

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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (date of earliest event reported): **December 7, 2022**

NightHawk Biosciences, Inc.

(Exact name of registrant as specified in charter)

Delaware

(State or other jurisdiction of incorporation)

001-35994

(Commission File Number)

26-2844103

(IRS Employer Identification No.)

**627 Davis Drive, Suite 400
Morrisville, North Carolina 27560**

(Address of principal executive offices and zip code)

(919) 240-7133

(Registrant's telephone number including area code)

N/A

(Former Name and Former Address)

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12(b) under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.0002 par value per share	NHWK	NYSE American LLC
Common Stock Purchase Rights		NYSE American LLC

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

Emerging growth company

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

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

Effective December 7, 2022, NightHawk Biosciences, Inc. (the "Company") entered into an amendment (the "Wolf Amendment") to the Employment Agreement, dated as of January 4, 2021 by and between the Company and Jeffrey Wolf. Pursuant to the Wolf Amendment, Mr. Wolf's base salary was increased to \$575,000 (the "Wolf Base Salary") and his bonus target was increased to 55% of the Wolf Base Salary. In addition, on December 7, 2022, based upon the recommendations and guidance of the independent third party compensation consultant retained by the Board of Directors' Compensation Committee, Mr. Wolf was awarded a ten-year option to purchase 2,843,137 shares of common stock, at an exercise price of \$1.02 (the closing price of the Company's common stock on the Nasdaq Capital Market on the date of the grant), of which one third vests on January 3, 2023 and the balance vests monthly on a pro rata basis for thirty-six months.

Effective December 7, 2022, the Company entered into an amendment (the "Ostrander Amendment") to the Employment Agreement, dated as of January 1, 2022 by and between the Company and William Ostrander. Pursuant to the Ostrander Amendment, Mr. Ostrander's base salary was increased to \$375,000 (the "Ostrander Base Salary") and his bonus target was increased to 40% of the Ostrander Base Salary. In addition, on December 7, 2022, based upon the recommendations and guidance of the independent third party compensation consultant retained by the Board of Directors' Compensation Committee, Mr. Ostrander was awarded a ten-year option to purchase 490,196 shares of common stock at an exercise price of \$1.02 (the closing price of the Company's common stock on the Nasdaq Capital Market on the date of the grant), of which one third vests on January 3, 2023 and the balance vests monthly on a pro rata basis for thirty-six months.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit Number	Description
10.1	Amendment No. 1 to Jeff Wolf Employment Agreement with the Company dated as of December 7, 2022
10.2	Amendment No. 1 to William Ostrander Employment Agreement with the Company dated as of December 7, 2022

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: December 9, 2022

NightHawk Biosciences, Inc.

By: /s/ Jeffrey Wolf
Name: Jeffrey Wolf
Title: Chairman, President and
Chief Executive Officer

AMENDMENT NO. 1 TO EMPLOYMENT AGREEMENT

This Amendment No. 1 (this "Amendment") effective as of December 7, 2022 to the Employment Agreement, dated January 1, 2022 (the "Employment Agreement"), by and between NightHawk Biosciences, Inc. f/k/a Heat Biologics, Inc. (the "Company") and William Ostrander ("Executive"). Capitalized terms used herein without definition shall have the meanings assigned in the Employment Agreement.

WHEREAS, Executive was retained under the Employment Agreement by the Corporation to serve as its President and Chief Executive Officer; and

WHEREAS, in recognition of the hard work and performance by Executive, the Corporation desires to amend the Employment Agreement to increase Executive's annual base salary.

NOW THEREFORE, for the mutual promises contained herein and for ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to amend the Employment Agreement as follows:

1. **Amendments**. Section 3(a)(i) of the Employment Agreement is hereby deleted and replaced with the following:

"(i) Executive shall receive an annual base salary of Three Hundred Seventy Five Thousand Dollars (\$375,000) for the Term ("Base Salary"), payable in semi-monthly installments."

Section 3(a)(ii) of the Employment Agreement is hereby deleted and replaced with the following:

"(ii) Executive shall be eligible for an annual performance bonus of up to forty percent (40%) of the Base Salary, which bonus shall be payable in cash ("Annual Bonus"). Any Annual Bonus that may be awarded will be in the sole and absolute discretion of both the Compensation Committee and the Board of Directors of the Corporation, to be determined and payable at the completion of each calendar year."

2. **Severability**. The provisions of this Amendment are severable and if any part or it is found to be unenforceable the other paragraphs shall remain fully valid and enforceable.

3. **No Other Amendments; Confirmation**. All other terms of the Agreement shall remain in full force and effect. The Agreement, as amended by this Amendment, constitutes the entire agreement between the parties with respect to the subject matter thereof.

4. **Counterparts**. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but both of which together shall constitute one and the same instrument.

5. **Governing Law**. This Amendment is made and shall be construed and performed under the laws of the remaining provisions will nevertheless continue to be valid and enforceable. State of North Carolina without regard to its choice or conflict of law principles and the parties agree to North Carolina as the exclusive venue for any disputes arising hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to Mr. Wolf's Employment Agreement to be duly executed as of the day and year first above written.

NIGHTHAWK BIOSCIENCES, INC.

By: /s/ Jeffrey Wolf
 Name: Jeffrey Wolf
 Title: Chief Executive Officer

/s/ William Ostrander
 William Ostrander

AMENDMENT NO. 1 TO EMPLOYMENT AGREEMENT

This Amendment No. 1 (this “*Amendment*”) effective as of December 7, 2022 to the Employment Agreement, dated January 4, 2021 (the “*Employment Agreement*”), by and between NightHawk Biosciences, Inc. f/k/a Heat Biologics, Inc. (the “*Company*”) and Jeffrey Wolf (“*Executive*”). Capitalized terms used herein without definition shall have the meanings assigned in the Employment Agreement.

WHEREAS, Executive was retained under the Employment Agreement by the Corporation to serve as its President and Chief Executive Officer; and

WHEREAS, in recognition of the hard work and performance by Executive, the Corporation desires to amend the Employment Agreement to increase Executive’s annual base salary.

NOW THEREFORE, for the mutual promises contained herein and for ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to amend the Employment Agreement as follows:

1. **Amendments.** Section 4 of the Employment Agreement is hereby deleted and replaced with the following:

“**4. BASE SALARY.** The Company agrees to pay the Executive a base salary (the “*Base Salary*”) at an annual rate of Five Hundred Seventy Five Thousand Dollars (\$575,000.00), payable semi-monthly in accordance with the regular payroll practices of the Company. The Executive’s Base Salary shall be subject to review and adjustment from time to time by the Board (or a committee thereof) in its sole discretion, but may not be decreased. The base salary as determined herein from time to time shall constitute “*Base Salary*” for purposes of this Agreement.”

Section 5(a) of the Employment Agreement is hereby deleted and replaced with the following:

“(a) **ANNUAL TARGET BONUS.** With respect to each calendar year during the Employment Term (beginning in the year of the Effective Date), the Executive will be eligible to earn an annual cash bonus (the “*Annual Target Bonus*”) as well as discretionary equity awards. Beginning in the 2021 calendar year and for each full calendar year thereafter, the Executive will be eligible for an Annual Target Bonus of fifty-five percent (55%) of the Base Salary, which may be increased by the Board based upon performance. The Annual Target Bonus will be based upon the Board’s assessment of the Executive’s performance and the Company’s attainment of targeted goals as set by the Board. The Annual Target Bonus will be subject to applicable payroll deductions and withholdings. The Annual Target Bonus will be paid in December or January at the discretion of the Board.

2. **Severability.** The provisions of this Amendment are severable and if any part or it is found to be unenforceable the other paragraphs shall remain fully valid and enforceable.

3. **No Other Amendments; Confirmation.** All other terms of the Agreement shall remain in full force and effect. The Agreement, as amended by this Amendment, constitutes the entire agreement between the parties with respect to the subject matter thereof.

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4. **Counterparts.** This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but both of which together shall constitute one and the same instrument.

5. **Governing Law.** This Amendment is made and shall be construed and performed under the laws of the remaining provisions will nevertheless continue to be valid and enforceable. State of Delaware without regard to its choice or conflict of law principles and the parties agree to Delaware as the exclusive venue for any disputes arising hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to Mr. Wolf’s Employment Agreement to be duly executed as of the day and year first above written.

NIGHTHAWK BIOSCIENCES, INC.

By: /s/ William Ostrander
 Name: William Ostrander
 Title: Chief Financial Officer

/s/ Jeffrey Wolf
 Jeffrey Wolf

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