INVIVO THERAPEUTICS HOLDINGS CORP.
Form 10-K/A
June 30, 2011

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-K/A

(Amendment No. 2)

x **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934**

FOR THE FISCAL YEAR ENDED DECEMBER 31, 2010

¨ **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 000-52089

INVIVO THERAPEUTICS HOLDINGS CORP.

(Exact Name of Registrant as specified in its charter)

Nevada (State or other jurisdiction of incorporation or organization)	36-4528166 (I.R.S. Employer Identification No.)
One Broadway, 14th Floor Cambridge, Massachusetts (Address of principal executive offices)	02142 (Zip Code)

Registrant s telephone number, including area code: (617) 475-1520

Securities registered pursuant to Section 12(b) of the Act: None

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

Title of each class	Name of each exchange on which registered
Common Stock, par value $0.00001 per share	Over-the-Counter Bulletin Board

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

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

Indicate by check mark whether the registrant (1) has 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 x No ¨

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ¨ No ¨

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. x

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

Large accelerated filer ¨	Accelerated filer ¨	Non-accelerated filer ¨ (Do not check if a smaller reporting company)	Smaller reporting company x

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

Our common stock began being quoted on the OTC Bulletin Board under the symbol NVIV effective October 29, 2010. The approximate aggregate market value of the voting and non-voting common equity held by non-affiliates of the issuer on October 29, 2010 was $58,547,354 based on a closing price of $2.70 of our common stock on that date.

As of March 21, 2011, the number of shares outstanding of the registrant s common stock, $0.00001 par value per share, was 51,674,712.

DOCUMENTS INCORPORATED BY REFERENCE

None.

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EXPLANATORY NOTE

This Amendment No. 2 (this Amendment) of InVivo Therapeutics Holdings Corp. (the Company) amends the Company s Annual Report on Form 10-K for the fiscal year ended December 31, 2010, originally filed March 24, 2011 and amended on April 29, 2011 (the Form 10-K). This Amendment is being filed in order to amend and restate the Company s consolidated financial statements and accompanying footnotes as of and for the year ended December 31, 2010 (the 2010 Financials) and other related information included in the Form 10-K.

The Company is restating its 2010 Financials to correct an error related to the accounting for derivative liabilities. The error related to the process of allocating the proceeds of a financing to two instruments when one of those instruments was a derivative liability. Originally, the Company allocated the proceeds using the relative fair value of the two instruments with the derivative liability being recorded at its fair value and any difference between the relative fair value and fair value being charged to a derivative gain or loss upon issuance. Although Generally Accepted Accounting Principles (GAAP) does not address this situation specifically and the Company believed its original accounting to be supported by GAAP, after discussions with the Securities and Exchange Commission (SEC) Staff the Company determined that its accounting was not consistent with common practice used by other registrants in similar circumstances.

For purposes of this Amendment, and in accordance with Rule 12b-15 under the Securities Exchange Act of 1934, as amended (the Exchange Act), the following items in the Form 10-K have been amended and restated in their entirety:

Part II, Item 7 Management s Discussion and Analysis of Financial Condition and Results of Operations; and

Part II, Item 8 Financial Statements and Supplemental Data.

Additionally, Part IV, Item 15 has been amended to include the Company s currently dated certifications of the Company s principal executive officer and principal financial officer as required by Sections 302 and 906 of the Sarbanes-Oxley Act of 2002. Other than the items outlined above, there are no changes to the Form 10-K. No attempt has been made in this Form 10-K/A to modify or update the disclosures presented in the Form 10-K, including the exhibits to the Form 10-K, except as required to reflect the effects of the restatement of the 2010 Financials. Information not affected by the restatement is unchanged and reflects the disclosures made at the time of the original filing of the Form 10-K on March 24, 2011 and as amended on April 29, 2011. Except as otherwise specifically noted, all information contained herein is as of December 31, 2010 and does not reflect any events or changes that have occurred subsequent to that date. Accordingly, this Form 10-K/A should be read in conjunction with our filings made with the SEC subsequent to the filing of the Form 10-K, including any amendments to those filings, if any.

The Company is not required to and has not updated any forward-looking statements previously included in the Form 10-K. The Company is also filing an amendment to its Quarterly Report on Form 10-Q for the quarter ended March 31, 2011 to reflect this restatement. Our previously issued consolidated financial statements as of and for the year ended December 31, 2010, which were filed with the 10-K, should no longer be relied upon.

As used herein, we, us, our or the Company means InVivo Therapeutics Holdings Corp., together with its consolidated subsidiaries where applicable.

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INVIVO THERAPEUTICS HOLDINGS CORP.

ANNUAL REPORT ON FORM 10-K/A

(Amendment No. 2)

FOR THE YEAR ENDED DECEMBER 31, 2010

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PART II

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

You should read the following discussion and analysis of financial condition and results of operations together with our consolidated financial statements and accompanying notes included in this annual report on Form 10-K/A. This discussion contains forward-looking statements that involve risks and uncertainties. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of many important factors, including those set forth under Risk Factors, Special Note Regarding Forward-Looking Statements and elsewhere in the Form 10-K.

As the result of the Merger and related transactions and the change in business and operations of the Company from a shell company to a biotechnology company, a discussion of the past financial results of ITHC is not pertinent, and the financial results of InVivo, the acquirer and ongoing operating company, are considered the financial results of the Company on a historical and going-forward basis.

Management s Discussion and Analysis of Financial Condition and Results of Operations

The following management s discussion and analysis should be read in conjunction with the Company s historical consolidated financial statements and the related notes. The management s discussion and analysis contains forward-looking statements that involve risks and uncertainties, such as statements of our plans, objectives, expectations and intentions. Any statements that are not statements of historical fact are forward-looking statements. When used, the words believe, plan, intend, anticipate, target, estimate, expect and the like, and/or fut or conditional constructions (will, may, could, should, etc.), or similar expressions, identify certain of these forward-looking statements. These forward-looking statements are subject to risks and uncertainties that could cause actual results or events to differ materially from those expressed or implied by the forward-looking statements in this annual report. The Company s actual results and the timing of events could differ materially from those anticipated in these forward-looking statements as a result of several factors. The Company does not undertake any obligation to update forward-looking statements to reflect events or circumstances occurring after the date of this annual report.

The discussion and analysis of the Company s financial condition and results of operations are based on the Company s financial statements, which the Company has prepared in accordance with U.S. generally accepted accounting principles. The preparation of these financial statements requires the Company to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements, as well as the reported revenues and expenses during the reporting periods. On an ongoing basis, the Company evaluates such estimates and judgments, including those described in greater detail below. The Company bases its estimates on historical experience and on various other factors that the Company believes are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

Critical Accounting Policies and Estimates

Our consolidated financial statements, which appear at page 31, have been prepared in accordance with accounting principles generally accepted in the United States, which require that the Company make certain assumptions and estimates and, in connection therewith, adopt certain accounting policies. Our significant accounting policies are set forth in Note 2 to our consolidated financial statements. Of those policies, we believe that the policies discussed below may involve a higher degree of judgment and may be more critical to an accurate reflection of our financial condition and results of operations.

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Stock-Based Compensation

Stock options are generally granted with an exercise price at market value at the date of the grant. The stock options generally expire ten years from the date of grant. Stock option awards vest upon terms determined by the Board of Directors.

The Company recognizes compensation costs resulting from the issuance of stock-based awards to employees, non-employees and directors as an expense in the statement of operations over the service period based on a measurement of fair value for each stock-based award.

The fair value of the Company s Common Stock has been determined based on a number of factors including the stage of development of the Company, the value of the Company s Common Stock sold to outside investors and the market value of other medical device companies in a similar stage of development.

The fair value of each option grant was estimated as of the date of grant using the Black-Scholes option-pricing model. The fair value is amortized as compensation cost on a straight-line basis over the requisite service period of the awards, which is generally the vesting period. Due to our limited operating history and limited number of sales of our Common Stock, we estimated our volatility in consideration of a number of factors including the volatility of comparable public companies. The Company uses historical data, as well as subsequent events occurring prior to the issuance of the consolidated financial statements, to estimate option exercise and employee termination within the valuation model. The expected term of options granted under the Company s stock plans is based on the average of the contractual term (generally 10 years) and the vesting period (generally 48 months) The risk-free rate is based on the yield of a U.S. Treasury security with a term consistent with the option.

The following assumptions were used to estimate the fair value of stock options granted using the Black-Scholes option pricing model:

	December 31,	
	2010	2009
Risk-free interest rate	1.63% - 3.05%	2.68%
Expected dividend yield	0%	0%
Expected term (employee grants)	6.25 years	6.25 years
Expected volatility	49.12%	50.10%

Derivative Instruments

Certain of our issued and outstanding warrants to purchase Common Stock contain anti-dilution provisions. These warrants do not meet the requirements for classification as equity and are recorded as derivative warrant liabilities. We use valuation methods and assumptions that consider among other factors the fair value of the underlying stock, risk-free interest rate, volatility, expected life and dividend rates consistent with those discussed in Stock-Based Compensation above in estimating the fair value for the warrants considered to be derivative warrant liabilities. Such derivative warrant liabilities are initially recorded at fair value with subsequent changes in fair value charged (credited) to operations in each reporting period. The fair value of the derivative warrant liability is most sensitive to changes in the fair value of the underlying Common Stock and the estimated volatility of our Common Stock.

Results of Operations

Research and development expenses consist primarily of payments to contract research and development companies and payroll. General and administrative expenses consist primarily of payroll, rent and professional services.

Comparison of the years ended December 31, 2010 and 2009

Research and Development Expenses

Research and development expenses decreased by $135,000, from $1,808,000 in 2009 to $1,673,000 in 2010. The decrease is primarily attributable to a reduction in costs of pre-clinical studies offset by stock compensation expense incurred in 2010 of $376,000. In addition, during 2010 the Company received approximately $245,000 as a grant under the IRS Qualifying Therapeutic Discovery Project (QTDP) program. This amount has been recorded as a reduction in research and development expenses.

General and Administrative Expenses

General and administrative expenses increased by $888,000, from $836,000 in 2009 to $1,724,000 in 2010. The increase is primarily attributable to an increase in stock compensation expense of $118,000, approximately $120,000 of costs incurred in the fourth quarter of 2010 associated with operating as a public company, and increases in rent, salary and benefit costs.

Interest expense

Interest expense increased by $308,000 from $256,000 in 2009 to $564,000 in 2010. The increase is primarily attributable to non-cash interest expense of $317,000 associated with the $500,000 bridge note financing in 2010.

Other Income

Other income in 2009 of $383,000 resulted from a legal settlement. There was no other income in 2010.

Derivatives Loss

Derivatives loss totaled $3,953,000 for the year ended December 31, 2010 and reflects the change in the fair value of derivative warrant liabilities during the year. We did not have a derivative warrant liability or derivative (gain) loss in 2009.

Financial Condition, Liquidity and Capital Resources

Since its inception, the Company has devoted substantially all of its efforts to business planning, research and development, recruiting management and technical staff, acquiring operating assets and raising capital. Accordingly, the Company is considered to be in the development stage.

Since inception, the Company incurred negative cash flows from operations. The Company has financed its operations primarily through the sale of equity-related securities. At December 31, 2010, the accumulated deficit was $13,089,000 and the stockholders deficit was $1,853,000.

At December 31, 2010, we had total current assets of $9,045,000 and current liabilities of $11,232,000 resulting in a working capital deficit of $2,187,000. At December 31, 2010, the Company had total assets of $9,379,000 and total liabilities of $11,232,000, resulting in a stockholders deficit of $1,853,000.

Net cash used by operating activities for the year ended December 31, 2010 was $2,649,000. The Company raised $11,423,000 of cash from the sale of equity and $700,000 from the issuance of convertible and bridge notes in the year ended December 31, 2010.

At December 31, 2010, the Company had cash of $8,964,000 and the Company expects the cash to fund its operations at least through March 31, 2012. The Company will need to raise substantial additional capital to complete its clinical trials, obtain marketing approvals and commercialize its products.

Off Balance Sheet Arrangements

We have no off balance sheet arrangements, including unrecorded derivative instruments, that have or are reasonably likely to have a current or future material effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures, or capital resources. We have certain warrants and options outstanding but we do not expect to receive sufficient proceeds from the exercise of these instruments unless and until the trading price of our Common Stock is significantly greater than the applicable exercise prices of the options and warrants and mainly following any necessary registering of underlying securities.

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Item 8. CONSOLIDATED FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

Report of Independent Registered Public Accounting Firm

To the Board of Directors of InVivo Therapeutics Holdings Corp.:

We have audited the accompanying consolidated balance sheets of InVivo Therapeutics Holdings Corp. as of December 31, 2010 and 2009, and the related consolidated statements of operations, changes in stockholders deficit and cash flows for the years then ended and for the period from November 28, 2005 (inception) to December 31, 2010. These financial statements are the responsibility of the Company s management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2010 and 2009, and the results of its operations and its cash flows for the years then ended and for the period from November 28, 2005 (inception) to the December 31, 2010, in conformity with accounting principles generally accepted in the United States of America.

/s/ Wolf & Company, P.C.

Boston, Massachusetts

March 24, 2011, except for Notes 9, 11, 12 and 18

as to which the date is June 29, 2011

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Consolidated Balance Sheets

	December 31, 2010 (Restated)	December 31, 2009
ASSETS:		
Current assets:		
Cash and cash equivalents	$ 8,964,194	$ 226,667
Prepaid expenses	81,166	10,898
Total current assets	9,045,360	237,565
Property and equipment, net	280,181	173,797
Other assets	53,639	58,639
Total assets	$ 9,379,180	$ 470,001
LIABILITIES AND STOCKHOLDERS DEFICIT:		
Current liabilities:		
Accounts payable	$ 336,945	$ 81,175
Accrued interest payable	-	283,608
Derivative warrant liability	10,647,190	-
Accrued expenses	247,547	293,584
Total current liabilities	11,231,682	658,367
Loans payable	-	590,985
Convertible notes payable	-	2,840,000
Total liabilities	11,231,682	4,089,352
Commitments and contingencies		
Stockholders deficit:		
Common stock , $0.00001 par value; authorized 100,000,000 shares, issued and outstanding 51,647,171 and 26,259,515 shares outstanding at December 31, 2010 and 2009, respectively	516	263
Additional paid-in capital	11,235,829	1,558,283
Deficit accumulated during the development stage	(13,088,847)	(5,177,897)
Total stockholders deficit	(1,852,502)	(3,619,351)
Total liabilities and stockholders deficit	$ 9,379,180	$ 470,001

See notes to the consolidated financial statements.

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Consolidated Statements of Operations

	Years Ended December 31, 2010 (Restated)	Years Ended December 31, 2009	Period from November 28, 2005 (inception) to December 31, 2010 (Restated)
Operating expenses:			
Research and development	$ 1,673,202	$ 1,807,908	$ 4,780,987
General and administrative	1,724,102	835,515	3,695,665
Total operating expenses	3,397,304	2,643,423	8,476,652
Operating loss	(3,397,304)	(2,643,423)	(8,476,652)
Other income (expense):			
Other income	-	383,000	383,000
Interest income	3,379	282	11,290
Interest expense	(564,443)	(255,737)	(1,053,655)
Derivatives losses	(3,952,582)	-	(3,952,582)
Other income (expense), net	(4,513,646)	127,545	(4,611,947)
Net loss	$ (7,910,950)	$ (2,515,878)	$ (13,088,599)
Net loss per share, basic and diluted	$ (0.24)	$ (0.10)	$ (0.49)
Weighted average number of common shares outstanding, basic and diluted	33,367,239	25,496,366	26,591,576

See notes to the consolidated financial statements.

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Consolidated Statements of Changes in Stockholders Deficit

	Common Stock			Deficit Accumulated	
	Shares	Amount	Additional Paid-in Capital	During the Development Stage	Total Stockholders Deficit
Balance on inception date, November 28, 2005	-	$ -	$ -	$ -	$ -
Issuance of founders stock	24,787,080	248	-	(248)	-
Share-based compensation expense	-	-	18,347	-	18,347
Net loss	-	-	-	(1,097,702)	(1,097,702)
Balance as of December 31, 2007	24,787,080	248	18,347	(1,097,950)	(1,079,355)
Share-based compensation expense	-	-	24,526	-	24,526
Net loss	-	-	-	(1,564,069)	(1,564,069)
Balance as of December 31, 2008	24,787,080	248	42,873	(2,662,019)	(2,618,898)
Share-based compensation expense	-	-	171,059	-	171,059
Conversion of convertible notes payable and accrued interest	1,472,435	15	1,344,351	-	1,344,366
Net loss	-	-	-	(2,515,878)	(2,515,878)
Balance as of December 31, 2009	26,259,515	263	1,558,283	(5,177,897)	(3,619,351)
Share-based compensation expense	-	-	664,908	-	664,908
Issuance of common stock in March 2010	1,095,258	10	999,990	-	1,000,000
Conversion of convertible notes payable and accrued interest	3,792,417	38	3,328,090	-	3,328,128
Issuance of common stock in reverse merger	6,999,981	70	(70)	-	-
Beneficial conversion feature on notes payable	-	-	272,762	-	272,762
Issuance of common stock in private placement, net of stock issuance costs of $2,072,117 and non-cash stock issuance costs of $5,369,570	12,995,403	130	3,907,274	-	3,907,404
Conversion of convertible bridge notes in conjunction with the private placement	504,597	5	504,592	-	504,597
Net loss	-	-	-	(7,910,950)	(7,910,950)
Balance as of December 31, 2010 (Restated)	51,647,171	$ 516	$ 11,235,829	$ (13,088,847)	$ (1,852,502)

See notes to the consolidated financial statements.

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Consolidated Statements of Cash Flows

	Years Ended December 31,		Period from November 28, 2005 (inception) to December 31, 2010
	2010 (Restated)	2009	2010 (Restated)
Cash flows from operating activities:			
Net loss	$ (7,910,950)	$ (2,515,878)	$ (13,088,599)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization expense	44,878	32,084	92,965
Non-cash derivatives loss	3,952,582	-	3,952,582
Non-cash interest expense	528,535	221,899	962,834
Share-based compensation expense	664,908	171,059	878,840
Changes in operating assets and liabilities:			
Prepaid expenses	(70,268)	2,036	(81,166)
Other assets	-	-	(75,000)
Accounts payable	255,770	(23,248)	336,945
Accrued interest payable	(67,931)	33,598	(15,256)
Accrued expenses	(46,037)	179,426	247,547
Net cash used in operating activities	(2,648,513)	(1,899,024)	(6,788,308)
Cash flows from investing activities:			
Purchases of property and equipment	(146,262)	(174,898)	(351,785)
Net cash used in investing activities	(146,262)	(174,898)	(351,785)
Cash flows from financing activities:			
Proceeds from issuance of convertible notes payable	200,000	1,580,000	4,181,000
Proceeds from convertible bridge notes	500,000	-	500,000
(Repayment of) proceeds from loans payable	(590,985)	513,800	-
Proceeds from issuance of common stock and warrants	11,423,287	-	11,423,287
Net cash provided by financing activities	11,532,302	2,093,800	16,104,287
Increase in cash and cash equivalents	8,737,527	19,878	8,964,194
Cash and cash equivalents at beginning of period	226,667	206,789	-
Cash and cash equivalents at end of period	$ 8,964,194	$ 226,667	$ 8,964,194

(continued)

See notes to the consolidated financial statements.

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Consolidated Statements of Cash Flows (Concluded)

	Years Ended December 31, 2010	Years Ended December 31, 2009	Period from November 28, 2005 (inception) to December 31, 2010
Supplemental disclosure of cash flow information and non-cash transactions:			
Cash paid for interest	$ (34,204)	$ -	$ (34,204)
Conversion of convertible notes payable and accrued interest into common stock	$ 3,328,128	$ 1,344,366	$ 4,672,484
Conversion of convertible bridge note payable and accrued interest into common stock	$ 504,597	$ -	$ 504,597
Beneficial conversion feature on convertible and bridge notes payable	$ 272,762	$ -	$ 134,410
Fair value of warrants issued in connection with bridge notes payable	$ 178,726	$ -	$ 178,726
Issuance of founders shares	$ -	$ -	$ 248

See notes to the consolidated financial statements.

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements

Years Ended December 31, 2010 and 2009, and the Period from

November 28, 2005 (Inception) through December 31, 2010

1. NATURE OF OPERATIONS

Business

InVivo Therapeutics Corporation (InVivo) was incorporated on November 28, 2005 under the laws of the State of Delaware. InVivo is developing and commercializing biopolymer scaffolding devices for the treatment of spinal cord injuries. The biopolymer devices are designed to protect the damaged spinal cord from further secondary injury and promote neuroplasticity, a process where functional recovery can occur through the rerouting of signaling pathways to the spared healthy tissue.

Since its inception, InVivo has devoted substantially all of its efforts to business planning, research and development, recruiting management and technical staff, acquiring operating assets and raising capital. Accordingly, InVivo is considered to be in the development stage.

Reverse Merger

On October 26, 2010, InVivo completed a reverse merger transaction (the Merger) with InVivo Therapeutics Holdings Corporation (formerly Design Source, Inc.) (ITHC), a publicly traded company incorporated under the laws of the State of Nevada. InVivo became a wholly owned subsidiary of ITHC, which continues to operate the business of InVivo. As part of the Merger, ITHC issued 31,147,190 shares of its Common Stock to the holders of InVivo common stock on October 26, 2010 in exchange for the 2,261,862 outstanding common shares of InVivo and also issued 500,000 shares to its legal counsel in consideration for legal services provided. All share and per share amounts presented in these consolidated financial statements have been retroactively restated to reflect the 13.7706 exchange ratio of InVivo shares for ITHC shares in the Merger. Immediately prior to the Merger, ITHC had 6,999,981 shares of Common Stock outstanding.

The Merger was accounted for as a reverse merger, and InVivo is deemed to be the accounting acquirer. The Merger was recorded as a reverse recapitalization, equivalent to the issuance of common stock by InVivo for the net monetary assets of ITHC accompanied by a recapitalization. At the date of the Merger, the 6,999,981 outstanding ITHC shares are reflected as an issuance of InVivo common stock to the prior shareholders of ITHC. ITHC had no net monetary assets as of the Merger so this issuance was recorded as a reclassification between additional paid-in capital and par value of Common Stock.

The historical consolidated financial statements are those of InVivo as the accounting acquirer. The post-merger combination of ITHC and InVivo is referred to throughout these notes to consolidated financial statements as the Company. Subsequent to the Merger, the Company completed three closings as part of a private placement (see Note 11).

On October 26, 2010, in connection with the Merger described above, ITHC transferred all of its operating assets and liabilities to its wholly-owned subsidiary, D Source Split Corp., a company organized under the laws of Nevada (DSSC). DSSC was then split-off from ITHC through the sale of all outstanding shares of DSSC (the Split-Off). The assets and liabilities of ITHC were transferred to the Split-Off Shareholders in the Split-Off. ITHC executed a split off agreement with the Split-Off Shareholders which obligates the Split-Off Shareholders to assume all prior liabilities associated with Design Source, Inc. and all DSSC liabilities. In conjunction with the Split-Off, certain shareholders of

InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Continued)

NATURE OF OPERATIONS (concluded)

ITHC surrendered for cancellation shares of ITHC Common Stock for no additional consideration. The purpose of the Split-Off was to make ITHC a shell company with no assets or liabilities in order to facilitate the Merger. Although all transactions related to the Merger occurred simultaneously, the Split-Off, including the cancellation of shares, was considered to have occurred immediately prior to the Merger for accounting purposes. As the accounting acquiree in a reverse merger with a shell company, the historical financial statements of ITHC are not presented and these ITHC transactions are not reflected in the Company s accompanying consolidated financial statements.

2. SIGNIFICANT ACCOUNTING POLICIES

A summary of the significant accounting policies followed by the Company in the preparation of the financial statements is as follows:

Use of estimates

The process of preparing financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of assets and liabilities at the date of financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates and changes in estimates may occur.

Principles of Consolidation

The consolidated financial statements include the accounts of InVivo Therapeutics Holdings Corp. and its wholly-owned subsidiary, InVivo Therapeutics Corporation. All significant intercompany balances and transactions have been eliminated in consolidation.

Cash and cash equivalents

The Company considers all highly liquid investments with maturities of three months or less at the date of purchase to be cash equivalents.

Property and equipment

Property and equipment are carried at cost. Depreciation expense is provided over the estimated useful lives of the assets using the straight-line method. A summary of the estimated useful lives is as follows:

Classification	Estimated Useful Life
Computer hardware	5 years
Software	3 years
Research and lab equipment	5 years

Depreciation expense for the years ended December 31, 2010 and 2009 was $39,878 and $27,084, respectively. Maintenance and repairs are charged to expense as incurred, while any additions or improvements are capitalized.

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Continued)

SIGNIFICANT ACCOUNTING POLICIES (continued)

Research and development expenses

Costs incurred for research and development are expensed as incurred. During 2010, the Company applied for a grant under the IRS Qualifying Therapeutic Discovery Project (QTDP) program. The application was approved and the Company received a grant for $244,500 under the program. This amount has been recorded as a reduction in research and development expenses.

Concentrations of credit risk

The Company has no significant off-balance-sheet concentration of credit risk such as foreign exchange contracts, option contracts or other hedging arrangements. The Company may from time to time have cash in banks in excess of FDIC insurance limits.

Segment Information

Operating segments are identified as components of an enterprise about which separate discrete financial information is available for evaluation by the chief operating decision maker, or decision making group, in making decisions regarding resource allocation and assessing performance. To date, the Company has viewed its operations and manages its business as principally one operating segment, which is developing and commercializing biopolymer scaffolding devices for the treatment of spinal cord injuries. As of December 31, 2010 and 2009, all of the Company s assets were located in the United States.

Income taxes

For federal and state income taxes, deferred tax assets and liabilities are recognized based upon temporary differences between the financial statement and the tax basis of assets and liabilities. Deferred income taxes are based upon prescribed rates and enacted laws applicable to periods in which differences are expected to reverse. A valuation allowance is recorded when it is more likely than not that some portion or all of the deferred tax assets will not be realized. Accordingly, the Company provides a valuation allowance, if necessary, to reduce deferred tax assets to amounts that are realizable. Tax positions taken or expected to be taken in the course of preparing the Company s tax returns are required to be evaluated to determine whether the tax positions are more-likely-than-not of being sustained by the applicable tax authority. Tax positions not deemed to meet a more-likely-than-not threshold would be recorded as a tax expense in the current year. There were no uncertain tax positions that require accrual or disclosure to the financial statements as of December 31, 2010 or December 31, 2009.

Impairment of long-lived assets

The Company continually monitors events and changes in circumstances that could indicate that carrying amounts of long-lived assets may not be recoverable. An impairment loss is recognized when expected cash flows are less than an asset s carrying value. Accordingly, when indicators of impairment are present, the Company evaluates the carrying value of such assets in relation to the operating performance and future undiscounted cash flows of the underlying assets. The Company s policy is to record an impairment loss when it is determined that the carrying value of the asset may not be recoverable. No impairment charges were recorded for the years ended December 31, 2010 and 2009.

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Continued)

SIGNIFICANT ACCOUNTING POLICIES (continued)

Share-based payments

The Company recognizes compensation costs resulting from the issuance of stock-based awards to employees, non-employees and directors as an expense in the statement of operations over the service period based on a measurement of fair value for each stock-based award. The fair value of each option grant is estimated as of the date of grant using the Black-Scholes option-pricing model. The fair value is amortized as compensation cost on a straight-line basis over the requisite service period of the awards, which is generally the vesting period. Due to its limited operating history, limited number of sales of its Common Stock and limited history of its shares being publicly traded, the Company estimates its volatility in consideration of a number of factors including the volatility of comparable public companies.

Derivative Instruments

The Company generally does not use derivative instruments to hedge exposures to cash-flow or market risks; however, certain warrants to purchase Common Stock that do not meet the requirements for classification as equity are classified as liabilities. In such instances, net-cash settlement is assumed for financial reporting purposes, even when the terms of the underlying contracts do not provide for a net-cash settlement. Such financial instruments are initially recorded at fair value with subsequent changes in fair value charged (credited) to operations in each reporting period. If these instruments subsequently meet the requirements for classification as equity, the Company reclassifies the fair value to equity.

Net Loss per Common Share

Basic and diluted net loss per share of Common Stock has been computed by dividing the net loss in each period by the weighted average number of shares of Common Stock outstanding during such period. For the periods presented, options, warrants and convertible securities were anti-dilutive and therefore excluded from diluted loss per share calculations.

Registration Payment Arrangements

At each reporting date, the Company assesses the probability of it transferring consideration under its registration payment arrangements. If at any time it determines that such an event is probable and the amount can be reasonably estimated, the amount of such an obligation is recognized as a liability with a charge to earnings. Future changes in that liability will also be charged (credited) to earnings. At the date the Registration Rights Agreement (see Note 11) was entered into and at December 31, 2010, the Company did not conclude that it was probable that they will be obligated to transfer any consideration under the terms of this Registration Rights Agreement.

Recent Accounting Pronouncements

In October 2009, the Financial Accounting Standards Board (FASB) issued two related accounting pronouncements, Accounting Standards Update (ASU) 2009-13 and ASU 2009-14, relating to revenue recognition. One pronouncement provides guidance on allocating the consideration in a multiple-deliverable revenue arrangement and requires additional disclosure, while the other pronouncement provides guidance specific to revenue arrangements that include software elements. Both of these pronouncements are effective prospectively for revenue arrangements entered into or materially modified

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Continued)

SIGNIFICANT ACCOUNTING POLICIES (concluded)

in fiscal years beginning on or after June 15, 2010 and both must be adopted together. The Company does not expect the adoption of these pronouncements to have a material impact on its consolidated financial statements.

In January 2010, the FASB issued ASU 2010-06, Fair Value Measurements and Disclosures (Topic 820), Improving Disclosures about Fair Value Measurements. This Update requires new disclosures and clarifies existing disclosures regarding recurring and nonrecurring fair value measurements to provide increased transparency to users of the financial statements. The new disclosures and clarification of existing disclosures are effective for interim and annual periods beginning after December 15, 2009, except for the disclosures pertaining to the roll forward of activity for Level 3 fair value measurements, which are effective for fiscal years beginning after December 15, 2010, and for interim periods within those fiscal years. The adoption of this Update on January 1, 2010 did not have a material impact on the Company s consolidated financial statements.

In April 2010, the FASB issued ASU 2010-17, Revenue Recognition Milestone Method. ASU 2010-17 provides guidance in applying the milestone method of revenue recognition to research or development arrangements. Under this guidance, management may recognize revenue contingent upon the achievement of a milestone in its entirety, in the period in which the milestone is achieved, only if the milestone meets all the criteria within the guidance to be considered substantive. This ASU is effective on a prospective basis for research and development milestones achieved in fiscal years, beginning on or after June 15, 2010. Early adoption is permitted; however, the Company has elected to implement ASU 2010-17 prospectively, and as a result, the effect of this guidance will be limited to future transactions. The Company does not expect the adoption of this pronouncement to have a material impact on its consolidated financial statements.

3. PROPERTY AND EQUIPMENT

Property and equipment consisted of the following:

	December 31, 2010	December 31, 2009
Computer software and hardware	$ 91,057	$ 47,668
Research and lab equipment	260,728	157,855
Less accumulated depreciation	(71,604)	(31,726)
	$ 280,181	$ 173,797

4. OTHER ASSETS

Other assets consist of a patent licensing fee paid to license intellectual property (see Note 16). The Company is amortizing the license fee to research and development over its 15-year term.

	December 31, 2010	December 31, 2009
Patent licensing fee	$ 75,000	$ 75,000
Accumulated amortization	(21,361)	(16,361)
	$ 53,639	$ 58,639

Amortization expense was $5,000 in each of the years ended December 31, 2010 and 2009.

InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Continued)

5. ACCRUED EXPENSES

Accrued expenses consisted of the following:

	December 31, 2010	December 31, 2009
Other accrued expenses	$ 45,053	$ 138,750
Accrued payroll	179,629	18,969
Accrued vacation	22,865	15,865
Deferred compensation	-	120,000
	$ 247,547	$ 293,584

Deferred compensation represented amounts owed to the Chief Executive Officer (CEO) with respect to annual bonuses granted but not paid. All deferred compensation was paid in the year ended December 31, 2010.

6. FAIR VALUES OF ASSETS AND LIABILITIES

The Company groups its assets and liabilities generally measured at fair value in three levels, based on the markets in which the assets and liabilities are traded and the reliability of the assumptions used to determine fair value.

Level 1 Valuation is based on quoted prices in active markets for identical assets or liabilities. Level 1 assets and liabilities generally include debt and equity securities that are traded in an active exchange market. Valuations are obtained from readily available pricing sources for market transactions involving identical assets or liabilities.

Level 2 Valuation is based on observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3 Valuation is based on unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities. Level 3 assets and liabilities include financial instruments whose value is determined using pricing models, discounted cash flow methodologies, or similar techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation.

The Company uses valuation methods and assumptions that consider among other factors the fair value of the underlying stock, risk-free interest rate, volatility, expected life and dividend rates in estimating fair value for the warrants considered to be derivative instruments.

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Continued)

FAIR VALUES OF ASSETS AND LIABILITIES (concluded)

Assets and liabilities measured at fair value on a recurring basis are summarized below:

	December 31, 2010			
	Level 1	**Level 2**	**Level 3**	**Fair Value**
Liabilities:				
Derivative warrant liability	$ -	$ 10,647,190	-	$ 10,647,190

	December 31, 2009			
	Level 1	**Level 2**	**Level 3**	**Fair Value**
Liabilities:				
Derivative warrant liability	$ -	$ -	-	$ -

7. LOANS PAYABLE

Loans payable consisted of the following:

	December 31,	
	2010	2009
Advances from related party	$ -	$ 90,985
Note payable-Massachusetts Life Science Center	-	500,000
	$ -	$ 590,985

Advances from related party represent cash advances received from CEO and majority shareholder which permitted the Company to continue to fund its operations until it raised additional capital. Interest accrued on these advances at an annual rate of 8%. Interest expense related to Advances from related party was $3,227 and $8,437 in the years ended December 31, 2010 and 2009, respectively.

The Company issued a $500,000 Note Payable in June 2009 to the Massachusetts Life Science Center, an independent public agency of the State of Massachusetts. The Company received the $500,000 of funding from the Massachusetts Life Science Accelerator Program which was established for the purpose of providing seed capital to promising early stage life science companies. The terms of the Note Payable called for full repayment upon the earlier of five years, the sale of the Company or a financing that raises minimum net proceeds of $5,000,000. Interest accrued on the Note Payable at an annual rate of 10% and is payable at maturity. Interest expense related to the Note Payable was $42,726, and $25,205 for the years ended December 31, 2010 and 2009, respectively. In October 2010, the $500,000 loan was repaid together with accrued interest of $67,931.

8. CONVERTIBLE NOTES PAYABLE

Since inception, the Company issued Convertible Notes Payable to investors totaling $4,181,000. In the years ended December 31, 2010 and 2009, these notes provided cash proceeds of $200,000 and $1,580,000, respectively. The terms of the Convertible Notes Payable include interest at 8% and stipulated

InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Continued)

CONVERTIBLE NOTES PAYABLE (concluded)

that the notes convert into shares of Common Stock upon the earlier of maturity of the notes or the completion of a Financing Round, a single financing or a series of related financings that raised a minimum of $4,000,000 or $5,000,000 depending on the terms of the individual notes. The notes convert at the offering price of such financing.

Certain of the notes entitled the holders to receive either a 10% or 20% discount on the conversion price if the notes were converted in connection with a Financing Round prior to the maturity date. The Company initially assessed whether a beneficial conversion feature existed on the issuance date based on the difference, if any, between the conversion price and the fair value of the Common Stock. The Company assumed the most favorable conversion price that would be in effect assuming no changes to the circumstances other than the passage of time. Based on this analysis, the Company concluded that there was no beneficial conversion feature at issuance.

However, the conversion terms are subject to change in the event of a Financing Round. Therefore, at the commitment date, the Company measured the contingent beneficial conversion feature based on the intrinsic value of the fixed percentage discount but such beneficial conversion feature was not recognized unless and until the triggering event occurs. This amount was determined by dividing the face amount of the convertible notes by the discount factor (0.90 or 0.80).

During the year ended December 31, 2009, Convertible Notes Payable with a principal balance of $1,141,000 and accrued interest payable of $203,366 converted at maturity into 1,472,435 shares of Common Stock.

In March 2010, the Company completed a series of financings that met the definition of a Financing Round which accelerated the conversion of certain notes prior to their maturity dates triggering the discount provisions discussed above.

During the year ended December 31, 2010, the remaining outstanding Convertible Notes Payable of $3,040,000 and accrued interest payable of $288,128 converted into 3,792,417 shares of Common Stock in conjunction with the Financing Round. As of December 31, 2010, all of the Convertible Notes Payable had been converted into Common Stock.

As a result of the Financing Round in March 2010, the Company recorded the previously measured contingent beneficial conversion feature as a discount on the notes and additional paid-in capital. As the discount occurred simultaneously with the conversion of the notes, the discount was immediately charged to non-cash interest expense. Accordingly, during the year ended December 31, 2010, the Company recorded a beneficial conversion feature and related non-cash interest expense of $134,410.

Interest accrued on the outstanding balances at an annual rate of 8%. At the election of the Company, the accrued interest was to be paid in cash or in Common Stock at the time the notes were converted to Common Stock. For the year ended December 31, 2010 and 2009, the Company accrued interest expense on the notes of $62,385 and $169,573, respectively.

9. BRIDGE NOTES PAYABLE

From July through September 2010, the Company raised $500,000 from the sale of 6% convertible promissory notes (the Bridge Notes). The Bridge Notes pay interest at 6% and had a stated maturity date of December 31, 2010. The Bridge Notes and all accrued interest were only convertible in the event of a

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Continued)

BRIDGE NOTES PAYABLE (concluded)

Qualified Next Round Financing, as defined, at 100% of the price in that Qualified Next Round Financing. Otherwise, the Bridge Notes were to be repaid at their maturity date. In connection with the Bridge Notes, the Company also issued to Bridge Notes investors warrants to purchase 500,000 shares of Common Stock (the Bridge Warrants). The Bridge Warrants are exercisable for a period of five years with an exercise price of $1.00 per share.

In order to record the Bridge Notes and Bridge Warrants, the Company allocated the proceeds first to the fair value of the Bridge Warrants. The residual was then allocated to the Bridge Notes. As a result, the Company allocated $138,352 to the Bridge Warrants with the remainder of the proceeds allocated to the Bridge Notes. The total discount on the Bridge Notes of $138,352 was recognized as non-cash interest expense over the term of the Bridge Notes and was expensed to interest expense in 2010.

In order to determine if a beneficial conversion feature existed, the Company compared the effective conversion price of the Bridge Notes to the commitment date fair value of the Common Stock and determined a beneficial conversion feature in the amount of $138,352. However, since the Bridge Notes were only convertible in the event of a Qualified Next Round Financing, this was determined to be a contingent beneficial conversion feature not to be recognized unless and until the triggering event occurs.

In October 2010, the Company completed a private placement of Common Stock (see Note 11) which met the definition of a Qualified Next Round Financing. The Bridge Notes and accrued interest of $4,597 converted into 504,597 Units, with each unit consisting of one share of Common Stock and one warrant to purchase Common Stock at $1.40 per share. As a result of the Qualified Next Round Financing**,** the contingent beneficial conversion feature of $138,352 was recognized as a further discount on the Bridge Notes and additional paid-in capital on the date of conversion. Since the conversion took place simultaneously with the Qualified Next Round Financing, this discount of $138,352 was immediately charged to non-cash interest expense.

The Company engaged a registered broker-dealer as a placement agent (the Placement Agent) in conjunction with the Bridge Notes. As compensation, the Placement Agent received a warrant to purchase 100,000 shares of Common Stock at an exercise price of $1.00 per share. The fair value of the warrants issued to the Placement Agent of $40,373 was recorded as a debt issuance cost and amortized to non-cash interest expense over the term of the Bridge Notes.

For the year ended December 31, 2010, interest expense related to the Bridge Notes, including amortization of the discount and debt issuance costs, was $321,674.

The warrants issued to the Bridge Notes investors and the Placement Agent have provisions that include anti-dilution protection and under certain conditions, grant the right to the holder to request the Company to repurchase the warrant, and are therefore accounted for as derivative liabilities (see Note 11).

10. INCOME TAXES

No provision or benefit for federal or state income taxes has been recorded, as the Company has incurred a net loss for all of the periods presented, and the Company has provided a valuation allowance against its deferred tax assets.

InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Continued)

INCOME TAXES (continued)

At December 31, 2010 and 2009, the Company had federal and Massachusetts net operating loss carryforwards of approximately $8,719,000, and $5,491,000, respectively, of which federal carryforwards will expire in varying amounts beginning in 2021. Massachusetts net operating losses begin to expire in 2011. Utilization of net operating losses may be subject to substantial annual limitations due to the change in ownership provisions of the Internal Revenue Code, and similar state provisions. The annual limitations may result in the expiration of net operating losses before utilization. The Company also had research and development tax credit carryforwards at December 31, 2010 and 2009 of approximately $238,000 and $154,000, respectively, which will begin to expire in 2018 unless previously utilized.

Significant components of the Company s net deferred tax asset are as follows:

	December 31, 2010	December 31, 2009
Net operating loss carryforward	$ 3,016,062	$ 1,612,965
Research and development credit carryforward	120,315	154,077
Stock based Compensation	382,295	86,150
Deferred compensation	52,200	48,324
Accrued interest		114,209
Charitable contributions	17,751	3,533
Subtotal	3,588,623	2,019,258
Valuation allowance	(3,588,623)	(2,019,258)
Net deferred tax asset	$ -	$ -

The Company has maintained a full valuation allowance against its deferred tax assets in all periods presented. A valuation allowance is required to be recorded when it is more likely than not that some portion or all of the net deferred tax assets will not be realized. Since the Company cannot be assured of generating taxable income and thereby realizing the net deferred tax assets, a full valuation allowance has been provided. In the years ended December 31, 2010 and 2009, the valuation allowance increased by $1,569,000 and $1,044,000, respectively.

The Company has no uncertain tax positions at December 31, 2010 and 2009 that would affect its effective tax rate. The Company does not anticipate a significant change in the amount of uncertain tax positions over the next twelve months. Since the Company is in a loss carryforward position, the Company is generally subject to US federal and state income tax examinations by tax authorities for all years for which a loss carryforward is available.

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Continued)

INCOME TAXES (concluded)

Income tax benefits computed using the federal statutory income tax rate differs from the Company s effective tax rate primarily due to the following:

	December 31,	
	2010	2009
Statutory tax rate	34.0%	34.0%
State taxes, net of federal benefit	2.7%	6.2%
Permanent differences (derivative loss and other)	-19.3%	0.2%
R&D tax credit	0.7%	1.6%
Increase in valuation reserve	-18.1%	-41.6%
Effective tax rate	0%	0%

11. COMMON STOCK

The Company has authorized 100,000,000 shares of Common Stock, $0.00001 par value per share, of which 51,647,171 shares and 26,259,515 shares were issued and outstanding as of December 31, 2010 and 2009, respectively.

At inception in 2005, the Company issued its founders 24,787,080 shares of Common Stock with a par value of $248 for no consideration.

In 2009, the Company issued 1,472,435 shares of Common Stock to the holders of Convertible Notes Payable upon conversion of these notes. At the conversion dates, the principal balance of $1,141,000 and accrued interest payable of $203,366 were converted into Common Stock at a price of $0.91 per share.

In March 2010, the Company sold 1,095,258 shares of Common Stock to an investor at a price per share of $0.91 and the Company received cash proceeds of $1,000,000.

During the six months ended June 30, 2010, the Company issued 3,792,417 shares of Common Stock to the holders of Convertible Notes Payable upon the conversion of these notes. At the conversion date, the principal balance of $3,040,000 and accrued interest payable of $288,128 were converted into Common Stock. Certain notes provided for conversion at a discount to the $0.91 price (see Note 8).

On October 26, 2010, in conjunction with the Merger (see Note 1), the Company issued 6,999,981 shares of Common Stock to the former shareholders of ITHC.

In connection with the Merger on October 26, 2010 and in two subsequent closings in November and December 2010, the Company completed a private placement of 13,000,000 Units of its securities for total gross proceeds of $13,000,000 and net proceeds of $10,927,883 (the Offering). Included in these amounts are 504,597 Units and $504,597 related to the conversion of the Bridge Notes (see Note 9). Each Unit consisted of one share of Common Stock and a warrant to purchase one share of Common Stock exercisable at $1.40 per share (the Investor Warrants). In conjunction with the Merger and the Offering, the Company issued to an attorney 500,000 shares of its Common Stock with a fair value of $500,000. This was considered a stock issuance cost and was therefore recorded as both a debit and credit to additional paid-in capital.

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Continued)

COMMON STOCK (continued)

In order to account for the Units, the Company allocated the proceeds between the Common Stock and warrants first to the fair value of the warrants with the residual allocated to the Common Stock. As a result, the Company allocated $4,475,791 to the warrants with the remainder of the proceeds allocated to the Common Stock. The fair value of the Placement Agent warrants, $2,040,091, was recorded as a warrant derivative liability and a stock issuance cost net against the gross proceeds received.

In October 2010, the Company issued 500,000 shares of Common Stock with a fair value of approximately $500,000 for legal services related to the Merger and related transactions. These shares were considered non-cash stock issuance costs and were recorded as a debit and credit to additional paid-in capital.

In connection with the Offering, the Company paid the Placement Agent a commission of 10% of the funds raised from such investors in the Offering. In addition, the Placement Agent received a non-accountable expense allowance equal to 3% of the proceeds raised in the Offering as well as warrants to purchase a number of shares of Common Stock equal to 20% of the number of common shares underlying Units sold to investors in the Offering. As a result of the foregoing arrangement, the Placement Agent was paid commissions and expenses of $1,690,000 and was issued warrants to purchase (i) 2,600,000 shares of Common Stock at an exercise price of $1.00 per share and (ii) 2,600,000 shares of Common Stock at an exercise price of $1.40 per share. Other cash expenses related to the private placement totaled $382,117.

Registration Rights Agreement

In connection with the Offering, the Company entered into a Registration Rights Agreement with the private placement investors, whereby the Company agreed to register common stock as defined in the agreement. The Company is required to file within 90 days of the date of the final closing (the Filing Deadline), a registration statement registering for resale all shares of Common Stock issued in the private placement, including Common Stock (i) included in the Units; and (ii) issuable upon exercise of the Investor Warrants. The Company has agreed to use its reasonable efforts to have the registration statement declared effective within 180 days of filing the registration statement (the Effectiveness Deadline). If the Registration Statement is not filed on or before the Filing Deadline or not declared effective on or before the Effectiveness Deadline, the Company shall pay to each holder of registrable securities an amount in cash equal to one-half of one percent (0.5%) of such holder s investment in the Offering or in the Bridge Financing on every thirty (30) day anniversary of such Filing Deadline or Effectiveness Deadline failure until such failure is cured. The payment amount shall be prorated for partial thirty (30) day periods. The maximum aggregate amount of payments to be made by the Company as the result of such failures, whether by reason of a Filing Deadline failure, Effectiveness Deadline failure or any combination thereof, shall be an amount equal to 9% of each Unit holder s investment amount. The Company shall keep the Registration Statement effective for one (1) year from the date it is declared effective by the SEC or until Rule 144 of the Securities Act is available to the investors with respect to all of their shares, whichever is earlier.

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Continued)

COMMON STOCK (concluded)

Common Stock Reserves

As of December 31, 2010, the Company had the following reserves established for the future issuance of Common Stock as follows:

Reserve for the exercise of warrants	18,800,000
Reserve for the exercise of stock options	9,415,557
Total Reserves	28,215,557

12. DERIVATIVE INSTRUMENTS

Certain warrants issued to the investors in the Offering, the Bridge Note investors and the Placement Agent (see Notes 10 and 11) have provisions that include anti-dilution protection and, under certain conditions, grant the right to the holder to request the Company to repurchase the warrant. Accordingly, these warrants are accounted for as derivative liabilities. The Company uses the Black-Scholes option pricing model and assumptions that consider among other factors the fair value of the underlying stock, risk-free interest rate, volatility, expected life and dividend rates in estimating fair value for the warrants considered to be derivative instruments. The fair value of these derivative instruments at December 31, 2010 was $10,647,190 and is included as a derivative warrant liability, a current liability. Changes in fair value of the derivative financial instruments are recognized currently in the Statement of Operations as a derivatives gain or loss. The warrant derivative loss for the year ended December 31, 2010 was $3,952,582 and was included in other income (expense) in the consolidated statement of operations. There was no derivatives loss for the year ended December 31, 2009.

The assumptions used principally in determining the fair value of warrants were as follows:

	December 31, 2010
Risk-free interest rate	2.0%
Expected dividend yield	0%
Contractual Term	4.7 - 4.9 years
Expected volatility	50%

The primary underlying risk exposure pertaining to the warrants is the change in fair value of the underlying Common Stock for each reporting period.

13. STOCK OPTIONS

In 2007, the Company adopted the 2007 Employee, Director and Consultant Stock Plan (the 2007 Plan). Pursuant to the 2007 Plan, the Company s Board of Directors (or committees and/or executive officers delegated by the Board of Directors) may grant incentive and nonqualified stock options to the Company s employees, officers, directors, consultants and advisors. As of December 31, 2010, there were options to purchase an aggregate of 5,915,557 shares of Common Stock outstanding under the 2007 Plan and no shares available for future grants under the 2007 Plan.

On October 25, 2010, the Company s Board of Directors adopted the 2010 Equity Incentive Plan, subject to shareholder approval (the 2010 Plan). The 2010 Plan provides for grants of incentive stock options to

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Concluded)

STOCK OPTIONS (continued)

employees and nonqualified stock options and restricted Common Stock to employees, consultants and non-employee directors of the Company. As of December 31, 2010, the number of shares authorized for issuance under the 2010 Plan was 3,500,000 shares. As of December 31, 2010, there were options to purchase an aggregate of 280,000 shares of Common Stock outstanding under the 2010 Plan and 3,220,000 shares available for future grants under the 2010 Plan. If shareholder approval is not obtained by October 25, 2011, all awards granted under the 2010 Plan will terminate. In addition, no award under the 2010 Plan will become exercisable until shareholder approval has been obtained and a registration statement on Form S-8 has been filed with the SEC.

Options issued under the 2007 Plan and the 2010 Plan, (collectively the Plans) are exercisable for up to 10 years from the date of issuance.

Share-based compensation

For stock options issued and outstanding during the years ended December 31, 2010 and 2009, the Company recorded non-cash, stock-based compensation expense of $664,908 and $171,059, respectively, each net of estimated forfeitures.

The fair value of each option award is estimated on the date of grant using the Black-Scholes option pricing model that uses the assumptions noted in the following table. Due to its limited operating history and limited number of sales of its Common Stock, the Company estimated its volatility in consideration of a number of factors including the volatility of comparable public companies. The Company uses historical data, as well as subsequent events occurring prior to the issuance of the financial statements, to estimate option exercises and employee terminations within the valuation model. The expected term of options granted under the Company s stock plans, all of which qualify as plain vanilla, is based on the average of the contractual term (generally 10 years) and the vesting period (generally 48 months). For non-employee options, the expected term is the contractual term. The risk-free rate is based on the yield of a U.S. Treasury security with a term consistent with the option.

A summary of option activity under the Company s stock plans and options granted to officers of the Company outside any plan as of December 31, 2010 and 2009 and changes during the years then ended is presented below:

Options	Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term in Years	Aggregate Intrinsic Value
Outstanding at December 31, 2008	2,980,729	$ 0.07		
Granted	963,941	$ 0.86		
Forfeited	(82,624)	$ 0.07		
Outstanding at December 31, 2009	3,862,046	$ 0.27		
Granted	2,333,511	$ 1.13		
Outstanding at December 31, 2010	6,195,557	$ 0.59	8.31	$ 10,322,073

Vested at December 31, 2010	2,406,112	$ 0.15	7.04	$ 5,072,223

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InVivo Therapeutics Holdings Corp.

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Notes to Consolidated Financial Statements (Continued)

STOCK OPTIONS (concluded)

The weighted average grant-date fair value of options granted during the years ended December 31, 2010 and 2009 was $0.55 and $0.45 per share, respectively. The total fair value of options that vested in the years ended December 31, 2010 and 2009 was $962,810 and $346,976, respectively. As of December 31, 2010 and 2009, there was approximately $2,236,133 and $1,026,595 of total unrecognized compensation expense, respectively, related to non-vested share-based option compensation arrangements. The unrecognized compensation expense is estimated to be recognized over a period of 2.95 and 2.72 years at December 31, 2010 and 2009, respectively.

14. WARRANTS

The following presents information about warrants to purchase Common Stock issued and outstanding at December 31, 2010:

Year Issued	Number of Warrants	Exercise Price	Date of Expiration
2010	15,600,000	$ 1.40	10/26/2015 - 12/3/2015
2010	3,200,000	1.00	9/26/2015 - 12/3/2015
Total	18,800,000		
Weighted average exercise price		$ 1.33	
Weighted average life in years			4.8

15. EMPLOYEE BENEFIT PLAN

In November 2006, the Company adopted a 401(k) plan (the Plan) covering all employees. Employees must be 21 years of age in order to participate in the Plan. Under the Plan, the Company has the option to make matching contributions but has elected not to do so.

16. INTELLECTUAL PROPERTY LICENSE

The Company has obtained a world-wide exclusive license (the CMCC License) for patents co-owned by Massachusetts Institute of Technology and Harvard s Children s Hospital covering the use of biopolymers to treat spinal cord injuries, and to promote the survival and proliferation of human stem cells in the spinal cord. The CMCC License has a 15-year term, or as long as the life of the last expiring patent right, whichever is longer, unless terminated earlier by the licensor. In connection with the CMCC License, the Company paid an initial $75,000 licensing fee (see Note 3) and is required to pay certain annual maintenance fees, milestone payments and royalties. All costs associated with maintenance of the CMCC License are expensed as incurred.

17. COMMITMENTS AND CONTINGENCIES

Legal Settlement

In 2009, the Company filed a lawsuit against a party alleging damages from a breach of a contract under which the party was providing services to the Company. In exchange for a payment of $383,000 from the party, the Company agreed to dismiss the lawsuit. The $383,000 received was recorded as other income in the Statement of Operations in the year ended December 31, 2009.

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Continued)

COMMITMENTS AND CONTINGENCIES (concluded)

Operating Lease

On November 15, 2010, the Company entered into a commercial lease for 1,200 square feet of office and laboratory space in Medford, MA. The term of this lease is for two years with monthly payments of approximately $3,900.

Pursuant to the terms of the non-cancelable lease agreement in effect at December 31, 2010, future minimum rent commitments are as follows:

Year Ended December 31,	
2011	$47,061
2012	43,139
Total	$90,200

Total rent expense for the years ended December 31, 2010 and 2009, including month-to-month leases, was approximately $270,000 and $123,000.

18. RESTATEMENT

The Company is restating its 2010 financial statements to correct an error related to the accounting for derivative liabilities. The error related to the process of allocating the proceeds of a financing to two instruments when one of those instruments was a derivative liability. Originally, the Company allocated the proceeds using the relative fair value of the two instruments with the derivative liability being recorded at its fair value and any difference between the relative fair value and fair value being charged to a derivative gain or loss upon issuance. Although Generally Accepted Accounting Principles (GAAP) does not address this situation specifically and the Company believed its original accounting to be supported by GAAP, after discussions with the SEC Staff the Company determined that its accounting was not consistent with common practice used by other registrants in similar circumstances.

The December 31, 2010 balance sheet line items were impacted by the following amounts:

Additional paid-in capital	$ (1,146,312)
Deficit accumulated during the development stage	1,146,312

The statement of operations line items were impacted as follows:

	Year Ended December 31, 2010	Period from November 28, 2005 (inception) to December 31, 2010

Derivatives losses	$	1,146,312	$	1,146,312
Net loss	$	1,146,312	$	1,146,312
Net loss per share, basic and fully diluted	$	0.03	$	0.05

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InVivo Therapeutics Holdings Corp.

(A Development Stage Company)

Notes to Consolidated Financial Statements (Concluded)

RESTATEMENT (concluded)

The statement of changes in stockholders equity for the year ended December 31, 2010 line items were impacted as follows:

Issuance of common stock in private placement, net of stock issuance costs of $2,072,117 and non-cash stock issuance costs of $5,369,570	$ (1,146,312)
Net loss	1,146,312

19. SUBSEQUENT EVENT

Subsequent to December 31, 2010, the Company issued 27,541 shares of Common Stock upon exercise of stock options.

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PART IV

Item 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES

(a) Documents filed as part of this Annual Report.

(3) Exhibits:

31.1/31.2	Certification by the Principal Executive Officer and Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1/32.2	Certification of Principal Executive Officer and Principal Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

INVIVO THERAPEUTICS HOLDINGS CORP.

Date: June 30, 2011	*By: /s/ Frank M. Reynolds* *Name: Frank M. Reynolds* *Title: Chief Executive Officer and Chief Financial Officer (Principal Executive, Financial and Accounting Officer)*

Pursuant to the requirements of the Securities Exchange Act of 1934, 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	*Title*	*Date*
/s/ Frank M. Reynolds *Frank M. Reynolds*	*Chairman, Chief Executive Officer and Chief Financial Officer (Principal Executive, Financial and Accounting Officer)*	*June 30, 2011*
George Nolen	*Director*	
Christi M. Pedra	*Director*	
/s/ Richard J. Roberts *Richard J. Roberts*	*Director*	*June 29, 2011*
/s/ Adam K. Stern *Adam K. Stern*	*Director*	*June 30, 2011*