

Research and development costs are expensed as incurred. The Company expensed approximately $1,584,000 and $1,812,000 of research and development costs during the years ended May 31, 2023 and 2022, respectively.

INCOME TAXES

The Company accounts for income taxes in accordance with ASC 740, Income Taxes ("ASC 740"). Deferred tax assets and liabilities arise from temporary differences between the tax bases of assets and liabilities and their reported amounts in the consolidated financial statements that will result in taxable or deductible amounts in future years and the benefits of net operating loss and tax credit carryforwards. These temporary differences and the benefits of net operating loss and tax credit carryforwards are measured using enacted tax rates. A valuation allowance is recorded to reduce deferred tax assets to the extent that management considers it is more likely than not that a deferred tax asset will not be realized. In determining the valuation allowance, the Company considers factors such as the reversal of deferred income tax assets, projected taxable income, and the character of income tax assets and tax planning strategies. A change to these factors could impact the estimated valuation allowance and income tax expense. As of May 31, 2023 and 2022, in accordance with ASC 740, the Company has a valuation allowance for substantially all of its net deferred tax assets. During the year ended May 31, 2023, this valuation allowance was increased to $8,940,000, which fully covers the net deferred tax asset of $8,940,000.

The Company accounts for its uncertain tax provisions by using a two-step approach to recognizing and measuring uncertain tax positions. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates it is more likely than not, based solely on the technical merits, that the position will be sustained in an audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the appropriate amount of the benefit to recognize. The amount of benefit to recognize is measured as the maximum amount which is more likely than not to be realized. The tax position is derecognized when it is no longer more likely than not capable of being sustained. On subsequent recognition and measurement, the maximum amount which is more likely than not to be recognized at each reporting date will represent the Company's best estimate, given the information available at the reporting date, although the outcome of the tax position is not absolute or final. The Company elected to follow an accounting policy to classify accrued interest related to liabilities for income taxes within the "Interest expense" line and penalties related to liabilities for income taxes within the "Other expense" line of the consolidated statements of operations and comprehensive loss.

ADVERTISING COSTS

The Company reports the cost of all advertising as expense in the period in which those costs are incurred. Advertising costs were approximately $156,000 and $76,000 for the years ended May 31, 2023 and 2022, respectively.

FOREIGN CURRENCY TRANSLATION

The subsidiary located in Mexico operates primarily using the Mexican peso. The subsidiary located in Germany operates primarily using the U.S. dollar, with an immaterial amount of transactions occurring using the Euro. Accordingly, assets and liabilities of these subsidiaries are translated using exchange rates in effect at the end of the year, and revenues and costs are translated using average exchange rates for the year. The resulting adjustments to assets and liabilities are presented as a separate component of accumulated other comprehensive loss. There are no foreign currency transactions that are included in the consolidated statements of operations for the years ended May 31, 2023 and 2022.

RIGHT-OF-USE ASSETS AND LEASE LIABILITIES

In February 2016, the Financial Accounting Standards Board ("FASB") issued an accounting standard update which requires lessees to recognize most leases on the balance sheet with a corresponding right-of-use asset. Right-of-use assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent our obligation to make lease payments arising from the lease. Right-of-use assets and lease liabilities are recognized at the lease commencement date based on the estimated present value of fixed lease payments over the lease term. Leases are classified as financing or operating which will drive the expense recognition pattern. The Company has elected to exclude short-term leases. The Company leases office space and copy machines, all of which are operating leases. Most leases include the option to renew and the exercise of the renewal options is at the Company's sole discretion. Options to extend or terminate a lease are considered in the lease term to the extent that the option is reasonably certain of exercise. The leases do not include the options to purchase the leased property. The depreciable life of assets and leasehold improvements are limited by the expected lease term. For additional information, see Note 9-Commitments and Contingencies.

NET LOSS PER SHARE

Basic loss per share is computed as net loss divided by the weighted average number of common shares outstanding for the period. Diluted loss per share reflects the potential dilution that could occur from common shares issuable through stock options, warrants and other convertible securities using the treasury stock method. The total amounts of anti-dilutive stock options not included in the loss per share calculation for the years ended May 31, 2023 and 2022 were 2,342,616 and 2,321,616, respectively.

SEGMENT REPORTING

ASC 280, Segment Reporting ("ASC 280"), establishes standards for reporting, by public business enterprises, information about operating segments, products and services, geographic areas, and major customers. The Company's operations are analyzed by management and its chief operating decision maker as being part of a single industry segment: the design, development, marketing, and sales of diagnostic kits.

REPORTING COMPREHENSIVE LOSS

Comprehensive loss represents net loss and any revenues, expenses, gains and losses that, under GAAP, are excluded from net loss and recognized directly as a component of shareholders' equity. Items of other comprehensive loss consist solely of foreign currency translation adjustments for the years ended May 31, 2023 and 2022.

RECENT ACCOUNTING PRONOUNCEMENTS

Except as follows, recent ASU's issued by the FASB and guidance issued by the SEC did not, or are not believed by management to, have a material effect on the Company's present or future consolidated financial statements.

In June 2016, the FASB issued ASU 2016-13, Financial Instruments-Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments. This ASU will require the measurement of all expected credit losses for financial assets, including trade receivables, held at the reporting date based on historical experience, current conditions, and reasonable and supportable forecasts. The guidance was initially effective for the Company for annual reporting periods beginning after December 15, 2019, and interim periods within those fiscal years. In November 2019, the FASB issued ASU 2019-10, Financial Instruments - Credit Losses (Topic 326), Derivatives and Hedging (Topic 815), and Leases (Topic 842): Effective Dates, which, among other things, defers the effective date of ASU 2016-13 for public filers that are considered smaller reporting companies as defined by the Securities and Exchange Commission to fiscal years beginning after December 15, 2022, including interim periods within those years. Early adoption is permitted. The Company is currently reviewing the requirements of this ASU to determine its impact on the Company's consolidated results of operations and financial position.

NOTE 3: PROPERTY AND EQUIPMENT, NET

The following is an approximate breakdown of property and equipment, net of accumulated depreciation:

	May 31,	
	2023	2022
Equipment	$ 1,333,000	$ 1,292,000
Furniture, fixtures and leasehold improvements	211,000	227,000
Less accumulated depreciation	(1,331,000)	(1,305,000)
Net property and equipment	**$ 213,000**	**$ 214,000**

NOTE 4: INTANGIBLE ASSETS, NET

The following is an approximate breakdown of intangible assets, net of accumulated amortization:

	May 31,	
	2023	2022
Patents	196,000	189,000
Less accumulated amortization-patents	(31,000)	(19,000)
Intangible assets, net	**$ 165,000**	**$ 170,000**

Expected amortization of intangible assets for the years ending May 31:

2024	$ 13,000
2025	13,000
2026	13,000
2027	13,000
2028	13,000
Thereafter	100,000
Total	**$ 165,000**

NOTE 5: ACCOUNTS PAYABLE AND ACCRUED EXPENSES

The following is an approximate breakdown of accounts payable and accrued expenses balances:

	May 31,	
	2023	2022
Accounts payable	$ 344,000	$ 736,000
Accrued expenses	548,000	236,000
Total	**$ 892,000**	**$ 972,000**

As of May 31, 2023, the Company had one vendor which accounted for 23% of accounts payable. As of May 31, 2022, the Company had two vendors which accounted for 69% of accounts payable.

NOTE 6: SHAREHOLDERS' EQUITY

STOCK OPTION AND RESTRICTED STOCK PLANS

In December 2014, the Company adopted and shareholders approved a stock option and restricted stock plan (the "2014 Plan"). Subsequently, in December 2017, the Company adopted and shareholders approved an stock option and restricted stock plan (the "2017 Plan"). In February 2020, the Board approved the 2020 Stock Incentive Plan (the "2020 Plan", and collectively with the 2014 Plan and 2017 Plan, the "Equity Incentive Plans") and on December 11, 2020, the shareholders of the Company approved the 2020 Plan. The Equity Incentive Plans provide that non-qualified options and incentive stock options and restricted stock may be granted to directors, affiliates, employees, or consultants of the Company. The Equity Incentive Plans authorize awards representing up to 850,000, 900,000 and 900,000 shares of the Company's common stock to be issued under the 2014 Plan, 2017 Plan, and 2020 Plan, respectively. Awards granted under the Equity Incentive Plans typically vest over 4 years. Options granted under the Equity Incentive Plans will be granted at prices not less than 80% of the then fair market value of the common stock and will expire not more than 10 years after the date of grant. The 2014 Plan expires in December 2024, the 2017 Plan expires in December 2027, and the 2020 Plan expires in December 2030.

Stock-based compensation expense for the years ended May 31, 2023 and 2022 is as follows:

	For the Year Ended May 31,	
	2023	2022
Cost of sales	$ 143,000	$ 159,000
Selling, general and administrative	971,000	1,021,000
Research and development	71,000	80,000
Total stock option expense	**$ 1,185,000**	**$ 1,260,000**

Activity as to aggregate stock options outstanding is as follows:

	Number of Stock Options	Weighted Average Exercise Price	Aggregate Intrinsic Value
Options Outstanding at May 31, 2021	**2,081,366**	**$ 3.59**	**$ 2,132,000**
Options granted	344,000	$ 4.43	
Options exercised	(39,500)	$ 1.99	$ 90,000
Options canceled or expired	(64,250)	$ 4.41	
Options Outstanding at May 31, 2022	**2,321,616**	**$ 3.72**	**$ 1,838,000**
Options granted	243,000	$ 2.70	
Options exercised	(46,500)	$ 1.73	$ 90,000
Options canceled or expired	(175,500)	$ 5.56	
Options Outstanding at May 31, 2023	**2,342,616**	**$ 3.52**	**$ 146,000**
Options vested and exercisable at May 31, 2023	**1,841,933**	**$ 3.38**	**$ 146,000**

The weighted average grant date fair value of options granted during 2023 and 2022 were $2.19 and $4.43, respectively.

On May 31, 2023, total compensation cost related to non-vested stock option awards not yet recognized totaled approximately $1,145,000. The weighted-average period over which this amount is expected to be recognized is 2.52 years. The weighted average remaining contractual term of options that were exercisable on May 31, 2023 was 4.97 years. The weighted average remaining contractual term of options that were vested, exercisable, or expected to vest on May 31, 2023 was 5.67 years.

COMMON STOCK ACTIVITY

On January 22, 2021, the Company filed a prospectus supplement to the base prospectus included in a registration statement filed with the SEC on July 21, 2020, and declared effective by the SEC on September 30, 2020, for purposes of selling up to $15,000,000 in “at-the-market” offerings, as defined in Rule 415 promulgated under the Securities Act (the “ATM Offering”).

On May 21, 2021, in conjunction with the Company’s 2020 Stock Incentive Plan, that was approved by shareholders at the Company’s annual meeting in December 2020, the Company filed an S-8 Registration Statement to register up to 900,000 shares of the Company’s common stock that could be issued under this Plan.

Under the ATM Offering, the sales agent uses commercially reasonable efforts to sell on the Company’s behalf all of the shares requested to be sold from time to time by the Company, consistent with its normal trading and sales practices, on mutually agreed terms between the agent and the Company. The Company has no obligation to sell any of the shares under the ATM Offering, and may at any time suspend offers under, or terminate the ATM Offering.

During the year ended May 31, 2023, the Company sold 573,889 shares of its common stock at prices ranging from $3.15 to $4.26 pursuant to the ATM Offering, which resulted in gross proceeds of approximately $2,014,000 and net proceeds to the Company of $1,961,000, after deducting commissions for each sale and legal, accounting, and other fees related to the offering in the amount of $53,000.

During the year ended May 31, 2022, the Company sold 521,267 shares of its common stock at prices ranging from $4.02 to $5.63 pursuant to the ATM Offering, which resulted in gross proceeds of approximately $2,402,000 and net proceeds to the Company of $2,317,000, after deducting commissions for each sale and legal, accounting, and other fees related to the offering in the amount of $85,000.

On March 7, 2023, the Company closed on an underwritten sale of 3,333,333 shares of our registered common stock through an investment banking firm, which shares were issued under our shelf registration. In this offering, the Company sold the registered shares at a gross sales price of $2.40 per share, with net proceeds, after deducting issuance fees and expenses of $700,000, of approximately $7,300,000.

PREFERRED STOCK ACTIVITY

On February 24, 2020, the Company entered into and closed on a Stock Purchase Agreement (the “Stock Purchase Agreement”) with Palm Global Small Cap Master Fund LP (“Palm”) pursuant to which the Company agreed to sell and issue to Palm, and Palm agreed to purchase from the Company, 571,429 shares of the Company’s Series A 5% Convertible Preferred Stock, $0.08 par value per share for a purchase price of approximately $2 million, or $3.50 per Series A Convertible Preferred Stock. Under the terms of the Stock Purchase Agreement, each share of issued Convertible Preferred Stock can be converted at any time by Palm into one share of the Company’s common stock, subject to certain adjustments.

The Series A 5% Convertible Preferred Stock accrued annual preferred dividends at a rate of $0.175 per Series A 5% Convertible Preferred Share. However, accruing dividends were payable only when, as, and if declared by the Board and the Company had no obligation to pay such accruing dividends.

On March 24, 2020, Palm converted 250,000 shares of Convertible Preferred Stock into 250,000 shares of unregistered common stock. On July 21, 2020, the Company filed with the SEC a registration statement on Form S-3, that among other things, registered 571,429 common shares issued, or to be issued, to Palm upon conversion of the Convertible Preferred Stock into common shares. On September 30, 2020, the Company received a Notice of Effectiveness from the Securities and Exchange Commission for registration of these shares. On January 21, 2021, Palm Converted their remaining 321,429 Convertible Preferred Shares into registered common shares. On May 30, 2021, the Company had no shares of Preferred Stock outstanding. Under the terms of the Preferred Stock Purchase Agreement, none of the cumulative dividends were paid to Palm during the period they owned the Preferred Stock. Once converted to common shares, Palm lost all rights to receive any past cumulative dividends.

NOTE 7: INCOME TAXES

Provision for income taxes for the years ended May 31 consists of the following:

	For the Year Ended May 31,	
	2023	2022
Current:		
U.S. Federal	$ -	$ -
Foreign Taxes Subsidiaries	(50,000)	(23,000)
State and local	(1,000)	(1,000)
Total current	**(51,000)**	**(24,000)**
Deferred:		
U.S. Federal	-	-
State and local	-	-
Total deferred	-	-
Income tax expense	**$ (51,000)**	**$ (24,000)**

Provision for income taxes differs from the amounts computed by applying the U.S. Federal income tax rate applicable for each year (21% for 2023 and 2022) to pretax income as a result of the following:

	For the Year Ended May 31,	
	2023	2022
Computed “expected” tax benefit	$ 1,490,000	947,000
Increase (reduction) in income taxes resulting from:		
Change in valuation allowance	(1,973,000)	(1,022,000)
State income taxes, net of federal benefit	583,000	300,000
Research and development tax credits	-	50,000
Permanent tax differences and other	(17,000)	(197,000)
Stock based compensation benefit	(5,000)	11,000
Foreign taxes of subsidiaries	(129,000)	(113,000)
Income tax expense	**$ (51,000)**	**$ (24,000)**

The tax effect of significant temporary differences is presented below:

	May 31,	
	2023	2022
Deferred tax assets:		
Accounts receivable, principally due to allowance for doubtful accounts	$ 8,000	$ 43,000
Inventory valuation	188,000	237,000
Compensated absences	118,000	120,000
Net operating loss carryforwards	5,817,000	4,349,000
Tax credit carryforwards	1,239,000	1,096,000
Deferred rent expense/Capitalized leases	11,000	20,000
Stock Options	1,296,000	1,035,000
Sec 174 capitalized costs	284,000	-
Losses of foreign subsidiaries & other, net	-	41,000
Accumulated depreciation and amortization	(21,000)	26,000
Total deferred tax assets	8,940,000	6,967,000
Less valuation allowance	(8,940,000)	(6,967,000)
Net deferred tax asset	**$ -**	**$ -**

The Company has provided a valuation allowance of approximately $8,940,000 and $6,967,000 as of May 31, 2023 and 2022, respectively. The net change in the valuation allowance for the years ended May 31, 2023 and 2022 was an increase of $1,973,000 and $1,063,000, respectively.

On May 31, 2023, the Company has Federal income tax net operating loss carryforwards of approximately $21,958,000. On May 31, 2023, the Company has California state income tax net operating loss carryforwards of approximately $17,269,000. For tax reporting purposes, operating loss carryforwards are available to offset future taxable income; such carryforwards expire in varying amounts beginning in 2024 and 2038 for federal and state purposes, respectively. Federal net operating losses beginning in 2018 have no expiration date.

On May 31, 2023, the Company has Federal research and development tax credit carryforward of approximately $817,000. The Federal credits begin to expire in 2028. The Company also had similar credit carryforwards for state purposes of $533,000 on May 31, 2023, which do not expire.

Pursuant to Internal Revenue Code (“IRC”) Sections 382 and 383, annual use of the Company’s net operating loss (“NOL”) and credit carryforwards may be limited by statute because of a cumulative change in ownership of more than 50%. Pursuant to Sections 382 and 383 of the IRC, the annual use of the Company’s NOLs and credit carryforwards would be limited if there is a cumulative change of ownership (as that term is defined in Section 382(g) of the IRC of greater than 50% in a three-year period). Management has not performed an analysis to determine if the Company has had a cumulative change in ownership of greater than 50%.

For the year ended May 31, 2023, the Company performed an analysis and has not identified any uncertain tax positions as defined under ASC 740. Should such position be identified in the future, and should the Company owe interest and penalties as a result of this, these would be recognized as interest expense and other expense, respectively, in the consolidated financial statements. The Company is no longer subject to any significant U.S. federal tax examinations by tax authorities for years before fiscal 2018.

NOTE 8: GEOGRAPHIC INFORMATION

The Company operates as one segment. Geographic information regarding net sales is approximately as follows:

	For the Year Ended May 31,	
	2023	2022
Revenues from sales to unaffiliated customers:		
Asia	$ 2,021,000	$ 13,375,000
Europe	1,798,000	4,339,000
North America	1,470,000	997,000
Middle East	39,000	70,000
South America	11,000	90,000
Total	**$ 5,339,000**	**$ 18,871,000**

NOTE 9: COMMITMENTS AND CONTINGENCIES

OPERATING LEASES

The Company leases facilities in Irvine, California and Mexicali, Mexico.

As of May 31, 2023, the Company had approximately 22,000 square feet of floor space at its corporate headquarters at 17571 Von Karman Avenue in Irvine, California. The lease for its headquarters expires in August 2026. The Company has the option to extend the lease for an additional five-year term. The Company made a security deposit of approximately $22,000.

In November 2016, the Company's Mexican subsidiary, Biomerica de Mexico, entered into a 10-year lease for approximately 8,100 square feet of manufacturing space. The Company has one 10-year option to renew at the end of the initial lease period. Biomerica de Mexico also leases a smaller unit on a month-to-month basis for use in the Company's manufacturing process.

In addition, the Company leases a small office in Lindau, Germany on a month-to-month basis, as headquarters for BioEurope GmbH, its Germany subsidiary.

For purposes of determining straight-line rent expense, the lease term is calculated from the date the Company first takes possession of the facility, including any periods of free rent and any renewal options periods that the Company is reasonably certain of exercising. The Company's office and equipment leases generally have contractually specified minimum rent and annual rent increases are included in the measurement of the right-of-use asset and related lease liabilities. Additionally, under these lease arrangements, the Company may be required to pay directly, or reimburse the lessors, for some maintenance and operating costs. Such amounts are generally variable and therefore not included in the measurement of the right-of-use asset and related lease liabilities but are instead recognized as variable lease expense in the consolidated statements of operations and comprehensive loss when they are incurred.

The following table presents information on our operating leases for the years ended May 31, 2023 and 2022:

	Year Ended May 31,	
	2023	2022
Operating lease cost	$ 353,000	$ 352,000
Short-term lease cost	5,000	5,000
Total lease cost	$ 358,000	$ 357,000

The future minimum lease payments of the Company's operating lease liabilities by fiscal year are as follows:

Year Ending May 31:	Operating Leases
2024	$ 356,000
2025	366,000
2026	376,000
2027	101,000
Thereafter	-
Total minimum future lease payments	$ 1,199,000
Less: imputed interest	117,000
Total operating lease liabilities	**$ 1,082,000**

The following table summarizes the Company's other supplemental lease information for the years ended May 31, 2023 and 2022:

	Year Ended May 31,	
	2023	2022
Cash paid for operating lease liabilities	$ 347,000	$ 338,000
Weighted-average remaining lease term (years)	3.27	4.28
Weighted-average discount rate	6.50%	6.50%

The Company also has various insignificant leases for office equipment.

RETIREMENT SAVINGS PLAN

Effective September 1, 1986, the Company established a 401(k) plan for the benefit of its employees. The plan permits eligible employees to contribute to the plan up to the maximum percentage of total annual compensation allowable under the limits of IRC Sections 415, 401(k) and 404. The Company, at the discretion of its Board of Directors, may make contributions to the plan in amounts determined by the Board each year. No contributions by the Company have been made since the plan's inception.

LITIGATION

The Company is, from time to time, involved in legal proceedings, claims, and litigation arising in the ordinary course of business. While the amounts claimed may be substantial, the ultimate liability cannot presently be determined because of considerable uncertainties that exist. Therefore, it is possible the outcome of such legal proceedings, claims, and litigation could have a material effect on quarterly or annual operating results or cash flows when resolved in a future period. However, based on facts currently available, management believes such matters will not have a material adverse effect on the Company's consolidated financial position, results of operations or cash flows.

There were no legal proceedings pending as of May 31, 2023.

CONTRACTS

Contracts and Licensing Agreements

The Company has one royalty agreement in which it has obtained rights to manufacture and market certain products for the life of the products. Royalty expense of approximately $13,000 and $19,000 is included in cost of sales for the agreement for each of the years ended May 31, 2023 and 2022, respectively. Sales of products manufactured under these agreements comprise approximately 2.1% and 1.5% of total sales for the years ended May 31, 2023 and 2022, respectively. The Company may license other products or technology in the future as it deems necessary for conducting business. The Company has other royalty agreements however they are not considered material.

Clinical Trial Agreements

In September 2017, the Company signed a Clinical Samples Agreement with the University of Southern California for the purpose of providing clinical samples for use by the Company in conducting future clinical trials for one of the products which the Company is developing. The initial budget was estimated to be approximately $82,000. The work started in October 2017 with charges for work performed being invoiced and paid monthly. This study ended in February 2020. Approximately $17,000 in fees has been accrued for unbilled charges as of May 31, 2022. There are no unbilled charges as of May 31, 2023.

The Company entered into a Clinical Trial Agreement with a research institute for the purpose of conducting a clinical trial of the Biomerica InFoods® product. The term of the agreement shall be until completion of the work outlined and the charges will be invoiced monthly for work performed in the previous month. The maximum budgeted costs will be approximately $107,000. This study ended in March 2022. Approximately $28,000 in fees has been accrued for unbilled charges as of May 31, 2022. There are no unbilled charges as of May 31, 2023.

NOTE 10: SUBSEQUENT EVENTS

On August 3, 2023, the Company announced it had entered into a sales agreement with CVS Pharmacy wherein the Company's EZ Detect™ colorectal disease screening test will be offered at approximately 7,000 CVS Pharmacy retail stores. Biomerica has shipped the EZ Detect product to CVS Health distribution centers in the United States, and the product is projected to be on store shelves in September.

Exhibit 3.1

FIRST AMENDED AND RESTATED
CERTIFICATE of INCORPORATION
OF
BIOMERICA, INC.

Biomerica, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation") does hereby certify as follows:

1. The Corporation filed its original Certificate of Incorporation with the Secretary of State of the State of Delaware on September 22, 1971 under the name of Nuclear Medical Systems, Inc.

2. At a duly called meeting of the Board of Directors of the Corporation at which a quorum was present at all times, a resolution was duly adopted, pursuant to Sections 242 and *245 of* the General Corporation Law of the State of Delaware ("General Corporation Law"), setting forth the First Amended and Restated Certificate of Incorporation of the Corporation, declaring said First Amended and Restated Certificate of Incorporation advisable and directing that said First Amended and Restated Certificate of Incorporation be considered at the next annual meeting of the stockholders. The stockholders of the Corporation duly approved said proposed First Amended and Restated Certificate of Incorporation at such annual meeting of the stockholders in accordance with Sections 222, 242 and 245 of the General Corporation Law.

3. The text of the Certificate of Incorporation of the Corporation, as amended, is hereby further amended and restated in its entirety as follows:

ARTICLE I
NAME

The name of this Corporation is Biomerica, Inc.

ARTICLE II
REGISTERED OFFICE IN STATE AND REGISTERED AGENT

The address of the registered office of this Corporation in the State of Delaware is 1013 Centre Road, City of Wilmington, County of New Castle. The name of this Corporation's registered agent at such registered office is The Prentice-Hall Corporation System, Inc.

ARTICLE III
PURPOSE

The purpose for which this Corporation is organized is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law.

ARTICLE IV
CAPITAL STOCK

This Corporation is authorized to issue two classes of shares designated respectively "Common Stock" and "Preferred Stock" and referred to herein as Common Stock or Common Shares and Preferred Stock or Preferred Shares, respectively. The total number of shares of all classes of stock which the Corporation shall have authority to issue is 30,000,000 shares, par value $.08, consisting of:

(a) 25,000,000 shares of Common Stock; and

(b) 5,000,000 shares of Preferred Stock. The Preferred Shares may be issued from time to time in one or more series. The board of directors is authorized to fix the number of shares of any series of Preferred Stock and to determine the designation of any such series. The board of directors is also authorized to determine or alter the rights, preferences, privileges and restrictions granted to or imposed upon any wholly unissued series of Preferred Shares and, within the limits and restrictions stated in any resolution or resolutions of the board of directors originally fixing the number of shares constituting any series, to increase or decrease (but not below the number of shares of any such series then outstanding) the number of shares of any series subsequent to the issue of shares of that series.

ARTICLE V
PROVISIONS FOR DEFINING, LIMITING AND
REGULATING CERTAIN POWERS of THIS
CORPORATION AND of THE DIRECTORS AND STOCKHOLDERS

Section 1. Number of Directors. The number of directors which shall comprise the full Board of Directors of this Corporation shall be fixed by, or in the manner provided in, the Bylaws of this Corporation.

Section 2. Power to Authorize Issuance of Stock. The Board of Directors of this Corporation is hereby empowered to authorize the issuance from time to time of shares of capital stock, whether now or hereafter authorized, for such consideration as the Board of Directors may deem advisable, subject to such limitations as may be set forth in this Certificate of Incorporation or in the Bylaws of this Corporation or in the General Corporation Law.

Section 3. Limitation on Liability of Directors. A director of this Corporation shall not be personally liable to this Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to this Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law as now in effect, or any successor provision thereto, (iii) under Section 174 of the General Corporation Law, or (iv) for any transaction from which the director derived any improper personal benefit. If the General Corporation Law is amended after approval by the stockholders of this Article V to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law, as so amended.

Any repeal or modification of this Section 3 of Article V by the stockholders of this Corporation shall not adversely affect any right or protection of a director of this Corporation existing at the time of such repeal or modification.

Section 4. Indemnification. Each director, officer and employee of this Corporation shall be indemnified by this Corporation to the fullest extent permitted by the General Corporation Law as now or hereafter in force.

Section 5. Bylaws. In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the board of directors of this Corporation is expressly authorized and empowered to make, alter, amend and repeal the Bylaws of this Corporation, subject to the power of the stockholders of this Corporation to alter or repeal any Bylaw made by the board of directors.

ARTICLE VI
AMENDMENTS

This Corporation reserves the right at any time, and from time to time, to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute.

IN WITNESS WHEREOF, this Corporation has caused this First Amended and Restated Certificate of Incorporation to be signed by its President and attested by its Secretary this 21 day of July, 2000.

BIOMERICA, INC.

By: */s/ Zackary Irani*
Zackary Irani, President

ATTEST:

By: */s/ Janet Moore*
Janet Moore, Secretary

Exhibit 3.2

AMENDED AND RESTATED BYLAWS

OF

BIOMERICA, INC.

(a Delaware corporation)

Adopted by the Board of Directors on July 24, 2023

ARTICLE I

Offices

1. The principal office of the Corporation shall be at 251 Little Falls Dr., City of Wilmington, State of Delaware, and the name of the resident agent in charge thereof is CSC-Global.

2. The Corporation may also have an office or offices at such other place or places, within or without the State of Delaware, as the Board of Directors of the Corporation (the "**Board**") may from time to time designate or the business of the Corporation may require.

ARTICLE II

Stockholders' Meeting

1. Meetings of the stockholders of the Corporation may be held at such place, either within or without the State of Delaware, as may be determined from time to time by the Board. The Board may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the Delaware General Corporation Law (the "**DGCL**").

2. Unless members of the Board are elected by written consent in lieu of an annual meeting, as permitted by Section 211 of the Delaware General Corporation Law (the "**DGCL**") and these Bylaws, an annual meeting of stockholders shall be held for the election of directors at such date and time as the Board shall each year fix. At such meeting the stockholders may elect the directors and transact any business properly brought before the meeting.

3. Special meetings of the stockholders shall be held upon call of the Board, and shall be called by the Chairperson of the Board or the President or the Secretary at the request in writing of the stockholders owning of record at least twenty-five percent of the issued and outstanding capital stock of the Corporation entitled to vote thereat.

4. Notice of the purpose or purposes and of the time and place within or without the State of Delaware of every meeting of stockholders shall be given by the Chairperson of the Board or the President or the Secretary or an Assistant Secretary either personally or by mail or by telegraph or by any other lawful means of communication not less than ten nor more than sixty days before the meeting, to each stockholder of record entitled to vote at such meeting. If mailed, such notice shall be directed to each stockholder at such stockholder's address as it appears on the stock book unless such stockholder shall have filed with the Secretary of the Corporation a written request that notices intended for him or her be mailed to some other address, in which case it shall be mailed or transmitted to the address designated in such request. Such further notice shall be given as may be required by law. Except as otherwise expressly provided by statute, no publication of any notice of meeting of stockholders shall be required to be given any stockholder who shall attend such meeting in person or by proxy, or who shall, in person or by attorney thereunto authorized, waive notice in writing or by wireless communication either before or after such meeting. Except where otherwise required by law, notice of any adjourned meeting of the stockholders of the Corporation shall not be required to be given.

5. A quorum at all meetings of stockholders shall consist of the holders of record of a majority of the shares of stock of the Corporation, issued and outstanding, entitled to vote at the meeting, present in person or by proxy, except as otherwise provided by statute or the Certificate of Incorporation. In the absence of a quorum at any meeting or any adjournment thereof, a majority of those present in person or by proxy and entitled to vote may adjourn such meeting from time to time. At any such adjourned meeting at which a quorum is present any business may be transacted which might have been transacted at the meeting as originally called.

6. Meetings of the stockholders shall be presided over by a chairperson which shall be the chief executive officer (the "**CEO**"). If the CEO is not present, the meetings of the stockholders shall be presided over by the Chairperson of the Board (the "**Chairperson**"), or the Vice Chairperson (the "**Vice Chairperson**"). If neither the CEO the Chairperson, or the Vice Chairperson is present, the meeting may be presided over by a chairperson to be chosen by a majority of the stockholders entitled to vote who are present in person or by proxy at the meeting. The Secretary of the Corporation, or in his or her absence, an Assistant Secretary, shall act as secretary of every meeting, but if neither the Secretary nor an Assistant Secretary is present, the meeting shall choose any person present to act as secretary of the meeting.

7. Except as otherwise provided in these Bylaws, the Certificate of Incorporation, or in the laws of the State of Delaware, at every meeting of the stockholders, each stockholder of the Corporation entitled to vote at such meeting shall have one vote in person or by proxy for each share of stock having voting rights held by him or her and registered in his or her name on the books of the Corporation at the time of such meeting. Any vote on shares of stock of the Corporation may be given by the stockholder entitled thereto in person or by proxy appointed by an instrument in writing, subscribed by such stockholder or by his or her attorney thereunto authorized and delivered to the secretary of the meeting. Except for the election of directors or as otherwise required by statute, by the Certificate of Incorporation or these Bylaws, all matters coming before any meeting of the stockholders shall be decided by a majority vote of the stockholders of the Corporation present in person or by proxy at such meetings and entitled to vote on the subject matter, a quorum being present.

8. A complete list of the stockholders entitled to vote at a meeting of stockholders, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder shall be prepared by the Secretary or other officer of the Corporation having charge of the stock ledger. Such list shall be open to the examination of any stockholder for any purpose germane to the meeting, for a period of at least ten days ending on the day before the meeting, either on a reasonably accessible electronic network as permitted by law (provided that the information required to gain access to the list is provided with the notice of the meeting) or during ordinary business hours at the principal place of business of the Corporation.

9. At all elections of directors, or in any other case in which inspectors may act, an inspector, or inspectors, of election shall be appointed by the Board or the chairperson of the meeting, except as otherwise provided by law. The inspectors of election shall take and subscribe an oath faithfully to execute the duties of inspectors at such meeting with strict impartiality, and according to the best of their ability and shall take charge of the polls and after the vote shall have been taken shall make a certificate of the result thereof. If there be a failure to appoint an inspector or if any inspector appointed be absent or refuse to act, or if his or her office becomes vacant, the chairperson present at the meeting may choose an inspector of election to fill the vacancy.

ARTICLE III

Directors

1. The property, affairs and business of the Corporation shall be managed by the Board, consisting of not less than three nor more than nine persons. The exact number of directors within the maximum and minimum limitations specified shall be fixed from time to time by resolution of the Board. Except as hereinafter provided, directors shall be elected at the annual meeting of the stockholders by plurality vote of the stockholders of the Corporation present in person or by proxy at such meeting and entitled to vote on the election of directors, and each director shall be elected to serve for one year and until his or her successor shall be elected and shall qualify. Directors need not be stockholders.

2. Meetings of the Board shall be held at such place within or outside the State of Delaware as may from time to time be fixed by resolution of the Board, or as may be specified in the notice of the meeting. Regular meetings of the Board shall be held at such times as may from time to time be fixed by resolution of the Board, and special meetings may be held at any time upon the call of the Chairperson of the Board, the President, or a majority of the directors by oral, electronic or written notice duly served on or sent or mailed to each director not less than one day before such meeting. A meeting of the Board may be held without notice immediately after annual meeting of the stockholders. Notice need not be given of regular meetings of the Board. Meetings may be held at any time without prior notice if all the directors are present, or if at any time before or after the meeting those not present waive notice of the meeting in writing.

3. A majority of the members of the Board then acting at a meeting duly assembled, shall constitute a quorum for the transaction of business, but if at any meeting of the Board there shall be less than a quorum present, a majority of those present may adjourn the meeting, without further notice, from time to time until a quorum shall have been obtained.

4. In case one or more vacancies shall occur or exist in the Board by reason of death, resignation, increase in the number of directors or otherwise except in so far as otherwise provided in these Bylaws, the remaining directors, even if less than a quorum, may, by a majority vote, elect a successor or successors for the unexpired term or terms.

5. At any special meeting of the stockholders, duly called as provided in these Bylaws, any director or directors may by the affirmative vote of the holders of a majority of all the shares of stock outstanding and entitled to vote for election of directors be removed from office, either with or without cause, and his or her successor or their successors may be elected at such meeting; or the remaining directors may, to the extent vacancies are not filled by such election, fill any vacancy or vacancies created by such removal.

6. **Indemnification**.

6.1. **Obligation and Power to Indemnify**.

a) Actions, Suits, and Proceedings Other than By or In the Right of the Corporation. Subject to the limitations set forth in Section 6.2, the Corporation will indemnify any Director or Executive Officer, and will indemnify and hold harmless any employee or agent of the Corporation who is not a Director or Executive Officer, who was or is a party or is threatened to be made a party, including as a witness, to any Proceeding (other than an action by or in the right of the Corporation) by reason of such person's Corporate Status from and against all Expenses and Liabilities actually and reasonably incurred or paid by or on behalf of such person in connection with such Proceeding or any claim, issue or matter therein, if such indemnitee acted in good faith and in a manner the indemnitee reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful, to the fullest extent permitted by law as the same exists or may hereafter be amended; *provided, however*, that except with respect to Proceedings to enforce rights to indemnification, the Corporation will indemnify any such indemnitee in connection with a Proceeding (or part thereof) initiated by such indemnitee only if such Proceeding (or part thereof) was authorized by the Board.

b) Actions, Suits, and Proceedings By or In the Right of the Corporation. Subject to the limitations set forth in Section 6.2, the Corporation will indemnify any Director or Executive Officer, and will indemnify and hold harmless any employee or agent of the Corporation who is not a Director or Executive Officer, who was or is a party or is threatened to be made a party to any Proceeding (including as a witness) by or in the right of the Corporation to procure a judgment in its favor by reason of such person's Corporate Status from and against all Expenses actually and reasonably incurred or paid by or on behalf of such person in connection with such Proceeding or any claim, issue or matter therein, if such indemnitee acted in good faith and in a manner the indemnitee reasonably believed to be in, or not opposed to, the best interests of the Corporation; *provided, however*, that no indemnification will be made under this Section 6.1(b) in respect of any claim, issue or matter as to which such person has been finally adjudged by a court of competent jurisdiction to be liable to the Corporation, unless, and only to the extent that, the Court of Chancery of the State of Delaware or another court in which such Proceeding was brought determines upon application that, despite adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnification for such Expenses that such court deems proper.

c) No Presumption. The termination of any Proceeding by a judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, will not, of itself create a presumption that such person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was lawful.

6.2. **Limitation on Indemnification**.

a) Requirement for Determination of Eligibility for Indemnification by Disinterested Directors. Any indemnification to be provided under Section 6.1 will (unless ordered by a court) be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the indemnitee is proper in the circumstances because such person has met the applicable standard of conduct set forth in Section 6.1. Such determination will be made (a) by a majority vote of the Disinterested Directors (even though less than a quorum); (b) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors (even though less than a quorum); (c) if there are no Disinterested Directors or if the Disinterested Directors so direct, by independent legal counsel in a written opinion; or (d) by the vote of a majority of the stockholders of the Corporation entitled to vote and voting on the matter. To the extent, however, that the indemnitee has been successful on the merits or otherwise in defense of any Proceeding described in Section 6.1, or in defense of any claim, issue or matter therein, such person will (in the case of a Director or Executive Officer) and will (in the case of an employee or agent of the Corporation who is not a Director or Executive Officer) be indemnified against Expenses actually and reasonably incurred by such person in connection therewith, without the necessity of authorization in the specific case.

b) No Indemnification for Matters Initiated by Indemnitee. Notwithstanding the provisions of Section 6.1, the Corporation will indemnify any person seeking indemnification in connection with a Proceeding initiated by such person only if such Proceeding (including any parts of such Proceeding not initiated by such person) was authorized in advance by the Board, unless such Proceeding was brought to enforce such person's rights to indemnification or advancement of Expenses under these Bylaws in accordance with the provisions set forth herein.

c) The Corporation's obligation, if any, to indemnify or provide advancement of Expenses to any person under this Section 6 as a result of such person's Corporate Status will be reduced by any amount such person may collect as indemnification or advancement of Expenses from another corporation, partnership, joint venture, trust, employee benefit plan or enterprise (the "**Primary Indemnitor**"). Any indemnification or advancement of Expenses under this Section 6 owed by the Corporation as a result of a person serving, at the request of the Corporation, as a director, partner, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise will only be in excess of, and will be secondary to, the indemnification or advancement of Expenses available from the applicable Primary Indemnitor(s) and any applicable insurance policies.

6.3. **Indemnification by a Court**. Notwithstanding any contrary determination in the specific case under Section 6.2, and notwithstanding the absence of any determination thereunder, any party to a Proceeding by reason of their Corporate Status may apply to any court of competent jurisdiction in the State of Delaware for indemnification to the extent otherwise permissible under Section 6.1. The basis of such indemnification by a court will be a determination by such court that indemnification of the person is proper in the circumstances because such person has met the applicable standards of conduct set forth in Section 6.1. Neither a contrary determination in the specific case under Section 6.2 nor the absence of any determination thereunder will be a defense to such application or create a presumption that the person seeking indemnification has not met any applicable standard of conduct. The person seeking application for indemnification pursuant to this Section 6.3 must give notice of such filing to the Corporation before or promptly after the filing of such application. If the person seeking indemnification pursuant to the foregoing is successful, in whole or in part, the Corporation will also be obligated to pay such person's Expense of prosecuting such application.

6.4. **Expenses Payable in Advance**.

a) Advancement of Expenses to Directors and Executive Officers Prior to Final Disposition.

i. The Corporation will advance all Expenses incurred by or on behalf of any Director or Executive Officer in connection with any Proceeding in which such person is involved by reason of such person's Corporate Status within 30 days after the receipt by the Corporation of a written statement from such person requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements must reasonably evidence the Expenses incurred by such person and be preceded or accompanied by an undertaking by or on behalf of such person to repay any Expenses so advanced if it is ultimately determined that such person is not entitled to be indemnified against such Expenses. Notwithstanding the foregoing, the Corporation will advance all Expenses incurred by or on behalf of any Director or Executive Officer seeking advancement of expenses hereunder in connection with a Proceeding initiated by such Director or Executive Officer only if such Proceeding (including any parts of such Proceeding not initiated by such Director) was (A) authorized by the Board, or (B) brought to enforce such Director's or Executive Officer's rights to indemnification or advancement of Expenses under these Bylaws.

ii. If a claim for advancement of Expenses hereunder by a Director or Executive Officer is not paid in full by the Corporation within 30 days after receipt by the Corporation of documentation of Expenses and the required undertaking, such Director or Executive Officer may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and if successful in whole or in part, such Director or Executive Officer will also be entitled to be paid the expenses of prosecuting such claim. The failure of the Corporation (including its Board or any committee thereof, independent legal counsel, or stockholders) to make a determination concerning the permissibility of such advancement of Expenses under this Section 6 will not be a defense to an action brought by a Director or Executive Officer for recovery of the unpaid amount of an advancement claim and will not create a presumption that such advancement is not permissible.

iii. The burden of proving that a Director or Executive Officer is not entitled to an advancement of Expenses will be on the Corporation.

iv. In any suit brought by the Corporation to recover an advancement of Expenses pursuant to the terms of an undertaking, the Corporation will be entitled to recover such Expenses upon a final adjudication that the Director or Executive Officer has not met any applicable standard for indemnification set forth in the Delaware General Corporation Law.

b) Advancement of Expenses to Officers and Non-Officer Employees Prior to Final Disposition.

i. The Corporation may, at the discretion of the Board, advance any or all Expenses incurred by or on behalf of any employee or agent of the Corporation that is not a Director or Executive Officer in connection with any Proceeding in which such person is involved by reason of his or her Corporate Status upon the receipt by the Corporation of a statement or statements from such person requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements must reasonably evidence the Expenses incurred by such person and be preceded or accompanied by an undertaking by or on behalf of such person to repay any Expenses so advanced if it is ultimately determined that such person is not entitled to be indemnified against such Expenses.

ii. In any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation will be entitled to recover such expenses upon a final adjudication that the employee or agent of the Corporation that is not a Director or Executive Officer has not met any applicable standard for indemnification set forth in the DGCL.

6.5. **Contractual Nature of Rights**.

a) The provisions of this Section 6 constitute a contract between the Corporation and each Director and Executive Officer entitled to the benefits hereof at any time while this Section 6 is in effect, in consideration of such person's past or current and any future performance of services in their Corporate Status. Neither amendment, repeal or modification of any provision of this Section 6, nor the adoption of any provision of the Certificate of Incorporation inconsistent with this Section 6 will eliminate or reduce any right conferred by this Section 6 in respect of any act or omission occurring, or any cause of action or claim that accrues or arises or any state of facts existing, at the time of or before such amendment, repeal, modification or adoption of an inconsistent provision (even in the case of a Proceeding based on such a state of facts that is commenced after such time), and all rights to indemnification and advancement of Expenses granted herein or arising out of any act or omission will vest at the time of the act or omission in question, regardless of when or if any Proceeding with respect to such act or omission is commenced. The rights to indemnification and to advancement of Expenses provided by, or granted pursuant to, this Section 6 will continue notwithstanding that the person has ceased to be a Director or Executive Officer and will inure to the benefit of the estate, heirs, executors, administrators, legatees and distributes of such person.

(b) If a claim for indemnification hereunder by a Director or Executive Officer is not paid in full by the Corporation within 60 days after receipt by the Corporation of a written claim for indemnification, such Director or Executive Officer may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim, and if successful in whole or in part, such Director or Executive Officer will also be entitled to be paid the Expenses of prosecuting such claim. The failure of the Corporation (including its Board or any committee thereof, independent legal counsel, or stockholders) to make a determination concerning the permissibility of such indemnification under this Section 6 will not be a defense to an action brought by a Director or Executive Officer for recovery of the unpaid amount of an indemnification claim and will not create a presumption that such indemnification is not permissible. The burden of proving that a Director or Executive Officer is not entitled to indemnification will be on the Corporation.

(c) In any suit brought by a Director or Executive Officer to enforce a right to indemnification hereunder, it will be a defense that such Director or Executive Officer has not met any applicable standard for indemnification set forth in the Delaware General Corporation Law.

6.6. **Non-exclusivity**. The indemnification and advancement of expenses permitted by this Section 6 are exclusive of any other rights to which any person may be entitled under any statute, the Corporation's Amended and Restated Certificate of Incorporation or these Bylaws, any agreement, vote of stockholders or Disinterested Directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding an office, and will continue as to a person who has ceased to be a Director, Executive Officer, employee or agent of the Corporation and will inure to the benefit of the heirs, executors and administrators of such person.

6.7. **Indemnification Agreements**. The Corporation may enter into agreements with any person described in this Section 6 for the purpose of providing for the indemnification set forth in Section 6.1(a) and Section 6.1(b).

6.8. **Insurance**. The Corporation has the power to purchase and maintain insurance to protect itself and any person who is or was a Director, Executive Officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, limited liability company, partnership, joint venture, employee benefit plan, trust or other enterprise against any Expenses or Liabilities asserted against such person and incurred by such person by reason of their Corporate Status, whether or not the Corporation would have the power to indemnify such person against such Expense or Liability under the provisions of this Section 6 or otherwise.

6.9. **Certain Definitions**. For purposes of this Section 6, references to:

a) a person's "**Corporate Status**" describes the status of a person who is serving or has served (i) as a Director, (ii) as an Executive Officer, (iii) as an employee or agent of the Corporation, or (iv) as a director, partner, trustee, officer, employee or agent of any other corporation, partnership, limited liability company, joint venture, trust, employee benefit plan, foundation, association, organization or other legal entity that such person is or was serving at the request of the Corporation. For purposes of this Section 6, a Director, Executive Officer, employee or agent of the Corporation who is serving or has served as a director, partner, trustee, officer, employee or agent of a Subsidiary will be deemed to be serving at the request of the Corporation;

b) the "**Corporation**" means the current Corporation and includes any (i) resulting corporation in a merger of the Corporation and (ii) constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, executive officers, employees or agents, so that any person who is or was a director, executive officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, executive officer, employee or agent of another corporation, limited liability company, partnership, joint venture, employee benefit plan, trust or other enterprise, will stand in the same position under the provisions of this Section 6 with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued;

c) a "**Director**" means any person who serves or has served the Corporation as a director on the Board;

d) a "**Disinterested Director**" means, with respect to each Proceeding in respect of which indemnification is sought hereunder, a Director of the Corporation who is not a party to such Proceeding;

e) an "**Executive Officer**" means executive officer, as such term is defined in Rule 405 promulgated under the Securities Act of 1933, as amended, of the Corporation;

f) "**Expenses**" means all attorneys' fees, retainers, court costs, transcript costs, fees of expert witnesses, private investigators and professional advisors (including, without limitation, accountants and investment bankers), travel expenses, duplicating costs, printing and binding costs, costs of preparation of demonstrative evidence and other courtroom presentation aids and devices, costs incurred in connection with document review, organization, imaging and computerization, telephone charges, postage, delivery service fees, and all other disbursements, costs or expenses of the type customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, settling or otherwise participating in, a Proceeding;

g) a "**Proceeding**" means any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, inquiry, investigation, administrative hearing or other proceeding, whether civil, criminal, administrative, arbitrative or investigative;

h) "**Liabilities**" means judgments, damages, liabilities, losses, penalties, excise taxes, fines and amounts paid in settlement; and

i) "**Subsidiary**" means any corporation, partnership, limited liability company, joint venture, trust or other entity of which the Corporation owns (either directly or through or together with another Subsidiary of the Corporation) either (i) a general partner, managing member or other similar interest or (ii) (A) 50% or more of the voting power of the voting capital equity interests of such corporation, partnership, limited liability company, joint venture or other entity, or (B) 50% or more of the outstanding voting capital stock or other voting equity interests of such corporation, partnership, limited liability company, joint venture or other entity.

6.10. **Severability**. If any word, clause, provision or provisions of this Section 6 is held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Section 6 (including each portion of any section of this Section 6 containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) will not in any way be affected or impaired thereby; and (b) to the fullest extent possible, the provisions of this Section 6 (including each such portion of any section of this Section 6 containing any such provision held to be invalid, illegal or unenforceable) will be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

7. Any action required or permitted to be taken at any meeting of the Board or any committee thereof may be taken without a meeting if prior to such action a written consent thereto is signed by all members of the Board or of the committee, as the case may be, and such written consent is filed with the minutes of proceedings of the Board or the committee.

8. Directors may, by resolution of the Board, be allowed a fixed sum and expenses of attendance for attendance at regular or special meetings of the Board; provided that nothing herein contained shall be construed to preclude any director from serving the corporation in any other capacity and receiving compensation therefor. Members of special or standing committees, and others who attend pursuant to direction, may, by vote of the Board, be allowed a like fixed sum and expenses of attendance for attending committee meetings.

9. The Board, in its discretion, may appoint an Executive Committee consisting of three or more directors of the corporation, one of whom shall be the President of the corporation, who shall serve during the pleasure of the Board for the terms fixed by it. Two members of the Executive Committee shall constitute a quorum for the transaction of business. The Executive Committee shall have and may exercise the powers of the Board in the management of the business and affairs of the corporation and may authorize the seal of the corporation to be affixed to all papers. The Executive Committee shall meet at such intervals between regular meetings. The Board, as may from time to time be fixed by the Board, shall keep regular records of its meetings and report the same to the Board when required.

ARTICLE IV

Officers

1. The officers of the Corporation shall be chosen by the Board and shall be a President, one or more Vice Presidents, a Secretary and a Treasurer. From time to time the Board may also appoint a Chairperson of the Board a CEO, a Vice Chairperson of the Board, a Chief Financial Officer, Assistant Secretaries, Assistant Treasurers and such other officers, agents and employees as it may deem proper. Any number of offices, except the offices of President and Secretary, may be held by the same person. The Chairperson of the Board, if such office exists, and the President shall be chosen from among the directors.

2. The term of office of all officers shall be one year or until their respective successors are elected and qualify by the Board, but any officer may be removed from office, either with or without cause at any time by the affirmative vote of a majority of the members of the Board then in office. A vacancy in any office arising from any cause may be filled for the unexpired portion of the term by the Board.

3. Unless otherwise ordered by the Board, the President shall have full power and authority on behalf of the Corporation to attend and to act and to vote at any meetings of security holders of the corporations in which the Corporation may hold securities, and at such meeting shall possess and may exercise any and all rights and powers incident to the ownership of such securities, and which as the owner thereof the Corporation might have possessed and exercised, if present. The Board by resolution from time to time may confer like power upon any other person or persons.

ARTICLE V

Duties of Officers

1. The President shall be chief executive officer of the Corporation and as such shall have general and active direction of the management and supervision of the business operations of the Corporation. The President shall have such other duties and powers as may be assigned from time to time by the Board and shall preside at all meetings of the stockholders and Board.

2. During the absence or disability of the President (or the CEO if one is appointed), an officer designated by the Board, shall exercise all the functions and duties of the President or the CEO. Each officer shall have such powers and discharge such duties as may be assigned to him or her from time to time by the Board.

3. The Treasurer shall have the custody of all the funds and securities of the Corporation. When necessary or proper, the Treasurer shall endorse on behalf of the Corporation, for collection, checks, notes and other obligations and shall deposit the same to the credit of the Corporation in such bank, or banks, or depositories as may be designated by the Board, or by any officer acting under authority conferred by the Board. The Treasurer shall enter regularly in books to be kept for the purpose a full and accurate account of all monies received and paid on account of the Corporation. Whenever required by the Board, the Treasurer shall render an account of all transactions as Treasurer and of the financial condition of the Corporation. The Treasurer shall at all reasonable times exhibit his or her books and accounts to any director of the Corporation upon application at the office of the Corporation during business hours and shall perform all things incident to the position of Treasurer, subject to the control of the Board. The Treasurer shall give bond for the faithful discharge of his or her duties if the Board so require. The Treasurer shall do and perform such other duties as may be assigned from time to time by the Board.

4. The Assistant Treasurers, in the order of their seniority, shall, in the absence of or disability of the Treasurer, perform the duties and exercise the powers of the Treasurer and shall perform such other duties as the Board shall prescribe.

5. The Secretary shall attend all meetings of the stockholders and all meetings of the Board, and record all votes and the minutes of all proceedings in a book to be kept for that purpose; and shall perform like duties for other committees when so required. The Secretary shall give, or cause to be given, notice of all meetings of stockholders and the Board and of committees and shall perform such other duties as may be prescribed by the Board. The Secretary shall be sworn to the faithful discharge of his or her duties. The Secretary shall do and perform such other duties as may be assigned from time to time by the Board.

6. The Assistant Secretaries, in the order of their seniority, shall in the absence of or disability of the Secretary, perform the duties and exercise the powers of the Secretary and shall perform such other duties as the Board shall prescribe.

7. In the case of absence or inability to act of any officer of the Corporation and of any person herein authorized to act in his or her place, the Board may from time-to-time delegate the powers and duties of such officer to any other officer or any director or any other person whom it may select.

ARTICLE VI

Certificates of Stock

1. The interest of each stockholder of the Corporation shall be evidenced by certificates for shares of stock certifying the number of shares represented thereby and in such form not inconsistent with the Certificate of Incorporation as the Board may from time to time prescribe.

Except as otherwise required by law, transfers of shares of stock of the Corporation shall be made only on the books of the Corporation by the registered holder thereof, or by his or her attorney thereunto authorized by power of attorney duly executed and filed with the Secretary of the Corporation, or with a transfer clerk or a transfer agent appointed as in Section 4 of this Article provided, and on surrender of the certificate or certificates for such shares properly endorsed and the payment of all taxes thereon. The person in whose name. Shares of stock stand on the books of the Corporation shall be deemed the owner thereof for all purposes as regards the Corporation. The Board may, from time to time, make such additional rules and regulations as it may deem expedient, not inconsistent with these Bylaws, concerning the issue, transfer, and registration of certificates for shares of the capital stock of the Corporation.

The certificates of stock shall be signed by the President or a Vice President and by the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer, and sealed with the seal of the Corporation. Such seal may be a facsimile, engraved or printed. Where any such certificate is signed by a transfer agent other than the Corporation or its employee, or by a registrar other than the Corporation or its employee, the signatures of the President, Vice President, Secretary, Assistant Secretary, Treasurer or Assistant Treasurer upon such certificate may be facsimiles, engraved or printed. In case any such officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such certificate is issued, it may be issued by the Corporation with the same effect as if such officer had not ceased to be such at the time of its issue.

2. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board may fix, in advance, a record date, which shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action.

If no record date is fixed:

The record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

The record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for the adjournment meeting.

3. No certificate for shares of stock of the Corporation shall be issued in place of any certificate alleged to have been lost, destroyed or stolen, except on production of such evidence of such loss, destruction or theft and on delivery to the Corporation, if the Board shall so require, of a bond of indemnity in such amount (not exceeding twice the value of the shares represented by such certificate), upon such terms and secured by such surety as the Board may in its discretion require.

4. The Board may appoint one or more transfer clerks or one or more transfer agents and one or more registrars, and may require all certificates for shares of stock to bear the signature or signatures of any of them.

5. The books, accounts and records of the Corporation, except as may otherwise be required by statute, may be kept outside of the State of Delaware, at such place or places as the Board may from time to time appoint. The Board shall determine whether and to what extent the books, accounts and records of the Corporation, or any of them, other than the stock ledger, shall be open to the inspection of stockholders, and no stockholder shall have any right to inspect any book, account or record of the Corporation except as conferred by statute or by resolution of the Board.

ARTICLE VII

Corporate Seal

The corporate seal of the Corporation shall consist of two concentric circles, between which shall be the name of the Corporation, and its state of incorporation, and in the center shall be inscribed the words, “Corporate Seal.”

ARTICLE VIII

Amendments

The Bylaws of the Corporation shall be subject to alteration, amendment or repeal, and new Bylaws not inconsistent with any provision of the Certificates of Incorporation or statute, may be made, either by the affirmative vote of the holders of a majority in interest of the stockholders of the Corporation present in person or by proxy at any annual or special meeting of the stockholders and entitled to vote on the subject matter, a quorum being present, provided that notice of such proposed action shall have been given in the call for the meeting, or by the affirmative vote of a majority of the whole Board, given at any regular or special meeting of the Board.

ARTICLE IX

Fiscal Year

The fiscal year of the Corporation shall end on the last day of May in each year.

ARTICLE X

Forum

1. **Forum for Adjudication of Disputes**. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if and only if the Court of Chancery of the State of Delaware lacks subject matter jurisdiction, any state or federal court located within the State of Delaware) shall be the sole and exclusive forum for: (a) any derivative action or proceeding brought on behalf of the Corporation, (b) any action or proceeding asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (c) any action or proceeding asserting a claim against the Corporation or any director, officer or other employee of the Corporation arising pursuant to, or seeking to enforce any right or remedy under, any provision of the DGCL, the Corporation's Certificate of Incorporation or these Bylaws (in each case, as they may be amended and restated from time to time), (d) any action or proceeding asserting a claim against the Corporation or any director, officer or other employee of the Corporation governed by the internal affairs doctrine, or (e) any action or proceeding to interpret, apply, enforce, or determine the validity of any provision or provisions of the Corporation's Certificate of Incorporation or these Bylaws (in each case, as they may be amended and restated from time to time), in all cases to the full extent permitted by applicable law and subject to the court's having personal jurisdiction over the indispensable parties named as defendants. Any person or entity purchasing, otherwise acquiring, or continuing to own any interest in shares of capital stock of the Corporation shall be deemed to have notice of and to have consented to the provisions of this Section 1 of Article X.

2. **Federal Forum Selection**. Unless the Corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended. Any person or entity purchasing, otherwise acquiring, or continuing to own any interest in shares of capital stock of the Corporation shall be deemed to have notice of and to have consented to the provisions of this Section 2 of Article X.

CERTIFICATION OF BYLAWS

OF

BIOMERICA, INC.

a Delaware Corporation

I, Allen Barbieri, certify that I am Secretary of Biomerica, Inc., a Delaware corporation (the "**Corporation**"), that I am duly authorized to make and deliver this certification and that the attached Bylaws are a true and complete copy of the Bylaws of the Corporation in effect as of the date of this certificate.

Dated: _____, 2023

Name: Allen Barbieri

Exhibit 4.2

DESCRIPTION OF CAPITAL STOCK

The following is a summary of all material characteristics of the capital stock of Biomerica, Inc. as set forth in our First Amended and Restated Certificate of Incorporation (our "Charter"), Amended and Restated Bylaws (our "Bylaws"), Series A Certificate of Designation, as corrected (the "Certificate of Designation"), and certain provisions of the General Corporation Law of the State of Delaware (the "DGCL"). The summary does not purport to be complete and is qualified in its entirety by reference to our Charter, Bylaws, and Certificate of Designation, copies of which have been filed as exhibits to our public filings with the Securities and Exchange Commission, and applicable provisions of the DGCL. References to "we," "our," "us," or the "Company" refer to Biomerica, Inc.

Common Stock

General. We may issue shares of our common stock from time to time. We are authorized to issue 25,000,000 shares of our common stock, par value $0.08 per share.

Voting Rights. The holders of common stock are entitled to one vote for each share held of record on all matters submitted to a vote of the stockholders. The holders of common stock are not entitled to cumulative voting rights with respect to the election of directors

Dividends. Subject to preferences that may be applicable to any shares of preferred stock issued in the future, holders of common stock are entitled to receive dividends on a pro rata basis out of funds legally available at the times and in the amounts that our board of directors may determine.

Rights to Receive Liquidation Distributions. In the event of a liquidation, dissolution or winding up of our Company holders of our common stock are entitled to share ratably in all assets remaining after payment of liabilities and the liquidation preference of any then outstanding preferred stock.

No Preemptive or Similar Rights. Holders of common stock have no preemptive rights and no right to convert their common stock into any other securities. There are no redemption or sinking fund provisions applicable to the common stock.

Preferred Stock

Pursuant to the terms of our Charter, our board of directors is authorized, subject to limitations prescribed by Delaware law, to issue up to 5,000,000 shares of preferred stock, par value $0.08 per share, in one or more series, to establish from time to time the number of shares to be included in each series, and to fix the designation, powers, preferences and rights of the shares of each series and any of its qualifications, limitations or restrictions, in each case without further action by our stockholders. Our board of directors also can increase or decrease the number of shares of any series of preferred stock, but not below the number of shares of that series then outstanding. Our board of directors may authorize the issuance of preferred stock with voting or conversion rights that could adversely affect the voting power or other rights of the holders of our common stock. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions and other corporate purposes, could, among other things, have the effect of delaying, deferring or preventing a change in our control or the removal of management and could adversely affect the market price of our common stock and the voting and other rights of the holders of our common stock.

Series A Preferred Stock

General. On February 4, 2020, we filed a Certificate of Designations, Preferences and Rights of Series A 5% Convertible Preferred Stock with the Secretary of State of the State of Delaware, which designated 571,429 of our preferred stock as Series A Preferred Stock (the "Series A Preferred Stock"). Those shares of Series A Preferred Stock have since been converted into common stock and are no longer outstanding.

Voting Rights. Except as otherwise provided by the DGCL, other applicable law or as provided in the Certificate of Designations, the holders of our Series A Preferred Stock are not entitled to vote on any matter submitted for a vote of holders of our common stock. The consent of the holders of at least a majority of the outstanding shares of our Series A Preferred Stock will be required to, among other matters, (i) alter, amend or change adversely any rights, preferences, or privileges of our Series A Preferred Stock, (ii) amend our First Amended and Restated Certificate of Incorporation or Bylaws in any manner that would impair or reduce the rights of our Series A Preferred Stock, or (iii) amend, alter, or repeal any provision of the Certificate of Designations.

Dividends. Shares of our Series A Preferred Stock accrue annual preferred dividends at a rate of $0.175 per share, which are payable when, as and if declared by our board of directors. The holders of the outstanding shares of our Series A Preferred Stock are also entitled to receive on each share of our Series A Preferred Stock dividends prior to, or simultaneously with, any dividend declared with respect to our common stock equal to the greater of (i) the amount of dividends that have accrued on such share of our Series A Preferred Stock and (ii) the dividend payable with respect to each share of our common stock issuable upon conversion of such share of our Series A Preferred Stock.

Rights to Receive Liquidation Distributions. In the event of a liquidation, dissolution or winding up of the Company, or a Deemed Liquidation Event (as defined in the Certificate of Designation) the holders of our Series A Preferred Stock are eligible to receive the greater of (i) an amount equal to $3.50 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or other similar recapitalization with respect to our Series A Preferred Stock) (the "Original Issue Price"), plus an amount equal to accrued and unpaid dividends thereon, or (ii) such amount per share as would have been payable had all shares of our Series A Preferred Stock been converted into our common stock immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event.

Conversion. Shares of our Series A Preferred Stock are convertible at the option of the holder at any time into shares of our common stock at a conversion rate determined by dividing the Original Issue Price by $3.50 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination, recapitalizations, dividends, distributions and certain issuances of common stock) (the "Conversion Price"). This formula initially results in a one-to-one conversion ratio. The Conversion Price is subject to customary weighted average anti-dilution adjustments in the event of certain dilutive issuances of shares of our common stock or convertible securities.

We may require the conversion of all of the outstanding shares of our Series A Preferred Stock if the closing sale price of our common stock equals or exceeds $9.00 for a period of five (5) consecutive trading days with a minimum average trading volume of 35,000 shares per day over such period; provided, that, on such date, the shares of our common stock issuable upon conversion of our Series A Preferred Stock are registered for resale under the Securities Act or are otherwise eligible for resale pursuant to Rule 144 thereunder.

Notwithstanding the foregoing, prior to the receipt of all approvals, if any, of the shareholders of the Company necessary for purposes of the rules and regulations of the applicable trading market, our Series A Preferred Shares shall not be converted into shares of common stock: (i) in the aggregate into more than 19.99% of the shares of common stock outstanding immediately prior to the issuance date, subject to appropriate adjustment in the event of a stock split, stock dividend, combination or other similar recapitalization, or (ii) by any beneficial holder (as such term is defined under Rule 13d-3 of the Exchange Act) or "group" (as such term is defined under Rule 13d-5 of the Exchange Act) (such beneficial holder or group, a "Capped Holder"), if (A) the aggregate number of shares of common stock issued to such Capped Holder upon such conversion and any conversion shares then held by the Capped Holders, plus (B) the number of shares of common stock underlying our Series A Preferred Shares that would be held at such time by the Capped Holders (after giving effect to such conversion), plus (C) the aggregate number of shares of common stock held by such Capped Holder as of immediately prior to the issuance date, would in the aggregate exceed more than 19.99% of the shares of common stock outstanding immediately prior to the issuance date (without regard to any limitation on conversion pursuant to this Section 5(n)), then such Capped Holder shall be entitled to convert such number of our Series A Preferred Shares as would result in the sum of clauses (A), (B) and (C) (after giving effect to such conversion) being equal to 19.99% of the shares of common stock outstanding immediately prior to the issuance date, in each case, subject to appropriate adjustment in the event of a stock split, stock dividend, combination or other similar recapitalization. Any Series A Preferred Shares which a holder has elected to convert but which, by reason of the previous sentence are not so converted, shall be treated as if the holder had not made such election to convert and such Series A Preferred Shares shall remain outstanding.

Delaware Law and Certain Charter and Bylaw Provisions

The provisions of DGCL, as well as certain terms of our Charter and Bylaws, may have the effect of delaying, deferring or discouraging another person from acquiring control of us by means of a tender offer, a proxy contest or otherwise, or removing incumbent officers and directors. These provisions, some of which are summarized below, are expected to discourage certain types of coercive takeover practices and takeover bids that our board of directors may consider inadequate and to encourage any person seeking to acquire control of us to first negotiate with our board of directors.

Delaware Law. We are governed by the provisions of Section 203 of the DGCL. In general, Section 203 prohibits a public Delaware corporation from engaging in a "business combination" with an "interested stockholder" for a period of three years after the date such stockholder became an "interested stockholder". A "business combination" includes mergers, asset sales or other transactions resulting in a financial benefit to the stockholder. An "interested stockholder" is a person who, together with affiliates and associates, owns, or within three years did, prior to the determination of interested stockholder status, own, 15% or more of the corporation's outstanding voting stock.

Charter and Bylaw Provisions. Each of our Charter and Bylaws include a number of other provisions that may have the effect of deterring hostile takeovers or delaying or preventing changes in control or our management, including the following:

- *Issuance of Undesignated Preferred Stock*. Our board of directors has the authority, to issue up to 5,000,000 shares of our preferred stock with rights and preferences designated from time to time by our board of directors, 571,429 of which have been designated as Series A Preferred Stock, and none of which are outstanding.

- *No Cumulative Voting*. The DGCL provides that stockholders are denied the right to cumulate votes in the election of directors unless our Charter provides otherwise. Our Charter does not provide for cumulative voting.

- *Size of Board and Vacancies*. Our Charter and Bylaws provide that the number of directors on our board of directors shall consist of not less than three nor more than nine members as fixed from time to time by resolution of our board of directors. Newly created directorships resulting from any increase in our authorized number of directors, and any vacancies resulting from death, resignation, retirement, disqualification, removal from office or other cause, will generally be filled by a majority of the remaining members of our board of directors then in office.

FIRST AMENDMENT TO LEASE

THIS AMENDMENT TO LEASE is made and entered into as of November 30, 2015, by and between CNH, LLC, a California limited liability company ("Lessor") and Biomerica, Inc., a Delaware corporation ("Lessee").

WHEREAS, on or about June 18, 2009 a Lease was entered into by and between Lessor and Lessee relating to certain real property commonly known as: 17571 Von Karman Avenue, Irvine, California (the "Premises"), and

WHEREAS, Lessor and Lessee ☐ have ☑ have not previously amended said Lease, and

WHEREAS, the Lessor and Lessee now desire to amend said Lease.

NOW, THEREFORE, for payment of TEN DOLLARS and other good and valuable consideration to Lessor, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree to make the following additions and modifications to the Lease:

☑ TERM: The Expiration Date is hereby ☐ advanced ☑ extended to August 31, 2021.

☐ AGREED USE: The Agreed Use is hereby modified to: N/A.

☑ BASE RENT ADJUSTMENT: Monthly Base Rent shall be as follows:
September 1, 2016 through October 31, 2017: the monthly Base Rent shall be $21,000.00
September 1, 2017 through October 31, 2018: the monthly Base Rent shall be $21,630.00
September 1, 2018 through October 31, 2019: the monthly Base Rent shall be $21,279.00
September 1, 2019 through October 31, 2020: the monthly Base Rent shall be $22,948.00
September 1, 2020 through October 31, 2021: the monthly Base Rent shall be $23,637.00.

☑ OTHER: Paragraph 61, "Right of First Refusal to Lease Addendum Space" shall be added to Lease agreement.

This Agreement shall not be construed against the party preparing it, but shall be construed as if all parties jointly prepared this Agreement and any uncertainty and ambiguity shall not be interpreted against any one party.

All other terms and conditions of this Lease shall remain unchanged and shall continue in full force and effect except as specifically amended herein.

EXECUTED as of the day and year first above written.

By Lessor:
CNH, LLC, a California limited liability company

By: _____
Name Printed: Alfonso G. Cordero
Title: Managing Member

By: _____
Name Printed: _____
Title: _____

By Lessee:
Biomarica, Inc., a Delaware corporation

By: _____
Name Printed: Zackary Irani
Title: Chief Financial Officer

By: _____
Name Printed: _____
Title: _____

_____ INITIALS

_____ INITIALS

Exhibit 10.5

BIOMERICA, INC.
NON-STATUTORY STOCK OPTION AGREEMENT FOR MEMBERS OF THE BOARD OF DIRECTORS

Optionee: [[FIRSTNAME]] [[LASTNAME]]
No. of shares: [[SHARESGRANTED]]
Issue Date: [[GRANTDATE]]
Expiration Date: [[GRANTEXPIRATIONDATE]]
Exercise Price: [[MARKETPRICEATAWARD]] per share
Vesting Schedule: 12 Months from Issue Date

[[ALLVESTSEGS]]

This Stock Option Agreement (the "Agreement") is made and entered into effective as of the date set forth on the Signature Page attached hereto by and between Biomerica, Inc., a Delaware corporation (the "Corporation"), and that person identified on the Signature Page below and attached hereto (the "Optionee"). This option is not intended to qualify and will not be treated as an "incentive stock option" with the meaning of Section 422 of the Internal Revenue Code (the "Code.")

The grant hereunder is in connection with and in furtherance of the Corporation's compensatory benefit plan for participation of the Corporation's employees. This Agreement and the stock option granted hereunder are subject to the terms and conditions found in the Biomerica, Inc. 2022 Stock Incentive Plan (the "Plan"), and the "Compensation Policy for Executive Officers and Directors" adopted by the Board of Directors (the "Board") on December20, 2018. All defined terms not explicitly defined in this Agreement but defined in the Plan shall have the same definitions as in the Plan.

1. Grant of Option. Subject to the vesting provisions of Section 3 and/or as set forth on the Signature Page attached hereto, the Corporation hereby grants to Optionee, as of the date hereof the right and option to purchase, on the terms and conditions hereinafter set forth, all or any part of the aggregate number of shares of Common Stock set forth on the Signature Page attached hereto (the "Option"), subject to adjustment in accordance with the provisions of The Plan and Section 18 below. It is understood and acknowledged that the Option is designated as a Nonstatutory Stock Option which will not qualify as an Incentive Stock Option under Section 422 of the Code.

2. Exercise Price. The price to be paid for the shares of Common Stock to be issued upon exercise of the Option or any part thereof shall be as set forth on the Signature Page below (the "Exercise Price.")

3. Right to Exercise. The option shall vest 100% on the twelve-month anniversary of the Issue Date. Subject to the provisions of the 2022 Stock Incentive Plan, and the terms of this Agreement, all vested options shall be exercisable in full or in part at any time until **[[**GRANTEXPIRATIONDATE]].

4. Securities Law Requirements. **No part of the Option shall be exercised if counsel to the Corporation determines that any applicable registration requirement under the Securities Act of 1933, as amended (the "1933 Act"), or any other applicable requirement of Federal or state law has not been met.**

5. Term of Option. The Option shall terminate in any event on the earliest of (a) the Expiration Date set forth on the Signature Page, (b) the expiration of the period described in Section 6 below, or (c) the expiration of the period described in Section 7 below.

6. Exercise Following Termination, Except by Death, Disability or Retirement. If the Optionee's service as a member of the Board is terminated either; a) for reasons other than by death or for Cause, or b) by the Member's resignation, or c) by vote of the shareholders at an annual meeting, then all issued, outstanding and vested options shall remain owned by the Member and shall remain exercisable until the Expiration Date listed herein. For this purpose, "Cause" shall mean conviction of a felony, misappropriation of assets of the Corporation or any subsidiary, gross negligence in carrying out the duties of a Member and acts of malfeasance toward the Company. If Optionee is removed from the Board of Directors for Cause, either by resignation or otherwise, all outstanding, unexercised options shall become void and un-exercisable, and all of Optionee's rights under this Agreement shall terminate.

7. Exercise Following Death. If the Optionee's service with the Corporation terminates by reason of the Optionee's death, or if the Optionee dies after termination of service but while the Option would have been exercisable hereunder, the vested portion of the Option (to the extent it has not previously been exercised and is then exercisable) may be exercised within twelve (12) months after the date of Optionee's death (but not later than the Expiration Date set forth on the signature page below). The exercise may be made by the by the Optionee's representative or by the person entitled thereto under Optionee's will or the laws of descent and distribution; provided that such representative or such person consents in writing to abide by and be subject to the terms of this Agreement and the 2022 Stock Incentive Plan and such writing is delivered to the CEO of the Corporation.

8. Nontransferability. Unless the Corporation otherwise consents in writing, the Option and all rights and privileges granted hereunder shall be non-assignable and non-transferable by the Optionee, either voluntarily or by operation of law, except by will, by operation of the laws of descent and distribution, by instrument to an inter vivos or testamentary trust in which the Option is to be passed to beneficiaries upon the death of the trustor, or by gift to the Optionee's immediate family, shall not be pledged or hypothecated in any way, and shall be exercisable during lifetime only by the Optionee. Except as otherwise provided herein, any attempted alienation, assignment, pledge, hypothecation, attachment, execution or similar process, whether voluntary or involuntary, with respect to all or any part of the Option or any right thereunder, shall be null and void and, at the Corporation's option, shall cause all of Optionee's rights under this Agreement to terminate.

9. Effect of Exercise. Upon exercise of all or any part of the Option, the number of shares of Common Stock subject to option under this Agreement shall be reduced by the number of shares with respect to which such exercise is made.

10. Partial Exercise. Any exercisable portion of the Option or the entire Option, if then wholly vested and exercisable, may be exercised in whole or in part at any time prior to the time when the Option or portion thereof becomes unexercisable under Section 5; provided, however, that each partial exercise shall be for not less than one hundred (100) shares and shall be for whole shares only.

11. Method of Exercise. Each exercise of the Option shall be by means of a written notice delivered to the Secretary or the Chief Financial Officer (CFO) of the Corporation at its principal office and accompanied by payment in full of the Exercise Price for each share of Common Stock purchased under the Option. Such notice shall specify the number of shares of Common Stock with respect to which the Option is exercised and shall be signed by the person exercising the Option. If the Option is exercised by a person other than the Optionee, such notice shall be accompanied by proof, reasonably satisfactory to the Corporation, of such person's right to exercise the Option. The Secretary or the CFO may instruct Optionee on other requirements for exercising such option.

The Exercise Price specified in Section 2 above shall be paid in full upon the exercise of the Option (i) by cash, in United States dollars. The Board of Directors may, but is not obligated to, accept a secured recourse promissory note of Optionee (bearing such rate of interest and such other terms as they may reasonably determine) as payment of the Exercise Price; provided, however, no stock certificate representing the shares be released until the note shall have been paid in full.

12. Withholding Taxes. If the Optionee is an employee or former employee of the Corporation when all or part of the Option is exercised, the Corporation may require the Optionee to deliver payment of any withholding taxes (in addition to the Exercise Price) in cash with respect to the difference between the Exercise Price and the Fair Market Value of the Common Stock acquired upon exercise.

13. Issuance of Shares. Subject to the foregoing conditions, the Corporation, as soon as reasonably practicable after receipt of a proper notice of exercise and without transfer or issue tax or other incidental expense to the person exercising the Option, shall deliver to such person at the principal office of the Corporation, or such other location as may be acceptable to the Corporation and such person, one or more certificates for the shares of Common Stock with respect to which the Option has been exercised. Such shares shall be fully paid and nonassessable and shall be issued in the name of such person. However, at the request of the Optionee, such shares may be issued in the names of the Optionee and his or her spouse (a) as joint tenants with right of survivorship, (b) as community property or (c) as tenants in common without right of survivorship.

14. Limitation of Optionee's Rights. Neither Optionee nor any person entitled to exercise the Option shall be or have any of the rights of a shareholder of the Corporation in respect of any share issuable upon the exercise of the Option unless and until a certificate or certificates representing shares of Common Stock shall have been issued and delivered upon exercise of the Option in full or in part. No adjustment shall be made for dividends or other rights for which the record date is prior to the date such stock certificates are issued.

15. Consent Required to Transfer. In connection with any underwritten public offering by the Corporation of its equity securities pursuant to an effective registration statement filed under the 1933 Act, Optionee shall not sell, make any short sale of, loan, hypothecate, pledge, grant any option for the purchase of, or otherwise dispose or transfer for value or otherwise agree to engage in any of the foregoing transactions with respect to, any shares of Common Stock purchased under the Option without the prior written consent of the Corporation or its underwriters. Such limitations shall be in effect for such period of time from and after the effective date of such registration statement as may be requested by the Corporation or such underwriters.

16. Recapitalizations. Subject to the provision of the Plan, if the outstanding shares of the class then subject to this Option are adjusted for any increase or decrease in the number of issued shares of Common Stock resulting from a subdivision or consolidation of Common Stock or the payment of a stock dividend (but only of Common Stock) or any other increase or decrease in the number of issued shares of Common Stock effected without receipt of consideration by the Corporation for the issuance of such shares, appropriate adjustments shall be made in the number and /or kind of shares or securities for which the unexercised portions of this Option may thereafter be exercised, all without any change in the aggregated Exercise Price applicable to the unexercised portions of this Option, but with a corresponding adjustment in the Exercise Price per share and/or an adjustment in the number of shares available under this Option agreement. Subject to the provisions of the Plan, if the Corporation is the surviving corporation in any merger or consolidation, this Option shall pertain and apply to the securities to which a holder of the number of Common Stock subject to the Option would have been entitled. In the event of a merger or consolidation in which the Corporation is not the surviving corporation, the date of exercisability of this Option shall be accelerated to a date prior to such merger or consolidation, unless, in order to qualify for "pooling-of-interest" treatment, the agreement of merger or consolidation provides for the assumption of the Option by the successor to the Corporation. To the extent that the foregoing adjustments relate to securities of the Corporation, such adjustments shall be made by the Board, whose determination shall be conclusive and binding on all persons. Except as expressly provided in this Section 16, the Optionee shall have no rights by reason of subdivision or consolidation of shares of Common Stock of any class, the payment of any Common Stock dividend or any other increase or decrease in the number of shares of Common Stock of any class or by reason of any dissolution, liquidation, merger or consolidation or spin-off of assets or common stock of another corporation, and any issue by the Corporation of shares of Common Stock of any class, or securities convertible into shares of Common Stock of any class, shall not affect, and no adjustment by reason thereof shall be made with respect to, the Exercise Price or the number or Common Stock subject to this Option.

17. Restricted Stock Provisions. In addition to certain Federal and state securities laws restrictions, the shares of Common Stock issued on exercise of this Option shall upon issuance be subject to the following restrictions (and, as used herein, "restricted stock" means shares issued on exercise of this Option which are still subject to the restrictions imposed under this Section that have not yet expired or terminated):

(a) Such shares of restricted stock may not be sold or otherwise transferred or hypothecated;

(b) The restrictions imposed under Section 17 shall apply as well to all shares or other securities issued in respect of restricted stock in connection with any stock split, reverse stock split, stock dividend, recapitalization, reclassification, spin-off, split-off merger, consolidation or reorganization, but such restrictions imposed under Section 17 shall expire or terminate on the earliest to occur of the following:

(i) The ninetieth (90th) day after the date on which shares of the same class of Common Stock as such restricted stock first become registered pursuant to the Exchange Act (which term for this purpose has the same meaning as set forth in the Plan);

(ii) The fifth (5th) anniversary of the date of grant hereof; or

(iii) The occurrence of any event or transaction upon which this Option terminated by reason of the provisions of Section 19 hereof.

(c) **Unless the shares to be acquired by the Optionee have been registered under the 1933 Act and any other applicable securities laws of any state**, all certificates representing shares of Common Stock purchased upon the exercise of the Option shall bear the following legends:

"THE SALE OF THE SECURITIES REPRESENTED HEREBY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE "ACT"). ANY TRANSFER OF SUCH SECURITIES WILL BE INVALID UNLESS A REGISTRATION STATEMENT UNDER THE ACT IS IN EFFECT AS TO SUCH TRANSFER OR IN THE OPINION OF COUNSEL FOR THE ISSUER SUCH REGISTRATION IS UNNECESSARY IN ORDER FOR SUCH TRANSFER TO COMPLY WITH THE ACT."

18. Stock Incentive Plan. This Agreement is subject to, and the Corporation and the Optionee agree to be bound by, all of the terms and conditions of the Plan under which this Option was granted, as the same shall have been amended from time to time in accordance with the terms thereof, provided that no such amendment shall deprive the Optionee, without his or her consent, of this Option or any of his or her rights hereunder. Pursuant to said Plan, the Board of Directors of the Corporation or its Committee established for such purposes is vested with final authority to interpret and construe the Plan and this Option, and is authorized to adopt rules and regulations for carrying out the Plan. A copy of the Plan in its present form is available for inspection during business hours by the Optionee or other persons entitled to exercise this Option at the Corporation's principal office.

19. Notices. Any notice to the Corporation contemplated by this Agreement shall be addressed to it in care of its CEO; any notice to the Optionee shall be addressed to him or her at the address on file with the Corporation on the date hereof or at such other address as Optionee may hereafter designate in a writing delivered to the Corporation as provided herein.

20. Interpretation. The interpretation, construction, performance and enforcement of this Agreement shall lie within the sole discretion of the Board, and the Board's determinations shall be conclusive and binding on all interested persons.

21. Governing Law. This Agreement has been made, executed and delivered in, and the interpretation, performance and enforcement hereof shall be governed by and construed under the laws of the State of California.

22. Information to Optionee. The Corporation hereby agrees to provide the Optionee with the Corporation's audited annual financial statements.

SIGNATURE PAGE
NON-STATUTORY STOCK OPTION AGREEMENT
PURSUANT TO BIOMERICA, INC.
2022 STOCK INCENTIVE PLAN

Date of Grant: [[GRANTDATE]]

Exercise Price: [[MARKETPRICEATAWARD]] per share

Shares Vesting:

[[ALLVESTSEGS]]

Total number of shares: [[SHARESGRANTED]] shares

Expiration Date: [[GRANTEXPIRATIONDATE]]

I have reviewed this Non-Statutory Stock Option Agreement, which was adopted for use in connection with the 2022 Stock Incentive Plan. I have also received and reviewed a copy of the 2022 Stock Incentive Plan. As Optionee, I hereby acknowledge that as of the date of grant of this Option, it sets forth the entire understanding between the undersigned Optionee and the Corporation and its Affiliates regarding the acquisition of stock in the Corporation and supersedes all prior oral and written agreements on that subject with the exception of any other option awards previously granted and delivered in writing to the undersigned Optionee under the stock incentive plans of the Corporation.

IN WITNESS WHEREOF, this Non-Statutory Stock Option Agreement has been delivered, adopted and accepted in full by the Parties hereto.

Date: [[SIGNATURE_DATE]]

By: [[SIGNATURE]]

[[FIRSTNAME]] [[LASTNAME]]

The Corporation hereby agrees to
all the terms of the Agreement.

Biomerica, Inc.

Zackary Irani
Chief Executive Officer

Exhibit 10.6

17571 VON KARMAN AVE.,
IRVINE, CALIFORNIA 92614
PH 949-645-2111 FAX 949-553-1231
www.biomerica.com

January 31, 2023

Gary Lu, CPA
12136 Ahern Ct.
Tustin, CA 92782

Re: Employment Offer

Dear Gary:

We are pleased to extend to you an offer to join Biomerica, Inc. (the "Company"). The purpose of this letter is to set forth in writing the terms and conditions of your new employment relationship with the Company.

Your employment will commence as of March 1, 2023 (or mutually decided day within that week)**.** Your job title will be Chief Financial Officer (CFO). Your duties will be such assignments as may be assigned to you by the Company.

Your base full-time salary will be two hundred and sixty thousand ($260,000) per year (the "Base Salary") and will be payable at such intervals as is normal for the payment of compensation to the Company's employees.

In addition to the Base Salary, the Company shall grant to you an initial stock option to purchase 75,000 shares of the Company's common stock at an exercise price equal to the fair market value of the Company's common stock on the date of grant. The Option grant date will be determined by the Board of Directors as soon as practicable after your hire date. The option shall vest over a period of four (4) years, with 25% vesting on the first anniversary of the date of grant and each subsequent year thereafter for the next three (3) years. The option shall have a term of ten (10) years. Other terms and conditions of the stock option grant will be set forth in the option issuance agreement you will be issued, and language in the Biomerica stock option plan, which you will receive a copy of. You will be issued additional options or equity grants annually along with other executive officers.

Your performance and compensation will be reviewed from time to time, and your compensation may be increased by the Company.

You will also be entitled to the standard employment benefit package that is available to all Company employees which package is subject to change from time to time, but which initially will include group health, dental, long-term disability and life insurance for you as per Company policy. Dependent coverage is also available for medical and dental insurance; however, it will be at fifty percent of the cost.

You will have time off with pay on the major holidays which are recognized by the Company, plus an additional 20 days of paid time off based on full employment and according to company policy.

You will be entitled to such other employment benefits as the Company generally makes available to its employees and all benefits will be subject to change from time to time and will be provided in accordance with the Company's employment policies, to which you will be subject.

17571 VON KARMAN AVE.,
IRVINE, CALIFORNIA 92614
PH 949-645-2111 FAX 949-553-1231
www.biomerica.com

You agree to review in detail the Employee Handbook, the Company Insider Trading Policy, and all other employee policies, rules and regulations, and be bound entirely by such.

You also agree to execute and be bound by the terms of the Inventions Assignment and Non-Disclosure Agreement attached hereto as Exhibit A.

Following acceptance of this offer, either party may terminate the employment relationship, with or without cause, by giving the other party written notice of intention to do so ("At Will" employment). No other provision of this offer is intended to imply that employment will continue for any definite term or period. Upon the termination of your employment you shall be entitled to payment of all accrued compensation to the date of such termination plus any unreimbursed expenses accruing to the date of such termination.

This Agreement is made and entered into in the State of California, and shall in all respects be interpreted, enforced and governed by and under the laws of the State of California. All disputes arising under this agreement or relating to the Company's employment of you shall be governed by the laws of the State of California.

This letter, together with the Employee Handbook, any Arbitration Agreement, and the Non-Disclosure Agreement, is intended to set forth our entire agreement regarding your employment relationship with the Company, thus it supersedes any other agreement on this subject, including any inconsistent provisions contained in any employee manual or policy of the Company. This agreement will not be modifiable except by a mutual written agreement between you and the Company.

Please sign and return this letter to me to indicate your acceptance and agreement to the terms set forth in this letter. You may keep a copy for your own records.

Sincerely,

Biomerica, Inc.

By: Zack Irani
Its: CEO

ACCEPTANCE

I have read the foregoing letter and agree with the terms and conditions of my employment as set forth.

Dated: _____

_____
Name: Gary Lu

17571 VON KARMAN AVE.,
IRVINE, CALIFORNIA 92614
PH 949-645-2111 FAX 949-553-1231
www.biomerica.com

Exhibit A
BIOMERICA, INC.
NONDISCLOSURE, INVENTIONS ASSIGNMENT AND NON-COMPETE AGREEMENT

The undersigned employee (the "EMPLOYEE") of BIOMERICA, INC. and/or its subsidiaries (herein collectively called the "Company"), having been engaged to perform services for the benefit of the Company, and in consideration of said employment, does hereby agree to perform such duties for the Company as shall be designated by the Company from time to time, and the parties hereto agree as follows:

1. EMPLOYEE will not, while serving as an EMPLOYEE of the Company, or thereafter, divulge, disclose or communicate to, anyone without the express written authorization of the Company, any trade secrets or any other information and data of a private, internal or confidential nature, relating or pertaining to the Company's business, methods of manufacture, processes, customer list, distributors, formulas, operations or other information that the EMPLOYEE may have acquired, directly or indirectly, during the course of his employment by the Company. The EMPLOYEE acknowledges that the Company in its operation maintains in secrecy certain of its methods, processes, marketing and strategic plans, customer and distributor data and technical information (herein called the "Confidential Information").

It is mutually understood and agreed that all documents furnished by and generated by the EMPLOYEE or the Company during the course of EMPLOYEE's employment with the Company shall be the property of the Company and its subsidiaries and shall be returned promptly, with all copies made thereof, if formally requested by the Company.

The obligations of the EMPLOYEE set forth above shall not apply to any portion of information and matters disclosed or exhibited to the EMPLOYEE which has become generally available to the public through no act or failure to act on the part of the EMPLOYEE. The EMPLOYEE hereby acknowledges that all Confidential Information which is disclosed to EMPLOYEE by the Company hereunder, and all tangible forms thereof, are the property of the Company and EMPLOYEE shall obtain no right, title or interest in any secret or Confidential Information or any tangible forms thereof. EMPLOYEE shall hereafter (a) exercise all reasonable efforts to prevent unauthorized persons from gaining access to Confidential Information; (b) promptly mark any Confidential Information placed by it in documentary or other tangible form with the legend "Secret"; (c) not assert prior knowledge of any item of Confidential Information which the EMPLOYEE cannot so prove by clear and convincing documentary evidence; (d) promptly deliver or destroy, as the Company may direct in writing, all tangible forms of Confidential Information, whether or not such tangible forms were prepared by the EMPLOYEE or the Company and whether or not such tangible forms contain or embody information other than Confidential information; and (e) not represent that he or she, or permit any representative or agent of the EMPLOYEE to represent that he, she or it, has a claim or interest in such 'Secret' or 'Confidential Information'.

1.1 U.S. Defend Trade Secrets Act. Notwithstanding the foregoing, the U.S. Defend Trade Secrets Act of 2016 ("DTSA") provides that an individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (iii) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. In addition, DTSA provides that an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.

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1.2 Other Permitted Disclosures.

1.2 (a) Nothing in this Agreement prohibits or restricts the Employee (or Employee's attorney) from initiating communications directly with, responding to an inquiry from, or providing testimony before the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), any other self-regulatory organization, or any other federal or state regulatory.

1.2 (b) Nothing in this agreement prevents you from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that you have reason to believe is unlawful.

1.2 (c) Nothing in this Agreement in any way prohibits or is intended to restrict or impede the Employee from discussing the terms and conditions of his or her employment with coworkers or union representatives/exercising protected rights under Section 7 of the National Labor Relations Act/exercising protected rights to the extent that such rights cannot be waived by agreement disclosing information as permitted by law.

2. The EMPLOYEE further hereby transfers and assigns to the Company, its successors and assignees, or to any person or entity designated by it, the EMPLOYEE's entire right, title and interest in and to all inventions, discoveries, ideas, disclosures, improvements and suggestions, patentable or not (herein collectively called "Inventions"), and copyrightable material, made or conceived by Employee, solely or jointly, during the course of his or her employment with the Company (herein the "Invention Period") which relate to methods, formulas, designs, products, components or devices, sold, leased, used or under consideration or development by the Company, or which otherwise relate or pertain to the business, e-commerce strategy, functions, or operations of the Company, including,, but not limited to, the manufacture, design or development of systems, methods, components, and/or products. All such Inventions and copyrightable material disclosed or developed within one year after the termination of employment shall be presumed to have been made or conceived during the Invention Period. PROVIDED, HOWEVER, THAT THIS AGREEMENT DOES NOT APPLY TO ANY INVENTION WHICH QUALIFIES FULLY UNDER THE PROVISIONS OF SECTION 2870 OF THE CALIFORNIA LABOR CODE, THE PROVISIONS OF WHICH ARE ATTACHED HERETO.

3. With respect to the inventions, ideas, disclosures, improvements and suggestions referred to in paragraph 2, Employee further agrees to communicate promptly and disclose to the Company, in such form as Employee may be called upon to do so, all information, details and data pertaining thereto, and to execute and deliver such formal transfers and assignments, and such other papers and documents as may be required of the EMPLOYEE to enable the Company, or any person or entity designated by the Company, to file and prosecute patent applications, and as to copyrightable material to effect copyright thereof.

The EMPLOYEE attaches hereto a complete list of all inventions, patented or unpatented, made or conceived by Employee prior to his or her employment by the Company. Such inventions, if any, and improvements, extensions or modifications thereof shall be deemed excluded from this Agreement.

Such attached list, if any, shall be entitled "Exclusions to Attached Agreement," shall be signed by the Employee, and shall bear an "Exclusions Noted" line at the bottom to be signed by the Company.

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4. RESTRICTIVE COVENANTS.

4.1 Executive acknowledges that (i) he has a major responsibility for the operation, administration, development and growth of the Company's business, (ii) his work for the Company has brought him and will continue to bring him into close contact with confidential information of the Company and its customers, and (iii) the agreements and covenants contained in this Section 4 are essential to protect the business interest of the Company and that the Company will not enter into this Agreement but for such agreements and covenants. Accordingly, the EMPLOYEE covenants and agrees as follows:

4.1(a) Except as otherwise provided for in this Agreement, during the Term of employment with the Company or any of its subsidiaries, the EMPLOYEE shall not, directly or indirectly, compete with respect to any services or products of the Company which are either offered or are being developed by the Company; or, without limiting the generality of the foregoing, be or become, or agree to be or become, interested in or associated with, in any capacity (whether as a partner, shareholder, owner, officer, director, Executive, principal, agent, creditor, trustee, consultant, co-venturer or otherwise) with any individual, corporation, firm, association, partnership, joint venture or other business entity, which competes with respect to any services or products of the Company which are either offered or are being developed by the Company; provided, however, that the EMPLOYEE may own, solely as an investment, not more than one percent (1%) of any class of securities of any publicly held corporation in competition with the Company whose securities are traded on any national securities exchange in the United States of America, and may retain his ownership interest in those entities.

4.1(b) During the term of Employment, the EMPLOYEE shall not, directly or indirectly, (i) induce or attempt to influence any other employee of the Company to leave its employ, (ii) aid or agree to aid any competitor, customer or supplier of the Company in any attempt to hire any person who shall have been employed by the Company within the one (1) year period preceding such requested aid, or (iii) induce or attempt to influence any person or business entity who was a customer or supplier of the Company during any portion of said period to transact business with a competitor of the Company in Company's business. Employee agrees and covenants to not utilize any Confidential Information to (i) induce or attempt to influence any other employee of the Company to leave its employ, (ii) aid or agree to aid any competitor, customer or supplier of the Company in any attempt to hire any person who is or was employed by the Company, or (iii) induce or attempt to influence any person or business entity who was a customer or supplier of the Company during any portion of said period to transact business with a competitor of the Company in Company's business.

4.1(c) During the Term of Employment, and for ten (10) years thereafter, the EMPLOYEE shall not other than in the performance of his duties disclose to anyone any Confidential Information, including, without limitation, trade secrets, trade "know-how", inventions, customer lists, business plans, operational methods, pricing policies, marketing plans, sales plans, identity of suppliers or customers, sales, profits or other financial information, which is confidential to the Company or is not generally known in the relevant trade, nor shall the EMPLOYEE make use of any such information for his own benefit.

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4.2 If the EMPLOYEE breaches, or threatens to commit a breach of Section 4.1 (the "Restrictive Covenants"), the Company shall have the following rights and remedies, each of which shall be enforceable, and each of which is in addition to, and not in lieu of, any other rights and remedies available to the Company at law or in equity.

4.2(a) The EMPLOYEE shall account for and pay over to the Company all compensation, profits, and other benefits, after taxes, which inure to EMPLOYEE's benefit which are derived or received by the EMPLOYEE or any person or business entity controlled by the EMPLOYEE resulting from any action or transactions constituting a breach of any of the Restrictive Covenants.

4.2(b) Notwithstanding the provisions of subsection 4.2(a) above, the EMPLOYEE acknowledges and agrees that in the event of a violation or threatened violation of any of the provisions of this Agreement, the Company shall have no adequate remedy at law and shall therefore be entitled to enforce each such provision by temporary or permanent injunctive or mandatory relief obtained in any court of competent jurisdiction without the necessity of proving damages, posting any bond or other security, and without prejudice to any other rights and remedies which may be available at law or in equity.

4.3 If any of the Restrictive Covenants, or any part thereof, is held to be invalid or unenforceable, the same shall not affect the remainder of the covenant or covenants, which shall be given full effect, without regard to the invalid or unenforceable portions. Without limiting the generality of the foregoing, if any of the Restrictive Covenants, or any part thereof, is held to be unenforceable because of the duration of such provision or the area covered thereby, the parties hereto agree that the court making such termination shall have the power to reduce the duration and/or area of such provision and, in its reduced form, such provision shall then be enforceable.

4.4 The parties hereto intend to and hereby confer jurisdiction to enforce the Restrictive Covenants upon the courts of any jurisdiction within the geographical scope of such Restrictive Covenants. In the event that the courts of any one or more of such jurisdictions shall hold such Restrictive Covenants wholly unenforceable by reason of the breadth of such scope or otherwise, it is the intention of the parties hereto that such determination not bar or in any way affect the Company's right to the relief provided above in the courts of any other jurisdictions within the geographical scope of such Restrictive Covenants, as to breaches of such covenants in such other respective jurisdictions, the above covenants as they relate to each jurisdiction being, for this purpose, severable into diverse and independent covenants.

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IN WITNESS WHEREOF, I have hereunto set my hand and seal as of the day and year stated below.

SIGNED IN PRESENCE OF

Witness

DATED:

EXCLUSIONS TO ATTACHED AGREEMENT

EMPLOYEE:

NAME – Gary Lu

NAME – Gary Lu

Exclusions: (inventions, discoveries etc.)

_____
_____
_____
_____
_____

Biomerica, Inc.

By: _____

DATED:

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CALIFORNIA LABOR CODE, SECTION 2870

Section 2870 of the California Labor Code applies to any employment agreement entered into after January 1, 1980 which is governed by the laws of California. Unless otherwise stipulated in a written agreement, the rights and duties of all employees of the Company who are primarily employed at a facility within California are governed by California law.

Section 2870 of the California Labor Code prohibits an employment agreement from assigning to the employer any rights of an employee in an invention "for which no equipment, supplies, facility, or trade secret information of the employer was used and which was developed entirely on the employee's own time, and (4) which does not relate (1) to the business of the employer (2) 'to the employer's actual or demonstrably anticipated, research or -development, or (b) which does not result from any work performed by the employee for the employer."

Exhibit 21.1

LIST OF SUBSIDIARIES

NAME OF SUBSIDIARY	COUNTRY OF INCORPORATION
BioEurope GmbH	Germany
Biomerica de Mexico	Mexico

EXHIBIT 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statement on Form S-3 (No. 333-239980), as amended, and the Registration Statements on Form S-8 (Nos. 333-179443, 333-204410, 333-224836 and 333-256377) of Biomerica, Inc. (the "Company") of our report dated August 25, 2023, relating to our audits of the Company's consolidated financial statements as of May 31, 2023 and 2022, and for each of the years then ended, included in the Company's Annual Report on Form 10-K for the fiscal year ended May 31, 2023.

/s/ HASKELL & WHITE LLP

HASKELL & WHITE LLP

Irvine, California
August 25, 2023

EXHIBIT 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Zackary S. Irani, certify that:

1. I have reviewed this Annual Report on Form 10-K of Biomerica, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects, the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of our internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or other persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Zackary S. Irani
Zackary S. Irani
Chief Executive Officer

Date: August 25, 2023

EXHIBIT 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Gary Lu, certify that:

1. I have reviewed this Annual Report on Form 10-K of Biomerica, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects, the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of our internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or other persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Gary Lu
Gary Lu
Chief Financial Officer

Date: August 25, 2023

EXHIBIT 32.1

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

In connection with the Annual Report of Biomerica, Inc. (the "Company") on Form 10-K for the year ended May 31, 2023, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Zackary Irani, Chief Executive Officer of the Company, certify, to the best of my knowledge, pursuant to Exchange Act Rule 15d-14(b) and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes Oxley Act of 2002, as amended:

i. The Report fully complies with the requirements of Sections 13(a) or 15(d) of the Securities Exchange Act of 1934, and

ii. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Zackary S. Irani
Zackary S. Irani
Chief Executive Officer

Date: August 25, 2023

EXHIBIT 32.2

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

In connection with the Annual Report of Biomerica, Inc. (the "Company") on Form 10-K for the year ended May 31, 2023, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Gary Lu, Chief Financial Officer of the Company, certify, to the best of my knowledge, pursuant to Exchange Act Rule 15d-14(b) and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes Oxley Act of 2002, as amended:

i. The Report fully complies with the requirements of Sections 13(a) or 15(d) of the Securities Exchange Act of 1934, and

ii. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Gary Lu
Gary Lu
Chief Financial Officer

Date: August 25, 2023